

# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>PL/5/2009/0383</b>
<b>FULL APPLICATION DESCRIPTION</b>	<b>CHANGE OF USE TO MIXED USE FOR CARAVAN SITE FOR 3 CARAVANS AND UTILITY BUILDING FOR OCCUPATION BY GYPSY-TRAVELLER FAMILY AND STABLE BLOCK WITH ASSOCIATED MIDDEN</b>
<b>NAME OF APPLICANT</b>	<b>MR T DOLAN</b>
<b>SITE ADDRESS</b>	<b>CHERRY TREE LANE, SALTERS LANE, SHOTTON COLLIERY</b>
<b>ELECTORAL DIVISION</b>	<b>SHOTTON</b>
<b>CASE OFFICER</b>	<b>Barry Gavillet 0191 5274305 barry.gavillet@durham.gov.uk</b>

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### DESCRIPTION OF THE SITE AND PROPOSAL

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The site is located to the west of Salters Lane, north of Shotton Colliery and south of Haswell outside of settlement limits and within the countryside. Specifically it is located between the caravan storage at Laurendale Farm and Salters Lane Livery.

Consent is sought for the siting of three caravans and a utility building for occupation by two gypsy-traveller families, and a stable block with associated midden. The three caravans are specifically a mobile home, a static caravan and a touring caravan.

Information has been provided by the agent for the application in relation to the applicants' family status as Irish Travellers, an ethnic group afforded protection under the Race Relations Act. It is stated by the agent for the application that the family's status as Irish Travellers, and that they have close family connections in the area, is justification for the siting of the three caravans on the application site. The stables are needed as the family owns 20-30 horses which are grazed on land near Leamside, 9 miles to the north, when the mares are in foal or being prepared for shows they would be kept at the stables.

Applicant statement

*"Permission is sought for a caravan with stables on land off Salters Lane. This is a brownfield site in ordinary open countryside. It adjoins other stable yards and to the west is a large caravan storage area. National policy supports the provision of Gypsy sites on the*

outskirts of settlements. This is a sustainable location close to the facilities in Shotton Colliery.

The caravan site is capable of complying with Local Plan Policy 72. This is not Green Belt nor is it within the coastal zone. The site lies in open countryside on the outskirts of Shotton Colliery and government Circular 1/2006 recognises that such locations may be suitable for Gypsy-Traveller sites. No business use is proposed and the use could be restricted to no more than 3 caravans and ancillary buildings.”

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## **PLANNING HISTORY**

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PLAN/2006/0774 – Stables & Mobile Home: Refused

PLAN/2007/0346 – Stables, Offices & Tackroom: Refused

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

Planning Policy Statement 1 (PPS1) sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

Planning Policy Statement 3: Housing (PPS3) underpins the delivery of the Government's strategic housing policy objectives and our goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.

Planning Policy Statement 7 (PPS7) sets out the Government's planning policies for rural areas, including country towns and villages and the wider, largely undeveloped countryside up to the fringes of larger urban areas.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

### **REGIONAL POLICY:**

The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.qos.gov.uk/nestore/docs/planning/rss/rss.pdf>*

### **LOCAL PLAN POLICY:**

District of Easington Local Plan

Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.

Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

Policy 36 – To ensure good access and encourage alternative means of travel.

Policy 72 - The development of permanent, temporary or transit accommodation for travellers will not be allowed in the Green Belt, the coastal zone or on visually intrusive sites in the countryside. Consideration will be given to distance to local services, access arrangements and amenity of people living and working in the vicinity.

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*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.easingtonlocalplan.org.uk/>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

Parish Council – objection. The objection states that the application represents development in the countryside and that the application does not relate to a site identified by County planning policy.

### **INTERNAL CONSULTEE RESPONSES:**

Highways – no objections

Northumbrian Water – no objections

Environment Agency – no objections

Environmental Health – details of foul sewerage required

Planning Policy - the key considerations when assessing this application are likely to be the adequacy of the access and traffic generation and the distance travelled to access services and facilities from the site. I would suggest that if these issues are deemed acceptable then there would be no policy objection to the application.

### **PUBLIC RESPONSES:**

A press notice has been published and a site notice has been posted and letters sent to surrounding occupiers. No comments have been received.

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*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://www.durham.gov.uk/Pages/Service.aspx?ServiceId=1057>. Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below*

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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Planning consent is sought for the siting of three caravans and a utility building for occupation by two gypsy-traveller families, and a stable block with associated midden. It is stated by the agent for the application that the family's status as Irish Travellers, and that they have close family connections in the area, is justification for the siting of the three caravans on the application site. Information has been provided with the application which confirms the applicants status as Gypsy-Travellers in line with the guidance set out by the Planning Inspectorate.

The main issues to consider in determining this application are the relevant national planning guidance, saved District of Easington Local Plan Policies, the Parish Council Objection and Human Rights.

- National Planning Guidance
- District of Easington Local Plan Policies
- Parish Council Objection
- Human Rights

### National Planning Guidance

Circular 1/2006 contains the most up to date guidance on Gypsy policy and as such carries considerable weight in determining planning applications. The Circular states that determination of applications for planning permission must be in accordance with the development plan unless material considerations indicate otherwise. The Circular makes clear that areas of open countryside not otherwise designated will be appropriate in principle for Gypsy sites and sites on the outskirts of settlements are regarded as acceptable. The general aims of the circular are to increase the number of sites for Gypsy-Travellers by 2009-11.

The circular also states that Local Planning Authorities should be able to release sites for development sequentially, with sites identified in Development Plan Documents (DPDs) being used before windfall sites. It should be noted that there are no sites identified in any DPDs within Durham. It is also stated that other considerations for gypsy and traveller site applications are likely to include the likely impact on the surrounding area, the existing level of provision and need for sites in the area, the availability (or lack) of alternative accommodation for the applicants and other personal circumstances.

The Regional Spatial Strategy published in 2008 gives details of the need for gypsy sites in the region, however the County Durham sub regional study is now considered more reliable and authoritative in this respect. The County Durham study identified an immediate need for 61 pitches to meet current shortfall and 37 further pitches for family formation in the period 2008-2015. The current situation at the public gypsy sites in the County is that there is no spare capacity and the rate of turnover is generally low. A recent appeal decision within the Easington area of the County recognised that there is a demonstrable unmet need within the County.

Circular 01/2006 states that consideration should be given to granting a temporary planning permission where there is unmet need, no available sites and a prospect that new sites will be available through DPDs. However, at present there is no specific gypsy or allocation document programmed into the Durham LDS and the applicant has requested planning permission on a permanent basis.

The information provided by the agent for the application relating to the applicants' family status as Irish Travellers is accepted by the Local Planning Authority, as such it is considered that the proposal to site the three residential caravans on this site accords with the advice contained within Circular 1/2006.

#### District of Easington Local Plan Policies

The site is located to the west of Salters Lane, north of Shotton Colliery and south of Haswell, and is situated outside the existing settlement limits as identified in the District of Easington Local Plan. The application site is therefore considered to be in the countryside.

Saved policy 3 of the Easington Local Plan identifies that development outside the settlement limits will be regarded as development within the countryside. Other than specifically allowed by other policies, development in the countryside will not be approved.

Saved policy 72 of the Local Plan is most relevant in this instance and refers specifically to the development of permanent, temporary or transit accommodation for travellers. The policy states that sites will not be allowed in the green belt, the coastal zone or on visually intrusive sites in the countryside. The Local Plan Policy does, however, allow for sites outside established settlement boundaries providing that: the site is within reasonable distance of local facilities; suitable access can be provided; and, the proposed use would have no detrimental effects on the amenity of people living or working in the vicinity of the site. It is considered that the proposed development adheres to the criteria set out in policy 72 as the siting of the caravans is close to the established settlement boundary for Shotton and it is accepted that the site is within a reasonable distance of local facilities such as bus services, shops and a school.

Policies 35 and 36 of the Local Plan are also relevant, these relate to the impact on any surrounding residents and the visual amenity of the area and also highways issues. The nearest residential properties in Shotton are approximately 350 metres to the south east and there are several individual properties nearby. It is considered that the siting of the caravans and stables on this site would not have any adverse impacts on these occupiers. Neither is it considered that the proposal would have an adverse impact on the countryside as there are other buildings and caravans close to the site and the land has not been protected by any special land designations. It should be noted that two previous applications have been refused on this site for stables, offices and a mobile home. However, on both occasions it was considered that equestrian uses were suitable and that the location for the proposed stable blocks were relatively inconspicuous in that they were located adjacent to similar buildings on the adjoining sites, as is the case in the current application. These refusals were based on lack of any justification for the mobile home and the design and appearance of the office and tackroom.

Highways Officers have been consulted on the application and have confirmed that they have no objections to the scheme; as such the access arrangements for the site are considered to be acceptable and in accordance with the relevant development plan policy.

Overall it is considered that the proposals are in accordance with the relevant planning policies.

## Parish Council Objection

Shotton Parish Council have objected to the proposals on the basis that the proposal is located in the countryside and is not in accordance with planning policy. It is accepted that the development is outside of a settlement boundary, however national and local planning policy supports the development of Travellers' sites in the countryside on the basis that there are local facilities nearby and that there would be no adverse impact on the landscape or residential amenity.

The Parish Council have also stated that there is a responsibility of the Council to provide specific sites for Travellers' with proper amenities and that this application site has not been allocated. The Council have allocated and provide facilities on six sites across the County, however all of these sites are full to capacity. As such, it is considered unreasonable to refuse planning permission on the basis that there is capacity on allocated sites as this is not the case, moreover, the current application is considered to meet the criteria for approval in the relevant planning policies.

It has also been stated that the local community are extremely concerned about the proposals, however no comments have been received following a consultation exercise involving individual letters, a site notice and a press notice being published.

## Human Rights

Human Rights legislation provides for the "Right to respect for private and family life" (Article 8 of the Human Rights Convention). That right is not absolute, however, but qualified and the local planning authority is consequently legitimately able to take into account other factors in determining whether to grant or refuse planning permission. Any decision however must be "necessary and proportionate". Generally this means the local planning authority must balance the public interest against the applicant's personal circumstances.

Consequently it is concluded that the applicants' personal circumstances have been considered and weighed against the public interest. Planning policy generally aims to protect the interests of the public, therefore as the proposals are in accordance with the relevant planning policies, a properly balanced recommendation has been made.

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## **CONCLUSION**

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In conclusion it is considered that the siting of the three residential caravans on this land is in keeping with the relevant development plan policies. The site would be occupied by two families of Irish Travellers, a group protected by the Race Relations Act, and afforded rights relating to provision of accommodation sites under circular 01/2006. Subject to the suggested conditions it is considered that the future use of the site can be controlled and the amenity of adjacent occupants and surrounding landscape protected. By allowing permission specifically for Travellers on the site it is not considered that any precedent for future general residential development of this site is being established and it is recommended that, due to no allocated Travellers' sites being available in County Durham and no prospect of sites being allocated in the near future, planning permission be granted with regard to the special circumstances relating to this case.

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## RECOMMENDATION

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

### Conditions:

1. This permission does not authorise use of the land as a caravan site by any persons other than gypsies and travellers, as defined in paragraph 15 of ODPM Circular 01/2006.
2. No more than 3 no. caravans, as defined in the Caravan Sites and Control of Development Act 1960 and the Caravan Sites Act 1968 shall be stationed on the site at any time.
3. No commercial activities shall take place on the land, including the storage of materials.
4. No development shall commence until a scheme for the provision of foul water drainage works has been submitted to and approved in writing by the Local planning authority. The drainage shall be completed in accordance with the details and timetable agreed.

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## REASONS FOR THE RECOMMENDATION

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1. The development was considered acceptable having regard to the following development plan policies:

DISTRICT OF EASINGTON LOCAL PLAN	ENV03 - Protection of the Countryside
DISTRICT OF EASINGTON LOCAL PLAN	ENV35 - Environmental Design: Impact of Development
DISTRICT OF EASINGTON LOCAL PLAN	GEN01 - General Principles of Development
DISTRICT OF EASINGTON LOCAL PLAN	HOU72 - Control of sites for travellers
PLANNING POLICY STATEMENT/GUIDANCE	PPS1 - Delivering Sustainable Development
PLANNING POLICY STATEMENT/GUIDANCE	PPS3 - Housing
PLANNING POLICY STATEMENT/GUIDANCE	PPS7 - Sustainable Development in Rural Areas

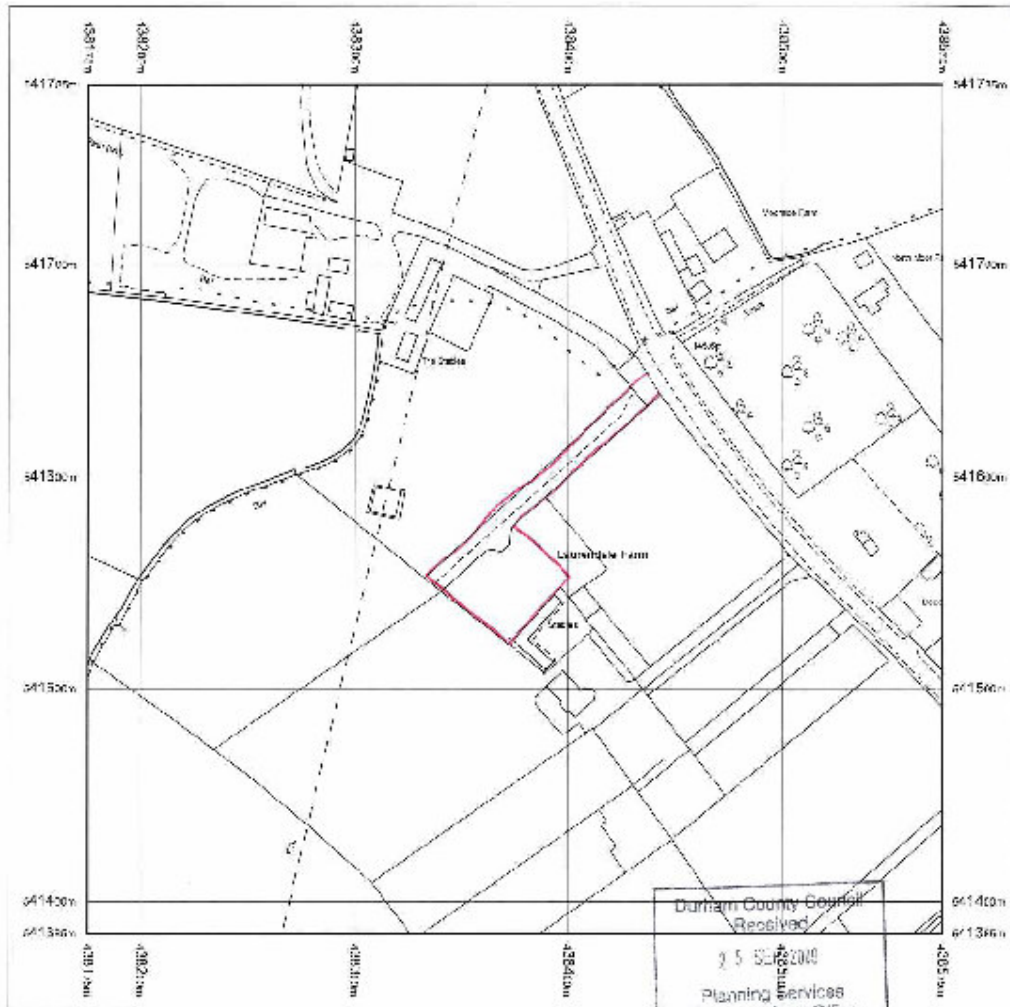
2. In particular, the proposals were considered acceptable in relation to amenity and highways issues and were acceptable with regard to Government guidance given in Circular 1/2006.

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## BACKGROUND PAPERS

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- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001
- Planning Policy Statements / Guidance, PPS1, PPS3, PPS7
- Circular 1/2006
- Consultation Responses



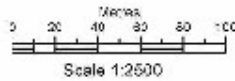
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<b>Easington Area Office</b>
Cherry Trap Lane
Haswell



# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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**APPLICATION NOS:** 4/09/00560/FPA and 4/09/00561/LB

**FULL APPLICATION DESCRIPTIONS:** FPA - Proposed barn conversion/change of use from agricultural building to domestic dwelling, with erection of detached pitched roof garage and hardstanding area, and provision of parking area for existing dwelling

LB - Partial demolition and rebuild of listed building to facilitate proposed barn conversion to domestic dwelling, with erection of new detached pitched roof garage and car parking area

**NAME OF APPLICANT:** Ms G Moore

**ADDRESS:** Tithe Barn, Bent House Lane, Durham, DH1 2RY

**ELECTORAL DIVISION:** Gilesgate

**CASE OFFICER:** Mr S France, Senior Planning Officer  
0191 301 8711  
[steve.france@durham.gov.uk](mailto:steve.france@durham.gov.uk)

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### DESCRIPTION OF THE SITE AND PROPOSALS

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The Tithe barn is a listed, vacant, former Threshing Barn, sited immediately east of Old Durham Gardens. The Barn, dates from the late 17<sup>th</sup>/early 18<sup>th</sup> Century, is of brick construction, with a concrete tiled roof, is two storeys in height and listed Grade II. The barn is attached to an adjacent dwelling, not in the applicant's ownership. The applicant currently resides in a converted stable complex, detached, but immediately adjacent the barn to the south-east. The building is accessed from Bent House Lane, a Public Right of Way and popular leisure route that serves the six existing dwellings in this detached rural hamlet. The site is within the Green Belt, the Area of High Landscape Value, and the Durham (City Centre) Conservation Area.

