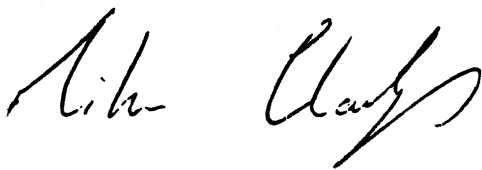


## **Development Control Committee**

Councillors: J. I. Agnew, R. Alderson, A. Atkinson, M. Campbell, H. Christer, T. Clark, G. Coulson, R. Ellis, G. C. Glass, P. D. Hughes, D. Hume, D. Lavin, O. Milburn, T. Pattinson, S. J. Rothwell, A. Shield, E. Turner, A. Watson O.B.E, T. Westgarth, J. Williams, R. Young.

Dear Councillor,

Your attendance is invited at a meeting of the Development Control Committee to be held in the Council Chamber, Civic Centre, Consett on 8th May 2008 at 2.00 p.m. for consideration of the undernoted agenda.



**MIKE CLARK**

**Chief Executive Officer**

### **Agenda**

1. **DECLARATIONS OF INTEREST**

To receive any disclosure by Members of personal interests in matters on the agenda, identify the item on the agenda, the nature of any interest and whether the Member regards the interest as prejudicial under the terms of the Code of Conduct.

2. **MINUTES**

To approve the minutes of this panel's meeting held on 17th April 2008 as a correct record. (Herewith 'A')

Attached Documents:

## MINUTES (A)

### 3. **THE CODE FOR SETTING SUSTAINABLE HOMES - SETTING THE STANDARD FOR SUSTAINABILITY FOR NEW HOMES**

To consider the report of the Director of Environmental Services.  
(Herewith 'B')

Attached Documents:

[THE CODE FOR SETTING SUSTAINABLE HOMES - SETTING THE STANDARD FOR SUSTAINABILITY FOR NEW HOMES B](#)

### 4. **APPEAL DECISIONS**

To consider the report of the Director of Environmental Services.  
(Herewith 'C')

Attached Documents:

[APPEAL DECISIONS C](#)

### 5. **PLANNING APPLICATIONS**

To consider the report of the Director of Environmental Services.  
(Herewith 'D')

Attached Documents:

[PLANNING APPLICATIONS D](#)

### 6. **EXCLUSION**

**THE PRESS AND PUBLIC ARE LIKELY TO BE EXCLUDED FROM THE MEETING FOR THE FOLLOWING ITEMS OF BUSINESS ON THE GROUNDS THAT THEY INVOLVE THE LIKELY DISCLOSURE OF EXEMPT INFORMATION AS DEFINED IN PARAGRAPH 6 OF PART 1 OF SCHEDULE 12(A) OF THE LOCAL GOVERNMENT ACT 1972 (AS AMENDED).**

### 7. **ENFORCEMENT**

To consider the report of the Director of Environmental Services.  
(Herewith 'E')

## **DEVELOPMENT CONTROL COMMITTEE**

Minutes of a meeting of the Development Control Committee held in the Council Chamber, Civic Centre, Consett on Thursday 17<sup>th</sup> April 2008.

### **Present**

Councillor J.I. Agnew (Chair)

Councillors R. Alderson, A. Atkinson, M. Campbell, G. Coulson, R. Ellis, P. Hughes, D. Lavin, T. Pattinson, S. Rothwell, A. Shield, E. Turner, A. Watson, A. Westgarth, E.J. Williams.

### **Apologies**

Apologies for absence were submitted on behalf of Councillors H. Christer, T. Clark, G.C. Glass.

### **In Attendance**

Councillor D.G. Llewellyn

## **85. DECLARATIONS OF INTEREST**

Councillor J. Williams declared a personal interest in application 08/0097.  
Councillor P. Hughes declared a personal interest in application 08/0097.  
Councillor A. Shield declared an interest in application 08/0165.

## **86. MINUTES**

**RESOLVED:** that the minutes of the meeting held on 27<sup>th</sup> March 2008 be approved as a correct record with the inclusion of the following:

Minute number 84: Application 08/0077.

Councillor A Watson asked that the reasons as set out on page 199 of the minutes be amended to more clearly reflect the feelings of the committee and strengthen their argument for refusal as follows.

Following a vote being taken it was

**RESOLVED:** that Planning Application 08/0077 be refused on the grounds that:

- There would be insufficient parking spaces to adequately serve the anticipated high levels of occupation which would lead to an increase in on-street parking in the vicinity to the detriment of local amenity and highway safety contrary to Local Plan Policies GDP1 and TR2.
- The proximity of the development to neighbouring property would lead to the building having an overbearing affect on neighbouring properties

which would lead to a loss of light, outlook and privacy for neighbouring occupiers contrary to local plan policy GDP1.

## **87. APPEAL DECISIONS**

The Director of Environmental Services submitted a report (copies circulated) in respect of the following appeal decision issued by Inspectors appointed by the First Secretary of State:

- (i) Planning Application – Appeal against the refusal of permission for the change of use of 279 Medomsley Road, Consett from a dwelling to an Accountants Practice.

## **88. PLANNING APPLICATIONS**

The Chair advised that as the following application had been refused at the last meeting of the Committee and the reasons for refusal had been confirmed, it was not necessary to revisit the application and the matter was withdrawn.

### **(1) RESOLVED: that the following report be withdrawn.**

08/0077 M & L ASSOCIATES,  
Erection of six apartments, land to the east of 5 George Street, Blackhill, Consett.

Councillor Westgarth and Councillor Campbell asked that their disapproval of the manner in which this had been dealt with be recorded.

The Director of Environmental Services provided some clarification on the Planning Code of Conduct for members and its position with regard to decisions made which are contrary to Officer advice.

### **(2) Public Speaking Applications**

08/0088 MR D CRAGGS

Change of Use of existing woodland to birds of prey conservation centre and rope activity course, erection of ticket office, observation deck and creation of car parking, Beamish Hall, Beamish, Stanley

The Chair welcomed to the meeting Mr Morris who was in attendance to speak against the application and Mr Craggs who was in attendance to speak in support of the application.

The Development Control Manager presented the report which recommended approval of the application. She advised the main issues for members to consider when determining the application was what impact; if any; would be had on the amenity of neighbours, bearing in mind that 1 letter of objection had been received. In addition to this the impact that the development would have on trees, the conservation area, the listed building or the area of high landscape value. She advised that the Officers were happy that this was an acceptable application and therefore recommended approval.

MR MORRIS: Speaking Against the Application.

Mr Morris introduced himself to the committee and advised that he was the owner of Beamish Hall Gardens which neighboured the site. He made the following comments in support of refusal of the application:

- Reference to Council policy which states that no application should diminish the quality of life or inflict unnecessary infringement to neighbouring property;
- Noise and general disturbance would occur 7 days a week throughout the whole day and into early evening conflicting with Article 8 of the Human Rights Act which states that it is unlawful to act in this way;
- The application states that it is 'unlikely' that the development will cause any affect to my property; not 'won't'!;
- Rope activities by nature are a source of nuisance, there will be constant yelling, screaming and laughing throughout the day from school children and adults using the course 45 metres away from my home;
- Home is a listed building within a walled garden, these walls will act as a echo chamber to any noise created from the grounds at Beamish Hall.
- Reference to the deeds for Beamish Hall which is covered by a restrictive covenant preventing noise and disturbance to other properties in the area.

MR CRAGGS: Speaking in Support of the Application.

Mr Craggs advised that he was the owner of Beamish Hall and had been so since August 2004, he advised that over £4m had been spent on the renovation of the building and currently there were 85 FT employees and 30 PT which overall was of great significance to the local and regional economy.

He advised that many businesses had supported this proposal and these were attached to the report for members' information.

Addressing the design of the scheme he advised that the high rope course was not to be near the boundary of the site and therefore should cause minimal impact to Mr Morris's property, the course to be nearer the boundary would only be ½ metre off the ground and would be well screened by planting and trees which would also go some way to protecting from noise disturbance also.

He went on to address the part of the development which was to include a Bird of Prey centre and he advised that it was hoped that this facility would also help

getting the birds into their natural environment, he further advised that some flight displays would also take place within the grounds.

