



AREA PLANNING COMMITTEE
(CENTRAL AND EAST DURHAM)

REPORT OF HEAD OF PLANNING SERVICES

6 OCTOBER 2009

3. APPLICATIONS TO BE DETERMINED

NUMBER AND APPLICANT	LOCATION	PROPOSAL	RECOMMENDATION AND PAGE NO
4/08/797/FPA Mr D Turnbull	The Gardens Sunderland Bridge Durham DH6 5HD	Erection of 2 no. dwellings to front of existing dwelling (resubmission)	REFUSE Page No. 1 - 11
4/09/346/FPA Mr Mather 4/09/348/FPA Mr Swainston 4/09/354/FPA Mr Briggs 4/09/355/FPA Mr Cairns	18, 20, 22 and 40 Dene View Cassop Durham DH6 4RW	Change of use to domestic garden and erection of 1800mm high close-boarded wooden fence	REFUSE Page No. 12 - 19
4/09/556/FPA East Durham Cathedral Farm	Land To The South of Lady's Piece Lane Pittington Bridge Pittington Durham DH6 1AA	Proposed erection of agricultural building including retrospective consent for new gates, along with parking area and access track along eastern edge of field	APPROVE Page No. 20 - 29

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	4/08/00797/FPA
FULL APPLICATION DESCRIPTION:	Erection of 2 no. dwellings to front of existing dwelling (resubmission)
NAME OF APPLICANT:	Mr D Turnbull
SITE ADDRESS:	The Gardens, Sunderland Bridge, Durham, DH6 5HD
ELECTORAL DIVISION:	Durham South
CASE OFFICER:	Colin Harding colin.harding@durham.gov.uk 0191 301 8712

DESCRIPTION OF THE SITE AND PROPOSALS

The application refers to The Gardens, a large detached house built in 1991 to a traditional style although utilizing a modern brick. It occupies a central site within Sunderland Bridge village which was formerly allotments, hence the "Gardens" name. It is well within the settlement boundary of Sunderland Bridge Village.

The current house is well set back from the road and served by a reasonable access. The boundary between the site and the street-green is demarcated by an attractive stone wall of considerable age.

The Gardens is an unusual plot within the village in that its building is set back from the street rather than directly onto the street or green. The reason for this is in part historical. The house is a modern building but the plot was undeveloped historically, at least during the 19th century when the first editions of the Ordnance Survey Maps show it as open ground presumably an orchard or garden associated with one of the neighbouring village farms. Such examples of open ground other than greens, within the heart of street villages occur frequently on historic maps but survive rarely on the ground due to the pressures of expansion in the late 19th century and modern periods.

To the east of the site lie nos. 21 – 22 Sunderland Bridge which face towards the application site, to the west lies the recent West Farm residential development.

The application proposes the erection of 2 no. dwellings towards the front of the site. The properties would be of a traditional two storey design in brick and render with slate roofs and would appear as a terrace with a vennel cut through between the properties at ground floor level. To the rear, “Dwelling 2” would feature a two storey offshoot hosting a bedroom and garaging, whilst “Dwelling 1” features a single storey offshoot hosting a single garage and bedroom.

Access to the site is to be taken from the main road and then to the rear of nos. 20 -22 Sunderland Bridge, locally known as “Stark’s Yard”.

PLANNING HISTORY

05/00677/FPA - Erection of 2 no. dwellings at front of site – Approved 08.11.2005. – This application was identical to that which is currently under consideration but has never been implemented and has subsequently expired.

(Land to the rear of The Gardens) 06/00169/FPA - Erection of 2 no. dwellinghouses (revised scheme) – Refused 19.12.2006 and later dismissed on appeal.

(At West Farm) - 07/00312/FPA - Partial demolition of existing barns and rebuilding to form 2 no. dwellings - 02.08.2007

PLANNING POLICY

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.

Policy Statement 3: Housing 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 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. 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 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.

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.

This document reinforces national guidance in respect of the re-use of previously developed land and buildings, requiring Local Authorities to achieve 60% of new housing on 'brownfield' sites by 2008. Policies are also included to ensure incorporation of alternative energy production methods to reduce carbon emissions. Of particular relevance are the following policies:

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 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) encourages local authorities to seek to conserve and enhance the historic environment.

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>.

LOCAL PLAN POLICY:

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 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 H10 (Backland and Tandem Development) sets out that such development will not be permitted unless a safe and satisfactory access is provided, the amenities of existing and prospective occupiers are not adversely affected and finally, that the development would be in keeping with surrounding development.

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.

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.

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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

The Highway Authority raise no objections, commenting that vehicular access is proposed via the unadopted lane which currently provides access to 21 & 22 Sunderland Bridge and to The Gardens. The addition of two new dwellings using this route would not exceed the current limit of five dwellings served by an unadopted road. The lane also serves as a public

footpath for part of its length. It is narrow and has no separate provision for pedestrians. It is however suitable for carrying the traffic from five dwellings but should not be used as an access to any more development. This was recognized by the Inspector into the appeal against the refusal of the larger development (06/00169/FPA) which would have resulted in four additional dwellings served by this access. It is recommended that pedestrian access to the two dwellings and The Gardens is provided via the route through the gap in the front wall.

INTERNAL CONSULTEE RESPONSES:

The Council's Design and Conservation Section object to the application, raising concerns over the impact of the development upon the character and openness of the Conservation Area.

PUBLIC RESPONSES:

Cllr Williams objects to the application on the grounds that additional vehicles using the Stark's Yard access will undoubtedly cause problems on what is a dolomite track and Public Right of Way. Furthermore, he notes that this may pose further safety issues as the exit from Stark's Yard to the road is at times very difficult. Access by refuse vehicles is also identified as an issue due to the width of the track.

Letters of objection have been received from 6 no. local residents, with 1 no. further letter offering comment.

The points of objection raised concern access to the site, parking at the site, impact upon trees on the site, an oversupply of new dwellings within the village, the impact upon the openness of the site and village, impact upon outlook from "The Gardens" itself and impact upon the Conservation Area. The additional letter offers no objection but comments that windows should not be permitted on the gable facing nos. 20 – 22 Sunderland Bridge.

APPLICANTS STATEMENT:

The applicant has submitted the following statement in support of his application.

Planning approval was granted by the City Council in October 2005 for the erection of two dwellings to the North of the Gardens site in Sunderland Bridge. Prior to the expiry of this planning consent, this application was made for the renewal of the consent in September 2008, to which this written statement refers. The application submitted in September 2008 was unchanged from the original application in 2005 for which approval was granted. The original application was granted approval by the City Council.

Sunderland Bridge can be considered a traditional Durham Village, which has developed over many years to its current appearance. It consists of a wide range of property styles with no real consistency in design features. In response to a planning appeal on an adjacent site, in 2007, the City Council state that '*Sunderland Bridge is a typical Durham Street – Green village. Development follows a predominantly ribbon form, properties fronting the street green*' The Council also state that, in reference to this application site, '*application to construct two properties on the front had been approved, on the basis that it continued the predominant pattern of development within the Conversation Area, while also offering the opportunity to screen the existing house, which is a building of limited architectural merit. The proposals also reflect the local architectural vernacular*'.

Therefore this reference confirms that this application would not harm the character of Sunderland Bridge, and in effect conforms to the characteristic ribbon form of development in the village.