The applications propose the conversion of the listed barn, with alterations to existing, and provision of new openings, and a balcony on the south gable, with a degree of alteration and

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areas of demolition of the existing building – principally the gable end. No extension of the building is proposed, although a detached garage is to be sited adjacent the existing boundary wall.

There are two main elements to the planning considerations: the building whilst complete and potentially structurally capable of conversion is also structurally precarious. The applicant has submitted a complex engineering solution to stabilize the building, however this results in the two central threshing doors on either side of the building, with their centered arched stone heads, and oeuil-de-boeuf openings, which are, a particular feature of the justification for listing, being moved. This level of intrusion to some of the most important features of a listed building is highly unusual, and potentially contentious.

Secondly, the proposed building is to have a residential use, and with the introduction of new residential openings, the residential amenity of the neighbours must be taken into account along with the implications to the usual problems of balancing the demands of residential conversion, with the need to retain an agricultural character to the building.

The proposals provide for two main levels of residential accommodation, one in an excavated lower floor, and an upper mezzanine which would extend into a portion of the roof structure.

This application has been requested to be reported to Committee by the Local Ward Member.

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## **PLANNING HISTORY**

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The Tithe Barn has been subject to extensive discussion through a succession of Planning and Conservation Officers on the part of the Council, and Agents and Architects on behalf of the applicant over many years. This has impacted on the current scheme, as some of the design approaches and compromises reached predate the discussion on the current proposals. Despite these extensive and detailed discussions, there is no existing planning permission for the building, and no recent formal planning history, excepting two applications being withdrawn for lack of information in 2008.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

Planning Policy Statement 1: Delivering Sustainable Development sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.

Planning Policy Guidance Note 2: Green Belts, this PPG outlines the history and extent of Green Belts and explains their purposes. It describes how Green Belts are designated and their land safeguarded. Green Belt land-use objectives are outlined and the presumption against inappropriate development is set out. Visual amenity factors are described and policies regarding new building and re-use of old buildings are summarised.

Planning Policy Statement 7: Sustainable Development in the Countryside, sets out sustainable development as the key principal underpinning rural land use planning, setting out criteria for development and conversion of buildings in the countryside and appropriate

land uses.

Planning Policy Statement 9: Biodiversity and Geological Conservation, sets out planning policies on protection of biodiversity and geological conservation through the planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy.

Planning Policy Statement 10: Planning for Sustainable Waste Management. The policies in this PPS should be taken into account by: waste planning authorities in discharging their responsibilities, regional planning bodies in the preparation of regional spatial strategies, local planning authorities in the preparation of local development documents. They may also be material to decisions on individual planning applications. These policies complement other national planning policies and should be read in conjunction with Government policies for sustainable waste management, in particular those set out in the National Waste Strategy 3.

Planning Policy Guidance Note 13: Transport This PPG's objectives are to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight. It also aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car. To deliver these objectives, the guidance says that local planning authorities should actively manage the pattern of urban growth, locate facilities to improve accessibility on foot and cycle, accommodate housing principally within urban areas and recognise that provision for movement by walking, cycling and public transport are important but may be less achievable in some rural areas.

Planning Policy Guidance Note 15: Planning and the Historic Environment This PPG lays out government policies for the identification and protection of historic buildings, conservation areas, and other elements of the historic environment. It explains the role of the planning system in their protection. The frequently close link between controls over 'listed' buildings and conservation areas and development control decisions means that development and conservation generally need to be considered together. Part One of the PPG deals with those aspects of conservation policy which interact most directly with the planning system. These include matters of economic prosperity, visual impact, building alterations, traffic and affect on the character of conservation areas. Part Two addresses the identification and recording of the historic environment including listing procedures, upkeep and repairs and church buildings.

Planning Policy Guidance Note 16: Archaeology and Planning This PPG sets out the government's policy on archaeological remains on land and how they should be preserved or recorded both in an urban setting and in the countryside. It gives advice on the handling of archaeological remains and discoveries through the development plan and development control systems, including the weight to be given to them in planning decisions and planning conditions. Explanation is given of the importance of archaeology and of procedures in the event of archaeological remains being discovered during development.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

## **REGIONAL POLICY:**

The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

Policy 11 – Rural Areas sets out criteria for developing a vibrant rural economy that makes a positive contribution to regional prosperity, encouraging economic prosperity, sustainable communities and connectivity.

Policy 32 – Historic Environment requires planning proposals to seek to conserve and enhance the historic environment of the region by a number of measures including encouraging the reuse and refurbishment of underused buildings and including them in development schemes.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at:*  
<http://www.gos.gov.uk/nestore/docs/planning/rss/rss.pdf>

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## **LOCAL PLAN POLICY:**

Policy E1 of the City of Durham local Plan relates to the Durham City Green Belt, reflecting the advice given in PPG2, seeks to maintain open-ness and resist inappropriate development, consistent with Policy E8.

Policy E6 (Durham City Centre Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.

E8 therefore sets out the approach of the Council for determination of applications for change of use of Buildings in the Countryside, including criteria preventing major extension or rebuilding work, having no significant adverse effect on the character and appearance of the Countryside, the openness of the Green Belt, or the amenity of neighbouring occupiers, and that traffic movements accorded with Policy T1.

Policy E10 (Areas of Landscape Value) is aimed at protecting the landscape value of the district's designated Areas of Landscape Value.

Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.

Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.

Policy E23 seeks to safeguard listed buildings and their settings, by ensuring alterations and extensions are sympathetic in scale, design, and materials, and not permitting alterations which adversely affect the special interest of a listed building.

Policy E24 (Ancient Monuments and Archaeological Remains) sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.

Policy E26 requires development around historic parks and gardens to not detract from the enjoyment, layout, design, character, appearance or setting of the park or garden.

Policy H13 seeks to protect the character of residential areas, stating that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policies T1 and T10 of the Local plan relate to general and parking related highways policies, starting from the point that planning permission will not be granted for development that would generate traffic which would be detrimental to highway safety and/or have a significant affect on the amenity of occupiers of neighbouring property. Vehicular parking for new development should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of developments.

Policies Q1 and Q2 sets out criteria all new development must take into account in its design and layout, including elements of personal safety and crime prevention, the needs of the disabled and the elderly, minimising conflict between pedestrians and vehicles and so on.

Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.

Policy Q8 (Layout and Design of Residential Development) the Councils standard requirements to ensure the quality of new residential development are set out. Criteria include providing for adequate amenity and privacy for each dwelling, minimising the impact of the proposal upon the occupants of existing nearby and adjacent properties, provision of safe, accessible and attractive open space, retaining existing features of interest including trees and hedgerows, and being appropriate in scale, form, density, and materials to the character of its surroundings, along with making the most efficient use of the land.

Policy U8a outlines the requirements for accommodation of foul and surface drainage within development schemes.

## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

The County Highway Authority raise no objection to the proposals.

Natural England advises the proposal is unlikely to have an adverse effect in respect of species especially protected by law, subject to the imposition of suggested conditions.

The Environment Agency initially objected to the scheme, but following detailed discussions with the applicants have withdrawn that objection.

Northumbrian Water offered no objection to the proposals.

English Heritage entirely support the principal of a residential conversion. Initially they raised concern with the works proposed - partially in the absence of an options appraisal, and having concerns at the restricted assessment of the historic significance of the building. English Heritage representatives, including their Engineer subsequently attended a site meeting with the applicant's Structural Engineer to discuss the scheme, the engineering approach and alternatives.

Following this meeting the scheme was amended to involve less demolition, and less intrusion into the historic fabric of the building, to a degree where English Heritage note on the Listed Building application, that whilst they consider the proposed alterations have an adverse effect on the character of the listed structure, these concerns go beyond their formal remit in cases involving Grade II listed buildings. On the Full Planning Application, considering the effect of the proposals as a large site in the Conservation Area they again note they are keen to see the building brought back into beneficial use at the earliest possible stage, but consider the detailed proposals unacceptable. They recognise there are other issues that must be balanced in the 'Planning' judgment that may outweigh any perceived harm to the Conservation Area.

The North of England Civic Trust note the character of the building derives from its agricultural nature and any conversion should avoid over-domestication. They object to the principal of moving the door openings, but not to the removal of the buttresses. The Trust objects to the listed building application.

The Society for the Protection of Ancient Buildings do not consider the proposed conversion sympathetic to the historic buildings.

There was no consultation response from, the Ancient Monuments Society, Council for British Archaeology, The Georgian Group, and the Victorian Society.

### **INTERNAL CONSULTEE RESPONSES:**

The Councils Design and Conservation section have been extensively involved in the assessment of the planning and listed building applications, and both their, and Forward Planning Officer's assessments of such are included in the Planning Consideration section of the report (below)

The County Ecologist considers the submitted Protected Species Reports adequate, recommending that the mitigation strategies contained within such be made a condition of approval.

The County Archaeologist suggests a condition for archeological mitigation during development works.

#### **PUBLIC RESPONSES:**

The residents of the adjacent dwelling are pleased at the relocation of the parking area, but consider the aesthetics out of keeping with the nature of the historic building. They have a specific concern relating to the relationship of their property to the proposed opening and stair access near the boundary wall, which have not been addressed to their satisfaction by a redesign of this element during the course of the application, the concerns relating to the potential for overlooking and noise intrusion. They point out that their dwelling and the barn were built as a single structure, and the structural alterations to the barn will have implications for their own property. They are also concerned at the potential for noise and disruption during the course of construction works.

Three other residents of the hamlet have written, noting that whilst the principal of conversion is welcomed, the conversion of this 'single storey' building is compromised as overdevelopment by the proposed openings and detail of conversion, inappropriate to its agricultural and historic character. One correspondent refers to covenants from a previous scheme restricting the site to one residential unit, with implications to the shared upkeep of the access roads.

The City of Durham Trust note that whilst the supporting information has been strengthened in relation to the previous (withdrawn) application, they do not feel the design elements of the proposals respect the structure, or the surrounding building group.

#### **APPLICANTS STATEMENT:**

The architect has set out a detailed statement that notes the current scheme has been arrived at following 5-6 years of discussion between the Council and the applicants, prior to their own engagement. It is their opinion that the design they inherited has been developed in a sensible and pragmatic manner, responding to the existing structural features of the barn, and the specific requests of the Council's representatives. With the lower level of the existing roof trusses dictating the level of the uppermost floor - the retention of the character of the open roof trusses being a Council requirement - a semi-basement scheme was investigated, the restrictions of a single level of accommodation failing to meet the minimum requirements of a 3-bedroomed property, with lounge and kitchen. The engineer's report of Sept '07 required a scheme of underpinning to save the existing walls from collapse, with this requirement further supporting and making viable the 'semi-basement' option. This report estimated the life expectancy of the building at around 2 years.

In response to English Heritage objections, the applicant notes the unorthodox positioning of the feature doors under a structural load point, compromising both the original structure, and the modern engineering stabilisation proposal. To move the proposed structural stair tower proposed would both mean that one of the central trusses would obstruct the support and the resultant structure would provide lesser support for the roof.

Likewise the windows and balconies have been the subject of extensive and long term discussion, the applicant having understood a compromise having been reached. Notwithstanding this the large opening on the west elevation has been reduced in size to reduce the effect on neighbours at Officers request, and the balcony has been reduced by 75% to the point where it is a stair access only for similar reasons.

*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://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_searchresults.aspx](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_searchresults.aspx) and [http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_searchresults.aspx](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_searchresults.aspx)*

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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### Context

This application effectively hangs on whether a pragmatic approach both to the effects of the proposed scheme of stabilisation of the building, and on whether the amount of alteration required to make the proposed scheme viable is considered acceptable to a building that the submitted structural reports contend is near to being structurally compromised.

The main policy considerations are those designed to protect listed buildings and the historic environment – E6, E22 and E23. Other issues relate to the protection of existing resident's privacy and amenity – Policies Q9 and H13, along with the usual matters that attend applications for residential development, such as Drainage – Policy U8a, and Highways – Policies T1 and T10.

Matters of principal for the development of a dwelling in Countryside, Green Belt, and the Area of High Landscape Value – Policies E8, E2, and E10 will also be examined.

### General Principals

The determination of these applications must take into account the bedrocks of established conservation practice designed to protect the finite resource of the nation's built heritage, and must also take into account the specific implications of such to this building. The designation of Conservation Areas and the Listing of Buildings seeks to protect this resource and sets out criteria, expanded at the local level by the Policies adopted in the Local Plan to ensure that where changes are proposed that effect historic areas, or historic buildings, they are fully justified, and appropriate both in how they affect the physical fabric of the building, and it's character, which can be defined in terms both of the structure itself, and it's immediate, and wider settings, in Policies E23, E6 and E22.

Officers acknowledge at the outset in presenting the development proposals, that ideally a less intense conversion would be more suitable, and better retain the agricultural character of the Tithe Barn, but that this proposal is as much dictated by economics as it is the applicant's requirements. The repair of this building is a serious financial undertaking. The building, whilst currently capable of conversion, is in a precarious structural state, and unlikely to remain standing without prompt intervention, at significant cost.

When grant-aid is available there is the potential to top up the discrepancy between repair costs and final market value (normally termed the 'conservation deficit') and this provides



greater opportunity to create a less intense, more sensitive scheme and refuse schemes that are insensitive. When grant-aid is not available, such as here, conversion must be financially viable, and in refusing schemes Local Authorities must take into account the ability of an unoccupied building to remain in a sound structural condition. This is unlikely to be the case here. The structural report accompanying this application states that this building is in a serious state of decay whilst the application presents a scheme for its viable re-use.

### The Design Approach

The current design, as noted elsewhere, has evolved over a long period of time with proposed individual elements being agreed as a potentially appropriate, and even suggested by Officers, who are no longer with the Authority. This does not diminish the approach, but makes a sequential examination of the alternatives examined difficult, and it is evident that this has frustrated some of the Statutory Consultees. With the internal roof structure identified as the most important of the barn's principal historic features, the resultant design approach effectively determined the proposed floor heights, and set both the structural and conservation design of the project in detail. It has been a long-standing aspiration of the Council that the roof structure be set as an open feature, the character of which could be viewed as such from inside the building. The preservation of historic buildings relates not just to the physical fabric of such, but also the character derived from internal spaces. In principal the conversion of any barn will compromise the wholly open interior, and the approach of maintaining the roof-structure as a visible entity was considered to be an appropriate response to this. Unfortunately, using this design approach as a starting point has knock-on effect to the other principal features of historic interest – the threshing doors and their detailing - as in taking the roof structure as the starting point of the preservation of the building, the highly unusual structural location of these side doorways, directly beneath a point loading from a roof truss, necessitated this significant intervention to the historic fabric on structural grounds, in other words, their relocation. The complex structural solution to stabilize the building, in working around the roof drives these significant alterations.

Using the roof structure as the starting point also removed the potential of living accommodation at the higher level, hence the introduction of the lower floor level. The degree of underpinning required, an expensive operation in its own right can be justified to the applicant by the acceptance of this lower level, however it is noted that objectors take exception to this approach, where it is termed 'pay-back' in the supporting documentation.

### Scale and Character

An amount of the objection to the scheme from the Statutory Consultees is not to the proposed method of structurally stabilizing the building itself, but that given the level of intervention proposed to elements that form the external character of the building being the main historic external features, other options that have been discounted, and the methodology that discounted these alternatives was not set out. The 'Planning History' section of this report alludes to the fact that the conversion of this building has been discussed over a number of years, through various Council Technical and Senior Officers, and a number of Architects, Agents and Technical Advisors on behalf of the applicant. The current scheme represents a culmination of the efforts of all these parties, but obstructs the setting out of a clear and structured sequential analysis of the evolution of the design and its justification. It is noted that this lack of clarity appears to have been a feature of the history of the formal protection of the building also, as of the two most potentially interesting historic features of the building – the threshing doors, with stone surrounds under oeuil-de-boeuf openings, and the wooden roof structure, only one is mentioned in the original listing

description by English Heritage. Following the meeting with English Heritage during the course of the application the proposed working methods , and in consequence the extent of demolition/repair/rebuild was changed, so that in essence it is only the south gable that will now be removed. Additional statements to justify the approach were also submitted. English Heritage who have acknowledged that this revised approach takes the demolition works below the threshold where they are a formal consultee on the listed building application.

The threshing door openings are proposed to be moved by 1500mm. This is a delicate and specialist operation that would need to be specially conditioned. A benefit of the internal structural works to the external elevations is that it allows the later brick buttresses to be removed. Whilst these do form part of the history of the building, they are a negative visual addition. The proposals acknowledge their presence, reducing them to a 100mm protrusion, but improving the appearance of the building.

The main visual change to the building, and therefore to the character of the building, is, as with any barn conversion, the introduction of openings and windows. The Local Plan contains Supplementary Design Guidance on the conversion of farm buildings which notes this is often the most critical element of farm conversions, suggesting the use of existing openings and reusing blocked openings as most appropriate.

The large windows in the south gable (to be demolished) replicates the existing large opening in the existing building. In the east elevation – that most visible from the public domain – an existing opening is used, two blocked up openings are reused, with two new windows located in the position of two existing much smaller existing openings. Three small slot windows are proposed, replicating features elsewhere on the building, with a blocked doorway retained as such. These openings are sited on the elevation in a way that retains a solid character, where windows are introduced it is adjacent the attached neighbouring dwelling, the southern half of this elevation appearing essentially solid, and in character. The proposed window pattern is a compromise for residential escape windows.

There has been a similar approach on the west elevation, with the southern half of the elevation retained as essentially solid, and the new windows including an existing opening being reused and grouped together. This elevation includes a full height opening formed of two french doors as a wholly new feature. This large opening is not easily visible from the public domain, and is sited to take advantage of the magnificent views of the Cathedral across the flood plain of the River Wear, to the west. The residential amenity implications of this opening are discussed below.