He advised that it was envisaged that a further 25 jobs would be created immediately and it was expected that a further 80 persons would be employed over the next 2 years. With regard to turnover he advised that currently the Hall created around £3.5m per year with an expected turnover of £7.5m with the inclusion of the rope course and Bird of Prey centre.

In conclusion he added that he had an excellent relationship with neighbours and all of which support the proposals put before the committee today.

The Development Control Manager reminded members that no objections had been submitted by the Environmental Health section subject to restrictive time conditions being in place. She further added that Mr Craggs was correct in identifying that the high rope element of the course would be some distance from Mr Morris's property and the low impact course would be well screened and protected from noise by planting.

She addressed the comments made by Mr Morris in respect of the Human Rights Act, she advised that this was a separate area of legislation and should not be confused as a material planning consideration as was the case with the comments made about a restrictive covenant on the deeds.

Councillor Willams asked for clarification over the position of the aviary and where the flight displays would take place. In response the Development Control manager advised that the aviary would be within the woodland area with flight displays taking place on the large area of open land within the site.

Councillor Alderson raised concerns over the noise made by the birds of prey and added that it could not be proven how much noise would be created all in all with the rope course and conservation centre.

The Development Control Manager added that she appreciated the concerns made however a condition was suggested that the centre be used for birds of prey only as by their very nature they were quiet birds.

Councillor Pattinson made reference to the suggestion of using mirrors on the exit and entrance to the site, he asked if this road was adopted highway and if so would the Highways department have responsibility for the maintenance of such. The Development Control Manager advised that it was adopted and they would ultimately hold responsibility for the upkeep of any mirrors.

Councillor Rothwell asked if there was a restriction on party size for corporate training. In response the Development Control Manager advised that no condition had been attached as such however, it is likely that there would be limits to the

numbers of persons allowed to use the equipment at any one time for Health and Safety reasons.

Councillor Watson added that he was happy to see that the application fell within the prescribed policies and Environmental Health had no objections to the proposals. He added that he did sympathise with Mr Morris however the concerns he had were not for planning consideration but that to be dealt with under Human Rights. In conclusion he added that it was encouraging to see the letters of support for the application and added that he was sure if the application was approved the correct monitoring would take place.

Councillor Alderson asked what kind of monitoring would take place, the Development Control Manager advised that the hours of use would be monitored

Councillor Rothwell asked if it was possible considering the hours that the course could be in use whether the applicant would require floodlighting. The Development Control Manager advised that if this was required it would be subject to a new application.

Following a vote being taken it was

**RESOLVED:** that Planning Application 08/0088 be approved subject to:-

- Time Limit (ST)
- Approved Plans (ST01)
- The use hereby approved shall not commence until full details of the children's play area, flight display area, 'quiet area', and seating areas have been submitted to an agreed in writing by the Local Planning Authority.
- Prior to the commencement of any of the activities hereby approved a traffic mirror shall be installed opposite each of the two main vehicular entrances into the site. Such mirrors shall be retained and available for use in perpetuity thereafter.
- The use hereby approved is limited to the keeping of birds of prey only and other species of birds outside of this classification may only be accommodated upon prior written approval of the Local Planning Authority.
- The roping activities as hereby approved shall not be in use outside of the hours of 9.00 a.m. and 7.00 p.m.
- Details of any security of flood lighting shall be submitted to and agreed in writing by the Local Planning Authority prior to the commencement of the development, or some other such time to be agreed in writing by the Local Planning Authority.
- Details of the material used in the surfacing of the car park shall be submitted to and agreed in writing by the Local Planning Authority prior to the construction of the car park or some such time to be agreed by the Local Planning Authority.

**Councillor J. Williams and P. Hughes declared an interest in the following application left the Chamber and took no part in the discussion or voting thereon.**

08/0097 MR & MRS K WALLS

Erection of two storey side extension, 7 Ambleside Mews, Leadgate.

The Chair welcomed to the meeting Mrs Brown who was in attendance to speak against the application.

The Senior Area Planning Officer presented the report which recommended approval of the application. She advised that the extension complied with the 45 degree rule and it was suggested that a condition be attached to ensure obscure glazing be used in the gable end windows to minimise overlooking into 6 Ambleside Mews.

Mrs Brown: Speaking Against the Application.

Mrs Brown advised that she was the owner of 6 Ambleside Mews and made the following comments in support of refusal of the application.

- One of the reasons moved to Ambleside Mews was because of the space offered between properties unlike that of new builds, this extension will be squeezed into the space right up to the boundary wall and are fearful that this will have an overbearing and overshadowing effect to the front of our property;
- As no 7 is already elevated and the proposal is for a two storey extension which would be only 0.8m from the boundary wall it therefore will have an overbearing appearance, all other dwellings have more than a 1m gap at either side of the boundary wall;
- No objection to building above the existing garage or a single storey extension as this would be less imposing, the plot is unusual in that the land is divided, no.7 has the front garden and we have the rear, so it therefore feels like they are building in our back garden;
- Supplementary Planning Guidance notes state that two storey side extensions should allow a maintenance and access distance of 1 metre between the extension and the boundary;
- We believe that the proposed garage is inaccessible for a car due to the angle of the boundary wall therefore only 2 off street car parking spaces would be provided for a 4/5 bed house;
- Believe that this permission would set a precedent for others in the cul-de-sac and give the impression of a terraced street rather than two semis, there are 5 other properties in the cul-de-sac alone which would have the space to do the same;
- Concerns over safety aspects regarding high scaffolding being erected and this would most likely overhang our property and side walkway, as the rear of the extension is only 66cm from our boundary the



- established hedging which belongs to us will have to be cut down and our shed will have to be moved to enable the scaffolding to be erected;
- Concerns that the land which originally being a garden has not been sufficiently retained to the side and rear of the proposed building development. The only thing that is holding the land back is the fence, if this application is approved we want assurances that the land will be sufficiently retained.

The Senior Area Planning Officer advised that there would be space between the properties of 0.8m which would be adequate to provide any essential maintenance to the gable end of the properties. She went on to address the concerns over any overshadowing, loss of light or outlook and advised that as earlier stated the development complied with the 45 degree rule and therefore it was considered that privacy, outlook and overshadowing would not be intruded upon. She advised that with respect to parking, the Highways Authority did not have any objections to the proposal, with regard to scaffolding she advised that this would be a matter for the Building Inspector to control and check to ensure its safety. She advised that if Mrs Brown did not want builders accessing her land then she could refuse to and they would have to find alternative methods to build within the boundary of the property.

Councillor Westgarth asked if a car could actually fit within the garage, if not then it would be forcing on street parking. In response the Senior Area Planning Officer agreed that it was a small garage most likely only being suitable for a small car, however the drive in front of the property was quite large and double width allowing enough room for two cars to park safely off street.

Councillor Shield made reference to Policy EN3 and previously refused applications which had been over 95% in size of the existing building. He added that as this extension was to be almost double the size of the property he suggested that this should be carefully considered as a precedent may be set.

The Senior Area Planning Officer advised that this policy applied to extensions of properties within the open countryside and as this application was within a housing estate this would not apply.

For further clarification the Director of Environmental Services advised that Policy EN3 was in place to restrict the amount of floor space in rural dwellings, to prevent them from becoming too large and restrict the possibility of sub-division.

Councillor Watson questioned how much of a concern landfall could be as suggested by the objector. In response the Senior Area Planning Officer advised that building regulations would assess the safety of this and this should give some comfort to Mrs Brown.

Discussion then ensued regarding the overlooking of gable to gable windows, it was clarified that the two facing gable windows would not be principle rooms but bathroom to landing windows. The bathroom window would be required to be obscurely glazed.

Councillor Coulson questioned the distances between the buildings, the Senior Area Planning Officer advised that the extension would be 0.8m away from the boundary at its shortest distance as the land splays out towards the rear of the site, she further advised that end to end gable distances did not apply under these circumstances.

Councillor Watson added that he felt that 0.8m was an adequate distance to be provided for maintenance of the dwellings, in addition the application met policy guidelines and complied with the 45 degree rule. He further added that he felt confident that Building Regulations would play an active role in the development to ensure the utmost safety. He did however agree that the approval of the application could lead to further applications within the cul-de-sac and this was unfortunate however, it would be very difficult to refuse the application on that basis.

