

# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION No:	DM/16/00520/FPA
FULL APPLICATION DESCRIPTION:	Change of use to storage for removal company and siting of ten shipping containers (part retrospective)
NAME OF APPLICANT:	Wrights Removals
ADDRESS:	Hedley Terrace Park Drive Langley Park DH7 9TA
ELECTORAL DIVISION:	Esh and Witton Gilbert
CASE OFFICER:	Graham Blakey Senior Planning Officer Telephone: 03000 264865 <a href="mailto:graham.blakey@durham.gov.uk">graham.blakey@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. Located to the east of Langley Park village centre, the proposal site is located adjacent to Hedley Terrace. The site, historically a small parcel of land for private use, has residential development to south, east and west which includes a nursing home. To the north is a MOT garage, and to the south and west is a small area of open grass land between the site and the properties of Thomas Street and the Kingsway Nursing Home. Park Drive runs along the eastern side of the site and forms the only point of access, with the terraces of Ash, Elm and Oak Street opposite the site.
2. Surrounded by a 2 metre high timber fence, recently repaired by the applicant, the site also features a derelict outbuilding that once operated as a cobblers shop a period of time ago. New, wider gates have been installed to the entrance to the site, with at the time of application four of the eleven containers on site and a wagon trailer being stored. The site has been cleared and a solid base and road plainings laid across the site. The applicant has used the site for the purposes set out in this application for a period of 5 months prior to the submission of the application. Historically the site has been used for a cobblers shop (the building on site) and associated storage, whereby upon the retirement of the owner the site reverted to a personal storage area that can be considered to be previously developed.

### The Proposal

3. Permission is sought to change the use of the land from a previously developed storage area of private use to be used for storage in relation to a removal company that includes the siting of ten shipping containers. The containers would be arranged

to either side of the vehicular access in a 6+4 formation allowing for an access track up the centre of the site at 5 metres width initially dropping to around 3.3 metres wide when the containers are placed opposite each other. Containers are proposed at a single stack level, painted dark green, and vehicular access would be via the enlarged gates on to Park Drive. The scheme has been amended to demolish the existing outbuilding on site and set back the front boundary of the site by 2.47 metres from the kerb line of the road to improve visibility of vehicles using the site.

4. The application has proposed no limit to the hours of use and the creation of three part time jobs as a result of the change in use.
5. The application is reported to members for determination due to the submissions of the Local Parish Council, whom have raised an objection to the proposal (see below), and where officers are recommending to members to approval the scheme.

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## **PLANNING HISTORY**

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6. No planning history is relevant to the application site.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
9. 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.
10. The following elements of the NPPF are considered relevant to this proposal;
11. *NPPF Part 1 Building a Strong, Competitive Economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
12. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
13. *NPPF Part 11 – Conserving and enhancing the natural environment.* The planning system should where possible, prevent 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.

## **NATIONAL PLANNING POLICY GUIDANCE**

14. *Design -The importance of good design.* Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
15. *Noise.* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 123 of the NPPF provides policy support to this aspect.
16. *Light Pollution* - Artificial light can be a source of annoyance to people, harmful to wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky. Some proposals for new development, but not all, may have implications for light pollution. Impacts upon background light levels, impacts from existing lighting, impacts upon protected species and wildlife, dark landscapes and reflection from existing buildings all are important factors to consider. If any of these are affected, then where light shines, when it shines, how much shines and ecological impacts should be investigated.
17. *Land affected by Contamination* - When dealing with land that may be affected by contamination, the planning system works alongside a number of other regimes including Building Control and Environmental Protection. To ensure a site is suitable for its new use and to prevent unacceptable risk from pollution, the implications of contamination for a new development would be considered by the local planning authority to the extent that it is not addressed by other regimes.

## **LOCAL PLAN POLICY:**

The Derwentside Local Plan

18. *Policy GDP1 General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
19. *Policy IN4 – Development within General Industrial Estates* – permission will be only be granted for Business (B1), General Industrial (B2) and Storage and Distribution (B8) within General Industrial Estates.
20. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

## **RELEVANT EMERGING POLICY:**

21. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council is to withdraw the CDP from examination, forthwith. In the light of this, policies of the CDP are no longer material to the determination.