The balcony proposed for this opening has been redesigned as a lightweight stair access only, reduced by 75% during the course of this application. A balcony has also been included to serve the large opening on the gable end, as a result of earlier discussions on the scheme. This again has been designed as a visually lightweight structure that gives improved access and a residential feature to the living accommodation, whilst not being a prominent feature in longer views – i.e. from the Public Bridleway passing to the south of the site, where it is intended that the opening itself will be the dominant feature and will emphasise the agricultural origins of the building. A restricted series of conservation rooflights on both roofplanes are small features in character with the building.

In summary of this point, it is acknowledged the new fenestration lessens the agricultural character of the building, but this does present a compromise between retaining character and forming a viable new use for the structure. Threshing or grain barns are one of the hardest types of farm buildings to convert successfully as they contain few openings and

these are typically limited to centrally placed doors and narrow ventilation slits. Further to this, later hatches, doorways and openings left from a now demolished gin-gin or engine shed have been fully utilised but these are not sufficient to practically light the number of rooms brought about by creating the partially sub-ground floor and the number of internal divisions. Therefore new openings are required and these will invariably alter the building's character.

Ideally a less intense conversion would be more suitable but this proposal is as much dictated by economics as it is the applicant's requirements. The repair of this building is a serious financial undertaking, and Officers have adopted a pragmatic approach taking into account the 'conservation deficit' issue outlined above. The structural report accompanying this application states that this building is in a serious state of decay whilst the application presents a scheme for its viable re-use. This proposal has been arrived at through significant modification to mitigate its impact on the building. The result is not ideal but given the hard circumstances it is a good scheme and ultimately opens a way to save this listed building and this is the most important consideration to take into account.

As regards the effect on the Conservation Area, the retention of the building itself is considered the prime determining factor, in terms of the contribution its form and mass contributes to the layout of the small hamlet around Old Durham. In principal therefore the conversion of the building protects this wider character, and is considered acceptable.

### Residential Amenity

The proposals also introduce a residential use to what has been a vacant agricultural building, bringing implications for residential privacy and amenity that must be assessed against the requirements of Policy Q8. The applicants had initially proposed a large opening within 1.2m of the boundary wall, consisting a full width balcony forming and four panel 3m wide French door. On inspection from the neighbour's garden Officers concurred that this was likely to overlook that property's garden to an unacceptable degree, the design being thereafter amended to reduce the size of the window by a pane, to nearer 2.25m wide, and moving it by the reduced amount away from the boundary wall – there now being a 2m separation. The balcony has been replaced with a glazed stair access with landing to the window, the access door being 3.5m from the boundary.

Whilst Officers would have preferred the omission of the stair access to this window, this is an essential requirement of the applicant, relating the main living area of the proposed family home to the private gardens. It is worth noting again here that the living accommodation is arranged so that the proposed sleeping accommodation is in the excavated lower ground floor, the living accommodation is on the upper floor, the floor level of which is 1.5m above ground level (the dividing wall is 2m high). Acknowledging that there will be an effect on the neighbouring property with the introduction of the new relationships, Officers are of the opinion that the overlooking separation of the window and stair access is now not unreasonable. The immediate neighbours have been reconsulted on the revised proposals and have reaffirmed their objection.

It is noted that no consultee has objected in principal to the conversion of the barn to residential use, and the character of the small settlement is not detrimentally affected by the conversion, with the requirements of Policy H13 therefore met.

## The General Policy Context

### Green Belt

The conversion and re-use of buildings within the Green Belt is compliant with both the requirements of Local Plan Policy E1, and the aspirations of Planning Policy Guidance Note 2 (Green Belts). Policy E8, states that the re-use of a building in the countryside for residential use will only be permissible if the applicants can demonstrate efforts to secure suitable business re-use, however PPG2 states that 'evidence that the building is not redundant is not by itself sufficient grounds for refusing permission for a proposed new use'. Because re-use may be the best way to preserve a building, PPG2 discourages rejection of such proposals, with PPG2 advocating the use of conditions to make proposals acceptable where schemes do not conform with other policies. The applicants have included in the submission a letter from this department dating from March 2006 stating that a change of use to residential is acceptable, given such proposals are supported in PPG7.

### Environment

The site is within The Area of High Landscape Value (Policy E10), which seeks to prevent development that would compromise landscape quality, requiring proposals to respect this by being appropriate in terms of siting, design, scale, character, materials and relationship to nearby buildings. As a conversion the proposed scheme has no additional impact in terms of massing, with the exception of the siting of the garage, which is located to be screened in large part by the existing boundary wall, the visible roof then being visually associated with existing buildings, the scheme is considered compliant with this Policy.

Policy E16 requires submission of habitat surveys to ensure species protected by law are not compromised by development proposals, in line with Planning Policy Statement 9. The applicants have submitted such a statement and the proposed construction mitigation strategies contained therein are considered adequate by the County Ecologist.

There has been no suggestion from any quarter that the proposals are likely to detract from the layout, design, character or appearance of the nearby historic Garden at Old Durham, and the proposals are therefore considered to accord with the requirements of Policy E26.

### Highways

The existing group of buildings is served by a long, metalled access road that leads to the main public Highway at the traffic light controlled junction of Dragon Lane and Sherburn Road. Parking and garaging has been provide on site, accessed by land the applicant has indicated she has right of passage over. Highway officers raise no objection to the scheme that is therefore considered acceptable against the requirements of Policies T1 (Highways – General) and T10 (Highways – Parking) and the aspirations of PPG13. The layout of the proposed parking is improved over the previously withdrawn proposal, as acknowledged in representations to the scheme.

### Archaeology

The applicant and her agents discussed the requirements of the County Archaeologist in the period between the previous withdrawn application, and the current submission. The

supporting documentation submitted reflects these discussions, and no objection is raised on archeological grounds subject to an appropriate condition.

### Other Issues

Residents have raised objection on the grounds of disruption during the course of development works. Whilst in principal this has little material weight in the planning process, given the intimate structural relationship between the Barn and the adjacent residential property, there will undoubtedly be an impact on the adjacent residents, and it is considered reasonable to impose a condition restricting working hours. Whilst a detailed structural justification has been set out by the applicants, a condition is proposed to require the developer to set out a methodology and fully monitor the shared walls, noting that both the Party Wall Act and Building Regulation Acts have a role to play in ensuring the adjacent property is not harmed. A working hours condition is also proposed.

Following an initial objection from the Environment Agency as a matter of principal, detailed discussions between the applicant and that organisation have agreed that the drainage does not have to be part of the mains system, and the objection has been withdrawn, noting that it is the applicant's responsibility to ensure the site is drained by a separate system of foul and surface water drainage, with all clean roof and surface water kept separate from the foul water. Northumbrian Water offered no objection to the proposals. These consultations, and an appropriate condition are considered to address the requirements of Policy U8a.

Reference has been made by one objector to previous consents restricting the occupation of the site to one residential unit, implying that this was tied into legal agreements into the access road maintenance. The applicant currently occupies a converted stables building within the curtilage of the site, that is proposed sub-divided as part of the application. The current application must be considered on its own merits, with the implications to shared maintenance agreements outside it's remit. The existing plot has been designed to be subdivided in such a way that The Stables retains separate parking, and an acceptable area of residential garden, not unreasonably compromising that dwelling, considered against the requirements of Policies Q9, H13 and T10.

It is proposed to remove normal permitted development rights from the development to ensure that future alterations that may affect the character of the building are fully under the control of the Local Authority.

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## **CONCLUSION**

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Officers conclude a pragmatic approach to the stabilisation of the building and its effects on the features of interest that justify its listed status is appropriate. All conversions of agricultural buildings to residential use affect the host buildings character. The Tithe Barn is not being externally extended, and main changes to character relate to the relocation of the side doors, and the introduction of residential openings. In basic terms, only a high-value conversion will make conversion viable, this in the first instance means a residential use, and in the second means a dwelling providing a reasonable volume of accommodation. In stark terms the supporting engineers reports indicate that the building needs immediate intervention to be saved. This statement does not imply that an unacceptable or inappropriate scheme is being recommended, and that the proposals are not considered by Planning or Conservation Officers to represent a scheme appropriate for the site, but

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indicates that these issues have formed part of the consideration that leads to the following recommendation. The principal of conversion is supported by most parties. Most contention relates to the detailed effects of the structural conversion – in terms of its intrinsic character, and on the character of its surroundings. The residential amenity objections have their own dimension, but are obviously related.

The proposals are the result of several years negotiations, and represent an appropriate and considered response to the demands of the building, justified and supported by the applicant's agents. They have been considered against the wider Policy context and found acceptable. Subject to appropriate conditions, the two applications are recommended for approval.

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## **RECOMMENDATION**

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

**Application 4/09/560/FPA:**

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

2. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

3. Before development is commenced the applicant must provide a detailed method statement for the execution of the physical works and working methods, including structural and foundation works, including in particular detail of how such will affect the area of party wall with Farm Cottage. This will set out a scheme and detailed schedule of monitoring with the Local Authority, which in addition to the main structural repairs and areas of demolition must include:

\*Details of roof repair, with identification of existing roof members to be retained, details of new work and all partnering, by scale plan and written description. A methodology for the dismantling works relating both to areas of brickwork and the stone doorways/detailing.

\*Details of how and where materials will be stored prior to reinstatement. All stone work must be reused wherever possible. Stonework to be replaced must be identified and a full specification of its replacement given. Bricks must be reused wherever possible.

\*A methodology for the reconstruction and general repair, including brick bonding with the use of a pure lime mortar mix. Details of wall ties and cavity wall insulation must be included. The scheme must be approved in principal in writing by the Local Authority before development commences, with further approvals in writing required for approval of the principal elements of the alterations to be identified by this statement and agreed during the course of works.

4. Notwithstanding the information provided in the submitted forms and plans, elevations and sections of window, door, heads, cills, reveals, profiles, balcony and external stairway shall be provided at a scale of 1:5 and not implemented until approved in writing by the Local Planning Authority.

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5. Notwithstanding the information provided in the submitted forms and plans, full details of the proposed conservation style rooflights must be submitted to, and approved in writing by the Local Planning Authority.
  6. The development hereby approved shall be carried out only in accordance with the approved plans, specifications and conditions hereby imposed.
  7. Building operations must be restricted to the hours of 0800hrs to 1800hrs Monday to Friday, and 0900hrs to 1200hrs on Saturdays only. There must be no building works on Sundays and Bank Holidays.
  8. The applicants must assume full responsibility to ensure the site is drained by a separate system of foul and surface water drainage, with all clean roof and surface water kept separate from the foul water. Details of such a scheme must be provided for, and approved in writing by the Local Planning Authority before development commences.
  9. No development shall take place unless in accord with the mitigation strategy set out in the 'Proposed Development Bat and Barn Owl Report, Autumn 2008', by Ruth Hadden, Ecological Consultant, submitted with the application. There shall be no structural works carried out to the building within the Bat hibernation period, and all contractors must be given the method statement from the report before commencing works on site.
  10. Notwithstanding the provisions of Class schedule 2 part1 of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) details of any enlargement, improvement or other alteration to the dwelling(s) hereby approved and any buildings, including sheds, garages and glass houses to be erected within the curtilage of the dwellinghouse(s) shall be submitted to and approved by the Local Planning Authority. Upon application submitted to it.
  11. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no further windows, including dormer windows, or other openings shall be formed without the prior written approval of the Local Planning Authority upon an application submitted to it.
  12. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no garages or carports shall be erected on the site without the prior written approval of the Local Planning Authority upon an application submitted to it.
  13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no buildings, structures, extensions, fences, gates, walls or other means of enclosure shall be erected within the curtilage of any dwelling without the prior written approval of the Local Planning Authority upon an application submitted to it.
  14. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no satellite dishes or antennae shall be erected on the site without the prior written approval of the Local Planning Authority upon an application submitted to it.

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## **Application 4/09/561/LB:**

1. The works to which this consent relates must be begun not later than the expiration of three years beginning with the date on which the consent is granted.

2. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

3. Before development is commenced the applicant must provide a detailed method statement for the execution of the physical works and working methods, including structural and foundation works, including in particular detail of how such will affect the area of party wall with Farm Cottage. This will set out a scheme and detailed schedule of monitoring with the Local Authority, which in addition to the main structural repairs and areas of demolition must include:

\*Details of roof repair, with identification of existing roof members to be retained, details of new work and all partnering, by scale plan and written description. A methodology for the dismantling works relating both to areas of brickwork and the stone doorways/detailing.

\*Details of how and where materials will be stored prior to reinstatement. All stone work must be reused wherever possible. Stonework to be replaced must be identified and a full specification of its replacement given. Bricks must be reused wherever possible.

\*A methodology for the reconstruction and general repair, including brick bonding with the use of a pure lime mortar mix. Details of wall ties and cavity wall insulation must be included. The scheme must be approved in principal in writing by the Local Authority before development commences, with further approvals in writing required for approval of the principal elements of the alterations to be identified by this statement and agreed during the course of works.

4. Notwithstanding the information provided in the submitted forms and plans, elevations and sections of window, door, heads, cills, reveals, profiles, balcony and external stairway shall be provided at a scale of 1:5 and not implemented until approved in writing by the Local Planning Authority.

5. Notwithstanding the information provided in the submitted forms and plans, full details of the proposed conservation style rooflights must be submitted to, and approved in writing by the Local Planning Authority and thereafter implemented in accordance with the approved details

6. The development hereby approved shall be carried out only in accordance with the approved plans, specifications and conditions hereby imposed.

7. No development works shall take place until a formally agreed archaeological mitigation strategy has been submitted to, and approved in writing by the Local Planning Authority. This must include:

- Measures to ensure preservation in situ, or the preservation by record of archaeological features of identified importance.



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- Methodologies for the recording and recovery of archaeological remains, artefacts and eco-facts.
  - Post-fieldwork methodologies for assessment and analysis.
  - Archive preparation and deposition with recognised repositories.
  - A timetable of works, giving specified notification periods and allowance of time to ensure site work is undertaken and completed in accordance with the strategy.
  - Monitoring arrangements, including notification procedures in writing to the Durham County Archaeologist of the commencement of archaeological works to allow monitoring of such.
  - A list of staff and contractors involved in the implementation of the archaeological strategy, including all sub-contractors, and specialists, their responsibilities and qualifications.

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## **REASONS FOR THE RECOMMENDATION**

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1. The proposals have been considered against Policies E1, E6, E8, E10, E16, E22, E23, E24, E26, H13, T1, T10, Q1, Q2, Q8 and U8a of the Council as Local Planning Authority, and are found acceptable in principal, with time limit issues able to be addressed by imposition of an appropriate condition.

This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008 and the City of Durham Local Plan 2004 which is a saved plan in accordance with the Secretary of States Direction under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

2. In particular the development was considered acceptable having regard to consideration of issues of Protection of Historic Buildings, Historic Environment, Green Belt, Countryside Issues and Residential Amenity.

3. Objections relating to the justification for the structural and detailed interventions to the building, the alterations themselves, the effect on character and appearance, and residential amenity were considered and balanced against the perceived benefits of the proposals, and were not considered sufficient to lead to reasons to refuse the application.