**RESOLVED:** that the following application be approved subject to:-

- Standard Time Limit (ST)
- Approved plans (ST01)
- House extension materials (DH05)
- the window in the gable end of the side extension shall be obscurely glazed during the life of the extension hereby approved.

**Councillor D. Hume left the meeting at this point.**

**Councillor A. Shield declared a prejudicial interest in the following application left the Chamber and took no part in the discussion or voting thereon.**

**(3) RESOLVED: that the following application be approved.**

08/0165 S DAVIS  
Erection of garage, 12 Ennerdale Terrace, Low Westwood.

The Senior Area Planning Officer presented the report which recommended approval of the application. She advised that the garage was to be constructed in stone and slate and it was felt that this would be a suitable replacement for the existing constructions on this site.

Councillor Turner asked if the applicant had originally requested that the garage be part stone part render. In response the Senior Area Planning Officer advised

that this had been the case however this had subsequently been changed so that the garage was to be constructed of stone and slate only, a condition was included regarding the use of these materials.

Councillor Pattinson made reference to paragraph 6 and paragraph 13 of the report and asked if as stated in 6. the Highways Authority been contacted and if so what was the outcome.

The Senior Area Planning Officer advised that this text was used to ensure that the applicant sought for the kerb to be dropped in front of the garage.

- Standard Time Limit (ST)
- Approved plans (ST01)
- Notwithstanding the submitted details to garage shall be erected of stone.
- Within one month of the commencement of the development, or other such time period to be agreed in writing with the Local Planning Authority, samples of the external finishing materials shall be submitted to the Local planning Authority, and approved in writing. The development shall be carried out in full accordance with the approved details (A03)
- The garage door shall be of a type which on operating and closing does not protrude over the highway and shall be fully retractable when in the open position.

### **Conclusion of Meeting**

The meeting closed at 3.15 p.m.

### **Chair.**



**DERWENTSIDE DISTRICT COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE**

**8<sup>th</sup> MAY 2008**

**REPORT OF THE DIRECTOR OF ENVIRONMENTAL SERVICES**

The Code for Sustainable Homes - Setting the standard for sustainability for new homes
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1. The purpose of this report is to inform Members of the publication of the new planning guidance on the Code for Sustainable Homes, which provides a sustainable score rating to new developments. The new guidance was announced on the 27<sup>th</sup> February 2008 and the Government confirmed a mandatory rating against the Code will be implemented from 1 May 2008.
2. The Code measures the sustainability of a new home against nine categories of sustainable design, rating the 'whole home' as a complete package. The Code uses a 1 to 6 star rating system to communicate the overall sustainability performance of a new home.
3. The Code sets minimum standards for energy and water use at each level and, within England, replaces the EcoHomes scheme, developed by the Building Research Establishment (BRE) and is another example of the Government making efforts to meet its own target of all new housing to be zero carbon (Code level 6) by 2016.
4. The Code **does not** make it mandatory to have each new home assessed against the Code. It is a voluntary Code that the Government hopes will provide information to home buyers, and provide an easy comparison of new developments in sustainability terms.
5. Buyers of new homes will be given clear information about the sustainability of the new home as part of the Home Information Pack (HIP). A house builder can approach the issue in one of two ways:
  - they can chose to build a Code home, have that home assessed against the Code and provide the home buyer with a Code certificate stating the star rating the home has achieved; or
  - they can elect to build to current Building Regulations standards, not to pay for an assessment and instead download a free nil-rated certificate

of non-assessment (also referred to as a nil-rating) to provide to the home buyer.

6. A HIP might contain either:
  - a nil-rated certificate,
  - the design stage Code certificate,
  - the post construction Code certificate.

If the home is still being marketed once construction is complete then the design stage certificate will have to be replaced with the final certificate.

7. If the developer wants a Code assessment they will need to employ a Code assessor to undertake a design stage assessment. Once the construction is fully complete the assessor will return to the development and undertake the post construction assessment. If the developer does not wish to build to Code standards they can download a nil-rated certificate at any point.
8. Trading Standards Officers (TSOs) will enforce the provision of Code certificates or nil-rated certificates within Home Information Packs. Building Control Surveyors and Approved Inspectors will continue to work with builders and developers as they currently do. They do not have an enforcement or monitoring role in the Code.
9. Since 1<sup>st</sup> April 2008 all new social housing is required to meet Code level 3. The Government is aiming that social housing will lead by example, encouraging the private sector to start using the Code. After consultation on guidance of Lifetime Homes the Government has incorporated the Lifetime Homes recommendations as a requirement to meet the standards for level 6 as part of the Code.

### Conclusion

10. The Government guidance allows the Council to negotiate with developers to bring forward future housing developments that meet a nationally recognised sustainable standard.
11. All housing that receives Housing Corporation funding has to meet Code level 3 and the planning team will be seeking, through negotiation, to encourage developers to achieve at least this level on all developments.
12. The Code will also allow the Council to develop future planning policies that could require developers to build houses to a specified level of the Code. It should be noted that the Government have stated that all housing must be zero carbon i.e. Code level 6 by 2016.

**Recommendation**

The report be noted.

Report prepared by Peter Slegg, Planning Officer





**DERWENTSIDE DISTRICT COUNCIL**

**DEVELOPMENT CONTROL COMMITTEE**

**8<sup>th</sup> MAY 2008**

**REPORT OF DIRECTOR OF ENVIRONMENTAL SERVICES**

**APPEAL DECISION**

**Appeal against the refusal to grant Planning Permission for the erection of a 12 metre high Cypress tree monopole, equipment cabinets and ancillary development on land 180 metres south east of the Conifer House at Low Friarside, off the B6310 road, Burnopfield**

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1. This appeal relates to a 'prior approval' application, which was refused permission on the 27<sup>th</sup> April 2007 for the erection of a 12 metre high Cypress tree monopole, equipment cabinets and ancillary development on land 180 metres south east of the Conifer House at Low Friarside, off the B6310 at Burnopfield. The Planning Inspector dismissed the appeal.
2. The Inspector considered the main issue to be the effect of the proposed telecommunications development upon the character and appearance of the area, taking into account the evidence provided regarding the availability of alternative options.
3. The Inspector considered the site to be an attractive rural landscape comprising a broad sweep of the north-facing slope of the Derwent Valley covered with open fields, area of woodland, tree groups, individual trees and hedgerows. It was noted that the area was designated under Policy EN6 of the Derwentside District Local Plan as being an Area of High Landscape Value.
4. The Inspector noted the previous appeal against a refusal to grant 'prior approval' for a 15 metre tall column with equipment cabinets and ancillary development within a fenced compound only approximately 15 metres from the appeal site, which was refused in January last year.
5. The Inspector considered the siting and setting of the proposed Cypress tree monopole with four equipment cabinets with a fenced compound would be similar to the previous appeal, but the detailed design had been significantly altered, including a 3 metre reduction in height and camouflaging as a 12 metre tall evergreen Cypress tree.

6. The Inspector was of the opinion that the Cypress tree style monopole would appear to be of a tall, bulky and artificially regular form which would look out of place in this prominent open setting. This would have been exacerbated by the position of the monopole next to two native deciduous trees, well away from coniferous woodland or groups of similar evergreen trees. It was further considered that although there is room on three sides of the compound to improve the inadequate landscaping scheme proposed, the drainage ditch means there is insufficient space to adequately screen the compound from the important views from higher land from the south. It was considered by the Inspector that the artificial form of the mast would be evident from many short-distance views and some longer views along the valley. It was added that although attempts at camouflage and screening had been made, the monopole and compound would result in an intrusive and harmful clutter of man-made structures within the sensitive rural landscape.
7. The Inspector acknowledged that the appellant had given additional verbal information about the siting and height of alternative sites, however the Inspector agreed with the previous appeal Inspector that he was not convinced that the small selection of sites indicated in the appellant's evidence demonstrated a comprehensive search which warranted overriding the harm that has been identified to this locally sensitive area.
8. Furthermore, the Inspector did not dispute that the installation is mainly required to provide and / or improve coverage for Rowlands Gill and Hamsterley Mill. However, the appellant ruled out seven alternatives on only briefly stated grounds that included technical constraints, planning objections and lack of agreement from site providers. Therefore the Inspector was not convinced that there had been an adequate investigation of alternative options including in particular the sharing of existing masts and sites. The Inspector considered that although the scheme required 'prior approval', the application should have been subject to the criteria of Local Plan policy CF10 that applies to sites which require full planning permission within a Area of High Landscape Value. This lays particular emphasis on the need to examine alternative options, including mast sharing. The Inspector considered that there was insufficient evidence to show that the scheme would meet the identified need in a manner that would keep the environmental impact to a minimum possible, thus the scheme is not in accordance with national guidance in PPG8: Telecommunications or with the objectives underlying Local Plan policy CF10.
9. The Inspector concluded that the health concerns raised were a material consideration and although the base station is certified as meeting the guidelines of the International Commission on Non-Ionising Radiation Protection, it should not be a necessary in planning terms to consider the

health aspect further. It was concluded that the proposed scheme would have a harmful impact upon the sensitive landscape character and appearance of the Area of High Landscape Value, contrary to policy EN6 and the objectives underlying policy CF10 and contrary to national guidance in PPG8.