*The above represents a summary of those 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>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

22. Highways – Observations of the road adjacent to the proposed site would suggest that there is currently a problem with parked vehicles causing an obstruction and inconvenience to other road users. The parking of vehicles associated with the applicant/proposals would likely add to this issue. However, it is considered that this is insufficient to raise an objection to the proposal.

The amended drawing indicates the removal of the outbuilding which will benefit visibility in one direction (south). However, the open space created between the last container and the proposed fence line would likely be used for further storage to the detriment of visibility. As such the change to 2.4m from the back of the footpath and utilising a railing type fence, as indicated on the submitted plans, the proposal would be acceptable.

### **INTERNAL CONSULTEE RESPONSES:**

23. Environmental Health – The development location is in a mainly residential area, however neighbouring a garage. Considering the mainly residential area there are concerns in relation to any further commercialisation of this site and the inherent potential for noise.

In relation to the specific proposal the likely noise is from vehicle movements and access and unloading/loading from vehicles and the containers. These are unlikely to significant nor prolonged noise sources and therefore, considering the nearby commercial use, are unlikely to cause significant impact on nearby residents if occur during reasonable hours. The above is made with the assumption that the containers are used for temporary storage associated with the removals business, and that the site is not a depot for all the business vehicles etc.

Considering the above, no objections are raised to the development in principle however in order to minimise the environmental impact it is requested that the use of the premises be restricted to the hours of 8am to 6pm Monday to Fridays and 8am-2pm Saturdays only. The premises shall not be used on Sundays and Bank Holidays.

24. Contaminated Land – No objections.

#### **PUBLIC RESPONSES:**

25. Neighbours have been consulted by way of direct notification, and two objections have been received with one being from Esh Parish Council. In summary their concerns are:-

- The storage of containers on this site is inappropriate in this area and many residents have complained to the Parish Council about this proposed development.
- Parking in the vicinity is problematic, with many residents already having problems.
- The parking issues in Park Drive are causing issues with the bus service that uses the road on a half hourly / hourly basis.
- The applicant has arrived at site early in the morning (5/6am) causing noise and waking children and residents.
- Vehicles are being parked overnight on site from the business.
- Fires are being lit close to the car garage.
- Work began before planning permission was granted, the applicant has shown no regard to the laws.

#### **APPLICANTS STATEMENT:**

26. Having acquired the site in August 2015, significant works have taken place to secure the site from late night unauthorised access, large quantities of waste removed and the site generally tidied presenting a much better aspect to the area.
27. The site is to form a facility for storage of domestic furniture in connection with my business of thirty years standing specialising in all aspects of furniture transport. The average dwell time of domestic storage is approximately six months, leading to low site visitation. The site is to be private, and not for the public to deliver their own goods to.
28. Generally the site would be accessed during working hours; occasional visits would be necessary out of hours and at weekends.
29. Typically one or two vehicles would occupy the site overnight, the site contains enough parking for three vehicles in order to decrease on-street parking pressure; normally no on-street parking would be generated by the site.
30. The containers which will be sited in the compound are to be painted to match the above building.

*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 <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NVKYEAGD0A500>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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31. This application seeks to change the use of a parcel of land for storage connected to the removals business run by the applicant. Works have begun on site and the proposed use had begun at the time of submission of the application. At the time of

writing this report the site had been hardcored, boundary fencing replaced to the rear (west) of the site, a new wider access gate installed to Park Drive and six of the proposed ten containers had been placed on site. Recent Government advice in the form of a Ministerial Statement makes intentional unauthorised development 'a material consideration that would be weighed in the determination of planning applications and appeals'. Therefore given the retrospective nature of the proposal this carries weight in the decision making process.

32. 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 this location, the impact upon the character and the appearance of the surrounding area and neighbouring amenity, the impact upon highway safety, and contaminated land.