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## **BACKGROUND PAPERS**

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Submitted Application Forms and Plans

Design and Access Statement, Big Tree Planning Ltd

Design Justification

Structural Reports and justifications by CL Oliphant, Chartered Civil and Structural Engineer

Building Recording Report CP. No. 880/09, North Pennines Archaeology Ltd

Bat & Barn Owl Report, R Hadden, Ecological Consultant

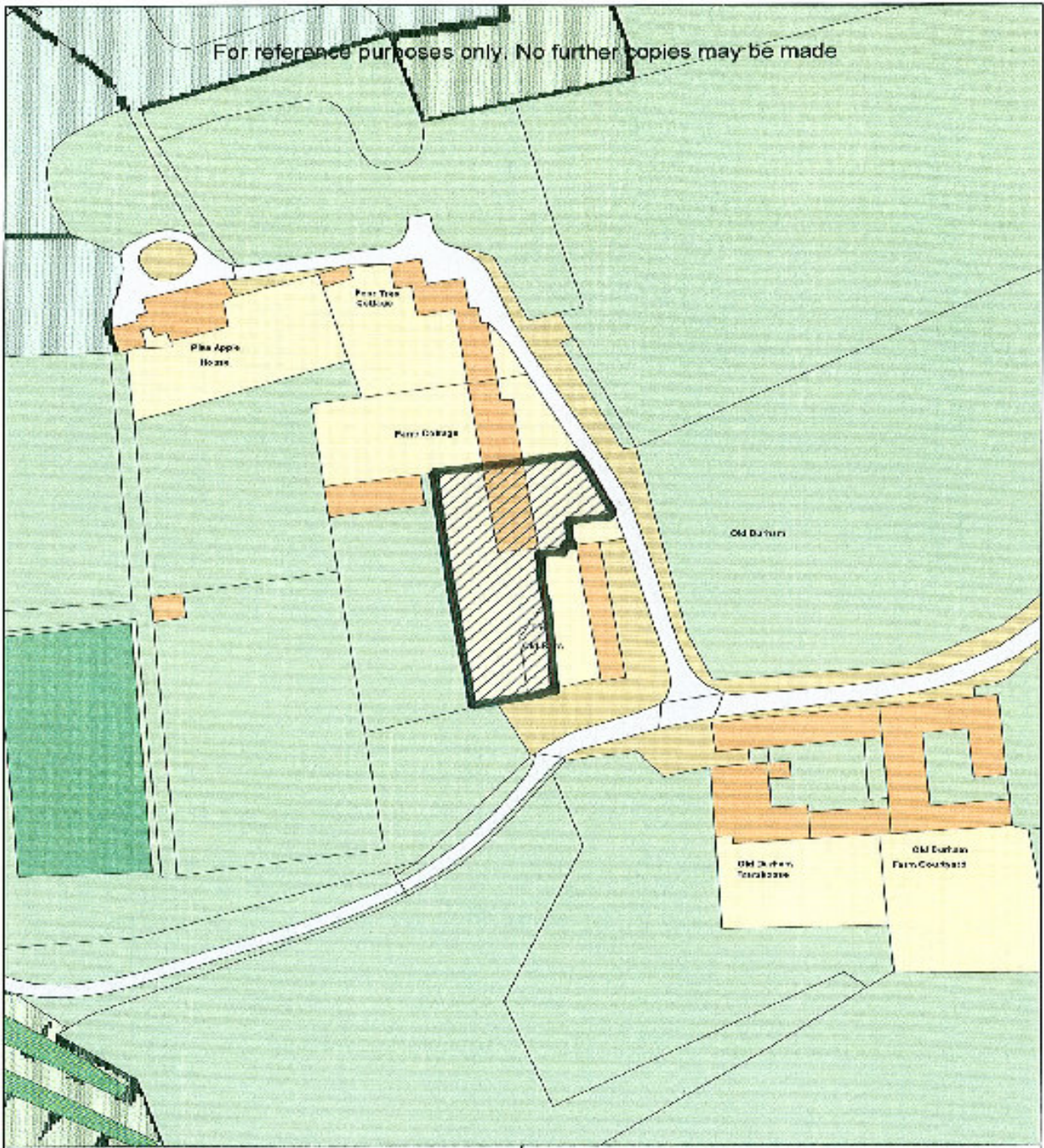
North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008

City of Durham Local Plan 2004

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Planning Policy Statements / Guidance, PPS1, PPG2, PPS3, PPS7, PPS9, PPS10, PPS13, PPG15, PPG16  
Responses from County Highways, The County Archaeologist, The County Ecologist, The Environment Agency, Northumbrian Water, Natural England, English Heritage, The North of England Civic Trust, Society for the Protection of Ancient Buildings  
Public Consultation Responses incl. The City of Durham Trust

For reference purposes only. No further copies may be made



**Planning Services**

4/09/00563/FPA | 4/09/5617/B - The Tithe Barn,  
Bert House Lane, Durham

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**Comments**

**Date**

23 November 2009

**Scale**

1:1000

# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	4/09/00756/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of 3 no. two storey terraced dwellings with basement and attic accommodation
<b>NAME OF APPLICANT:</b>	Mr Paul Copeland
<b>SITE ADDRESS:</b>	Land Between 24 and 25 The Avenue Durham DH1 4ED
<b>ELECTORAL DIVISION:</b>	Neville's Cross
<b>CASE OFFICER:</b>	Tim Burnham, Planning Officer <a href="mailto:tim.burnham@durham.gov.uk">tim.burnham@durham.gov.uk</a> 0191 301 8794

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### DESCRIPTION OF THE SITE AND PROPOSALS

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The application site is a parcel of land extending to 473m<sup>2</sup> which sits between 24 and 25 The Avenue, within the Durham (City Centre) Conservation Area. The land is garden space associated with number 24 which sits immediately to the north east and has remained undeveloped following the sporadic construction of the surrounding terraces which began in the 1800's. Site levels slope downwards from south east to north west, this being particularly pronounced at the front and rear of the site where the land drops sharply from The Avenue and to the rear of the site where the garden drops steeply to the rear lane.

In wider perspective, further terraced properties of varying scale and mass sit to the north, north east and south west, while larger properties sit in an elevated position to the south on the opposite side of the street. The development would require the removal of six trees, mainly affecting those to the south east corner of the site, while trees would be maintained to the north west corner.

The application proposes the erection of 3 no. two storey terraced dwellings with basement and attic accommodation. The dwellings would appear modest in scale from the front elevation, but greater from the rear elevation, taking advantage of the drop in land levels to offer basement accommodation. Living space would also be provided in the attic with light

being provided through dormer and velux style windows.

From the front south east facing elevation, the properties would measure 7m to eaves level and 10.4m in height to the ridgeline. Bay windows would be provided at street and basement level. Small velux style windows would be fitted to the front roof slopes.

From the north west facing rear elevation the properties would appear greater in mass. They would measure 10m to eaves level and 13.3m in height. Rear off shots would be incorporated at basement, ground and first floor levels. These would measure 3.5m in width and 2.6m in projection. Basement level storage rooms would also be incorporated to all but the middle property which would measure 2m in projection and 2.5m in width. 1 velux style window would be incorporated to each main rear roof slope.

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## **PLANNING HISTORY**

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There is planning history relating to the site, but this primarily relates to the existing flats at number 24 and not the garden site to which this application directly relates. In 2007 full planning and Conservation Area consent applications were refused for the demolition of the rear boundary wall and construction of a garage block directly behind no. 24. In the same year permission was granted to convert the property into 4 flats with associated front and rear dormer windows. In 2008, full planning and Conservation Area consent were again refused at the site for the erection of a rear garage block with storage space above. Late last year, revised and resubmitted plans for this development were put before Officers and considered acceptable. Consequently there are two extant planning permissions in place within the application site and they have been fully taken into account during the consideration of this application.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

Planning Policy Statement 1: Delivering Sustainable Development sets out the Governments overarching planning policies on the delivery of sustainable development through the planning System.

Planning Policy Statement 3: underpins the delivery of the Government's strategic housing policy objectives and our goal to ensure that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live. In general, in deciding planning applications local planning authorities should have regard to;

- Achieving high quality housing
- Ensuring developments achieve a good mix of housing reflecting accommodation requirements of specific groups
- The suitability of the site for housing
- Using land effectively and efficiently
- Ensuring proposals are in line with planning for housing objectives

Planning Policy Guidance Note 15: This PPG lays out government policies for the identification and protection of historic buildings, conservation areas, and other elements of the historic environment. It explains the role of the planning system in their protection. The



frequently close link between controls over 'listed' buildings and conservation areas and development control decisions means that development and conservation generally need to be considered together. Part One of the PPG deals with those aspects of conservation policy which interact most directly with the planning system. These include matters of economic prosperity, visual impact, building alterations, traffic and affect on the character of Conservation Areas. Part Two addresses the identification and recording of the historic environment including listing procedures, upkeep and repairs and church buildings.

Planning Policy Guidance 13: This PPG's objectives are to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

It also aims to promote accessibility to jobs, shopping, leisure facilities and services by public transport, walking and cycling and to reduce the need to travel, especially by car.

To deliver these objectives, the guidance says that local planning authorities should actively manage the pattern of urban growth, locate facilities to improve accessibility on foot and cycle, accommodate housing principally within urban areas and recognise that provision for movement by walking, cycling and public transport are important but may be less achievable in some rural areas.

Planning Policy Guidance 14: sets out the broad planning and technical issues to be addressed in respect of development on unstable land.

Planning Policy Guidance 16: sets out the Secretary of State's policy on archaeological remains on land, and how they should be preserved or recorded both in an urban setting and in the countryside.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

## **REGIONAL POLICY:**

The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale. The following policies were judged most relevant.

Policy 4 (The Sequential Approach to Development) states that development priority should be given to previously developed land in order to identify the most appropriate development sites. Top priority is given to previously developed sites within urban areas, particularly those in close proximity to transport nodes.

Policy 8 (Protecting and Enhancing the Environment) seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.

Policy 24 (Delivering Sustainable Communities) refers to the need to concentrate the majority of the Region's new development within the defined urban areas, and the need to utilise previously developed land wherever possible.

Policy 32 (Historic Environment) stipulates that planning proposals should seek to conserve and enhance the historic environment.

Policy 54 (Parking and Travel Plans) seeks to apply guidance set out in national planning policy on residential parking standards, reflecting local circumstances.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at:  
<http://www.gos.gov.uk/nestore/docs/planning/rss/rss.pdf>*

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#### **LOCAL PLAN POLICY:**

Policy E6 (Durham City Centre Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the Conservation Area.

Policy E14 (Trees and Hedgerows) requires development proposals to retain important groups of trees.

Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.

Policy E24 (Scheduled Ancient Monuments and Archaeological Remains) requires that in areas of archaeological interest appropriate conditions are in place to ensure an appropriate programme of investigation takes place.

Policy H2 (New Housing in Durham City) requires that new housing is in keeping with the traditional character and setting of the City.

Policy H9 (Multiple Occupation/Student Households) seeks to ensure that buildings in multiple occupancy do not adversely affect the character of the area and do not require significant extensions or alterations having regard to Policy Q9.

Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policy T1 (Traffic – General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property

Policy T10 (Parking – General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

Policies Q1 and Q2 (General Principles Designing for People and Accessibility) states that the layout and design of all new development should take into account the requirements of all users.

Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.

Policy U8A (Disposal of Foul and Surface Water) requires that development proposals include satisfactory arrangements for disposing foul and surface water discharges.

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*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:**

The Highway Authority have stated that they are satisfied that two parking spaces for the three properties will be appropriate and that on street parking is available, controlled through a permit parking scheme.

Northumbrian Water Ltd have offered no objection.

### **INTERNAL CONSULTEE RESPONSES:**

The Design and Conservation Section have offered no objection to the application as the proposals are considered to preserve the character of the Conservation Area

The Development Plans Section has offered no objection to the application as the proposals would be in keeping with local, regional and national Planning Policy.

The County Archaeologist has offered no objection to the development but has specified a condition relating to a scheme of archaeological investigation and recording which is included.

Environmental Health has offered no objection and see the internal habitable spaces as appropriate in size to provide adequate amenity to future occupiers. They state that if any of the properties are occupied by five or more people forming two or more separate households then the properties will constitute licensable houses in multiple occupation under the Housing Act 2004 to be licensed by Durham County Council Prior to occupation.

### **PUBLIC RESPONSES:**

Six letters of objection have been received in relation to the application. Many points relate to the concern that the properties will be let to the student market. It is suggested that letting the houses as student properties would contribute towards creating an imbalance in the community while being detrimental to the character of the residential area, bringing about a significant adverse effect in respect of Policy H13. The point has been raised that in the case of student lets, the area would be subject to further anti social behavior which would be of



particular detriment to a wide range of residents on the street including those very old, young and infirm. It is inferred that if the properties were to be let to the student market, they would not be maintained to an adequate standard.

The use of the two ground floor reception rooms has been questioned and it has been suggested that the properties, should they be let as student accommodation, could incorporate six bedrooms each. The level of four bathrooms per property has also been alluded to, which it is suggested is an unusually high number. It is stated that student numbers in The Avenue have reached a critical number. One objector claims that almost 20% of student accommodation in Durham is vacant, with a lack of demand causing an over supply in the market including properties on the Avenue which have not been occupied this academic year. It has been suggested that further room divisions could take place to further increase occupancy levels. Objectors state that the street already has a surfeit of houses in multiple occupation.

It is stated that the loss of trees at the site would have a detrimental impact upon the character of the area to the detriment of the attractiveness of the street and that the proposed development would block views towards the obelisk at the top of North Road/Western Hill and a wooded background.

Correspondence has been received on the basis that there would be a significant loss of amenity to the occupiers of 24 The Avenue through reduced amenity space. Further, it is stated that better use should be made of the existing housing stock. It is asserted that the provision of two parking spaces to the three properties would not be sufficient. Objections have been received on the basis that filling in the site would create a long run of properties which would not be acceptable in a modern development. The description of the development has been questioned. It has been suggested that there is no access to the ground to the front of the property at basement level. Objections have been received on the basis that the land is not geologically capable of such a development. Correspondence has been received on the basis that headroom to the attic would not be appropriate.

#### **APPLICANTS STATEMENT:**

The proposal is to construct three properties to fill a long-standing gap site on The Avenue, a street typified by large Victorian terrace houses in a variety of styles. The scale and form of the proposal has been informed by the surrounding properties and every attempt has been made to authentically replicate the external appearance of the local area enabling the new building to become part of the established landscape. The buildings are of a high standard reflecting the neighbouring 19<sup>th</sup> century surroundings and care will be taken in the selection of materials to ensure an appropriate high quality finish to the development. Timber sliding sash windows, cast guttering and rainwater goods and Victorian style brick detailing is incorporated into the elevations.

The scheme seeks consent for three properties each with a similar internal layout and matching elevations. The properties are large, a result of the scale of the neighbouring houses and the slope of the site which allows a basement level to be achieved. The plans are set out as four bedroom family houses however the layout is flexible to allow a variety of tenures including private sale, private family rental or student rental for up to six occupants. This will allow the properties to be sold or rented individually depending on the market at the time of completion.

The site lies within the Durham (City Centre) Conservation Area and the design of the proposed building seeks to enhance this part of the conservation area by creating a property which completes the sweep of the street and addresses the shortcomings of the site in its present form. The importance of trees in the conservation area is recognised and the principle trees on the site are to be retained within the development and managed for their long term well being. In conclusion the proposal has been designed to compliment the established streetscape and to enhance the wider conservation area with a carefully detailed high quality development.

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*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://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_searchresults.aspx](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_searchresults.aspx) Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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The main planning issues this proposal raises are the principle of development, having regard to status of the site and the statutory Development Plan, the impact of the proposals on the character and appearance of the Durham (City Centre) Conservation Area, the impact upon the amenity of the area and amenity of occupants of nearby and adjoining properties, related issues concerning the occupation and range and variety of housing stock in the area and car parking.

### **PRINCIPLE OF THE DEVELOPMENT**

The site, falling within the curtilage of 24 The Avenue is considered suitable for residential development by virtue of National, Local and Regional Planning Policy. The land is classified as previously developed land by virtue of Annex A of Planning Policy Statement 3 which states that ppreviously developed land is that which is or was occupied by a permanent structure, including the curtilage of developed land.

Policy H2 of the City of Durham Local Plan requires that new residential development should take the form of infilling or consolidation of the existing built up area and previously developed sites. Policy 4 of the Regional Spatial Strategy for the North East adopts a sequential approach to identifying land for development which prioritises previously developed sites and buildings within urban areas and other suitable locations within urban areas not identified as land to be protected for nature or heritage conservation or recreational purposes.

In terms of principle it is therefore considered that the proposal satisfies the requirements of PPS3, Policy 4 of the RSS and Policy H2 of the City of Durham Local Plan.

### **CHARACTER AND APPEARANCE OF THE CONSERVATION AREA**

Section 72 of the Planning (Listed Building and Conservation Areas) Act 1990 requires that Local Planning Authorities shall pay special attention to the desirability of preserving or enhancing the character and appearance of Conservation Areas. Policy E22 states that proposals should enhance or preserve the character of the Conservation Area. Policy E6 relates directly to the Durham (City Centre) Conservation Area and requires that developments exhibit simple and robust shapes, incorporate traditional roofs, reflect an appropriate quality of design and use appropriate external materials. Policy E14 requires that important trees should be retained on site. These have been key considerations during consideration of this application.

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The site represents a break in the built form of The Avenue which has always been in existence. However, the infilling of the site with a development that reflects the style, scale and pattern of development within the surrounding area is considered acceptable.

The style and detailing of the proposed development reflects that of the surrounding terraced properties. The nature of The Avenue is of stepped properties, due to the changing ground level although the street flattens out briefly at the application site. The ridgeline would be set down against no. 24 The Avenue and would match that at no. 25.

To the front and rear roof slopes, dormer windows reflect the style and appearance of those within the surrounding street scene and as such would be considered appropriate. Similarly, a velux style window to the front and rear of each property would be an appropriate addition which would punctuate the roof slopes.

The rear elevation of the dwellings exhibits simple and robust shapes. The elevation would be broken up by the presence of a three storey extension to each property with a bin store at ground floor level to all but the middle property. This would further serve to break up the large elevation while the punctuation of the elevation with the rear elements and the retention of a strong vertical emphasis within the fenestration pattern are considered appropriate. The stepped nature of the projecting extensions reflects a traditional form of development to the rear of terraced properties.

The materials which are proposed would serve further to make the development appropriate to its Conservation Area setting. The use of natural stone heads and cills, natural slate and timber framed windows is considered appropriate. Projecting eaves courses with dog tooth detailing and chimneys of typical Victorian proportions serve further to suggest a high quality design, a comment which has been noted even in letters of objection. The window arrangement throughout would retain a strong vertical emphasis.

The protected trees on the site undoubtedly contribute to the character of the immediate locality and Conservation Area. To the front of the site it would be necessary to remove 5 trees in order to facilitate the development. A Swedish Whitebeam, two Ash trees, a poplar stump and a Holly tree would be removed. To the rear of the site it is proposed to remove an Ash and a Holly Tree. During consideration of the scheme it was considered important to retain some trees on site and protect those to neighbouring properties. An Ash tree sits to the rear of 25 The Avenue, while a Swedish Whitebeam and Ash tree sit within the development site. These trees are to be retained with sympathetic crown reductions. The rear of the development would encroach upon the root protection area of the Ash tree to the neighbouring property, and with this in mind special construction methods will be used. A detailed Arboricultural Implication Assessment accompanies the applications the recommendations in which are endorsed by the Council's landscape architect.

A retaining wall would be incorporated, but would be outside of the root protection area of the maintained trees. In the root protection area the boundary treatment between the properties would be closed boarded timber fence. The rear wall would be brick, built on top of that existing. All boundary treatment would measure 1.8m in height.

Maintaining and protecting these trees to the rear of the site would contribute towards preserving the character of the Conservation Area.