Recommendation

10. This report be noted.

Report prepared by Mr. T Armfield, Student Planning Officer



**DERWENTSIDE DISTRICT COUNCIL**  
**DEVELOPMENT CONTROL COMMITTEE**

**8<sup>th</sup> May 2008**

**REPORT OF THE DIRECTOR OF ENVIRONMENTAL SERVICES**

**PLANNING APPLICATIONS AND ASSOCIATED MATTERS**

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## **RECOMMENDATION FOR REFUSAL**

08/0132

17.04.08

R Aldred

Field on the Junction of North Road, Bushblades Lane, Stanley

Erection of eight self build dwellings

Catchgate Ward

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### **The Application**

1. This application seeks Planning Permission for the erection of eight self-build, two-storey dwellings on the field located at the junction of North Road and Bushblades Lane in Dipton. Access to the proposed properties would be via the existing access to the site via Bushblades Lane, an unadopted road.

### **History**

2. A planning application (reference 1/1994/0479/DM) for stables, washing and storage area was granted planning permission on the 7<sup>th</sup> September 1994.

### **Policy**

3. The following policies of the adopted Local Plan are relevant in determining this application:

General Development Principles (GDP1)  
Protecting the Countryside (EN1)  
Preventing Urban Sprawl (EN2)  
Development on Small Sites (HO5)  
Development and Highway Safety (TR2)

### **Consultations**

4. County Highways Development Control Officer – The Highways Officer advises that the proposed internal road layout is not to an adopted standard. There must be an adoptable footway provided throughout the western (i.e. B6168) road frontage, linking to the vehicular site entrance. He highlights the need for a junction radius improvement at the B6168 and Bushblades Lane junction. He feels that in the application's present form sight visibility along the B6168 road (from the B6168 and Bushblades Lane) junction cannot be assured.

5. The Highways Officer is of the opinion that until the above matters are addressed that the application should be refused.
6. Derwentside District Council Environmental Health Division – advises that the proposed development is situated some 80 metres away to the south east of the Schmitz Cargobull engineering site. The possible environmental impact of this has not been addressed in the application.
7. The Environmental Health Officer commented that as Schmitz Cargobull is one of the processes regulated by the Environmental Health Division under the LAPPC regime and it operates 24 hours a day, 7 days a week; the Environmental Health Department will require more time other than the standard 14 days to consider this application.
8. Neighbours have been consulted and a site notice posted. No objections have been received.

#### Officer Assessment

9. The site is located on the corner of the junction of North Road and Bushblades Lane in Dipton. The site is on the opposite side of the road from the four properties of Cartref, Blencathra, The Hill and Eboracum. There are currently stables and a paddock on site with trees lining the western boundary along North Road. To the north of the site, on the other side of Bushblades Lane, there is another paddock area. To the south of the site is a builder's yard and to the north is the Schmitz Cargobull engineering site.
10. The application proposes eight self-build dwellings that would consist of a timber-framed construction and be two storeys in height, each with a garden and two off-street parking spaces. The plans propose a road, which would cut through the middle of the site, with five dwellings proposed to the northwest of the road and three dwellings proposed to the southeast. The application also proposes that privacy planting and trees would be planted along the boundaries of the site shared with North Road and Bushblades Lane.
11. The nature of these proposed self build properties means that prospective owners buy the plot of land and then arrange through the scheme architect the erection of the dwelling house.
12. The main issue for Members to consider is whether the principle of housing on this site is acceptable. The application site is currently used as a paddock with stables, therefore the site would technically be regarded as brownfield and previously developed land. There is residential development on the western side of North Road, the opposite side of the road to the application site, but this road forms the limit of residential development in this area.
13. However, Policy HO5 advises that development will only be permitted in small settlements, including Dipton, if it does not extend beyond the existing built up area of the settlement. Although the application site is brownfield land, given

it is on the eastern side of North Road and all residential development is on the western side of North Road, the application site is considered to be outside of the settlement limit of Dipton and therefore within the countryside, contrary to Policies EN1 and HO5 of the Derwentside District Local Plan. The current use of the application site as stables and a paddock is deemed suitable for the countryside, however if the site were to be used for residential development instead of its current use it would be considered to be encroachment into the countryside, contrary to Policy EN2 of the Derwentside District Local Plan.

14. It is the principle of the development which is considered to be unacceptable rather than any assessment being made of the proposed design, layout and materials etc. The erection of dwelling houses on the site would result in an unacceptable extension beyond the built up framework of the established settlement.
15. The Highways Officer is of the opinion that the proposed internal road layout is not to an adoptable standard and there must be an adoptable footway provided throughout the western road (i.e. B6168) frontage, linking to the vehicular site entrance. Furthermore the Highways Officer considered that a junction radius improvement is required at the B16168 and Bushblades Lane junction. The Highways Officer recommended the application be refused, and the highways issues could potentially be addressed through the submission of amended plans. However, the applicant has not been requested to address this given that officers consider that the principle of residential development is unacceptable.
16. The Environmental Health Division have advised that they would require more time to consider the application, given the Schmitz Cargobull engineering site operates 24 hours a day, 7 days a week. It is considered that this adjacent industrial use could affect the amenity of future occupiers of the properties and potentially result in complaints being made against the engineering site. It would potentially as a constraint on the commercial operation which is within a recognised Industrial Estate. These issues have not been put back to the applicant as officers feel that the principle of residential development is fundamentally unacceptable.
17. In conclusion, given the site lies outside of the physical boundaries of the settlement of Dipton it would be regarded as development within the countryside, where there is a strong policy presumption against residential development. Taking this into consideration the proposal is considered to be contrary to Policies EN1, EN2 and HO5 of the Derwentside District Local Plan. Even though the site is considered to be brownfield it would extend beyond the existing developed area and it is recommended that Members refuse the application.