In the same appeal, the Council also state *'Policy H3 Identifies Sunderland Bridge as a smaller village where new housing development comprising windfall development of previously developed land will be permitted, provided it is appropriate in scale, location and number to the character of the settlement and does not result in development of areas which possess important functional, visual or environmental attributes.*

In the Planning Inspectors report on the same appeal he refers to the same Policy H3 of the City Local Plan. *'the City of Durham Local Plan explain that in smaller villages such as Sunderland Bridge, only limited new housing is appropriate and this will normally entail infilling small gaps in village streets or the conversion of suitable buildings*

I therefore consider this application to be in accordance with this policy, in that it is a small infill development and appropriate to the streetscene of the village.

This application was originally approved in 2005, and was in accordance with relevant planning policies, as stated in the City Council's letter of approval. In their response to an adjacent appeal of 2007 the City Council reconfirmed their views of the suitability of this application within Sunderland Bridge. Since the submission of the application for renewal of the consent in September 2008, and following several conversations with the Planning Authority I was not made aware of any concerns the Authority had with the application. In fact, at a meeting on the 1st June I was advised that there were no real issues and the application would be recommended for approval. It was then very surprising to be told otherwise at a later date. I consider that this application conforms to Policy H3 in that it is a small infill development, on previously developed land which conforms with the traditional ribbon form of development within the village. It is in the identified development area of Sunderland Bridge. Should there be any issues of concern relating to design and layout of the proposed development, these could be addressed through the application of planning conditions within a planning consent. Having approved the application in 2005 and subsequently referred to its suitability in an adjacent site's planning appeal in 2007, the application must have been considered to comply with the appropriate planning policies, and as such would request the committee give a positive response to this application

I would like to thank the Committee for the opportunity to submit this statement in support of my planning application, and request that the issues raised above are considered in making a decision.

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=K6KK6HBN5B000). Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATIONS AND ASSESSMENT

Prior to considering the detail of this application, some background as to its lengthy consideration by the Local Planning Authority is considered appropriate. This application forms the resubmission of an identical scheme which was granted planning permission in 2006. This previous application was approved under delegated powers. With the 2006 application remaining unimplemented and approaching expiry, the applicant resubmitted the application.

Lengthy examination of the current application has culminated in Officers now accepting that the recommendation on the previous application was somewhat misguided and failed to address legitimate planning concerns regarding the development of this site in this manner. It is acknowledged that local planning policy has not altered since 2006, however its interpretation has been further guided by decisions made by Planning Inspectors, most relevantly on a site to the rear of The Gardens. A meeting between Officers, the applicant, and a Council Member was held in order to discuss these issues, culminating in the application now coming before Planning Committee for consideration by Members. A full discussion of the concerns held by Officers is presented below.

The main planning issues with regards to this application are considered to be the principle of development, its impact upon the Conservation Area, its impact upon residential amenity, design, its impact upon highway safety and its impact upon trees.

Principle of Development and impact upon the Conservation Area

The site is considered to be previously developed land currently forming the garden of The Gardens. It is also within the settlement boundary of Sunderland Bridge and as such is considered potentially suitable for development, providing other policy tests are met.

Policy H3 states that windfall development within the smaller villages of the district is acceptable providing that the development is appropriate in scale, design location and number of units, will not affect the character of the settlement and would not result in the development of areas which possess important functional, visual or environmental attributes. In this case, this subject is closely tied to Policy E22 which seeks to protect and enhance the character of Conservation Areas, as well as Policies H10 and H13.

As identified in Sunderland Bridge Conservation Area Appraisal, The Gardens is an unusual plot within the village in that its building is set back from the street rather than directly onto the street or green. The reason for this is in part historical. The house is a modern building but the plot was undeveloped historically, at least during the 19th century when the first editions of the Ordnance Survey Maps show it as open ground presumably an orchard or garden associated with one of the neighbouring village farms. Such examples of open ground other than greens, within the heart of street villages occur frequently on historic maps but survive rarely on the ground due to the pressures of expansion in the late 19th century and modern periods. Consequently the openness of the plot has a historic value that is not immediately obvious.

In terms of its contribution to the character of the village the plot appears as a break in the building line that is significant in the way it adds openness and greenery to the centre of the village. This in turn reinforces the rural character of the village. The house slightly weakens this impression but the sense of openness remains dominant and it makes a significant contribution

to the character of the conservation area.

The proposal to build two dwellings to the front of the existing follows the historic dominant pattern of houses relating directly to or marginally set back from the street, however the problem in terms of the character of the conservation area remains with the principal, in that it will result in the loss of the plot's openness, which makes a strong positive contribution to the character of the conservation area.

Aside therefore, from any conflict which arises with Policy E22, it can be seen that the development of the proposed plot would conflict with Policy H3 in that a visually important area would be lost, to the detriment of the character of the area.

Furthermore the combination of proposed building and existing will crowd the plot and result in tandem development, which is strongly uncharacteristic of the village; disrupting the relationship between building and garden that is central to its rural character. Policy H10 discourages tandem development and although this proposal is unusual in that it would create a "reverse tandem" development with the new dwellings to the front as opposed to the rear of the existing property, the ultimate effect would be similar. In combination with the poor West Farm development this development would compound and establish a density of development that is too great and damaging to the character of the village and the conservation area, contrary to Policies E22 and H10.

Residential Amenity

Policy H13 also states that new development in residential areas should not have an unreasonable impact upon the amenities of nearby occupiers. Policy Q8 of the Local Plan states that new residential development should provide adequate amenity and privacy for each dwelling and minimize the impact of the proposal upon the occupants of existing nearby properties. In order to achieve this separation distances of 21m window to window, 13m window to blank two storey gable and 6m window to blank single storey gable should be provided.

This scheme fails these standards in a number of instances, most notably to the south and east of the site. The gable of "Dwelling 1" would sit adjacent to the access to Stark's Yard and would present a blank two storey gable to the fronts of nos. 21 and 22 Sunderland Bridge at a distance of less than 10m, short of the 13m required. Equally, windows in the rear elevation of "Dwelling 2" would face "The Gardens" at a distance of 19.8m, short of the required 21m whilst a window serving the bedroom of the single storey offshoot of "Dwelling 1" would face the two storey offshoot of "Dwelling 2" at a distance of 9m. All of these relationships are considered unacceptable and if implemented would result in an unreasonable loss of amenity both to occupiers of existing properties and those of the dwellings proposed.

Policy Q8 also requires new residential development to incorporate adequate amenity space for each proposed dwelling and in this instance each dwelling would be afforded a small amount of space to the rear of the properties. However, considering that the proposed dwellings would be of 4 no. and 5 no. bedrooms respectively, this small area is considered insufficient for dwellings of this size, contrary to Policy Q8.

Design

Issues of situation aside, the design of the properties is considered to be generally acceptable. Without doubt the detailing could be improved and the properties could benefit from more definition between the two dwellings, however in itself the overall design would not be considered to be harmful to the character of the Conservation Area and is considered to be in accordance with Policies Q8 and E22.

Highway Safety/Access

Many of the objectors cite access to the site as a major concern. This is a potentially complex issue which must be considered in light of the consultation response of the Highways Authority and also the Appeal Decision in respect of the proposed development to the rear of "The Gardens".

In his decision the Inspector found that he agreed with the Highway Authority's assertion that the Stark's Yard access could provide access for 5 no. dwellings. Although he identified access as being a reason on which to dismiss the appeal, he did so on the basis that the Stark's Yard access would be required to provide access to 7 no. dwellings which he felt would be excessive and unsafe.