Objections have been received on the basis that the site is untidy and that its development would interrupt views across the site. The development would rationalise the site and improve the appearance of the immediate area. The site itself is not prominent in longer views from surrounding viewpoints. The properties would also not seriously restrict views to the north and west and would not have a significant impact upon the outlook of properties on the opposite side of the road which sit on an elevated position above.

Officers consider that the application would preserve the character of the Conservation Area, while reflecting an appropriate standard of design and materials in accordance with Section 72 of the Planning (Listed Building and Conservation Areas) Act, Policy 32 of the Regional Spatial Strategy and Policies E6 and E22 of the Local Plan. Trees would be maintained on site in accordance with Policy E14.

## **RESIDENTIAL AMENITY**

Policy Q8 requires that new residential development should be appropriate in scale, form, density and materials to the character of its surroundings. It requires that adequate amenity space and privacy should be afforded to each dwelling and outlines appropriate separation distances between properties.

There are habitable room windows and an entrance door to the south west facing elevation of number 24 which overlooks the application site. This property is within the control of the applicant and it is proposed to block up the windows which serve two bedrooms and a bathroom and internal alterations would see the bedrooms served by down lighting from the front of the property in a similar manner in which the lounge on the north east side of this property is served with light. The entrance door would remain and would be accessed from a passageway beneath the proposed north east dwelling. These works would be required by way of a Grampian Condition as set out under circular 11/95.

It is acknowledged that there would be a reduction in amenity space to the occupants of the flats at number 24. However the amenity space currently available exceeds what would generally be expected for a property of this type.

Policy Q8 requires separation distances of 21m between habitable room windows. This distance would be easily achieved to properties opposite on The Avenue and would also comfortably be achieved in relation to properties to the rear on Hawthorn Terrace. There is residential accommodation above the rear garage associated with 24 Hawthorn Terrace which would sit closely to the proposed north east dwelling. However, this accommodation is conditioned to be non-habitable and taking into account these factors, it is considered that the physical attributes of the property would not infringe the residential amenity of neighbouring occupiers in accordance with Policies H13 and Q8 of the Local Plan.

On balance, officers consider that the application is appropriate in terms of Policy Q8, allowing adequate separation distances between properties which ensures privacy and prevents overlooking, while the dwellings would be suitable in scale, form, density and materials to their surrounds.

## **IMPACT ON WIDER AMENITY**

Policy H13 states that planning permission will not be granted for new development or changes of use which would have a *significant* adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

It is important to note that while many points of objection have been received in relation to these properties being student lets, this type of tenure is by no means a certainty. If this were to be the case, the possibility of utilizing the reception rooms as bedrooms is recognized. However, as objectors have alluded to, the demand for private rented student accommodation may be falling. To this effect, these dwellings have been designed with significant scope to be used as letting properties or family homes. This degree of interchangeability is seen as an important factor.

Concerns over the habitation of the properties by students are noted. It is acknowledged that students may have different lifestyles to many other residents on the street and by virtue of a possible increase in student beds the concern over an increase in anti social behaviour has been taken into account.

Objectors have raised concerns over possible further sub division of rooms to incorporate more bedrooms to the properties. However, this is pure conjecture and it must be pointed out that there is a question over future demand for accommodation within the student market. With this in mind, it is considered that the need to offer attractive, desirable and appropriately sized rooms would make further subdivision of rooms unlikely.

The key principle which defines the extent to which the Local Planning Authority can attempt to control student properties is whether or not they can be considered to be Houses in Multiple Occupation. To determine this we must turn to the Use Classes Order. Within the Use Classes Order, Class C3 (Dwelling Houses) include use as a dwelling house (whether or not as a sole or main residence), by either a single person or by people living together as a family, or by not more than 6 residents living together as a single household (including a household where care is provided for residents). Even in the event of the properties being within student tenure they would not be considered houses in multiple occupation in planning terms. Therefore the local authority cannot consider the application any differently from that of family residential development.

Objectors have raised the issue of the existing numbers of HMO's within the street, inferring that these properties could be classed in this way. This is not the case and it is important to consider the differences between definitions relating to Houses in Multiple Occupation (HMO) as defined both by the Housing Act 2004 and within Planning legislation, which are two entirely separate pieces of legislation. Under the 2004 Housing Act HMO's can simply be defined as premises having 3 or more storeys occupied by 5 or more people, comprising 2 or more households. Under planning legislation, only 26 and 53 The Avenue are HMO's and have an established use as such.

Again, it is acknowledged that the current proposals would give rise to the possibility of additional student beds on the street, however, given the existing variety, type and range of housing within The Avenue it is considered that the proposals will not result in a development which would be to the detriment of the range and variety of local housing stock.

With this in mind, it is considered that the development would not have a significant adverse effect on the character or appearance of the residential area or the amenities of residents within it. In respect of the student population on the locality the Council recognises the importance of balanced and sustainable communities and these are matters that are the subject of monitoring, review and action by the Authority. Strategies are in place to work with stakeholders to make appropriate responses to local housing needs, the quality of life and

the quality of the environment.

In light of the above considerations and in accordance with Policy H13, officers do not consider that the properties would create a situation where the character or appearance of the area, or the amenities of residents within them would be significantly compromised.

## **PARKING**

Policy T1 requires that new development should not be detrimental to highway safety or generate traffic which would have a significant affect on the amenity of occupiers of neighbouring property. Policy T10 states that vehicle parking off the public highway should be limited in amount so as to promote sustainable transport choices and reduce the land take of development. Further, one of the main objectives of PPG13 is to promote more sustainable transport choices. It states that LPAs should allow for significantly lower levels of off-street parking provision for housing in locations where services are readily accessible.

The Highway Authority have stated that they are satisfied that two parking spaces for the three properties will be appropriate and that on street parking is available to incorporate additional demand through a permit parking scheme. On numerous site visits at various times of day and year Officers noted that parking on the Avenue was not congested, with spaces readily available.

After weighing up these issues, Officers consider that the development would satisfy the requirements of Polices T1 and T10.

## **OTHER ISSUES**

Objections have been received on the basis that better use should be made of existing housing stock, however Officers consider that both the density and type of housing are appropriate to their location. PPS3 is in favour of increasing densities in urban settings, so that land may be used efficiently. The County Durham Strategic Housing Market Assessment (SHMA: GVA Grimley, 2008) states: "We assess that densities of 60 dwellings per hectare or more are appropriate for urban locations with high public transport accessibility and strong access to services." The site is 473 m<sup>2</sup>; this amounts to a density of 70.9 dwellings per hectare. This high density follows guidance outlined in PPS3.

PPS3 states that Local Planning Authorities should "plan for a mix of housing" on the basis of demographic trends and profiles. The recent SHMA recommended that, in the City of Durham, 30% of new dwellings should have 4 or more bedrooms. The proposed 4-bed dwellings therefore match demand.

Concerns have been expressed by objectors that the site is not geologically suitable to accommodate the development. In accordance with national policy in PPG14, the responsibility of determining whether land is suitable for a particular purpose rests primarily with the developer, and moreover, the responsibility and subsequent liability for safe development of a site rests with the developer and is in any case in the developer's own interests to determine whether land is for example, unstable or potentially unstable. Therefore, the existence of primary legislation, both civilly and through the control of development under The Building Act 1984 and The Building Regulations 2000 (as amended) is such that it is considered that limited weight can be attached to such concerns.

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## CONCLUSION

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The main issues relating to the application are considered to be the principle of the proposed development at this site together its impact upon the character and appearance of the Conservation Area, implications for residential amenity, the potential impact of the development upon the residential area and issues relating to highway safety and parking.

The site is suitable for development in line with national, local and regional planning policy outlined in PPS3, Policy H2 of the Local Plan and Policy 4 of the Regional Spatial Strategy. It is considered that the proposals by virtue of a high standard of design and retention of important trees on site would be appropriate to and would preserve the character of the Conservation Area in accordance with Policies E6 and E22. Officers consider that the scale, form, density and layout of the development including separation distances to be incorporated are appropriate in accordance with Policy Q8. The proposals would not cause significant harm to the character of the residential area or the amenities of surrounding occupiers in accordance with Policy H13. Highway safety matters and parking provision are considered appropriate in accordance with Policies T1 and T10.

Accordingly Officers are able to recommend the application for approval subject to conditions.

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## RECOMMENDATION

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out only in accordance with the approved plans, specifications and conditions hereby imposed.
3. Development shall not commence until works have been completed at 24 The Avenue. A detailed scheme showing the bricking up of the windows on the south west facing elevation, and suitable internal alterations shall be submitted to and approved in writing by the Local Planning Authority. Sample materials should also be supplied to be approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.
4. Before the development hereby approved is commenced a sample panel of the proposed wall materials shall be erected on the site to include examples of all materials to be used, including mortars, its exposed finish, the coursing or bonding to be used, and the style of pointing of the finished wall. The proposed panel shall be made available for inspection by the Local Planning Authority and the development shall not be commenced until the said materials have been approved in writing by the Local Planning Authority.
5. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

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6. Notwithstanding the details shown on the approved plans precise details of all new fenestration, glazing, heads and cills shall be submitted to and approved in writing by the Local planning authority, prior to the commencement of the development. The scheme shall be implemented in accordance with the approved details.
  7. Notwithstanding the information shown on the submitted plan full joinery details drawn to a scale of 1:20 shall be submitted to and approved in writing by the Local Planning Authority before the development commences and thereafter implemented in accordance with the approved scheme.
  8. Notwithstanding the information shown on the submitted plans, a detailed joinery section of the proposed windows, to include cross sections, drawn to a scale of 1:5 shall be submitted to, and approved in writing by the Local Planning Authority, before development commences, being thereafter implemented in accordance with the approved plans.
  9. Notwithstanding the information shown on the submitted plans, full details of the rainwater goods, to include a section, details of materials, hoppers and junctions, and existing sections to be retained, shall be submitted to and approved in writing by the Local planning authority before the development commences. The scheme shall be implemented in accordance with the approved details.
  10. Notwithstanding the information shown on the submitted plans the precise design of the roof details including eaves, verges, chimneys, ventilation, parapets, roof lights and guttering shall be submitted at a scale of 1:20 and approved in writing by the Local planning authority before the development commences, and thereafter implemented in accordance with the approved scheme.
  11. Within one month of the commencement of the development, or other such time period as may be agreed in writing with the Local Planning Authority, a detailed landscaping scheme shall be submitted to and approved in writing by the Local planning authority. The scheme of landscaping shall include details of hard and soft landscaping, planting species, sizes, layout, densities, numbers, method of planting and maintenance regime, as well as indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
  12. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the occupation of buildings and any trees or plants which within a period of 5 years from the substantial completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species, unless the Local planning authority gives written consent to any variation.
  13. No development shall commence nor shall any materials or machinery be brought on the site until details showing the exact position of protective fencing around trees. No development shall commence until details showing the exact position of protective fencing around trees and hedges within, and adjacent to the site have been submitted on plan, and agreed in writing by the Local planning authority. This fencing shall be erected not less than a distance 12 times the diameter of single stem trees or 10 times the diameter at 1.3m high of multi-stem trees and 3 metres



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from hedges or in accordance with the details agreed:

- a) No construction work shall take place unless all of the protected trees and hedges within the site have been protected by the agreed fencing, comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, supporting either cleft chestnut pale fencing (in accordance with BS 1722: Part 4) or chain link fencing (in accordance with BS1722: Part 1) unless otherwise agreed by written consent of the Local planning authority.
  - b) No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place within the protective fenced areas, and no work is to be done as to affect any tree, without the prior written agreement of the Local planning authority.
  - c) Ground levels within the fenced areas shall not be altered and any trenches which are approved to be excavated within the root zone or branch spread shall be done so by hand digging or tunnelling only, no root over 50mm being cut and as many smaller roots as possible retained. If trenches are to remain open for more than 24 hours all exposed roots must be protected with earth cover. Trenches shall be completely backfilled in consolidated layers within seven days or temporarily backfilled in lengths under the trees.
  - d) Notwithstanding the tree surgery works agreed by this permission in accordance with the arboricultural report, no removal of limbs or other tree surgery works shall be done to any of the protected trees within the site unless the prior written approval of the Local planning authority has been sought.
  - e) No underground services trenches or service runs shall be laid out without the prior written approval of the Local planning authority with the agreed works being undertaken in accordance with the National Joint Utilities Group ('Guidelines for planning, installation and maintenance of utility services in proximity to trees'), and BS 5837:2005 'Trees in Relation to Construction'.
14. Before the development hereby approved is commenced, detailed drawings including sections showing the existing and proposed site levels and the finished floor levels of the proposed new buildings and those of existing neighbouring buildings (if any) shall be submitted to and approved in writing by the local planning authority and the works shall be completed entirely in accordance with any subsequently approved submission.
15. No development shall commence until details of earthworks have been submitted to and approved in writing by the Local planning authority. These details shall include the proposed grading and mounding of land areas including the levels and contours to be formed, including the relationship of proposed mounding to existing vegetation and surrounding landform. The development shall be carried out in accordance with the approved details.
16. Prior to the commencement of development, a scheme detailing sections of existing and proposed finished land levels shall be submitted to and approved in writing by the Local planning authority. The development shall be carried out in accordance with the approved scheme unless the Local planning authority gives its written consent to any variation.

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17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A, B, C, E or F of Part 1 of Schedule 2 of the said Order shall be carried out without the prior written permission of the Local planning authority on an application submitted to it.
18. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority. The Scheme shall provide for:
- i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area in accordance with the Written Scheme of Investigation; the evaluation is to be undertaken following tree removal but prior to any ground reduction works;
  - ii) an assessment of the impact of the proposed development on the archaeological remains;
  - iii) proposals for the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
  - iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
  - v) notification in writing to the County Durham County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

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## **REASONS FOR THE RECOMMENDATION**

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1. The principle of the proposed development, potential impacts upon the character and appearance of the Durham City Centre Conservation Area, Trees within the site, impacts upon the character of the residential area and the amenities of its residents, Highway Safety and Parking Provision are judged acceptable, having regard to Policies E6, E14, E22, H2, H13, T1, T10 and Q8 of the City of Durham Local Plan 2004 (which is a saved plan in accordance with the Secretary of States Direction under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004), and Policy 8 of the North East of England Plan - Regional Spatial Strategy to 2021.
2. In particular the development was considered acceptable having regard to issues surrounding the impact upon the development on the character of the residential area, the impact in terms of design and the character of the Conservation Area and highways implications.

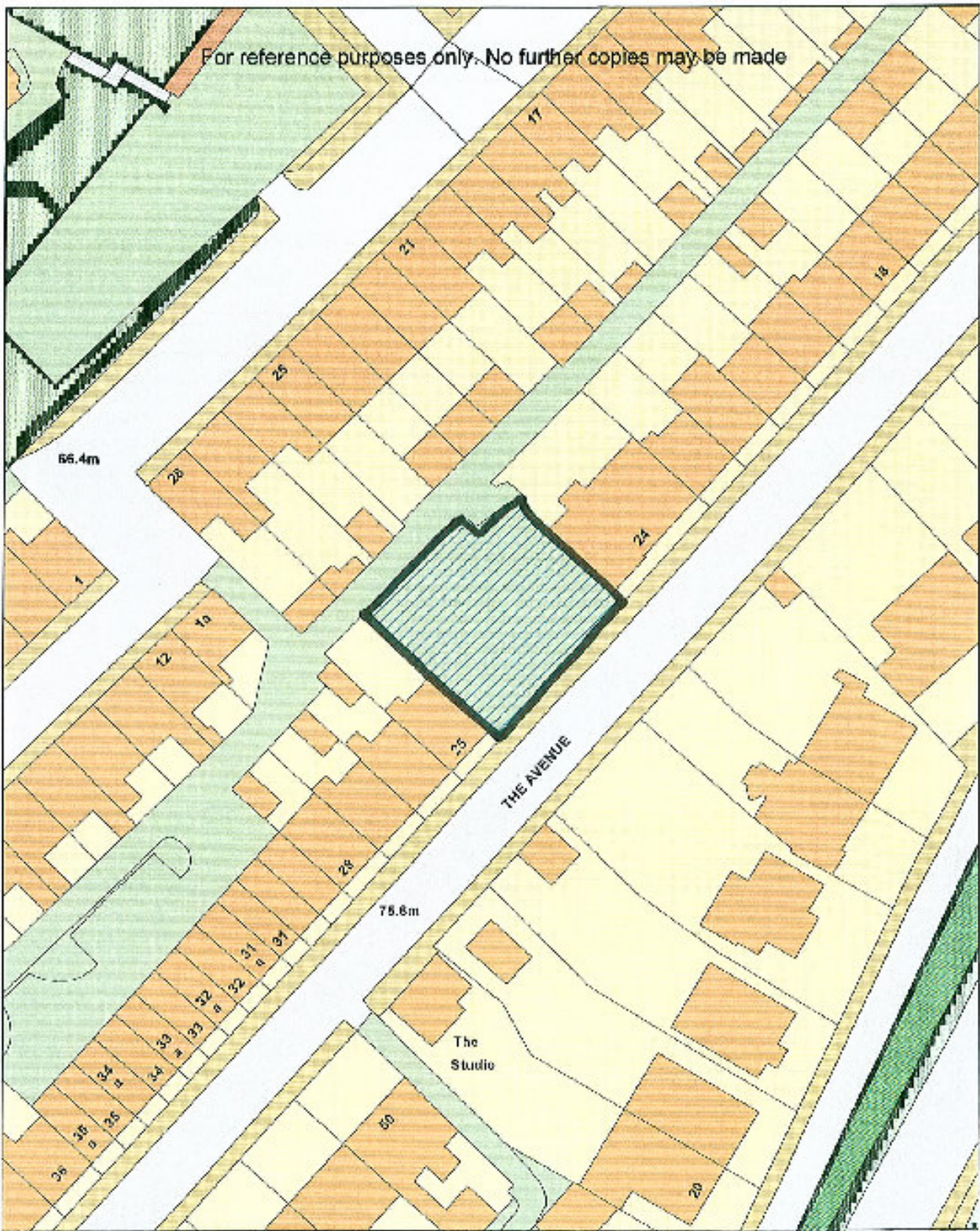
- 
3. Grounds of objection relating to the proposals were carefully considered but were not considered to be sufficient to justify reasons to refuse the application in view of the of the proposals compliance with relevant development plan policies combined with appropriate planning conditions.
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## **BACKGROUND PAPERS**