#### Principle of the Development

33. The application site is situated in a mixed use area. In the immediate area is a vehicle repair and MOT garage, that operates a frequent and busy patronage; there is also a church, vacant area offices for the local registered social landlord (RSL) Derwentside Homes, and various garage blocks and other buildings of mixed uses.
34. In the context of a mixed use area the introduction of a storage use, considered B8 under the Use Classes Order, would preferably be directed to industrial land, however numerous examples of smaller scale, less intensive storage related uses similar to that proposed here can be found in non-industrial estate areas. The applicant is a removals company and it is proposed that the containers be used as anything from short, to medium or longer term storage associated with their business – i.e. the furniture of a customer is stored while a house move is secured. This in itself is not likely to be considered an intensive level of storage, with likely peaks and troughs associated with the logistics of bringing items to and from the site.
35. Paragraph 14 of the NPPF, which outlines that where development accords with the development plan, proposals should be approved without delay is of material weight in this proposal. Policy IN4 of the saved Local Plan allows for development of B8 storage uses at designated industrial estates. While this site is not within an allocated employment site, the policy wording does not limit these types of development outside of designated employment sites either. Policy GDP1 therefore carries weight as a result, in regard to the environmental and amenity impacts of the development, with Policy TR2 requiring new development to adhere to maintaining highway safety.
36. The proposal is sited adjacent to other employment generating uses (the MOT garage) and would also utilise a site that had been previously developed and left vacant for an unknown period of time. NPPF paragraph 7 does give support to the economic role of development, where in this instance the proposal does provide employment benefits. Re-use of the previously used vacant land for a new use does also benefit from support from within the core principles of the NPPF (paragraph 17). These are benefits to the proposal that carry material weight in favour of the decision, but must be set against any potential negative impacts from the proposed development. These material considerations will be assessed in the following sections of the report in order to form a view on the planning balance.

## Impact upon the Character and Appearance of the Area

37. Being located to an area of the village that is behind the main buildings of Front Street, the chief thoroughfare in the village, the site is not readily visible to most passing traffic within the village. However, the site does lie upon a secondary route that links to the housing located east of Front Street and includes a bus route. The site has an open aspect to the south and is set up against the adopted highway to the eastern boundary, allowing views from up to 100 metres away. The proposal does utilise the existing perimeter timber fencing at 2 metres in height and the applicant has widened the vehicular access by adding a wider gate (but without a dropped kerb).
38. Policy GDP1 of the saved Derwentside Local Plan requires new development to be of a high standard of design which is in keeping with the character and appearance of the area. The applicant has proposed colouring the containers a 'meadow green' in a link to the adjacent box profile sheet garage building to the north. This would improve the visual appearance of the original shipping containers but the containers would remain new features within the site that would be visible over the perimeter fencing. When viewed from the south the containers would be set against the MOT garage to the north. An existing weathered timber fence to the perimeter only reaches 1.8-2 metres (6-6ft 6in) in height and so around a further 0.5-0.8 metres (1ft 6in-2ft 6in) of container would be visible above the fencing. Ensuring a consistent colour scheme to the prominent southern elevation would be necessary for the development to reduce the visual impact of the containers above the fencing.
39. The surrounding area is characterised by the transition from village centre to inner residential streets. The presence of the MOT garage is at odds with the softer domestic appearance of the terraces of dwellings and care home, and the inclusion of storage containers in to the street scene would however been seen in tandem with the MOT garage. Subject to the single, consistent colour scheme across the containers, the proposals would on balance not be considered to intrude in to the street scene sufficiently to cause an undue visual impact upon the surrounding area that would warrant refusal of the proposals under Policy GDP1 of the saved Local Plan.

## Impacts upon the Amenity of the Neighbouring Occupiers

40. Residential amenity is assessed with reference to Policy GDP1 (h) of the Local Plan that seeks to protect the amenity of neighbouring residents from negative impacts from proposed uses. National Planning Policy Guidance (NPPG) expands further to offer tests by which the impacts of noise and light pollution upon residents can be assessed.
41. As the applicant has commenced work on site and begun business operations, local residents have raised objection to the level of disturbance that has arisen from these operations to date. The residents have stated that activity has not been restricted to just storage within the containers, with the applicant parking his business' vehicles overnight, lit fires on site and given the impression of operating as a depot for the removals business. Some of these activities could be associated with the clearance of the site, such as the burning of materials; however the parking of vehicles and the use of the site 24 hours, 7 days a week are both material considerations proposal.
42. NPPG outlines that noise disturbance that causes significant observed adverse effects upon health and quality of life should be avoided by the planning process. The use of the site, including associated vehicular movements, early in the morning or late at night would be considered to cross this threshold. During daytime hours,

such as 8am until 6pm weekdays, the disturbance from the proposal could still influence quality of life but this would be considered to be at a low level. The NPPG in these cases directs the planning process to seek mitigating measures that could protect the amenity of residents.