In the consideration of this application it is proposed that the Stark's Yard access would be required to provide access for 5 no. dwellings, namely nos. 21 and 22 Sunderland Bridge, The Gardens and the two proposed dwellings. In light of the comments of the Highways Authority which raise no objection to proposed arrangements and also the findings of the Inspector regarding the appeal at the rear of "The Gardens", the proposed access arrangements are considered to be acceptable. The comments of objectors and the Highway Authority regarding the pedestrian access through the gap in the wall and through the proposed vennel are noted and if members are minded to approve the application then this could be secured by condition.

Concerns regarding access for refuse vehicles are noted however, it is not considered unreasonable for refuse vehicles to collect from the street and not via Stark's Yard.

Trees

Whilst there are some small fruit trees currently on the site, it appears that these were planted in the earlier 90's to serve as screening for "The Gardens" itself. They are on the whole specimens of no great amenity value and their loss, although regrettable is not considered to be sufficient reason to refuse this application.

CONCLUSION

In conclusion this application presents an unusual situation where following historic precedent of situation and style does not preserve or enhance the character of the conservation area. The reason for this is due to the subtleties and idiosyncrasies particular to the village's history and development. Accordingly, issue is raised with the principle of 2no. dwellings in this location and the subsequent impact upon the Conservation Area contrary to Policies H3, H10, H13 and E22. Further concerns over the potential impact of the development upon residential amenity are also identified contrary to Policies Q8 and H13.

RECOMMENDATION

That the application be **REFUSED** for the following reasons;

1. The Local Planning Authority considers that the proposed development by reason of its situation would result in the loss of an area which makes an important visual contribution to Sunderland Bridge Conservation Area and would introduce an unacceptable density of development. As a result it would fail to preserve or enhance the character of the Conservation Area contrary to Policy E22 of the City of Durham Local Plan 2004.
2. The Local Planning Authority considers that the proposed development by reason of its situation would lead to a form of tandem development which would unreasonably impact upon the character of the existing development and wider area contrary to Policies H3, H10 and H13 of the City of Durham Local Plan 2004.
3. The Local Planning Authority considers that the proposed dwellings would provide unacceptable separation distances between nos. 21 and 22 Sunderland Bridge and The Gardens to the detriment of residential amenity contrary to Policies Q8 and H13 of the Local Plan 2004.
4. The Local Planning Authority considers that the proposed dwellings would incorporate insufficient amenity space for dwellings of this size contrary to Policy Q8 of the City of Durham Local Plan 2004.

BACKGROUND PAPERS

Submitted Application Forms and Plans.

Design and Access Statement

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, PPS13, PPG15,

Responses from County Highways and Design and Conservation.

Public Consultation Responses

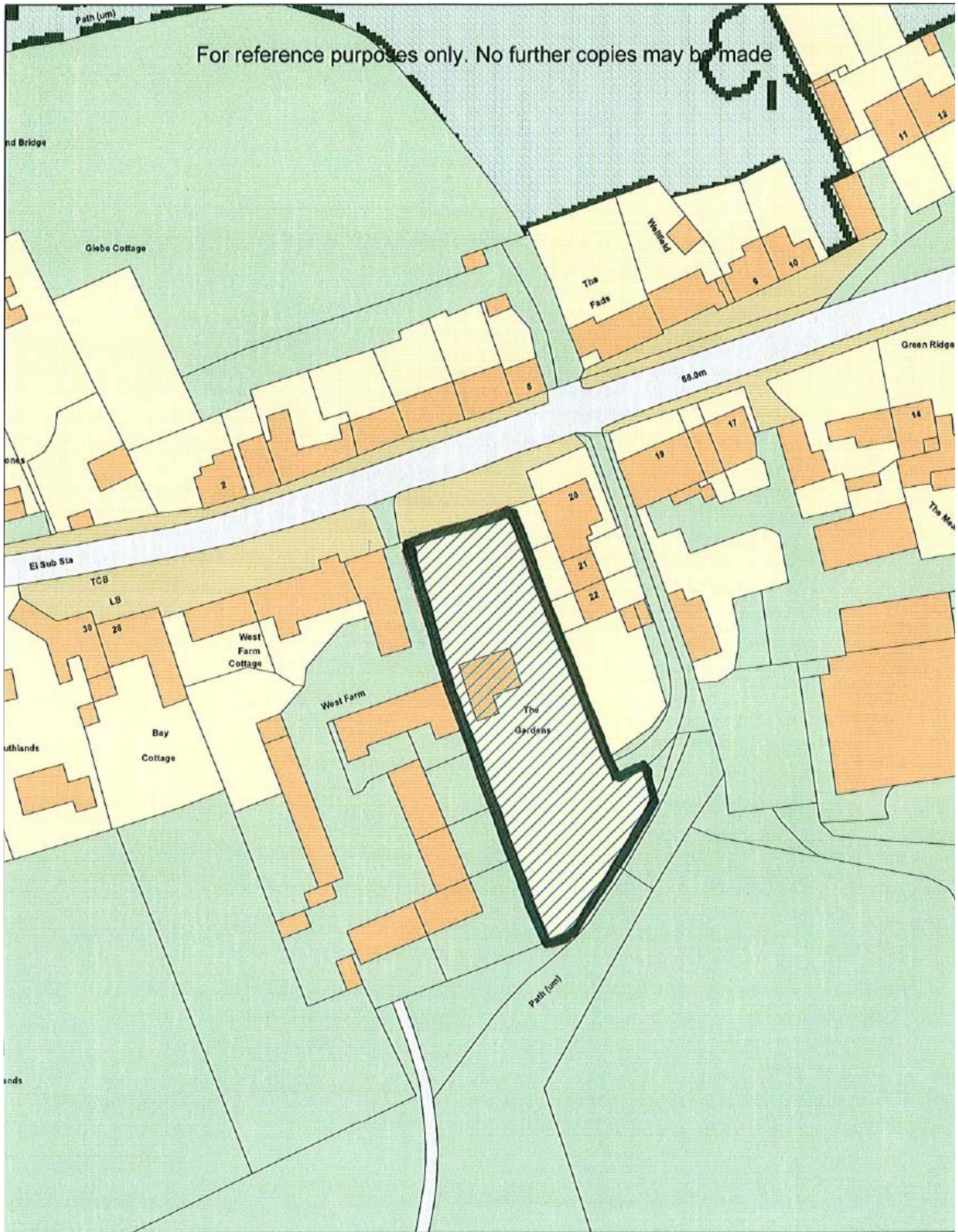
Sunderland Bridge Conservation Area Appraisal

Application 05/00677/FPA - Erection of 2 no. dwellings at front of site – Approved 08.11.2005

Land to the rear of The Gardens) 06/00169/FPA - Erection of 2 no. dwellinghouses (revised scheme) Refused 19.12.2006 and later dismissed on appeal. Inspector's Appeal Decision is of particular note



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Planning Services

4/08/00797/FPA - The Gardens, Sunderland Bridge, Durham, DH6 5HD

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Comments

Date

23 September 2009

Scale

1:1000

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NUMBERS:

4/09/00354/FPA, 4/09/00355/FPA, 4/09/00346/FPA
and 4/09/00348/FPA

FULL APPLICATION DESCRIPTION:

Change of use to domestic garden and erection of
1800mm high close-boarded wooden fence

NAME OF APPLICANTS:

Mr. D Briggs, Mr R Cairns, Mr G Mather and Mr I
Swainston

SITE ADDRESS:

18, 20, 22 and 40 Dene View, Cassop, Durham, DH6
4RW

ELECTORAL DIVISION:

Coxhoe

CASE OFFICER:

Henry Jones
henry.jones@durham.gov.uk
0191 3018739

DESCRIPTION OF THE SITE AND PROPOSALS

The four application sites relate to adjoining parcels of land located to the immediate south of Nos. 18, 20, 22 and 40 Dene View, Cassop. The parcels of land subject to the applications are located outside of the Cassop settlement boundary as defined within the City of Durham Local Plan 2004 and are located within the countryside. The application sites are adjacent to a footpath which forms part of a designated public right of way.