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Submitted Application Forms and Plans and associated documents and reports  
North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008  
City of Durham Local Plan 2004  
Planning Policy Statements / Guidance, PPS1, PPS3, PPG 13, PPG 14 and PPG16  
Circular 01/06: Guidance on Changes to changes to the Development Control system  
Circular 11/95: Use of Conditions in Planning Permission  
Statutory Responses from County Highways and Northumbrian Water  
Responses from County Council Departments - Design and Conservation, Development Plans, Environmental Health and Archaeology  
Town and Country Planning Use Classes Order (as amended 2006)  
Tree Survey  
Responses from public contributors  
Various File notes and correspondence

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**Planning Services**

4/09/03756/EPA - Land Between 24 And 25 The Avenue, Durham

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<b>Comments</b>		
<b>Date</b>	23 November 2009	<b>Scale</b> 1:625



# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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**APPLICATION NO:** 4/09/00769/FPA

**FULL APPLICATION DESCRIPTION:** Change of use of land for the keeping of horses

**NAME OF APPLICANT:** Mr T Bates and Mr D Hutchinson

**ADDRESS:** Land Rear of Willowtree Avenue, Durham, DH1 1EA

**ELECTORAL DIVISION:** Gilesgate

**CASE OFFICER:** Colin Harding, Planning Officer  
[Colin.harding@durham.gov.uk](mailto:Colin.harding@durham.gov.uk)  
0191 301 8712

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### DESCRIPTION OF THE SITE AND PROPOSALS

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The application relates to an area of land to the north of Willowtree Avenue which immediately abuts gardens associated with houses on Willowtree Avenue. To the north west the land is bounded by the A690, separated by a planted embankment and to the north east by the Belmont Link Road. The land is currently unused and is largely unmanaged grassland. The land is generally flat although previous groundworks have left it uneven in places. A fence partially encloses the land, although this is intermittent and in various states of repair. The land is crossed by two well-used informal footpaths neither of which are Public Rights of Way. However, Public Right of Way no.5 does run around the outside of the site to the west and north.

The applicant is seeking consent to keep horses on this land. The current status of the land is that it is a largely enclosed field and the applicants claim that it is in agricultural use and have owned it for a number of years. Whilst the field is not currently grazed or actively managed it is not considered that the use of the land has changed recently and that it currently could be used for agricultural purposes without the need for planning permission. However, planning case law and the courts have generally held that the keeping of horses is not an agricultural activity and consequently planning permission is required for this activity in this instance.

The applicants state that they anticipate that up to 5 no. horses could be grazed on the land in association with an equestrian business based near Hartlepool, however this could vary depending on the time of year and with stock numbers. That the applicants also state at this time no stables or other building works are intended and any such works would be subject to further planning applications.

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## **PLANNING HISTORY**

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The site has been subject to numerous applications in recent years for residential development of various forms. Planning records show applications in 1972, 1980, 2003 and 2004 all of which were refused and two of which were also dismissed on appeal.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

Planning Policy Statement 1: Delivering Sustainable Development sets out the Governments overachieving planning policies on the delivery of sustainable development through the planning System.

*The above represents a summary of national planning guidance. The documents can be read in their entirety at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

### **REGIONAL POLICY:**

The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

Of particular relevance are the following policies:

Policy 8 (Protecting and Enhancing the Environment) seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.

*The above represents a summary of regional planning guidance. These policies can be read in their entirety at: <http://www.gos.gov.uk/nestore/docs/planning/rss/rss.pdf>*

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### **LOCAL PLAN POLICY:**

Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.

Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policy R11 (Public Rights of Way) states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.

Policy T1 (Traffic – General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

Policy T21 (Safeguarding the Needs of Walkers) states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.

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*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/index.htm>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

The County Highway Authority raise no objections, commenting that vehicular access is proposed via the unadopted lane which currently provided that the gate is securely fastened to avoid the hazards caused by livestock escaping onto the highway.

The County Rights of Way Officer states that according to their records footpath 5 Belmont abuts the west boundary and may lie within the northern boundary of the land edged red on the Land Registry plan supplied with application. If fences are erected across footpath 5 at any point either gates or stiles (preferably gates) must be provided to enable public access. The landowner should contact the rights of way officer directly with regard to the specification of intended stiles.

A site visit conducted on 6 November 2009 indicated 2 no. well used, unregistered footpaths crossing the land. It is possible that these paths may have acquired public rights through 20 years plus uninterrupted public usage, and fencing off the paths may lead to a dispute about a public right of way and an eventual claim to have the paths added to the Definitive Map. Unless the landowner can provide conclusive evidence that the paths have not acquired 20 years public use, the Rights of Way Officer would suggest that gates or stiles are provided in the fenceline to enable continued public use of the paths.

Belmont Parish Council raise concern over this application. The main points of concern are the access to the site from Willowtree Avenue, public nuisance as a result of smell caused by horse manure, safety of both residents and horses, animal welfare as no water supply is

available on site, and fencing.

#### **INTERNAL CONSULTEE RESPONSES:**

The Council's Environmental Health Section state that they are of the opinion that there is likely to be no environmental or nuisance issues arising from the change of use of land from agricultural to the keeping of horses and therefore have no objections to it at this stage.

The County Ecologist states that they can see no legitimate reason to object to the change of use on the basis of the sites ecological value. The site is not designated as a Local Site (biodiversity) and from the information presented in the objections there is no evidence that the land meets the Local Biodiversity Action Plan definition of a lowland meadow and as such could not be put forward as a Local Site or reasonably require mitigation. It is possible that if the applicant instigates a suitable grazing regime that the biodiversity value of the site would actually improve.

#### **PUBLIC RESPONSES:**

Letters of objection have been received from 10 no. local residents.

The points of objection raised concern animal welfare, lack of supervision of the horses, lack of shelter for the horses, potential for future development e.g construction of stables, potential precedent leading to residential development, highway safety as a result of visits to the site and/or horses escaping, smell of horse manure, loss of public open space, loss of wildlife, impact upon existing Public Rights of Way, drainage of the site and potential for noise disturbance.

#### **APPLICANTS STATEMENT:**

Due to the changing farm and financial situation it is not practicable to use this land for agricultural use, we use our farm as an equestrian business and need further land to extend our equestrian business. It is our intention to graze brood mares and foals to expand our breeding programme. I anticipate that up to 5 no. horses will be grazing at this site.

We would visit the land daily to check horses, we envisage 2 -3 vehicles per day having access to the land. Access would be made using the existing gated entrance. At this present time I am not applying for any buildings on the land, but if any , we feel are need for the welfare of our horses, we will submit a further application if necessary.

I would not put my valuable horses on site if fences could not keep them safe and secure. The Right of Way mentioned does not come within my land and Durham County Council do not cut or maintain or have permission to enter my land. Where should horses graze or be kept if not in a field? I would also respectfully point out that I can without any form of planning permission put pigs, cows or chickens on my land without restriction to number. I hope that logic and reason prevails and my application can be approved.

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*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://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_detailview.aspx?caseno=KR8M9EBN02000](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=KR8M9EBN02000)). Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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The main planning issues with regards to this application are considered to be the principle of use, its impact upon the character and amenity of the area within which it is located, impact upon highway safety and pedestrian footpaths, impact upon nature conservation and potential future uses of the site.

### **PRINCIPLE OF DEVELOPMENT**

This proposal only requires planning permission as it is for the keeping of horses. The land could be grazed by any animal, including horses without the need for planning permission. However, as the applicant intends to visit the site on a regular basis to attend the horses this is considered to be the keeping of horses and as such requires planning permission. This however raises issues with regards to the application of planning policy. Usually with regard to proposals involving horses, either Policy R16 (Equestrian Facilities) or Policy R17 (Stables) would be considered relevant. In this case however both of these policies are difficult to apply to this proposal and are considered to be of only limited relevance.

Policy R16 refers to new commercial equestrian facilities in the countryside and whilst this field would be essentially part of an equestrian facility, it is remote from it and would not have the character of such a business. Also, the site is within the settlement boundary of the city and is not considered to be in the countryside. No stables are currently proposed and no operation of the business would take place at the site. No members of the public would be attending the site in order to utilize the animals stored here – the applicant has indicated that the horses to be kept on the land would usually be breeding mares, foals and new stock awaiting movement to the main operation near Hartlepool. In essence the keeping of horses in this location would be no different from the keeping of horses for private use and as such, it is not considered appropriate to assess the application against the provisions of Policy R16. Equally, Policy R17 which addresses the construction of stables for personal use is not relevant in this case either as no stables are proposed. Consequently with regards to the principle of the use in this location, the primary policy against which to assess the merits of this application is considered to be Policy H13 (Residential Areas – Impact upon character and amenity).

It is noted that several objectors refer to the land as public open space and although the public can currently access the land, it is in private ownership and has been for a number of years. Although the site originally formed part of Kepier Colliery it has been in its current state for a number of years and has been used as occasional grazing (including the grazing of horses) in the past. The land is partially fenced and is not considered to be public open space, although attempts to have it designated as a village green have been made in the past. It should be noted however that the keeping of horses on the land will not necessarily preclude its use by the public as will be discussed in greater detail elsewhere in this report.

### **RESIDENTIAL AMENITY**

Policy H13 states that new development in residential areas should not have an unreasonable impact upon the amenities of nearby occupiers. It is noted that much of the opposition to this application relates to its impact upon the current level of amenity enjoyed by nearby residents with the principal issues being noise and smell. Having consulted the Council's Environmental Health Section, it is considered that in this instance any impact upon residential amenity would

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be of an acceptable level. It is not disputed that the keeping of horses may result in some additional smell and noise, however it is not considered that the impact would be so severe as to justify the refusal of the application. This is mainly due to the proposed numbers of horses cited, the size of the land in question and also the fact that the applicant could graze much larger numbers of other animals on the land without the need for planning permission and these could easily be both noisier and result in greater smells than the keeping of horses would generate.

It is not unusual for grazing fields to adjoin residential gardens, indeed it is a common occurrence in many areas and it is considered that the grazing of animals and residential occupation are activities which can occur within reasonably close proximity of each other without necessarily causing harm. It is accepted that High Grange estate is not a rural area, however, it is reasonably conceivable that any privately owned field backing onto residential houses may, at some point, host grazing animals of some nature. Whilst the applicants have indicated that they would seek to keep up to 5 no. horses at the field, if Members wish to limit this then an appropriate condition could be attached to any consent. However, it is considered that such a condition may be unreasonable and unnecessary as ultimately the size of field will govern the level of horses that can be kept in any case.

Some objectors cite the potential drainage of the field as a reason for objection. It is not considered that purely the keeping of horses on the land would greatly affect the current drainage situation, especially as no structures are proposed as part of this application.

## **HIGHWAY SAFETY AND PUBLIC FOOTPATHS**

Policy R11 seeks to protect existing Public Rights of Way, whilst Policy T21 seeks to safeguard the needs of walkers by protecting existing footpaths.

As previously stated, the land in question hosts 2 no. informal footpaths with an additional Public Right of Way running around the site. Although attempts have been made previously to have the informal paths adopted as Rights Of Way, as the definitive map currently stands they remain informal.

The Public Rights Of Way officer has stated that the informal paths may have been in such use for a sufficient length of time so as to allow them to be made Public Rights of Way, if such an application were received. As a result it is advised that the applicants incorporate appropriate stiles in any fencing scheme so as to allow the retention of the footpaths for public use. The existing Right of Way around the outside of the site would, according to the applicant, remain unaffected. However any fencing proposals would have to ensure that if they did cross this path that appropriate stiles or gates were provided.

It is not considered the presence of any of the footpaths forms a reasonable reason for refusal, as ultimately the presence of the horses themselves would not in any way preclude the use of any public footpath for that purpose. Adequate stiles can be secured by way of condition attached to any approval of the scheme in order to maintain the viability of the footpaths and Public Right of Way for public use and accordingly the application is considered to be in accordance with Policies R11 and T21.

Turning to vehicular access to the site, the applicants have indicated that they would intend to make 3 no. visits per day to the site. The site benefits from an existing access from the entrance to High Grange Estate. Although several of the objectors feel that this poses a threat to highway safety, the County Highway Authority has indicated that they have no objection to

the application. The possibility of horses escaping onto the highway is another concern raised by residents, however the Highway Authority has confirmed that providing an adequate fencing scheme is secured in order to prevent the escape of the horses, they have no objection in this regard. The application is therefore considered to be in accordance with Policy T1, subject to a suitable condition.

## **NATURE CONSERVATION**

Some of the letters of objection make reference to the biodiversity of the site and although no evidence of the presence of protected species is provided, one does include a letter from 2003 from a then County Conservation Officer in relation to a separate application for residential development.

Whilst it is accepted that the current state of the land as largely unmanaged grass and scrub will most likely have resulted in it hosting a variety of species, it is noted that the site is not designated as any kind of formal wildlife site of significance and no presence of protected species has been evidenced. Equally, the letter from 2003 is in relation to an entirely separate development. Given that no building is currently proposed on the land, it is not considered that the keeping of horses on the land would necessarily result in the significantly compromise the value of this land in this respect.

The County Ecologist has commented upon the application and considers that the proposed use does not form a risk to the land. Contrary to the concerns of the objector, it is considered that the grazing of horses on the land may actually improve the biodiversity of the site. The proposal is thus considered to be in accordance with Policy E16.

## **FUTURE USE OF THE SITE**

Several of the letters of objection raise concern over the potential future use of the site. As outlined above, the site is subject to a lengthy history of applications for residential development, all of which have been unsuccessful. Many residents are now viewing this latest proposal as being the “thin end of the wedge” with regards to the applicants gaining consent for residential use in the future on the basis of the horses and/or any stables which might already be present on the land. With regards to this it is considered that the application currently under consideration is purely for the keeping of horses with no proposed buildings and should be considered on its own merits and at face value.

If the applicants wish to later build any stables or structures or even residential properties, the Local Planning Authority would have the ability to control these proposals at that time and judge them on their merits against the relevant planning policies. Similarly if the applicants wished to expand their equestrian business, it would be within the control of the Local Planning Authority. It is not considered that the approval of an application keep horses at this location would represent “the thin end of the wedge” with regards to the development of the site for housing.

## **OTHER ISSUES**

Some objectors have questioned the welfare of the horses as a result of there being no stables proposed or even a fresh water supply, however it is not considered that this could form a reason for refusal. The applicants are experienced in the keeping of horses and have stated that they intend to visit the horses throughout each day. It is not considered strictly necessary to provide stables in every field where horses graze. Although the British Horse

Society recommends that horses be provided with shelter, the need for stables or artificial shelter can depend on a number of factors including the breed of the horses, topography of the site and whether natural shelter is available. Also the welfare of the animals is subject to the Animal Welfare Act 2006 and as such can be controlled outside of planning legislation. Consequently the possible welfare of the horses is not considered to be sufficient justification to warrant the refusal of the application.

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## **CONCLUSION**

In conclusion this application is considered to satisfy the relevant Local Plan Policies. The application is solely for the keeping of horses and involves no further development. Although the activity will have some impact upon the amenity of nearby residents, on balance it is considered, having regards to the advice of the Council's Environmental Health section that any impact would only be to an acceptable level. It is considered that both the existing Right of Way and informal footpaths can be maintained and available for public use and that the proposal does not represent an unreasonable risk to highway safety. There is nothing to suggest that the proposed use would unreasonably impact upon biodiversity and any future development proposals would require further planning permission. Therefore, the application is considered to be in accordance with Policies E16, H13, R11, T1 and T21 of the City of Durham Local Plan 2004.

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## **RECOMMENDATION**

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

1. The use hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out only in accordance with the approved plans, specifications and conditions hereby imposed.
3. Prior to the commencement of the use details of a scheme of fencing to secure the perimeter of site and incorporating suitable stiles or gates wherever the fencing crosses a public footpath or Right of Way shall be submitted to and approved by the Local Planning Authority. The fencing shall then be constructed in accordance with the approved details prior to the commencement of the use and retained in accordance with approved scheme.

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## **REASONS FOR THE RECOMMENDATION**

1. The proposed keeping of horse on the land is considered to be an acceptable use in principle at the location, with no unreasonable detrimental impacts upon the viability of Public Rights of Way or public footpaths, no harm to highway safety, no significant harm to the amenities of local residents and no harm to the biodiversity of the site in accordance with Policies E5A, H13, Q3, Q5, T10, T1, S10, C8, Q1, Q2 and U8A of the City of Durham Local Plan 2004.

This decision has been taken having regard to the policies and proposals of the North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008 and the City of Durham Local Plan 2004 which is a saved plan in accordance with the Secretary of States Direction

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under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004.

2. In particular it was not considered that the keeping of horse would create any levels of noise, smell or other impacts and forms of disturbance which would be detrimental to the amenities of local residents. The impacts upon highway safety, public footpaths and biodiversity were considered and no objections are raised.