#### Recommendation

18. Refuse

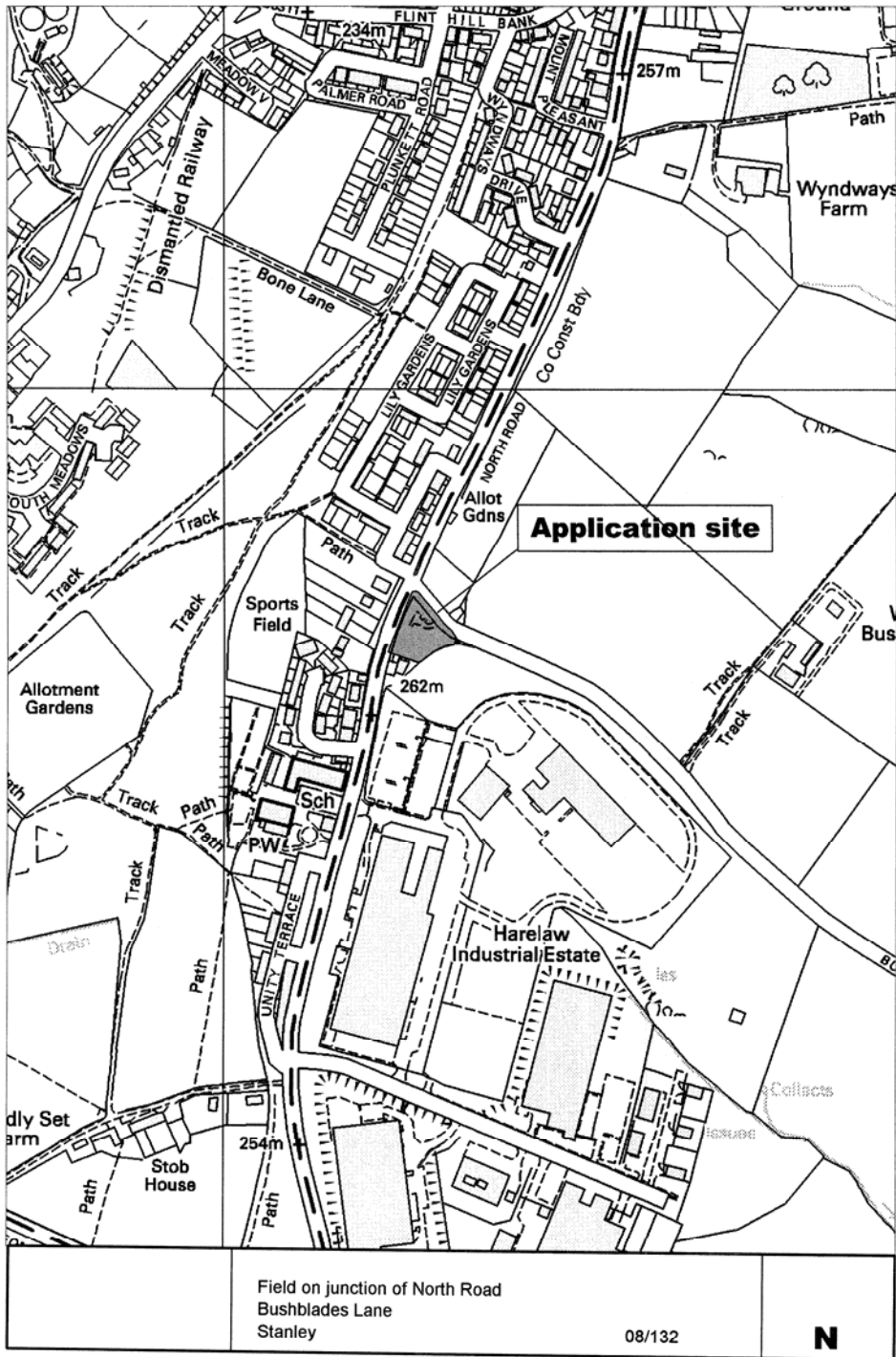


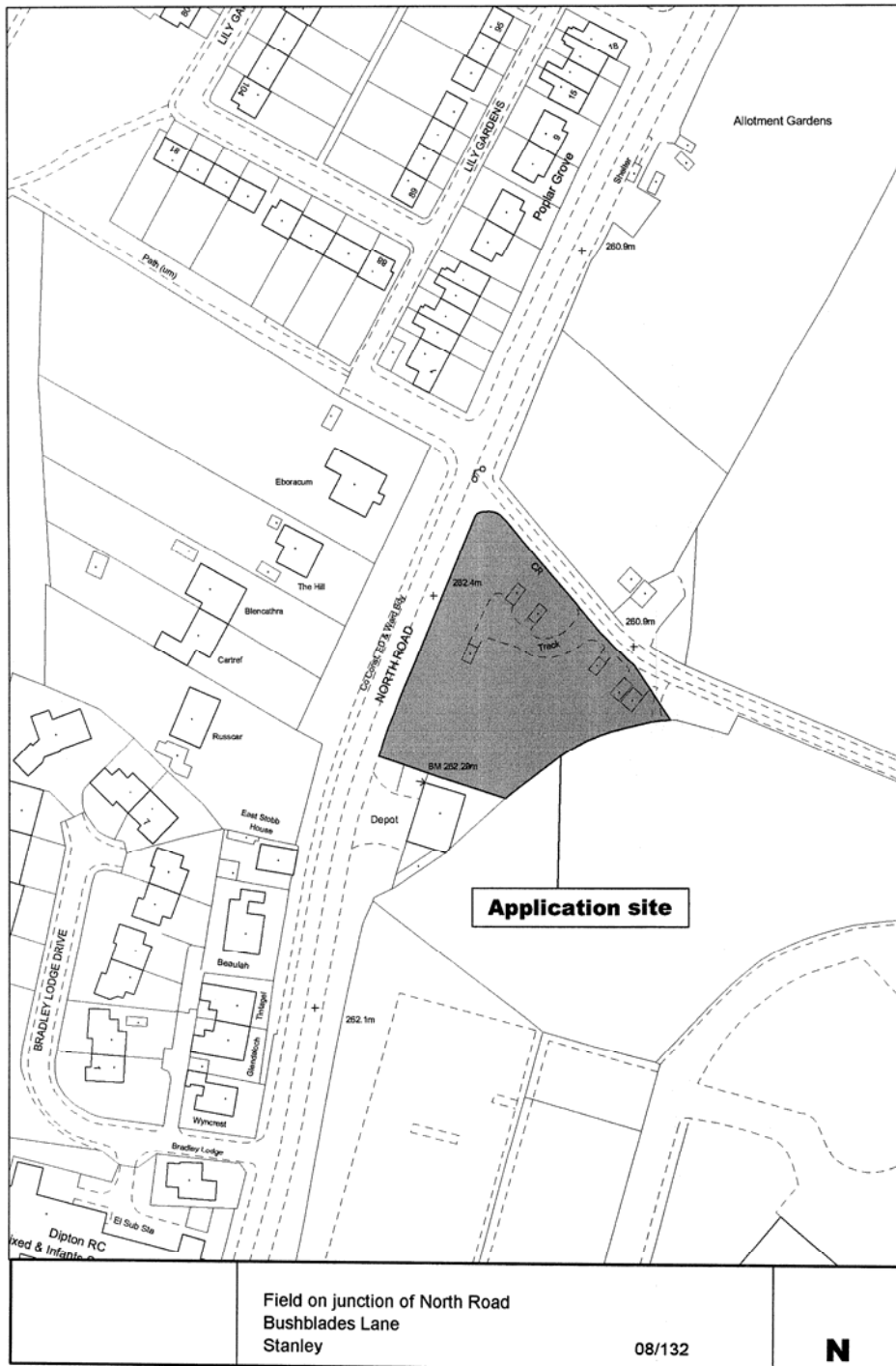
19. (i) The proposed development would be located outside of the settlement of Dipton, resulting in an unacceptable residential extension beyond the established physical settlement limit, amounting to encroachment into the countryside, contrary to Policies EN1, EN2 and HO5 of the Derwentside District Local Plan.