The four applications are retrospective and all seek planning permission to continue the use of the land for the purposes of domestic garden. In association with this use all parcels of land are enclosed with a 1.8m high close-boarded wooden fence.

PLANNING HISTORY

No. 18 Dene View has previously gained planning permission for a single storey rear extension approved in June 2003. No. 40 Dene View gained planning permission in September 2008 for a detached garage to rear.

Although not relating to the application sites themselves, due to the issues surrounding the developments, reference is made in the discussion of the main planning considerations to previous retrospective applications for changes of use of land to private garden at Nos. 2, 3 and 4 Auton Close, Bearpark which were refused by the Local Planning Authority with enforcement notices served. These decisions were upheld by the Planning Inspectorate at appeal with the decision made in January 2009.

PLANNING POLICY

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 7: Sustainable Development in Rural Areas sets out the Government's planning policies for rural areas, which local authorities should have regard to when preparing local development documents, and when taking planning decisions.

Planning Policy Guidance Note 18: Enforcing Planning Control this PPG introduces new and improved enforcement powers given to local planning authorities (LPAs) by the Planning and Compensation Act 1991. The note outlines the general approach to enforcement, including the primary responsibility of LPAs in the matter and the decisive issue of whether a breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. Trivial or technical breaches causing no harm should not attract enforcement action, it says, but negotiations over remedial action should not delay enforcement where it is appropriate.

The above represents a summary of those national policies considered most relevant the full text of each may 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) was published in mid-July 2008 in its finalised format, and now carries the full weight of forming part of the development plan for the area, and at a County level, replaces the County Durham Structure Plan. The 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. Central to the RSS is a key principle of delivering sustainable communities. 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.

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 the Regional Spatial Strategy, the full text may be accessed at <http://www.gos.gov.uk/nestore/docs/planning/rss/rss.pdf>

LOCAL PLAN POLICY:

Policy E7 (Development in the Countryside) advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.

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.

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 E21 (Conservation and Enhancement of the Historic Environment) requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.

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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

None

INTERNAL CONSULTEE RESPONSES:

The Forward Planning Section have commented on the principle of the application and state that the change of use of land in the countryside to private garden can have a suburbanising effect, however, at the same time Local Planning Authorities must recognise the importance of the countryside around urban areas to the people who live there and maximise the beneficial range of uses of the land. With regards to the public right of way, although the development has an affect the footpath itself does not have to be diverted. Forward Plans consider it highly unlikely that any wildlife surveys shall be required as part of the application. In summary, the Forward Planning Section is concerned with the impact of the development upon the countryside and the prospect of further development in the future.

The County Public Rights of Way Officer has been consulted on the applications. Initially it was considered that evidence of encroachment on the highway, Cassop-cum-Quarrington Footpath 24 existed. Historical maps and the current definitive map indicated the width of this highway to be commensurate with the "Old Wagon Way". However, further investigation and additional comments were submitted which stated that it could not be proven or stated with confidence that the public right of way is exactly the same width as the old wagon way.

Therefore although it is considered that the development has diminished the quality of the footpath by creating an alleyway it cannot be said with certainty that an encroachment onto the public right of way has occurred. Through a land registry search the County Public Rights of Way Officer also stated that there does appear to be a land owner.

PUBLIC RESPONSES:

Cassop-cum-Quarrington Parish Council have objected to the applications. The Parish Council state that there is substantial objection from some local residents towards the planning applications. The Parish Council state that the land to which the applications relates is a public right of way and also forms part of the "Old Railway Wagon Way" which used to transport coal from Cassop Colliery to Hartlepool and as a result the land has historic value. With regards to the applicants' advertisement of the application within the local press, the Parish Council point out that two of the papers do not circulate in the Cassop area and the advertisement states that planning permission is sought from the abolished Durham City Council and not Durham County Council. The Parish Council state that a fifth individual residing at No. 45 Dene View has also extended their domestic garden to the south.

APPLICANTS STATEMENT:

In addition to the submitted application forms and accompanying plans and details, written correspondence has been received from the occupiers and applicants of Nos. 20 and 18 Dene View. The statements made are that the applications relate merely for the change of use of the land from wasteland to domestic garden and not for the erection of fencing. It is considered that the applications have been altered to include the fencing by officers to further an argument against the developments. It is also stated that the fencing was erected to start the process of adverse possession following legal advice on the matter which necessitates that land is enclosed by a fence. In addition, a response against some comments made from the Parish Council is made and that from the experience of the applicant no opposition has arisen from members of the public.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application files which can be viewed at:

<http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&action=show&appType=planning&appNumber=09/00346/FPA&appNumber=09/00346/FPA>

<http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&action=show&appType=planning&appNumber=09/00355/FPA&appNumber=09/00355/FPA>

<http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&action=show&appType=planning&appNumber=09/00354/FPA&appNumber=09/00354/FPA>

<http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=09/00348/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

The main planning considerations in accordance with Policies E7, T21, R11 and E21 are the principle of the changes of use in the locality and the associated enclosure, the impacts upon the character and appearance of the countryside, impacts upon the users of the public footpath and whether any adverse impact has occurred on any land which can be deemed to have historic interest.

Principle of Development in the Countryside

The settlement boundary of Cassop runs along the southern boundary of the associated curtilage of the host properties. The land to the immediate south of this, of which the application sites' form part, is beyond this settlement boundary and lies within the countryside.

The countryside is a finite resource and since the 1950s it has been an important aim of national policy to protect it for its own sake. Many elements of the countryside, such as landscape character, nature conservation, and high quality agricultural land are also highly valued and worthy of protection in their own right. For this reason development outside existing settlement boundaries will not normally be allowed, with the only exceptions being certain special circumstances.

Assessment of the Change of Use of Land to Domestic Garden in the Countryside

Officers would like to draw attention to recent decisions made by the Planning Inspectorate on three planning and enforcement appeals which involved the change of use of field to private garden on land to the rear of Auton Close in Bearpark. The three appeals were all dismissed by the Inspector 5th January 2009. Unlike the currently pending applications at Cassop, however, the parcels of land at Bearpark were within the designated Green Belt and were formally used for the purposes of agriculture. Despite these differences, the Inspectors decision in respect to the appeals at Bearpark, provides some clear objections, in principle, to the change of use of land within the countryside for the purposes of private garden.