3. Ten letters of objection were received regarding the application and the main points of concern related to, impacts upon residential amenity and visual amenity, impact upon public footpaths, impact upon the biodiversity of the site, potential future of the site, welfare of the horses, drainage and impacts upon highway safety. The impacts upon visual amenity, residential amenity, biodiversity, the use of footpaths, welfare of the horses, drainage and highway safety were all considered and impacts were found to be acceptable. The future use of the site can be controlled through future planning applications.

## **BACKGROUND PAPERS**

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Submitted Application Forms and Plans

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

City of Durham Local Plan 2004

Planning Policy Statements / Guidance, PPS1

Responses from County Highways, County Ecologist and Environmental Health

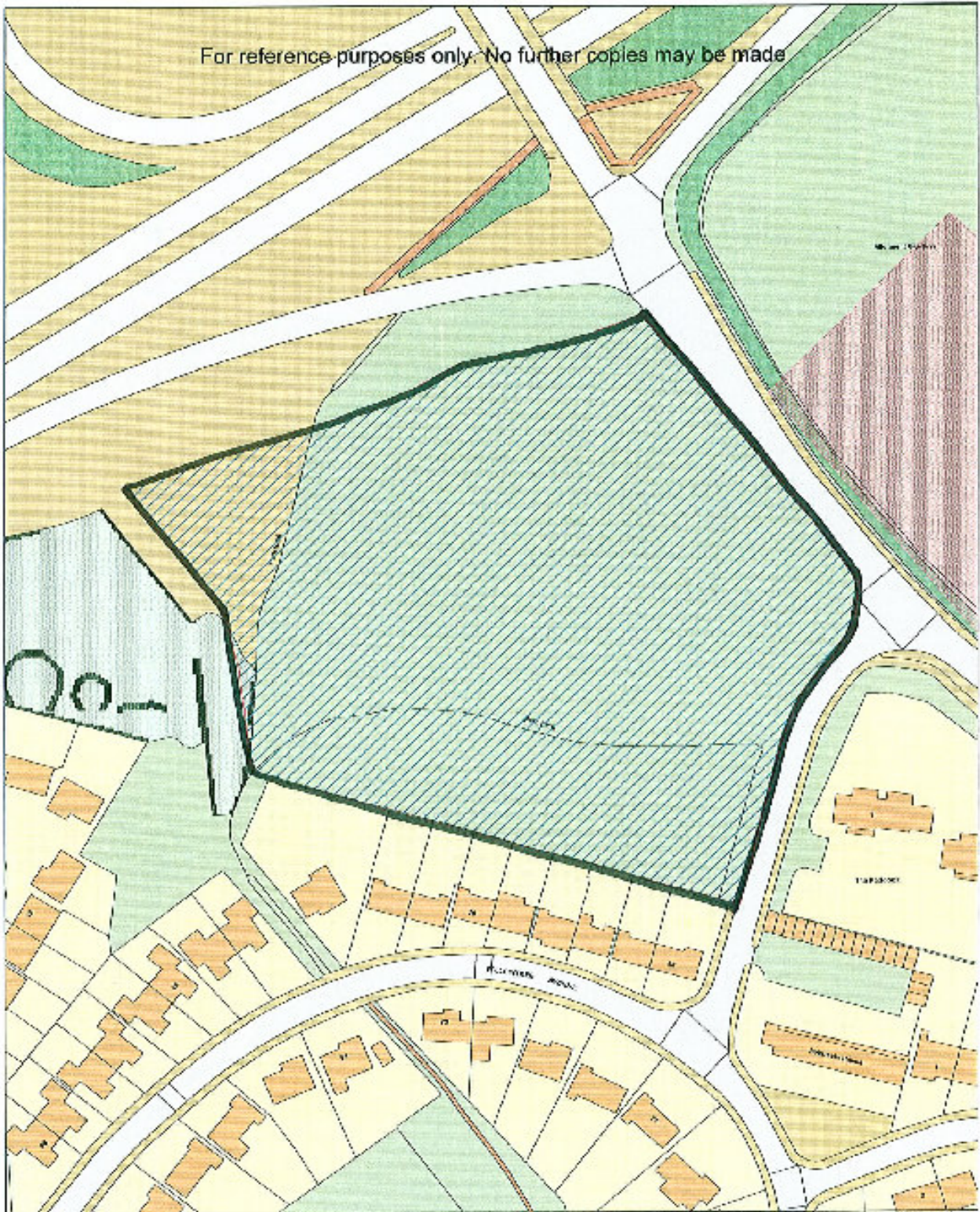
Public Consultation Responses

Equine Industry Welfare Guidelines Compendium for Horses, Ponies and Donkeys (Third Edition)

Care of Horses and Ponies at Grass – British Horse Society advice note



For reference purposes only. No further copies may be made



Planning Services

4/09/00769/EPA - Land Rear OF Willow tree Avenue, Durham

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Comments

Date

23 November 2009

Scale

1:1250

# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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**APPLICATION NO:** 4/09/00770/FPA

**FULL APPLICATION DESCRIPTION:** Erection of 6 no. dwellings with associated parking and landscaping, and erection of 6 no. replacement pitched roof garages

**NAME OF APPLICANT:** Keepmoat Homes Limited

**SITE ADDRESS:** Coalford Lane, High Pittington, Durham

**ELECTORAL DIVISION:** Sherburn

**CASE OFFICER:** Andrew Inch, Senior Planning Officer  
[Andrew.inch@durham.gov.uk](mailto:Andrew.inch@durham.gov.uk)  
(0191) 301 8745

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### DESCRIPTION OF THE SITE AND PROPOSALS

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The application site, extending to some 0.19ha, largely consists of open space with some tree and shrub planting, whilst also being occupied by six detached vehicular garages. The site has an extensive frontage onto Coalford Lane with open countryside beyond, whilst existing residential development abuts the site on its remaining three sides, which itself consists largely of two storey semi-detached dwellings, together with a limited number of bungalows. Although marginal, there is a slope generally from the front of the site down towards the bungalow at the rear.

Planning permission is sought to demolish the garages on the site and erect six two storey dwellings in three semi-detached pairs. Vehicle access would be provided for five of the dwellings via a new access directly onto Coalford Lane, with a further dwelling having access to its in-curtilage parking via the existing lane which serves the existing garages and the rear of properties in South End. A large area of the sites frontage would remain as open space and be appropriately landscaped. In addition to the dwellings, six garages would be provided as replacement for the existing ones which would be demolished. The garaging would take the form of a double garage with access via the existing but upgraded rear lane, and a further block of four garages, two sharing the aforementioned access, and two served from the cul-de-sac head within South End to the western corner of the site. Dwellings and garages alike would be constructed of red-facing brick with grey roof tiles.



In terms of tenure, all six dwellings would be available for rent through Durham County Council, and additionally, all dwellings would be constructed to Homes and Communities Agency Design and Quality Standards, and would include features such as solar panels and water collectors.

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## **PLANNING HISTORY**

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There is no planning history relating to the application site.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

Planning Policy Statement 1: Delivering Sustainable Development sets out the overarching planning policies on the delivery of sustainable development through the planning system.

Planning Policy Statement 3: Housing underpins the delivery of the Government's strategic housing policy objectives and our goal of ensuring that everyone has the opportunity to live in a decent home, which they can afford in a community where they want to live.

Planning Policy Statement 9: Biodiversity and Geological Conservation, sets out planning policies on protection of biodiversity and geological conservation through the planning system. These policies complement, but do not replace or override, other national planning policies and should be read in conjunction with other relevant statements of national planning policy.

Planning Policy Guidance note 13: Transport seeks to integrate planning and transport at the national, regional, strategic and local level and to promote more sustainable transport choices both for carrying people and for moving freight.

Planning Policy Guidance note 14: Development on Unstable Land, explains the effects of land instability on development and land use and the responsibilities of the various parties to development are considered and the need for instability to be taken into account in the planning process.

Planning Policy Statement 23: Planning and Pollution Control, contains the policies and the advice that are material to decisions on individual planning applications and where proposals involve development on land likely to be contaminated, applications shall be accompanied by a survey of the site to assess the likely extent, if any, of contamination.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

### **REGIONAL POLICY:**

The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) has a vision to ensure that the North East will be a Region where present and future generations have a high quality of life. It will be a vibrant, self reliant, ambitious and outward looking Region featuring a dynamic economy, a healthy environment, and a distinctive culture. Of particular relevance are the following policies:

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Policy 4 (The Sequential Approach to Development) provides that a sequential approach to the identification of land for development should be adopted to give priority to previously developed land and buildings in the most sustainable locations.

Policy 7 (Connectivity and Accessibility) seeks to promote the need to reduce the impact of travel demand particularly by promoting public transport, travel plans, cycling and walking, as well as the need to reduce long distance travel, particularly by private car, by focusing development in urban areas with good access to public transport.

Policy 8 (Protecting and Enhancing the Environment) seeks to promote measures such as high quality design in all development and promoting development that is sympathetic to its surroundings.

Policy 24 (Delivering Sustainable Communities) refers to the need to concentrate the majority of the Region's new development within the defined urban areas, and the need to utilise previously developed land wherever possible.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.gos.gov.uk/nestore/docs/planning/rss/rss.pdf>*

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#### **LOCAL PLAN POLICY:**

Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals that would affect trees and hedgerows. The loss of ancient woodland will not be permitted. Tree preservation orders will be designated as necessary. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost.

Policy E15 (Provision of New Trees and Hedgerows) states that the Council will encourage tree and hedgerow planting.

Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. As far as possible, unacceptable harm to nature conservation interests will be avoided. Mitigation measures to minimise unacceptable adverse impacts upon nature conservation interests should be identified.

Policy H3 (New Housing Development within the Villages) allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units.

Policy H12 (Affordable Housing) seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. The associated Cabinet approved (December 2006) Supplementary Planning Document advises that 30% of all dwellings on a site providing over 25 dwellings should be provided as affordable units in perpetuity.

Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

Policy T1 (Traffic Generation – General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.

Policy T10 (Parking – General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

Policies Q1 and Q2 (General Principles Designing for People and Accessibility) state that the layout and design of all new development should take into account the requirements of all users.

Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.

Policy Q5 (Landscaping – General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.

Policy Q8 (Layout and Design – Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.

Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

Policy U11 (Development on Contaminated Land) sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

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*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.gos.gov.uk/nestore/docs/planning/rss/rss.pdf>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

The Highway Authority considers that the access arrangements associated with the proposed garages would be acceptable, subject to a dropped kerb being proved, while the level of parking and ability to maneuver safely within the site is also considered acceptable. A dropped kerb crossing to serve the development was suggested in favour of a radius kerb junction, and the proposals have been amended to reflect this. No objection is raised.

Natural England advises that the proposals are unlikely to have an adverse effect in respect of species especially protected by law, subject to a condition regarding mitigation measures.

Northumbrian Water Limited has advised that a water main is shown built over by the proposed development, and a condition is recommended to seek the diversion of the apparatus.

#### **INTERNAL CONSULTEE RESPONSES:**

Durham City Homes have advised that there are currently 342 applicants who have expressed a desire for accommodation in Pittington, and that such demand is generally for family homes.

The Council's Ecologist has advised that there is no ecological reason to refuse the application, but advises that any permission should be subject to a mitigation condition.

The Council's Development Plans Section considers the site to be previously developed land and although noting the layout is constrained by the shape of the site, they raise no objection.

The Council's Design and Conservation Section considers the scheme acceptable in principle and noting the loss of vegetation, however, they consider that the layout of the scheme and the design of the dwellings could be improved.

#### **PUBLIC RESPONSES:**

There have been three letters of objection received from nearby residents. The occupiers of 3 South End are concerned that the proposals will impede their right of access to an existing garage served off the rear lane, the area is liable to flooding, that bats use the site, that parking problems in South End will be exacerbated by the need to put in a dropped kerb to serve the proposed garage block, that there are insufficient places available at local schools, that there is a mine shaft on the site and it would be dangerous to build over it; and finally, that the proposals would create a further access onto Coalford Lane which is a busy road with a history of accidents.

The occupiers of 9 South End are similarly concerned that access to their garage will be impeded, that there is insufficient drainage capacity, that traffic and parking problems will arise in South End, that a pedestrian walkway will be cut off, that it is unsafe to build over a mine shaft and that the proposed development will be affected by existing flooding problems.

The occupiers of 7 Elizabeth Court object to the application on the grounds that the sealing and capping of the mine shaft will cause considerable noise and disturbance to the community and that to increase traffic volumes on Coalford Lane would be dangerous.

Pittington Parish Council are supportive of the principle of providing much-needed social housing, but have raised a number of concerns including: no provision for displaced garages; the flood risk assessment is incomplete and the LPA should secure suitable drainage; subsidence risk to new properties due to mine shaft; highway safety and access; a lack of landscaping details; incorporation of public art or seating is encouraged; and, they are critical of the lack of consultation with local people about the proposals prior to the application.

At the Parish Council's request, an extended consultation exercise has been undertaken in the area, and Members should note that this further consultation period has not yet expired, but any additional responses received will be reported.

## **APPLICANTS STATEMENT:**

Durham Villages Regeneration Company is a partnership between Durham County Council and Keepmoat Homes (formerly Haslam Homes). Keepmoat Homes, part of the Keepmoat plc group of companies, specialise in providing desirable homes predominantly for first and second time buyers throughout the United Kingdom.

As part of the Durham Villages Regeneration Company, Keepmoat Homes (North East) are committed to providing affordable housing in the County Durham area. With a requisition for a highly competent building and sustainability methods, all of the proposed housing will be constructed to 'Code for Sustainable Homes' Level 4.

The surrounding context of this site has been considered in detail so that the new development will integrate efficiently, raising the standard of the neighbourhood. A number of elements which have been taken into account are; layout, use, amount, scale, and appearance in close proximity to the development. The existing and proposed access and future generation of vehicular movement will be evaluated with reference to the site's integration and interaction with its surroundings. There are a number of garages upon the North West corner of the site. At present the garages are of a unsightly nature and as part of the proposal will be removed and erected in conjunction with the proposed scheme. Details including siting have been carefully considered to maximise the turning facilities for the existing owners of the garages and embrace the scheme as one. Ground conditions indicate a disused mineshaft positioned on the site. This will be dealt with by appropriate remediation measures ready for construction.

The site is situated in Coalford Lane and is deemed as open land. There is also open countryside to the North and South of the proposal which contributes to the visual amenity of the public realm. We believe taking into account all of the elements and characteristics, it indicates the site is a primary location for housing.

The proposal recognises that the ultimate success of the development will be greatly enhanced by a variety of measures which will ensure the scheme's sustainability. The design is focused on achieving effective working communities that provide a wide range of options and allows for modern family living. The development will be an encouraging addition to a well established community defined by existing buildings incorporating a number of local elements and materials which puts people first and is designed at the human scale. The development will have a clear and tangible character and as such become a positive attribute in High Pittington.

The proposal shows a clear principal for a development to be established and beneficial to providing 6no proposed dwellings built to 2007/08 Housing Corporation Scheme Development Standards.

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*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 [\(link to webpage\)](#). Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below.*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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The main issues relate to the principle of developing the site for residential purposes, the impacts upon both visual and residential amenity, highway safety and interests of flora and fauna.

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## PRINCIPLE OF DEVELOPMENT

The application site comprises both greenfield and previously-developed elements. Policy H3 of the Local Plan permits new housing development comprising windfall development of previously-developed land within High Pittington. In part, the principle of developing the site is therefore acceptable. Additionally, Policy H3 permits, exceptionally, the limited development of small greenfield sites (under 0.33ha) where there are clear and quantifiable regeneration benefits and where these could not be achieved through the development of previously-developed land. The Policy further sets out that High Pittington is one of number of coalfield villages most in need of regeneration.

The applicants consider that the scheme will bring much-needed social rented sector housing to a village in most need of regeneration. The clear and quantifiable regeneration benefits are considered to arise from the provision of new housing and in particular from the tenure proposed. In addition, there are no sites within the settlement limits of High Pittington which comprise previously-developed land which would be suitable for housing development and thus capable of delivering the identified clear and quantifiable regeneration benefits that the proposed scheme would deliver.

High Pittington has two existing areas of former-Council or Council owned properties, which extends to some 171 properties. Of these only 66 remain in Council control, the rest having been acquired by tenants under the Right to Buy programme. The proposed scheme would therefore provide 6 new Council houses and increase the opportunities for local residents to remain in High Pittington where they may not ordinarily be able to buy property on the open market or access social or indeed private rented property. The Strategic Housing Market Assessment (SHMA) (Final Report, GVA Grimley, October 2008) has identified that there has been a decline in the social rented sector, which in the former City of Durham District accounts for around 20% of the overall housing stock, and moreover, that the waiting list for Council housing currently consists of some 342 applicants who have expressed a desire for accommodation in Pittington. Durham City Homes have advised that typically the demand is for family accommodation as is proposed in this case. Additionally, the housing is to be provided to a high quality in accordance with the Homes and Communities Agency Design and Quality Standards, and this is particularly important given that some 35% of local authority housing stock in the former City of Durham District does not meet the Decent Homes Standard (SHMA).

Proposals permitted under Policy H3 must not result in the development of areas which possess important functional, visual or environmental attributes which contribute to the settlements character. The site is predominantly open with some areas of tree and shrub planting, however, due to poor drainage and site levels it offers limited functional opportunities and overall, makes a limited visual and environmental contribution to the settlement such that its development would be acceptable in this regard.

Until April 2009, 82.72% of all new housing in the former City of Durham District was built on previously-developed land, far exceeding the 60% target set in PPS3, and therefore, the development of this partially greenfield site would not undermine the national strategic objective set out in PPS3.