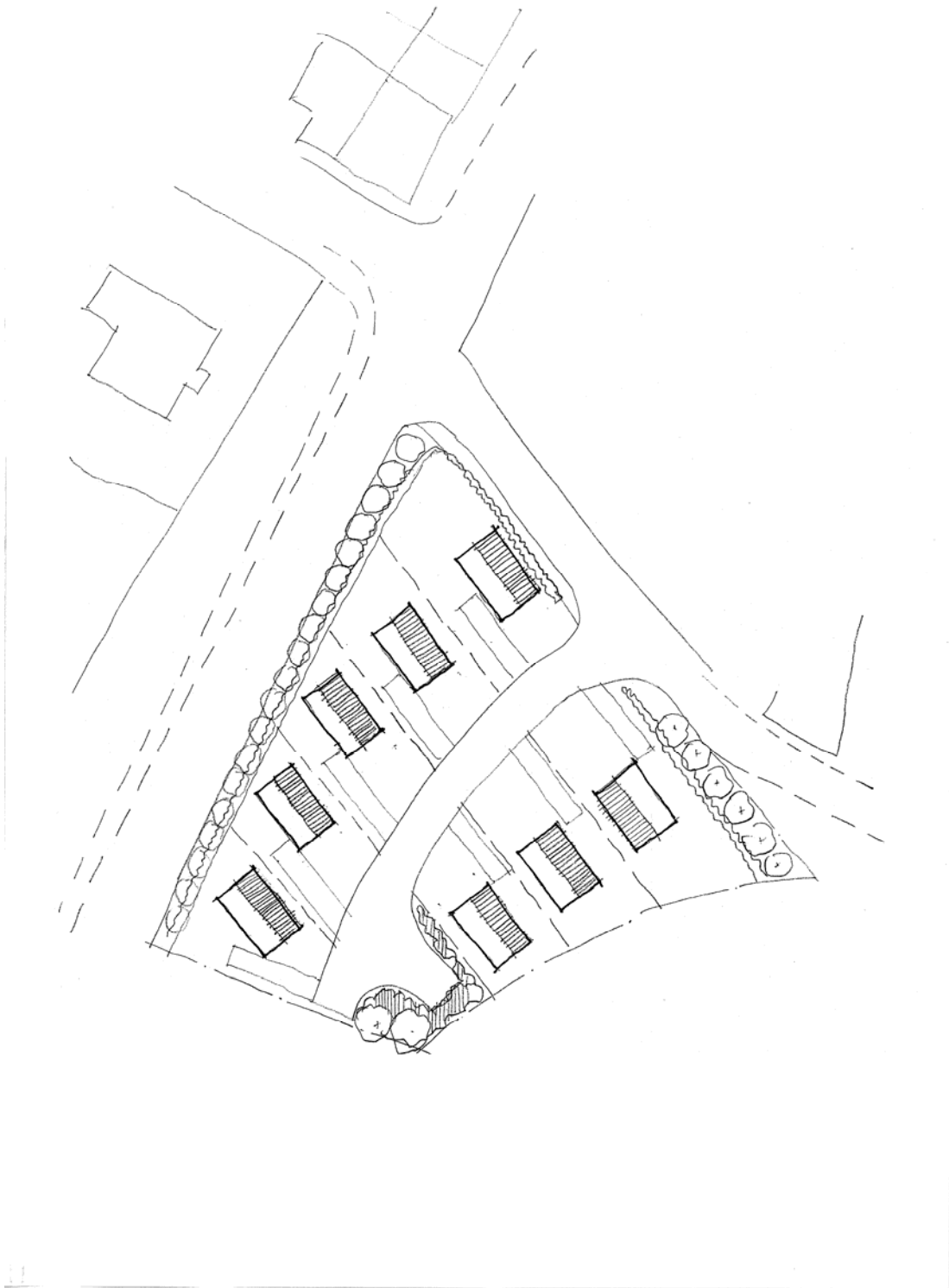
(ii) The proposed vehicular access to the site would be substandard due to the inadequate visibility and radii at the junction with Bushblades Lane, contrary to Policy TR2 of the Local Plan.

Report prepared by Thomas Armfield, Student Planning Officer

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## RECOMMENDATION FOR REFUSAL

08/0173

11.03.08

Forster Hall and Sons

Bracken Brae, East Butsfield Lane, East Butsfield, Satley

Erection of one dwelling  
(outline) (Resubmission)

Cornsay Ward

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### The Application

1. Outline Planning Permission is sought for the demolition of a derelict building named 'Bracken Brae' and the construction of a new dwelling. The site is located at the end of a track to the east of East Butsfield Lane, East Butsfield, near Satley. It is enclosed by a post and rail fence, trees and shrubs and is surrounded by the mixed farmland of the Browney Valley.
2. The applicant states that the existing building, which is in a state of severe disrepair, was previously a dwelling constructed in the 1930's and it has been uninhabited since the early 1980's. It is a fairly small single storey timber framed building. The exterior is constructed of compressed asbestos cement sheets that were previously covered with felt, which has now come off. The interior walls consist of hardboard and chipboard lined with thin felt. The windows are out, there are extensive holes in the roof and walls and two sides are almost inaccessible due to overgrown shrubs and trees which surround the building. The building can only be accessed at present over a wall.
3. The applicant proposes to demolish the existing building and erect a new single storey pitched roof dwelling constructed of stone and timber. The surrounding overgrown shrubs would be cleared and the site accessed from the track leading from East Butsfield Lane. Further trees would also be planted.

### History

4. The same application was withdrawn in September 2007 due to concerns raised by the Case Officer regarding the state of the building and period of non-use (reference 1/07/0457/DM).

### Policy

5. The following policies of the adopted Local Plan are relevant in determining this application:

General Development Principles (GDP1)  
Protecting the Countryside (EN1)  
Preventing Urban Sprawl (EN2)  
Development on Small Sites (HO5)

Consultations

6. County Highways Development Control Officer - highlights that the property is in a state of disrepair and relatively small for a dwelling. Advises that if in planning terms it is considered the present building does indeed constitute a residential dwelling, there would be no real basis with which to recommend refusal due to its remoteness and future occupant's relative reliance on the motor car (i.e. PPG3). However, he also states that if the arguments being put forward by the agent are not convincing, he considers that a PPG3 refusal reason could be sustained. Despite the appearance of the unmade track leading to the property, this track is on Durham County Council's records as being an adopted highway. Accordingly, prior consent must be gained prior to undertaking any works on the surface of this track. There is also no car parking area and again advises that prior to gaining any approval he would wish the applicants to state where they consider associated car parking (and turning) will take place at a rebuilt larger dwelling (or that this be conditioned).
7. Northumbrian Water - no objection.
8. Natural England - advises that the proposal is unlikely to have an adverse effect in respect of species especially protected by law, subject to the following conditions:
  - (i) No development shall take place unless in accordance with the mitigation detailed within the protected species report 'Bat Survey at Bracken Brae, East Butsfield. DL13 4JB. 2<sup>nd</sup>-4<sup>th</sup> July' including, but not restricted to adherence to timing and spatial restrictions;
  - (ii) No works should take place during the hibernation period (Nov-Apr inclusive) due to the building having features that could support hibernating bats.Also adherence to precautionary working methods and the production of a precautionary working method statement. However, advise that nowhere on the report does it state who carried out the bat survey at this property. The LPA should satisfy themselves that this survey was carried out by an appropriately qualified surveyor.
9. Durham Bat Group - state that they have a lot of concerns about the bat report for the following reasons. Butsfield is a very active and important area for several species of bats. They state the photographs make it clear that the shed is situated in a prime area for bats and the DBG were not consulted for existing records. They advise that the survey does not meet

Natural England guidelines because only one surveyor was involved and the three night's observation were consecutive rather than spread over the season, and the report does not follow the guidelines nor include all the relevant information. The species of bats observed at the site are not identified. The interior photographs appear to show droppings and a dead moth. These may indicate use by bats. The surveyor may not be licensed. DBG are not convinced that the true picture of bat use at this site has been demonstrated. They advise that to make progress there would be little risk to bats if it were demolished before the end of April or between August and October inclusive. To confirm that no bats will be damaged or disturbed, there should be an emergence survey immediately before demolition. To ensure continued provision of bat roost sites there should be equivalent roost sites created in the new building. These should include Crevice roosts in south and east facing wall or under roof tiles and a bat loft with uncluttered roof space of at least 4m x 4m with a floor to bottom of roof beam height of 1.8m. The details of the structure and location of these should be included in the plans.

10. Neighbours have been consulted and a site notice posted. No representations have been received.

#### Officer Assessment

11. Due to the poor state of the existing building and the potential period of non-use of the building, the main issue for Members to consider is whether the residential use of the building has been abandoned or whether there is still a lawful use for a dwelling on the site.
12. In considering whether a particular use has been abandoned, Case Law has identified four principal factors that should be taken into consideration. These are (i) the physical condition of the building (ii) the period of non-use (iii) if there has been any intervening uses, and (iv) the owner's intentions regarding the building. In respect of (iv), recent court decisions have held that whilst the owner's intentions are a material consideration they are not paramount and should be looked at objectively with all the evidence submitted. Whilst statutory declarations could be provided in the form of written statements, to express the owner's intentions, these are likely to be self serving and would not be conclusive in themselves to prove that the use has ceased without an intention to resume.
13. It is evident from an internal site inspection that the current building on site has been used at some point for some sort of residential accommodation. The previous use of the building as a dwelling is not necessarily disputed, nor does the building appear to have had any intervening uses since it was occupied. However it is also evident that this use had ceased some considerable time ago. No evidence has been submitted to suggest otherwise, notwithstanding that the applicant states that it is registered with the Council for Electoral Roll and Council Tax purposes or that rates were previously, at one time, paid on the property. Due to the period of non-use stated by the applicant and physical state of the building it is considered

that the residential use of the site has been abandoned and therefore there is no extant permission for a dwelling on the site and thus there is no lawful residential use at the site.