The Inspector stated that the use of land for the purposes of residential garden is intrinsically one of an urban nature. Where development of this nature takes place beyond the outer edge of a settlement, the effect is to enlarge the urban area. This can be considered contrary to the long-standing national aim of protecting the countryside for its own sake and Policy E7 of the Local Plan. The Inspector also stated with regards to the parcels of land at Bearpark, that the 1.8m high wooden fencing was a substantial solid screening feature affecting the openness of the site and also creating a clear physical and visual impact. Officers are of the opinion that similar harm has occurred through the four changes of use to which this report relates. It could be argued that the impact upon openness is mitigated somewhat by the location of a hedgerow to the south of public right of way which screens the sites from the recreation area and open fields beyond. However, the erected fencing is close-boarded, 1.8m high and is clearly domestic in character and has a clear and imposing visual impact. As the application sites are immediately adjacent to a public footpath, the visual impact of the changes of use and associated enclosure is clearly visible from a public vantage point. It cannot be argued that the impact upon the character of the countryside is mitigated by the sites being located in an inaccessible area. Officers are therefore of the opinion that the changes of use of the land and the associated means of enclosure have a significant visual impact and suburbanising affect upon a countryside landscape which is clearly visible from public vantage points. The change of use of the land in itself to domestic garden, aside from the visual impact of the fencing also has the effect of enlarging the urban area. As a result the developments are considered contrary to the requirements of Policy E7 of the Local Plan.

The Public Footpath

The application sites are located on land adjacent to a public footpath. Comments from the County Public Rights of Way Officer have been received. Initially it was considered that an encroachment onto the public footpath had occurred through the enclosed parcels of land. However, upon further investigation into the matter it was considered that this could unlikely be proven given the documentation and evidence available. Irrespective of whether this encroachment could be proven, the ability to take enforcement action on any such encroachment (which is now considered unlikely) is established under the provisions of the Highways Act 1980 which is separate legislation and not within the powers of the Local Planning Authority. In accordance with relevant Local Plan Policies R11 and T21, the material planning considerations relate to whether the development has caused a destruction or diversion of this public right of way or fails to safeguard the needs of walkers though not protecting the footpath. From a site visit conducted it can be seen that a strip of footpath, the actual strip of land which appears used for walking remains and continues with overgrown areas either side once the footpath has passed the application sites. Therefore, in planning terms with reference to Policies R11 and T21 the development does not hinder the ability of members of the public to traverse the public footpath. As a result no substantive objection can be raised against the changes of use on the grounds of failing to safeguard the ability of walkers to use a public right of way.

Other Issues

Cassop-cum-Quarrington Parish Council have objected to all four planning applications. The general objections to the enclosure of the land have been substantiated somewhat in the objections raised by officers above. However, as discussed above, officers are not of the opinion that any demonstrable harm to the ability of walkers to use the footpath has occurred.

The Parish Council point out that the "Old Railway Wagon Way" of which the application sites form part has local historic significance. Policy E21 of the Local Plan does seek to minimise the impact of development upon significant features of historic interest. However, although the local historical value of the wagon way must be taken into consideration and not underestimated, little visual evidence, if any, remains of this wagon way and given the nature of the development a change of use of the land and erection of fencing, it is not considered that significant harm to the historic interest of the local area has occurred which would warrant refusal of the applications on this point.

The Parish Council also point out that two of the three newspapers which the advertisement of the applications has been published in, do not circulate in the Cassop area. In addition attention is drawn to the advertisement published in these newspapers and that the advertisement states that the applications have been made to "Durham City Council" as oppose to the "Durham County Council" as it should, given the publication was made after the 1st April 2009.

These publications were made as at the time of the application the applicants understood that no registered landowner to which the applications relate could be found, hence the signing of Certificate D on the application forms and the publication in the newspapers. However, during the course of the applications it was discovered, through searches at the Land Registry, that the land to which the applications related had a registered land owner. In light of this information it was considered that the identified land owner should be notified under the provisions of Article 6 of the Town and Country Planning (General Development

Procedure Order) 1995. The applicants, inline with the advice of officers duly certified through Certificate B of the application form that notice had been served on the landowner. At the time of this report being written no written representation relating to the planning applications had been received from the landowner.

With regards to the point made that a fifth individual has changed the use of land to the south of No. 45 Dene View, this matter would have to be investigated separately as an alleged breach of planning control.

CONCLUSION

In conclusion, it is considered that the changes of use of land for the purposes of domestic garden and the associated enclosure of the land with timber fencing has resulted in inappropriate development in the countryside with a harmful suburbanising affect upon the character of the countryside contrary to the requirements of Policy E7 of the Local Plan.

As a result refusal of the application is recommended and the authority to serve enforcement notices is sought requiring the use of the land for domestic garden to cease and the removal of the associated means of enclosure. In addition, further investigation into the alleged breach of planning control at land adjacent to No. 45 Dene View shall be undertaken by the Local Planning Authority.

RECOMMENDATION

1. That the application be **REFUSED** for the following reason;

The Local Planning Authority considers that the change of use of land to domestic garden and associated enclosure with timber fencing represents an unacceptable encroachment into the countryside beyond the defined settlement boundary, resulting in a harmful suburbanising visual impact upon the open character of the countryside contrary to the requirements of Policy E7 of the City of Durham Local Plan 2004.

2. That an enforcement notice be served requiring:

The discontinuance of the land for domestic garden purposes and the removal of the timber fencing enclosing the land within a period of 3 months from service of the notice.