43. The Council's Environmental Health Officer within their comments acknowledges that the proposal has the potential to create conflict with the surrounding residential properties through the further commercialisation of the area by this development. In terms of the proposed storage use, the proposal would be considered to produce only short periods of noise that if occurring during reasonable hours would be unlikely to cause significant impact. As a result, they propose that a condition restricting hours of use to daytime hours would aid to reduce the impacts from the development and would be a suitable method of mitigation.
44. The inclusion of a condition to that effect would remove the significant adverse effects from the development, bringing the proposal in line with other uses in the area, and being proposed for only storage related activities connected to a removals business would be considered on balance to outweigh concerns of commercialisation of the area and the general impacts of a further business use so close to residential properties. The proposal is therefore considered to accord with Policy GDP1 (h) of the Local Plan and the NPPG available.

#### Impact upon Highway Safety

45. Policy TR2 of the saved Local Plan only allows planning permission to be granted for development that provides a clearly defined and safe vehicular access and exit to the adopted highway network. The application site originally had an informal vehicular access through the fenced boundary with Park Drive; however prior to the submission of the application the applicant has removed the fencing from this boundary with the public highway between the outbuilding and adjacent tyre compound and replaced it with a set of steel gates, opening inwards, to a width of 5.06 metres. The gates are coloured black. No dropped kerb is in place and a plank of wood has been placed on the road against the kerb to aid access.
46. Originally, the proposal was to utilise the access point against the back of the public footpath, however the Council's Highways Officer considered that with a close boarded timber fence and a solid wall from the outbuilding to either side would cause restricted visibility in both directions for vehicles exiting the site. They accepted that due to the proposed layout vehicles could not enter and leave the site in a forward gear. Logistically, vehicles would reverse in to the site to be able to access all of the proposed containers.
47. After a series of amendments, the Highways Officer's request for a 2.4 m setback of the roadside boundary fence and gates from the back of the footpath has been submitted. The Highways Officer would consider this would be sufficient for them not sustain an objection to the proposals from a highway safety aspect allowing enough visibility for vehicles exiting the site.
48. Residents have raised as a major concern the impact of the business use upon the already strained parking situation on this stretch of Park Drive. Opposite the site are a total of 49 terraced properties (Elm Street and Ash Street) which have no through access and only a single lane back street to connect the houses to the adopted highway for vehicular movements. As such a large number of residents park their vehicles on Park Drive at the end of the terraces, and in proximity to the application site. Residents are concerned that the proposal would lead to additional parking issues and problems with accessing properties. Park Drive is also a bus route and



sees a regular bus service (every half hour) that often runs in trouble through this area of Park Drive.

49. The nature of the proposed business is a material consideration in regard to the impacts of a proposal upon the immediate highway and its users (nearby residents). The overall level of vehicle movements to and from the site are not proposed to be to such a level that would cause conflict with other highway users, and would not be to the same level as the MOT garage adjacent which contributes significantly to the highways issues in the area.
50. Based upon the above requirements of set back and open style fencing, the Council's Highways Officer cannot raise an objection to the scheme on highway safety grounds. A condition requiring details of the dropped kerb and its implementation are considered appropriate due to the retrospective nature of the application. The concerns over the operation of the site and the resultant conflict with highway users is not considered to outweigh the limited level of traffic proposed in the application and the proposal is therefore considered to on balance satisfy the requirements of Policy TR2 of the Local Plan.

#### Other Issues

51. Due to the previously developed nature of the site, the proposal was reviewed by the Council's Contaminated Land Officer, however the proposed development was not considered to raise any issues in this regard.