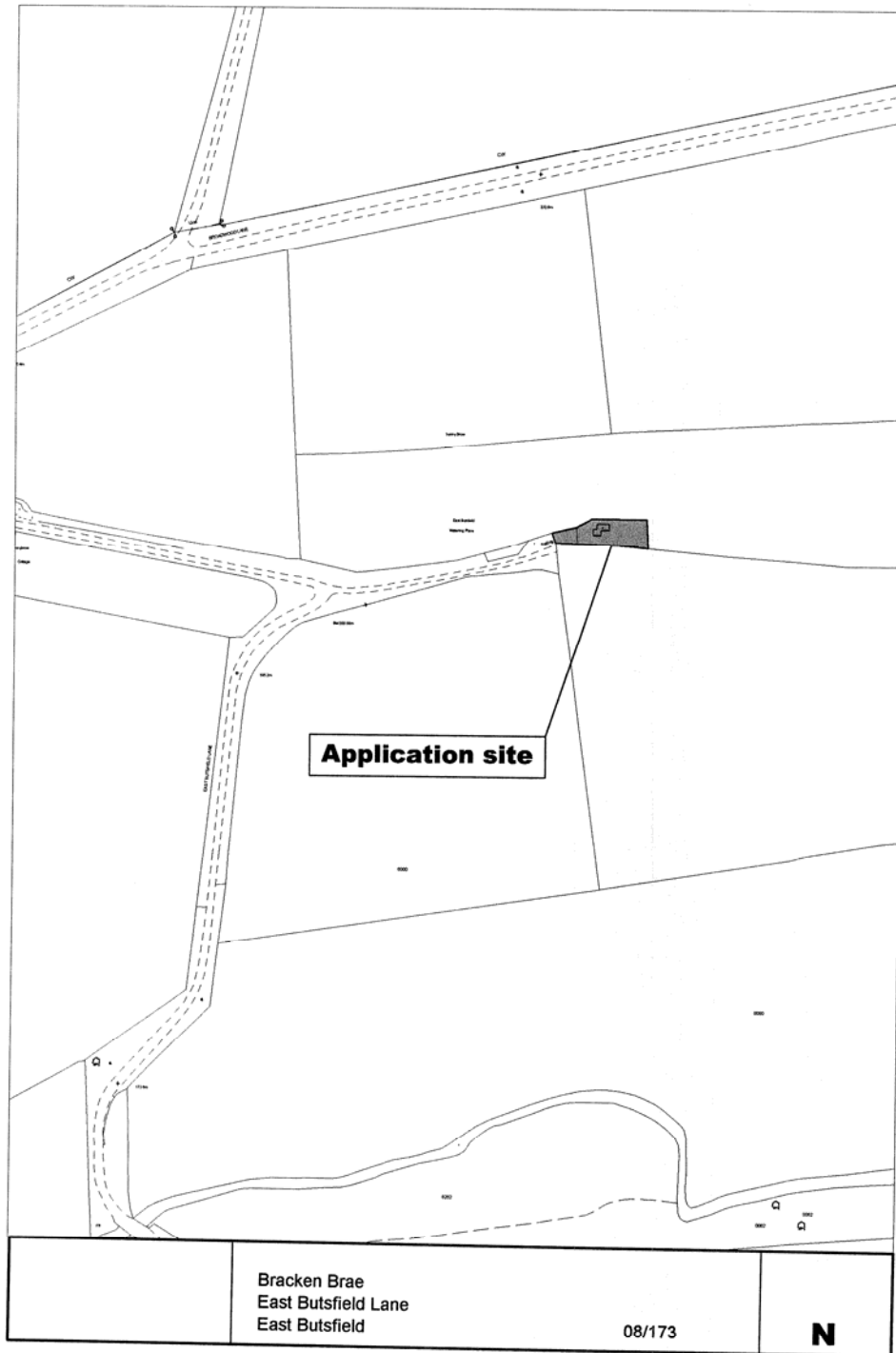
14. Given that it is considered that the residential use of the site has been abandoned, following a period of non-use and substantial physical decline, a replacement dwelling, as proposed, on the site would be considered as a new dwelling within the open countryside.
15. Planning guidance in the form of Planning Policy Statement 3 (Housing) places strict controls over all new residential development. It states that new residential development should take place on previously developed land within built up areas, within the physical limits of settlements. The site is clearly outside of the physical limits of any settlement and would therefore be regarded as being development outside of the built up area of the settlement, within the open countryside. The proposal is therefore considered to be contrary to the aims of PPS3.
16. In addition, the proposed development of this site would be contrary to Policies HO5 and EN2 of the Local Plan which state that new development should not extend beyond the built up area of the settlement encroaching into the countryside. Both national and local policy seeks to direct new housing development to brownfield sites within identified settlements in more sustainable locations and to safeguard the countryside from inappropriate development and to reduce private car travel. Only when all such sites have been developed can consideration be given to developing other sites. In Derwentside there is not a shortage of brownfield sites within the built up area.
17. It is thus considered that the development of the site would be harmful to the character of the countryside and as such is contrary to Policies EN1, EN2 of the Local Plan which seek to protect the countryside for its own sake and prevent sprawl.

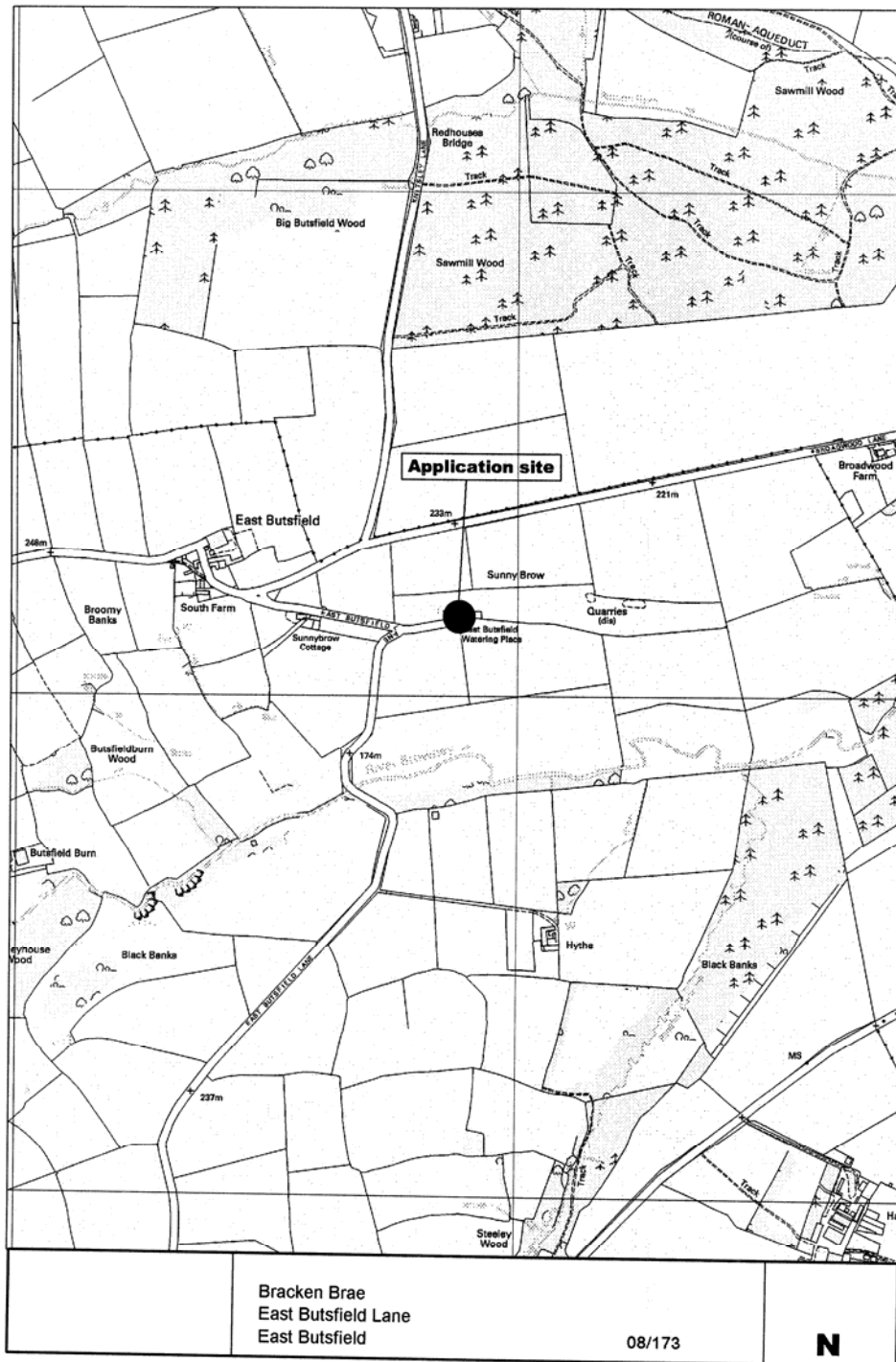
#### Recommendation

18. Refuse

The previous residential use of the building is considered to have been abandoned and thus no lawful residential use of the site remains. Therefore the construction of a new dwelling on the site is considered to be contrary to PPS3, EN1, EN2 and HO5 which seek to prevent the harm caused to the countryside through encroachment into the open countryside, which is beyond the built up area of the settlement.