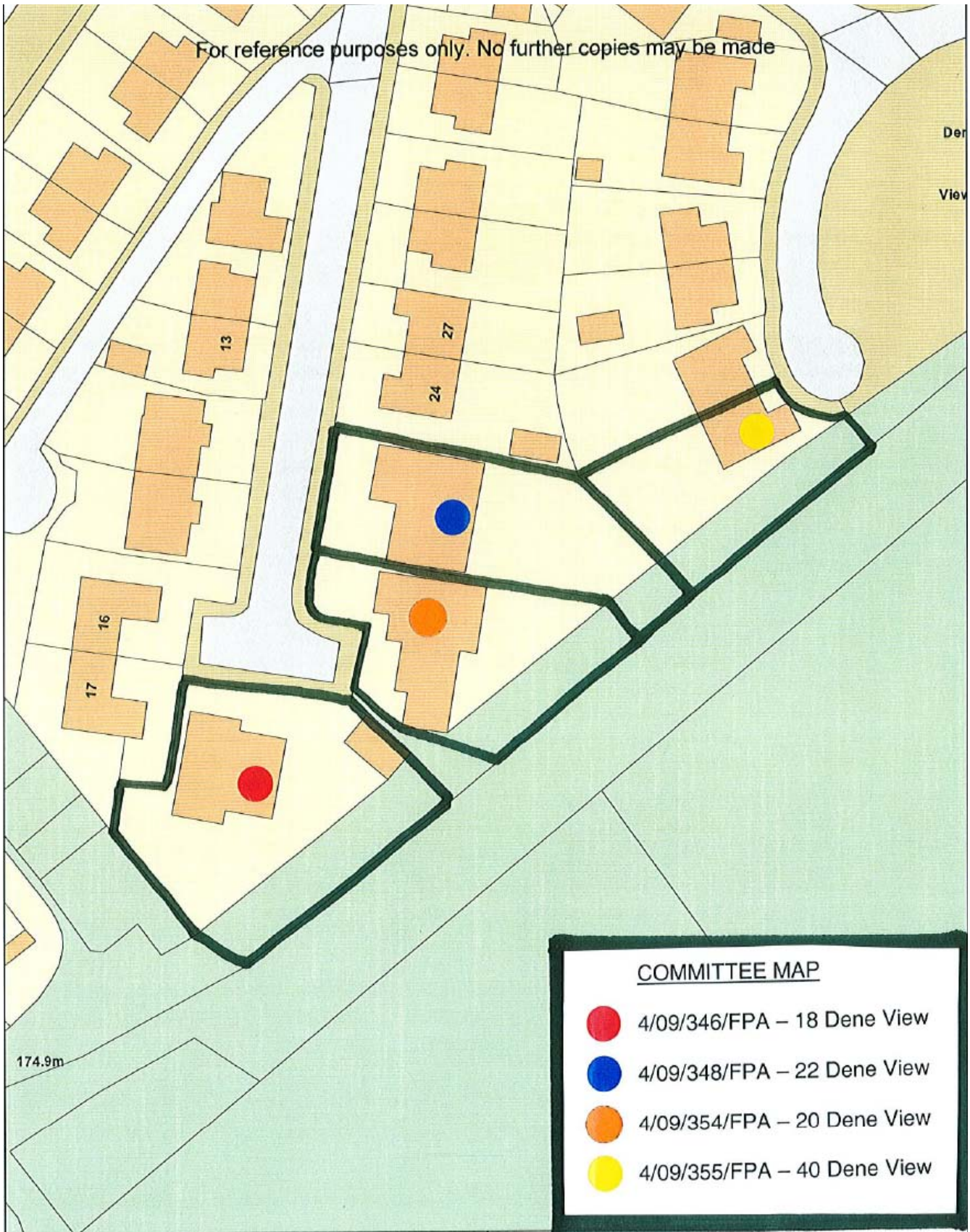
BACKGROUND PAPERS

Submitted Application Forms, Plans and Photographs.
North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
City of Durham Local Plan 2004
Planning Policy Statements / Guidance, PPS1, PPS7 and PPG18
Responses from the County Public Rights of Way Officer, the Forward Planning Section and Cassop-Cum-Quarrington Parish Council
Correspondence with applicant







For reference purposes only. No further copies may be made

Dene
View



COMMITTEE MAP

-  4/09/346/FPA – 18 Dene View
-  4/09/348/FPA – 22 Dene View
-  4/09/354/FPA – 20 Dene View
-  4/09/355/FPA – 40 Dene View



Planning Services

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Comments	
Date	16 September 2009
Scale	1:625

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NUMBER: 4/09/00556/FPA

FULL APPLICATION DESCRIPTION: Proposed erection of agricultural building including retrospective consent for new gates, along with parking area and access track along eastern edge of field

NAME OF APPLICANT: Mr P Johnson

SITE ADDRESS: Land To The South Of Ladys Piece Lane, Pittington Bridge, Pittington, Durham, DH6 1AA

ELECTORAL DIVISION: Sherburn

CASE OFFICER: Henry Jones
henry.jones@durham.gov.uk
0191 3018739

DESCRIPTION OF THE SITE AND PROPOSALS

The application site relates to a parcel of land of 3.67 hectares located to the south of Ladys Piece Lane within an area of countryside between the villages of Sherburn and High Pittington. The land sits in a relatively elevated position and slopes from the north towards the centre of the site before sloping down to the south again. A line of trees and hedging borders the site on all sides.

The application is in part retrospective, seeking planning permission for the re-laying of the access to the classified road to north and for a farm track and a hard surfaced parking area. The application also seeks planning permission for the retention of access gates which are 2.5m in height.

Also proposed as part of the scheme is the erection of an agricultural building. The proposed building is to cover an area of 451m² and has a maximum height of 8.8m. The Design and Access Statement states that the building is to be constructed of block work to a height of 2.1m with PVC coated box profile sheeting above with a fibre cement roof.

PLANNING HISTORY

No relevant planning history relates to this particular site and application.

PLANNING POLICY

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 7: Sustainable Development in Rural Areas sets out the Government's planning policies for rural areas, which local authorities should have regard to when preparing local development documents, and when taking planning decisions.

Planning Policy Guidance Note 13: Transport has the objectives of integrating 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 18: introduces enforcement powers given to local planning authorities (LPAs). The note outlines the general approach to enforcement, including the primary responsibility of LPAs in the matter and the decisive issue of whether a breach of planning control would unacceptably affect public amenity or the existing use of land and buildings meriting protection in the public interest. Trivial or technical breaches causing no harm should not attract enforcement action, it says, but negotiations over remedial action should not delay enforcement where it is appropriate.

The above represents a summary of those national policies considered most relevant the full text of each may 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) was published in mid-July 2008 in its finalised format, and now carries the full weight of forming part of the development plan for the area, and at a County level, replaces the County Durham Structure Plan. The 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. Central to the RSS is a key principle of delivering sustainable communities. 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.

Policy 11 (Rural Areas) sets out that planning proposals should support the development of a vibrant rural economy that makes a positive contribution to regional prosperity, whilst protecting the Region's environmental assets from inappropriate development.

The above represents a summary of the Regional Spatial Strategy, the full text may be accessed at <http://www.gos.gov.uk/nestore/docs/planning/rss/rss.pdf>

LOCAL PLAN POLICY:

Policy E7 (Development in the Countryside) advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.

Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. 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. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.

Policy EMP17A (Agriculture and Forestry Development) advises that planning permission will be granted for agricultural and forestry development provided that the proposal is justified in terms of its size and location and appropriate measures are incorporated to mitigate the effect of the development upon the landscape and local communities.

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.

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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

The County Highway has stated that the old field access has been improved to a high standard and that visibility from this access is acceptable. It is acknowledged that there is a crest in the road to the north east which limits visibility towards and from this direction, however, it remains within the standards for the road and as a result no objections are raised provided that the access is used solely in association with agricultural practices. Greater concern would be raised if the access were to serve residential property.

INTERNAL CONSULTEE RESPONSES:

The Forward Planning Section identifies the land subject to the application to be located outside any settlement boundary but this aside no other Local Plan designation applies to the land. The main policy criteria are identified as Policy EMP17A of the Local Plan and PPS7 with regards to national guidance. The site is considered prominent and the building large enough to have a significant impact on the landscape, although it's utilitarian design is reasonably appropriate given the use. The proposed hardstanding and ornate gates add to

the impact and are somewhat untypical for an agricultural setting. Impacts upon nature conservation assets should be considered.

PUBLIC RESPONSES:

Seven letters of representation with regards to the application have been received including letters from both Pittington and Sherburn Parish Councils. A main objection raised relates to highway safety. Several objectors consider that the access is located in a hazardous position with subsequent dangers to vehicular traffic, pedestrians and cyclists. It is claimed additional traffic will cause congestion. Much concern is also raised with regards to the impacts of the development upon the landscape. The access gates, degree of hardstanding and field track are considered out of character for an agricultural use. The building itself is considered large, prominent and insensitively sited causing a detrimental visual impact. Representations also consider that the application does not demonstrate that the building is necessary and objection is raised to building upon this previously undeveloped land. Concern is raised that the development will reduce property values. Other concerns regarding amenity are raised such as noise intrusion, odours, use and storage of pesticides. Objections are raised to the content of the application including discrepancies on the submitted application forms and inadequacies in the submitted design and access statement. Objections are raised to the works which have been undertaken without planning permission and there is a feeling amongst some objectors that the agricultural use of the land is not the only use ultimately proposed but that the land may later be used for residential occupation.

APPLICANTS STATEMENT:

As well as the initial submission of a design and access statement, additional written statements, justifications and responses to public objection have been received from the applicant. In summary, the applicant considers that the building is necessary to house machinery, hay and livestock and that well run land needs a building to ensure its good management. The setting back of the access and the degree and standard of hardsurfacing will aid highway safety through maneuverability and a level surface. The applicant considers that the siting of the building is appropriate as it is kept away from the roadside and had the benefit of screening on the eastern boundary. The applicant states that the gates themselves were designed to a high standard but can be modified or lowered to the permitted 2m level if necessary and the agent in an email of the 14th September stated that the gates are to be removed and replaced.