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## CONCLUSION

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52. Paragraph 14 of the NPPF states that planning permission should be granted for development which accords with the development plan. The nature of the proposals, the presence of other uses in the vicinity and the re-use of land of limited use for a period of time all carry weight in favour of the scheme.
53. Mitigation in the form of colouring of the containers dark green, conditioned hours of access to the site and set back of the vehicular access to the site all counter sufficiently concerns relating to visual impact, residential amenity and highway safety, which did weigh against the proposed development.
54. The applicant's previous disregard for planning law is a consideration in regard to the Government's advice issued through their ministerial statement that gives weight against the proposals; however this in its own right is not enough to warrant refusal of the application which is considered to mitigate against the impacts it would cause.
55. As such, the proposal is considered to accord with Policies GDP1 and TR2 of the saved Derwentside Local Plan, policies which are considered to be up to date and consistent with the NPPF, and Parts 1, 7 and 11 of the NPPF.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions:

1. The development hereby approved relates to details of development as shown on the following approved plans except insofar as such details may be inconsistent with any conditions attached hereto when such condition shall prevail:

Drawing No	Date
Location Plan (Rev 2)	25/08/2016
Site Plan and 3D Visualisations (Rev 3)	25/08/2016

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GDP1 and TR2 of the saved Derwentside District Local Plan.*

2. By the 31<sup>st</sup> December 2016, the outbuilding currently on site and the existing fencing to the roadside boundary shall be removed from the site and the new fencing and gates erected in the position of a minimum 2.4 metres from the edge of the public highway, and in the style as shown on the site plan submitted 24<sup>th</sup> August 2016. Details of any hazardous materials found in the demolition of the outbuilding shall be submitted to the Local Planning Authority together with details of its disposal. If works are not undertaken within the agreed timescale, the development hereby approved shall cease, and the containers removed, with the land reinstated to its former condition in accordance with details to be submitted to and approved by the Local Planning Authority.

*Reason: To ensure the safety of users accessing the site together road users is protected and to ensure any hazardous materials are disposed of appropriately in accordance with Policy TR2 of the saved Derwentside District Local Plan and the NPPF.*

3. By the 31<sup>st</sup> December 2016, works to improve the vehicle crossing from the site over the public footpath to the road must be completed. If works are not undertaken within the agreed timescale, the development hereby approved shall cease, and the containers removed, with the land reinstated to its former condition in accordance with details to be submitted to and approved by the Local Planning Authority.

*Reason: To ensure that access to the site is appropriate for the use hereby approved in accordance with Policy TR2 of the saved Derwentside District Local Plan.*

4. Within three months of the date of this permission, or one month of being brought on to site, the storage containers hereby approved shall be coloured dark green to all public elevations facing outward from the site and remain so in perpetuity.

*Reason: To ensure that the visual impact of the proposed containers upon the surrounding area is reduced in accordance with Policy GDP1 of the saved Derwentside District Local Plan and paragraph 14 of the NPPF.*

5. The site shall be used solely for the purposes of storage of furniture, personal household goods and other items associated with the furniture removals company operating from the site and for no other use contained within B8 (Storage and Distribution) of the Use Classes Order (1987) (As amended), or any other uses permitted by that Order.

*Reason: To ensure that the impact upon the surrounding area in terms of residential amenity and visual impact is controlled in accordance with Policy GDP1 of the saved Derwentside District Local Plan.*

6. No persons or vehicles shall access the premises before 8am or after 6pm Monday to Fridays and not before 8am or after 2pm Saturdays. The premises shall not be accessed on Sundays or Bank Holidays.

*Reason: To ensure that the impact upon residential amenity is protected in accordance with Policy GDP1 (h) of the saved Derwentside District Local Plan.*

7. Storage shall only take place within the shipping containers hereby approved and there shall be no external storage within the site.