The proposed development of social rented housing provided by this scheme would, it is considered, contribute to an identified need to provide quality homes in this housing sector, and would therefore represent a clear and quantifiable regeneration benefit in its own right. In terms of securing the properties in the social rented sector in perpetuity, the applicants

consider that since the land is owned by the Council, they would have full control over both the prospective tenants and those in the future. This being the case, it is considered that sufficient control exists so as to not warrant the requirement for a section 106 agreement to control future occupancy. It is considered therefore, that the principle of residential development on the site would not conflict with national planning objectives and would accord with Policy H3 of the Local Plan and Policies 4 and 24 of the RSS.

## **VISUAL AMENITY**

Turning now to the scale, density, design and layout of the development. There are six proposed dwellings, two having two bedrooms and four having three bedrooms. The properties would be of two-storey's in height and would be in three semi-detached pairs, giving a density around 31 dwellings per hectare, As such, the proposals would be entirely consistent with the scale and density of surrounding development which largely consists of two storey semi-detached dwellings. Being constructed of brick and tile is again appropriate to the character of the area. In layout terms, the site is constrained by both its shape and the need to retain garage accommodation. The forwardmost pair of properties would have gables facing toward Coalford Lane itself; however, its frontage would be apparent when approaching from the south-east and where an area of landscaped open space would provide an attractive setting to these properties as well as a frontage to the site as a whole. It is considered that this approach is acceptable. The rear of the site would contain two further pairs of semi-detached properties parallel to the main road, with an area of parking and soft landscaping to the front. The incorporation of new garages as replacement for those to be demolished, contrary to the Parish Council's observations, does add a further constraint, but they have been successfully incorporated without significantly compromising the overall site layout. In visual amenity terms the properties and their layout are considered acceptable and in accordance with Policies H3 and Q8 of the Local Plan.

Whilst most of the trees and shrubs on the site would be removed, a Willow tree on the sites frontage would be retained, while new trees would be planted within the site itself and as part of a landscaping scheme for the part of the site undeveloped along its frontage. The Parish Council has requested that this area be made a focal point by way of seating or public art, for example. Whilst the scheme is below the threshold where the requirements for public art as identified at Policy Q15 and the accompanying SPD, it would not be unreasonable to see some community benefit arising from the proposals and assist its continued regeneration by seeking a seating area for use by local residents and assist the Parish Council's aim of seeing the site become a focal point. On balance the loss of the vegetation is considered acceptable in view of the in principle acceptability of the scheme and the related regeneration benefits arising to the village.

## **RESIDENTIAL AMENITY**

In terms of residential amenity, separation standards as set out at Policy Q8 are far exceeded both within the site and to surrounding dwellings, with the exception of the relationship between the dwellings at the rear of the site and the bungalow (45 South End) beyond. Whilst Policy Q8 seeks a 21m separation distance, around 20m would be provided. However, given the marginal shortfall below the recommended distance, and subject to a 1.8m high minimum close boarded fence being erected along the shared boundary, there would be no significant adverse affects on the amenity of the occupiers of the either existing or prospective occupiers. Although there would be additional traffic using South End cul-de-sac to access two of the six replacement garages, the level of associated traffic would not be so significant that it would cause undue noise or disturbance to the level of residential

amenity that surrounding occupiers should reasonably expect to enjoy, in accordance with Policies H13, T1 and Q8 of the Local Plan.

## **HIGHWAY SAFETY**

In highway terms, the use of the cul-de-sac to gain access to the garages is considered to be acceptable, given the limited levels of traffic generated that would use the cul-de-sac and South End generally. Subject to an appropriate crossing being formed, there would be no detriment to highway safety, a view shared by the Highway Authority and as such, objections are not substantiated on this ground. The width of access required would not have a significant affect on resident's ability to park on-street. The layout of the scheme overall is such that four of the garages and the in-curtilage parking for plot one would be provided using the existing and partially upgraded access lane. Objectors are concerned that the layout will impede their ability to gain access to their garages on the opposite side of the access track. However, the access track would retain its existing width generally, which is sufficient to allow existing occupiers to maneuver, and towards the northern end, the width would actually be increased to around 8m, aiding maneuverability of existing occupiers. The Highway Authority is also satisfied that the site layout is sufficient for vehicle maneuvering and the extent of parking provided for the development itself is acceptable at a ratio of 1.66 spaces per dwelling. The proposals accord with Policies T1 and T10 in this regard.

## **GROUND STABILITY AND CONTAMINATION**

Concerns have been expressed by objectors in relation to the identified mine shaft on the site, both in terms of works required to cap and seal the shaft as well as the appropriateness or otherwise of building on a site with a mine shaft. On the first issue, as with any development, there is a degree of noise and disturbance associated with construction which occupiers would endure, but given the temporary nature of such affects, although material, these carry little weight and would certainly not be sufficient to justify the refusal of the application. On the latter point, and in accordance with in PPG14, the responsibility of determining whether land is suitable for a particular purpose rests primarily with the developer, and moreover, the responsibility and subsequent liability for safe development of a site rests with the developer and clearly it is in the developer's own interests to determine whether land is unstable or potentially unstable.

As the site forms part of a former mine, it is identified as being potentially affected by contamination as set out in PPS23. The applicants have provided a site investigation which identifies that there are various forms of contamination within the topsoil and within elements of made ground, and consequently the report recognises that there will be the need for remediation strategy with method statement, a completion statement together with a validation report of the remediation carried out. This is consistent with the approach set out in PPS23 and conditions reflective of these identified requirements are proposed and in accordance with Policy U11 of the Local Pan.

## **OTHER MATTERS**

In ecological terms, both the County Ecologist and Natural England are satisfied that the proposals will not have an adverse effect on species especially protected by law since evidence has shown that the site is of low ecological value, however, a condition is proposed to ensure works to remove trees avoids the bird breeding season and in the event that any protected species become apparent on the site between survey and development commencing. Accordingly, there is considered to be no conflict with either PPS9 or Policy E16 of the Local Plan.

Concerns have been expressed by residents and the Parish Council in relation to issues of flooding and drainage. Northumbrian Water Limited (NWL) have raised no objection to the scheme in terms of capacity to deal with either foul or surface water, and as such suitable connections can be made to the existing sewage network, thus satisfying Policy U8a of the Local Plan. NWL are however concerned that the proposals would involve the building over of a water main, and this would require diversion at the developers cost, and consequently, its diversion is the subject of a condition in the event of an approval. In terms of flooding, the site area is below the level where consultation is required with the Environment Agency and furthermore, being in Flood Zone 1 it is not considered at risk from flooding. Therefore, subject to suitable drainage of surface water, again required by condition, the development would neither cause flooding elsewhere nor be at risk of flooding itself.

An objection has been received on the grounds that the development will result in the loss of a footpath link, although not a formal designated footpath, from South End cul-de-sac up to Coalford Lane. Whilst this would be the case, residents can clearly use the designated footpaths within South End itself to access Coalford Lane, and as such, it is considered that the refusal of the application could not be justified on these grounds.

Finally, an objection has been raised on the grounds that there would be insufficient capacity at the local primary school for any prospective children living at the development. Current figures show that there is a 3.4% surplus of places at Pitlington Primary School, whilst in any case, six new houses are generally considered to equate to one additional child of school age (3-18). There would therefore for be adequate education provision for prospective children living at the development.

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## **CONCLUSION**

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In conclusion, it is considered that the proposed development of six houses offers demonstrable clear and quantifiable regeneration benefits, providing high quality social housing in an area where there is currently a high demand for the type of properties proposed. The houses would be of appropriate materials and the layout respects the character of the area, without causing detrimental effects upon the amenity of surrounding residents. Adequate car parking, maneuverability and access are provided for the development, including replacement garages for those to be demolished, and without causing detriment to the highway safety of either pedestrian or road users. Issues of flooding/drainage, water main apparatus diversion and ecology are issues where control by condition is considered appropriate. Accordingly, Officers recommend the application is approved, subject to conditions.

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## **RECOMMENDATION**

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out only in accordance with the approved plans, specifications and conditions hereby imposed.



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3. An investigation and risk assessment must be completed in accordance with a scheme to assess the nature and extent of any contamination on the site, whether or not it originates on the site, and shall include a specification and verification for the location and treatment of the on site mine shafts. The contents of the scheme are subject to the approval in writing of the Local Planning Authority. The investigation and risk assessment must be undertaken by competent persons and a written report of the findings must be produced. The written report is subject to the approval in writing of the Local Planning Authority. The report findings must include:
    - a) a survey of the extent, scale and nature of contamination;
    - b) an assessment of the potential risks to: human health; property (existing or proposed) including buildings, crops, livestock, pets, woodland and service lines and pipes; adjoining land; groundwaters and surface waters; ecological systems; archaeological sites; and, ancient monuments;
    - c) an appraisal of remedial options, and proposal of the preferred option(s).

This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.

4. A detailed remediation scheme to bring the site to a condition suitable for the intended use by removing unacceptable risks to human health, buildings and other property and the natural and historical environment must be prepared, and is subject to the approval in writing of the Local Planning Authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria, timetable of works and site management procedures. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation.
5. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development other than that required to carry out remediation, unless otherwise agreed in writing by the Local Planning Authority. The Local Planning Authority must be given two weeks written notification of commencement of the remediation scheme works. Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced, and is subject to the approval in writing of the Local Planning Authority.
6. In the event that contamination is found at any time when carrying out the approved development that was not previously identified it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken in accordance with the requirements of condition 1, and where remediation is necessary a remediation scheme must be prepared in accordance with the requirements of condition 2, which is subject to the approval in writing of the Local Planning Authority. Following completion of measures identified in the approved remediation scheme a verification report must be prepared, which is subject to the approval in writing of the Local Planning Authority in accordance with condition 3.

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7. A monitoring and maintenance scheme to include monitoring the long-term effectiveness of the proposed remediation over a period of 5 years, and the provision of reports on the same must be prepared, both of which are subject to the approval in writing of the Local Planning Authority. Following completion of the measures identified in that scheme and when the remediation objectives have been achieved, reports that demonstrate the effectiveness of the monitoring and maintenance carried out must be produced, and submitted to the Local Planning Authority. This must be conducted in accordance with DEFRA and the Environment Agency's *'Model Procedures for the Management of Land Contamination, CLR 11'*.
  8. The development shall not commence until details of a scheme for foul and surface water drainage have been submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented prior to the occupation of the development.
  9. Development shall not commence until a detailed scheme for the diversion of the water main which would be built over by the development, has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water Limited. Thereafter the development shall take place in accordance with the agreed details.
  10. Within one month of the commencement of the development, or other such time period as may be agreed in writing with the Local Planning Authority, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The scheme of landscaping shall include details of new seating arrangements, hard and soft landscaping, planting species, sizes, layout, densities, numbers, method of planting and maintenance regime, as well as indications of all existing trees and hedgerows on the land and details of any to be retained, together with measures for their protection in the course of development.
  11. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.
  12. Prior to development commencing details of a 1.8m high close boarded fence to be provided along the boundary between 45 South End and plots 03 to 06 (inclusive) shall be submitted to and agreed in writing with the Local Planning Authority. The agreed detail shall be implemented prior to the occupation of the development and retained thereafter.
  13. No development shall take place unless in accordance with the mitigation detailed within the protected species report *'An Extended Phase 1 Survey and Code for Sustainable Homes Assessment of Land High Pittington, Durham'* including, but not restricted to: adherence to timing restrictions – no vegetation clearance undertaken during the bird breeding season (March to August inclusive) unless a checking survey (conducted by an experienced ecologist) has proven nesting birds to be absent from said vegetation; and; adherence to precautionary working methods to address the negligible risk that bats may be present in the garages prior to demolition.

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## **REASONS FOR THE RECOMMENDATION**

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1. The proposed development provides six family homes providing high quality and much-needed social housing within the village and assisting its continued regeneration and as such the development of a partially greenfield site and the loss of open space is considered outweighed by the benefits and consequently, the proposals are considered to accord with Policies E14, E15, E16, H3, T1, T10, Q3, Q8 and U8A of the City of Durham Local Plan 2004 (which is a saved plan in accordance with the Secretary of States Direction under paragraph 1 (3) of Schedule 8 to the Planning and Compulsory Purchase Act 2004), and Policies 4 and 25 of the North East of England Plan - Regional Spatial Strategy to 2021.
2. In particular the development was considered acceptable having regard to clear and quantifiable regeneration benefits, the loss of open space and vegetation, the scale, form, density and materials proposed, together with impacts upon nearby residents with regard to outlook and privacy loss, together with issues of ecology, diversion of public sewer apparatus and flood risk.
3. Grounds of objection relating to the proposed dwellings being out of character to the area and harmful to the amenity of surrounding residents are considered to not be determining in this case, as are implications for highway safety and parking, whilst planning conditions would ensure that such harm does not arise where it is considered appropriate.

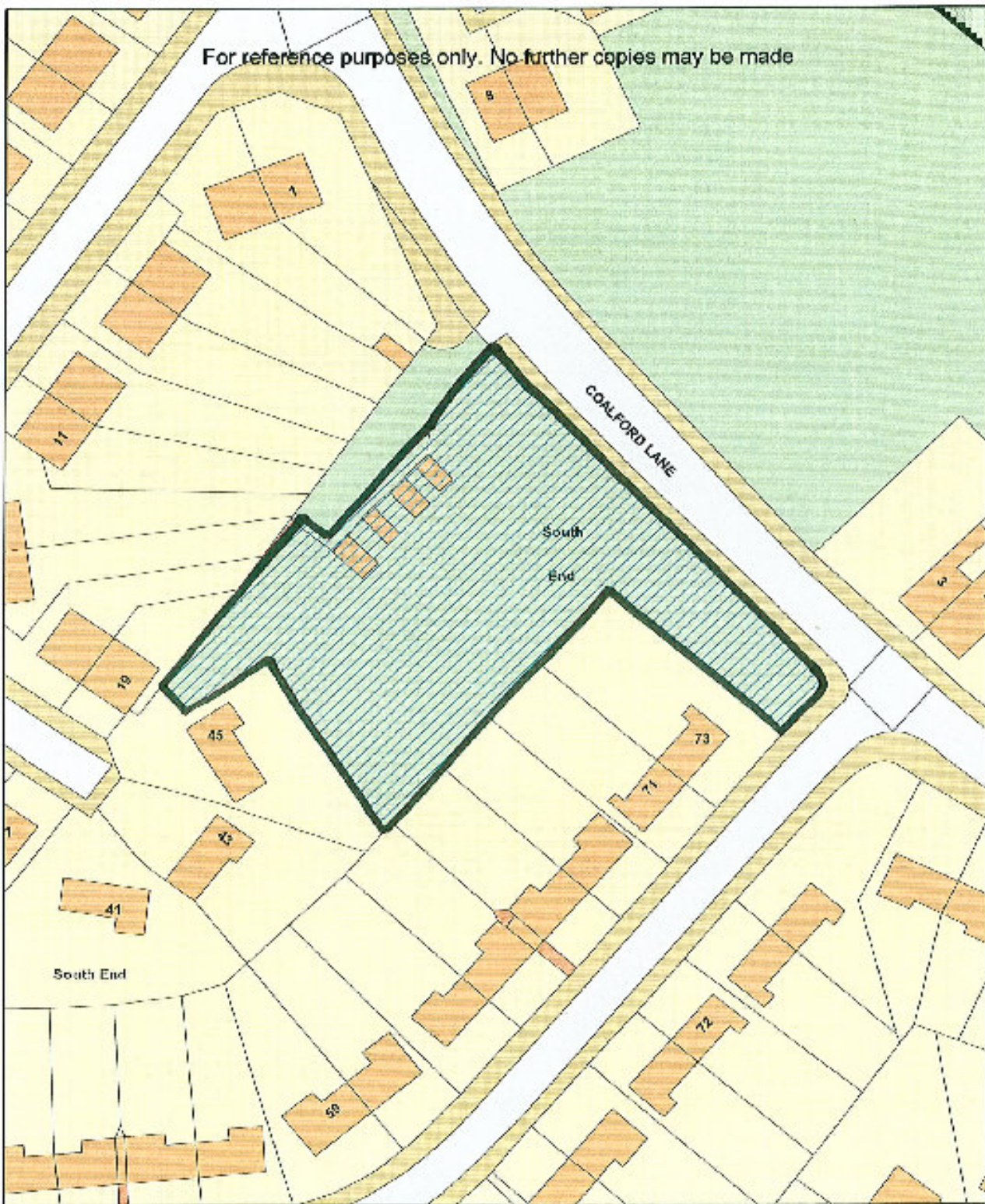
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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and Amended Plans  
Planning Statement  
Design and Access Statement  
Arboricultural Implications Assessment  
Site Investigation Report – Preliminary Risk Assessment and Generic Quantitative Risk Assessment  
Mine Shaft Investigation Report  
Gas Monitoring Results  
Planning Policy Statements: PPS1, PPS3, PPS9 and PPS23  
Planning Policy Guidance notes: PPG13 and PPG14  
North East of England Plan Regional Spatial Strategy to 2021 (RSS), July 2008  
City of Durham Local Plan 2004  
Circular 01/06: Guidance on Changes to the Development Control System  
Circular 11/95: Use of conditions in planning permission  
City of Durham Local Plan 2004  
Responses from Highway Authority, Northumbrian Water Limited and Natural England  
Internal response from Design and Conservation, Development Plans Section and Ecology  
Pittington Parish Council Response  
Public Consultation Responses  
Various File Notes and Correspondence

For reference purposes only. No further copies may be made



Planning Services

4/09/00770/FPA - Coalford Lane, High Pitington, Durham

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Comments	
Date	23 November 2009
Scale	1:625