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://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=09/00556/FPA>. Officer analysis of the issues raised and discussion as to their relevance to the proposal and recommendation made is contained below

PLANNING CONSIDERATIONS AND ASSESSMENT

In accordance with the relevant Local Plan Policies E7, E14, EMP17A and T1 the main planning considerations are the principle of the development at the location, whether the proposed development is justified in terms of it's siting and location, the impacts upon the local landscape and local communities and impacts on highway safety.

Issue of Principle

The application seeks to erect an agricultural building and gain planning permission for associated development in the form of relaying of an access, provision of a hardstanding area, track and access gates. In accordance with National guidance contained within Planning Policy Statement 7 (PPS7) and Local Plan Policies E7 and EMP17A, development for the purposes of an agricultural enterprise is one of the few forms of development which can be considered appropriate in principle within a countryside location. The justification to Policy EMP17A states that agriculture and forestry are important sectors of the rural economy and the Council will seek to adopt a positive approach towards associated development. PPS7 states that the Government recognises the important and varied roles of agriculture, including in the maintenance and management of the countryside and most of our valued landscapes. As a result, despite the application site being within the open countryside, development for the purposes of agriculture can be considered acceptable in principle.

However, despite this acceptance of the principle, any such development must be justified in terms of size and location and effort made to mitigate impacts upon the landscape. All other material planning considerations must be taken into consideration.

Justification

Policy EMP17A requires all agricultural development to be justified in terms of size and location. During the course of the application the applicant and their employed agent(s) have been submitting details to justify the development. Initially the application contained details within the design and access statement which stated that the agricultural building is required for the secure storage of farm machinery, fertilizers, animal feed and livestock in association with the operation of the holding. The expected crop from the field was stated as between 90-100 bales at intervals twice or three times yearly. The 2.5m high access gates were stated as being required for security purposes with the inference being that the more standard lower field access gates would be inadequate for this purpose. The submitted plans demonstrate the machinery which is to be stored within the proposed building which includes a JCB telehandler, tractor, hay bailer, hay bob, grass cutter, muck spreader, fertilizer, grass seed and assorted equipment as well as the space for hay storage and livestock.

The applicant states that the location of the proposed agricultural building has been chosen due to a rise in the foreground, a background of vegetation, so that the building is positioned away from the roadside and that the location works well agriculturally due to the degree of access it gives to the whole land. Additional statements of justification and support have been submitted including from a rural planning consultant whom the applicant has sought advice. The said statement states that without the proposed agricultural building there is a greater likelihood for "poaching" to occur, which, in the agricultural sense of the word, is to damage the land and grass cover though allowing stock to stand upon the land or be trampled. The submitted justification explains that hay must be kept dry and not allowed to become, wet, to sweat or mould.

With regards to the machinery and equipment the applicant states, that the preference is to purchase their own machinery as oppose to using contractors with reasons quoted such as the availability of the correct equipment and the ability for the applicant, as an engineer, to maintain and repair.

The need for space to keep sheep within the building is also demonstrated with the need for a secure isolation facility in the instance of illness and the ability to round livestock up to one area. Additional land at Hall Garth Manor is also stated as being rented by the applicant and this land is to be farmed from the proposed building.

Officers consider that the submitted planning application has been supported with a reasoned justification for the agricultural building. The need to house hay and livestock has been demonstrated and the size of the building proposed, when considering the storage requirements of livestock, hay and machinery, is also considered justified. In terms of the location of the proposed building, all land within the site is located in a relatively prominent position due to the elevated nature of the land and due to the proximity to Sherburn and Pitlington villages and visibility from the main road between the two villages. The applicant has provided reasoning for the siting within a justification. Officers do not consider that siting the building farther north would be advisable, bringing the building within closer proximity to the main road which would be very prominent for any passerby while the land in the far south of the site is very steep and would be a more impractical location for working the land. Locating the building farther east would bring the building closer to Sherburn. The chosen position has been sited to ensure that there is a backdrop of vegetation which will help soften impact but also ensuring it is a distance away from the most mature trees to avoid damage or interference. Officers therefore consider the particular position chosen on the land to be reasoned and justified. The design of the building itself is utilitarian but that is commonplace for a modern agricultural building and not inappropriate, a condition can ensure the final materials and standard of finish.

The erected gates on entrance into the land are highly decorative and not appropriate within a rural location. The applicant has sought to justify the gates as they are required to be of a height to be secure and also a high standard of design was sought so that the appearance was not too "brutal". However, the resultant gates have more in common with large entrance gates expected at a large residential property. They are not the form of gates expected within a rural location providing access to agricultural land. In the knowledge of objection from both local residents and officers the applicant has stated that they would look to revise the access gates or remove them with a view of a replacement. In the event of planning permission being granted a condition can be attached which requires details of a revised access gate arrangement to be submitted and agreed.

Highway Safety

One of the matters which has attracted the most public opposition is that relating to highway safety and the safety of pedestrians and cyclists. The Highway Authority has been consulted on the application and acknowledgement has been made in the submitted comments of a crest in the road to the north east which limits visibility towards and from this direction. However, the access is considered to remain within the acceptable standards and provided that the access is used only for the purposes of an agricultural access, the Highway Authority raise no objections. The use of the access for agricultural development is not considered to generate any significant level of highway congestion and, on balance, the development is considered to accord with relevant Local Plan Policy T1. In addition, planning permission for the access at the site is only required due to the technicality of the relaying of an access onto a classified road requiring planning permission. An access was already located at the site which could have been used without planning permission, however, the improvements made brought the access within the control of the Local Planning Authority.

Impact upon the Amenity of Local Residents

Much local opposition to the development has arisen due to concerns over highway safety and visual impacts which the paragraphs above have sought to address. Policy EMP17A requires the impacts of an agricultural development upon the local community to be taken into account. Within a rural location such as the application site the principle of the use of land for the purposes of agriculture can be considered appropriate and to a degree expected. Land surrounding the application site is within agricultural use and some of the land is within closer proximity to residential properties than the application site. Officers do not consider that the potential for noise or odour as a result of the development would be at such a harmful level to warrant significant objection to the application. It must be taken into account that this planning application is for the development of the building and associated access, farm track and access gates and not the use of the land for agriculture per se. As a result this parcel of land and those it borders can lawfully be used for agricultural purposes such as crops and livestock with associated muck spreading and use of fertilizers and so forth. It is not considered demonstrable that this particular development would cause any additional harm to any local communities on grounds such as odour and noise which would justify refusal.

Other Issues

Some concern has been raised amongst objectors relating to the impact of the development upon property values. However, the impacts of development upon property values is not considered a material planning consideration to be given weight in the determination of a planning application. Some objection has been raised to the level of detail or accuracy of information within the submitted design and access statement, plans and application form. However, the application was considered to contain the necessary level of detail for assessment following submission and was subsequently validated on the 30th July. Since this time the applicant has submitted information and details in addition to that contained in the original submission and the application has been subject to officer assessment and site visits. Some objection is raised to the development which has already been undertaken which is subject to this application but has been undertaken prior to the grant of planning permission. However, as Planning Policy Guidance Note 18 states it must be born in mind that it is not an offence in itself to carry out development without first obtaining any planning permission required for it and this application has been submitted in order for an assessment to be made on both the proposed works and those which have already been undertaken.