*Reason: To ensure that the impact upon the surrounding area in terms of residential amenity and visual impact is controlled in accordance with Policy GDP1 of the saved Derwentside District Local Plan.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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56. The Local Planning Authority in arriving at its decision, has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

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## **BACKGROUND PAPERS**

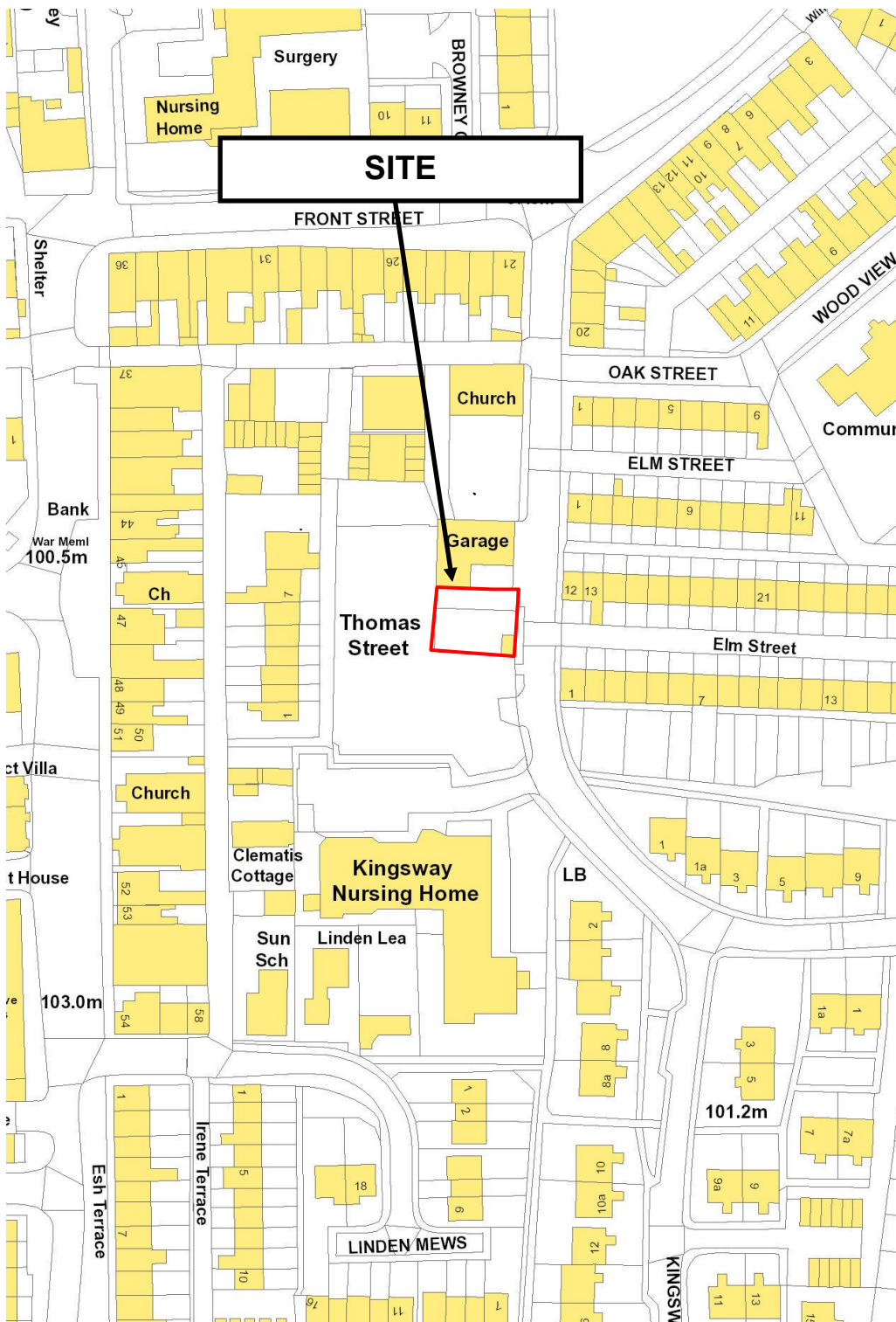
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Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance

Derwentside Local Plan (saved Policies 2007)



### Planning Services

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Hedley Terrace, Park Drive, Langley Park,  
DH7 9TA

Application Number DM/16/00520/FPA

### Comments

Date – 29.09.16

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