Concern has also been raised with regards to the potential for the site to be used for residential occupation rather than for agricultural development. Mere suspicion of such a matter is not a material planning consideration. It is a matter to be considered where evidence suggests that development is not for the purposes of agriculture. In this instance, however, the proposed building does appear agricultural in nature and is not of a domestic appearance. The erected gates are visually incongruous due to the decorative nature but this is not considered reason enough to believe that residential development is to occur. Ultimately should any deviation in the use of the land or in the undertaking of any approved development occur then this would be a matter for a separate enforcement investigation at that time.

CONCLUSION

In conclusion, in accordance with relevant Local Plan Policies E7, EMP17A and E14 the proposed agricultural building is considered to have been justified in terms of its size, siting and appearance and no harmful effect upon the local community or the landscape which would warrant refusal is considered to have occurred. The access serving the application site and the degree of traffic generation as a result of the development are not considered to cause significant harm to highway safety in accordance with Policy T1 of the Local Plan.

Some objection is raised to the existing access gates which at a height of 2.5m require planning permission in their own right. However, it is considered that this can be resolved subject to their removal or modification which can be agreed through the attachment of an appropriate condition to any approval. The applicant may seek to alter existing or erect gates under relevant permitted development rights.

As a result, on balance, officers consider the development to accord with relevant Local Plan Policies and approval is recommended.

RECOMMENDATION

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

1. Notwithstanding the information shown on the submitted application, the 2.5m high access gates shall be removed and replaced or modified in accordance with a scheme submitted to and approved in writing by the Local Planning Authority within four weeks of the date of this permission or other such time period as may be agreed in writing with the Local Planning Authority. The submitted scheme must include details of the precise design, position, height, length and materials of the gates together with a timetable and schedule of the works. Thereafter, the development must be implemented in full accordance with the agreed details and maintained thereafter as such to the satisfaction of the Local Planning Authority.
2. Notwithstanding any details of materials submitted with the application, development shall not commence on the erection of the agricultural building hereby approved until full details of the materials to be used in the construction of the external surfaces of the building have been submitted to and approved in writing by the Local Planning Authority. Development shall thereafter be carried out in accordance with the approved details.

REASONS FOR THE RECOMMENDATION

1. The development is considered to be justified in terms of location, siting and design with no detrimental impacts upon highway safety or the local community in accordance with relevant Local Plan Policies E7, EMP17A, E14 and T1.
2. In particular the development was considered acceptable having regard to the key material planning considerations of siting, design and impact upon the landscape, highway safety and the local community.

-
3. Much objection related to matters of the impact of the development upon the landscape and impacts upon highway safety both of which were considered acceptable and in accordance with Local Plan Policies. No harm upon the amenity of local residents was considered to occur through the development which would warrant refusal of the application. The details submitted with the application were considered to be of a level of detail which allowed for the application to be determined. Concern raised over property values is not a material planning consideration and no substantial evidence was considered to exist to suggest that there was an intention to use the site for residential purposes.
-

BACKGROUND PAPERS

Submitted Application Forms and Plans

Design and Access Statement and additional letters and statements of support

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

City of Durham Local Plan 2004

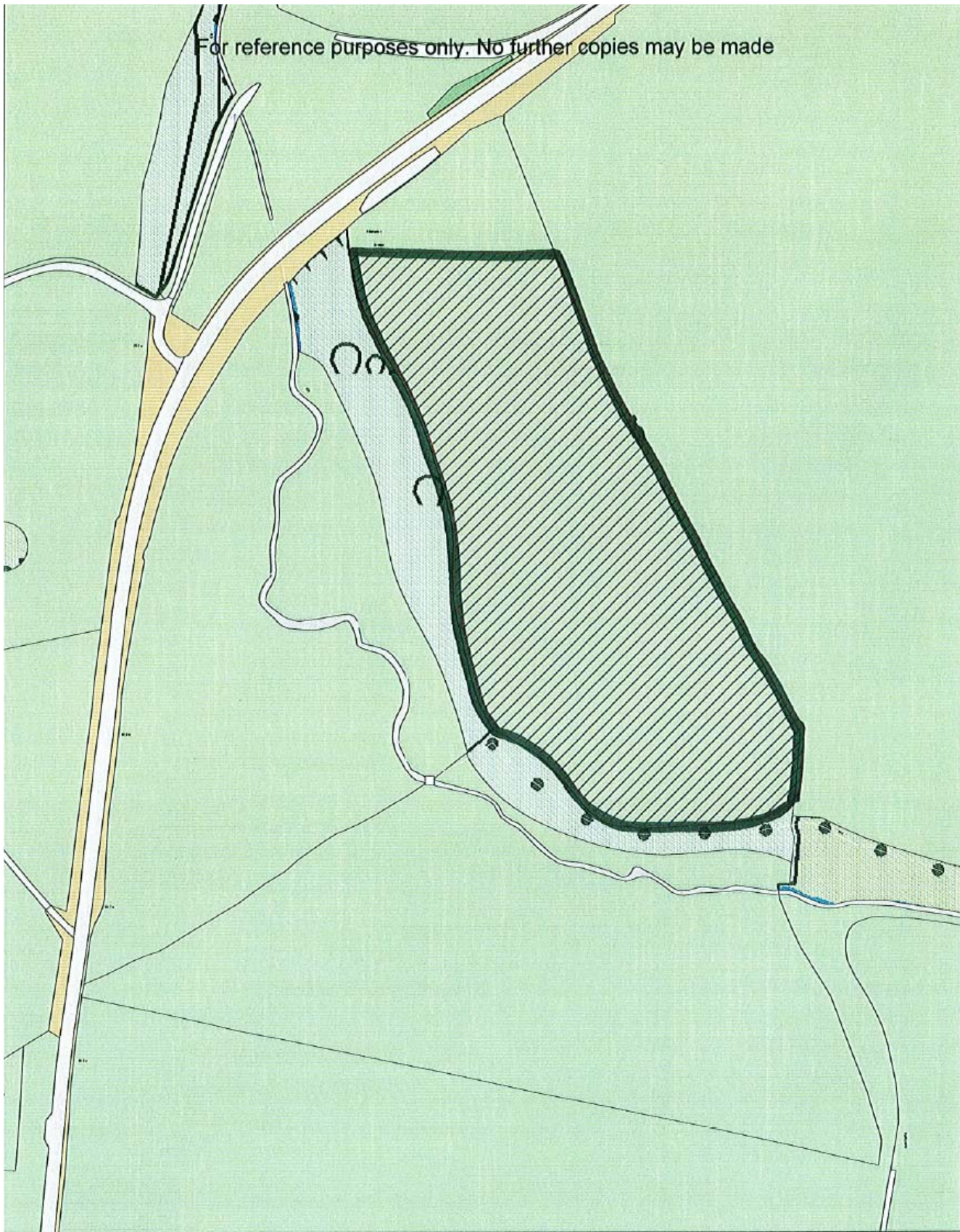
Planning Policy Statements / Guidance, PPS1, PPS7, PPG13 and PPG18

Responses from the County Highway Authority and Forward Planning Section

Public Consultation Responses



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Planning Services

4/09/00556/FPA - Land To The South Of Ladys
Piece Lane, Pittington Bridge, Durham, DH6 1AA

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Comments

Date

23 September 2009

Scale

1:2500