## DISTRICT COUNCIL DEVELOPMENTS

08/0179

11.03.08

Derwentside District  
Council

Land to the west of Moorside  
Community College, Dunelm  
Road, Moorside

Entrance feature to include  
raised planting beds, gates  
and fencing to proposed  
new cemetery already  
granted planning  
permission

Consett South Ward

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### The Application

1. Planning Permission is sought for an entrance feature to include raised planting beds, fencing and gates at the main pedestrian and vehicular access to the site of the proposed new Cemetery on Dunelm Road in Moorside. These main gates into the site would be lockable to prevent vehicular access outside of burial times. When funerals are not taking place then vehicle access into the Cemetery would be restricted to maintenance vehicles. The gates would be located just inside the site, beyond the overflow and visitors car park. This car park would allow for off-street parking for people visiting the Cemetery without having to open the main gates.
2. The gates would be approximately 2.8m at the highest point with a curved top. To the side of the main access gates would be two, 6m diameter raised planting beds with fencing around the back of these. They would incorporate a circular brick rendered wall with stone copings to the top of 1.8m in height (maximum at the rear) filled with trees, shrubs and plants. Paladin security fencing would be located behind these features, along the boundary of the car park and the path to the front of the Cemetery. This would be at a maximum height of 3.3m to provide adequate security, although would incorporate pre-grown climbing plants such as ivy intertwined within the fencing to provide an 'instant hedge system' and attractive screening. The footpaths around the entrance features would be constructed of Yorkshire paving.

### History

3. Planning permission was granted in January 2008 for the change of use of the land to create a Cemetery with associated car park and public shelter (reference 1/2007/0798/DM).

## Policy

4. The following policies of the adopted Local Plan are relevant in determining this application:

General Development Principles (GDP1)  
Development within Areas of High Landscape Value (EN6)  
Development and Highway Safety (TR2)

## Consultations

5. County Highways Development Control Officer - Advises that he has no objections to the principle of this application. The gates will not interfere with vehicles being able to fully enter and exit the site. However, he has several concerns that need addressing. These are, the requirement for a 1.8m footway linking eastwards from the site entrance, not 1.2m. Also 'Dimple' tactile paving denotes a crossing point for the visually impaired and is normally used to direct such an affected pedestrian only to another crossing point directly opposite and with similar characteristics (i.e. tactile paving). In this case there is no footway on the western side of the vehicular access and therefore the proposal could be confusing. He recommends that the two proposed lowered kerbs are provided, without tactile paving. Additionally the 2.925m junction radius is inconsistent with the required 6m or 8m vehicular access junction radius required. Finally reference is made to an existing 'DCC footpath link' which was required as part of the planning permission for the Cemetery. However this remains to be constructed and adopted by DCC and until then it would remain a District Council footway.
6. Neighbours have been consulted and a site notice posted. No representations have been received.

## Officer Assessment

7. It is considered that the principal issues in determining the application are the impact of the proposal upon the visual amenity of the area of High Landscape Value; any potential impact on residential amenity and the requirement for a safe and useable access to the site.
8. It is considered that the proposed entrance feature has been well thought out and would be an attractive well-designed feature to the entrance of the proposed new Cemetery. The landscaping proposals and 'hedge fencing' to the entrance are particularly appropriate in the context of the location within the Area of High Landscape Value. They would also assist in blending the site into the surrounding countryside, as well as providing a tranquil environment for visitors. It is considered that the proposal would enhance the setting of the proposed Cemetery.

9. The proposed entrance feature would not have a significant impact on residential amenity, with the proposed Cemetery set away from the nearest residents at Jubilee Court on the opposite side of the road. No objections have been received from local residents.
10. In terms of access, the gates would not interfere with vehicles being able to enter and exit as they would be set well into the site, off the main road. The County Highways Officers comments regarding the proposed tactile paving at the entrance, the junction radius and the status of the footpaths to the front of the site are noted and the applicant has been advised to address these issues through the submission of an amended site entrance layout plan. Members will be updated at your meeting as to the acceptability of revised plans. Furthermore a condition should be attached if Members are minded to approve the application requiring that the proposed Yorkshire paving footpath be widened from 1.2m (as shown on the submitted plans) to 1.8m at the eastern side of the site access to the existing footway on the northern side of Dunelm Road.

#### Recommendation

11. Conditional Permission, subject to an acceptable amended site entrance layout plan that addresses the concerns of the County Council Highways Officer being agreed.
  - Time Limit (ST)
  - Approved Plans (ST01)
  - A 1.8m minimum width adoptable standard footway, connecting eastwards from the site access to the existing footway on the northern side of Dunelm Road, shall be constructed and available for use prior to the hereby approved development being brought into use.
  - Reason: In the interests of highway safety and pedestrian amenity having regard to policy TR2 of the Derwentside Local Plan.

#### Reason for Approval

12. The decision to grant planning permission has been taken having regard to Policies GDP1, EN6 and TR2 of the Derwentside District Local Plan and material considerations as detailed in the report to the Development Control Committee. The proposal is visually attractive and unlikely to significantly affect the amenities of neighbours. Subject to the submission of an amended site entrance layout plan and the stated conditions, access arrangements are considered acceptable and in accordance with policy TR2 of the Local Plan. In the view of the Local Planning Authority no other material considerations outweigh the decision to grant permission.

Report prepared by Ann Rawlinson, Senior Area Planning Officer

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## **DEVELOPMENT CONTROL COMMITTEE**

**8<sup>th</sup> May 2008**

### **APPENDIX – DISTRICT LOCAL PLAN POLICIES**

The following local plan policies have been referred to in report contained in this Agenda:

#### **Policy GDP1**

When considering proposals for new development, the Council will not only assess each application against the policies in the following chapters, but will also expect, where appropriate, the following measures to have been incorporated within each scheme:

- (a) a high standard of design which is in keeping with the character and appearance of the area. The form, mass, layout, density and materials should be appropriate to the site's location, and should take into account the site's natural and built features;
- (b) designed and located to conserve energy and be energy efficient;
- (c) protection of existing landscape, natural and historic features;
- (d) protection of important national or local wildlife habitats, no adverse effect upon, or satisfactory safeguards for, species protected by the Wildlife and Countryside Act 1981, no harmful impact on the ecology of the District and promotion of public access to, and the management and enhancement of, identified nature conservation sites;
- (e) the protection of open land which is recognised for its amenity value or the contribution its character makes to an area;
- (f) the provision of adequate landscaping within the design and layout of the site and where appropriate creation of wildlife habitats reflecting the semi-natural vegetation of the surrounding area and using native species wherever possible;
- (g) designed and located to deter crime and increase personal safety;
- (h) protection of the amenities of neighbouring occupiers and land users;
- (i) adequate provision for surface water drainage;
- (j) protection of areas liable to flood from development;
- (k) protection of ground water resources and their use from development.

#### **Policy EN1**

Development in the countryside will only be permitted where it benefits the rural economy or helps to maintain or enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources of the area.

## **Policy EN2**

Except where specific provision has been made in the Plan, development outside existing built up areas will not be permitted if it results in:

- (a) the merging or coalescence of neighbouring settlements; or
- (b) ribbon development; or
- (c) an encroachment into the surrounding countryside.

## **Policy EN6**

In the following areas of high landscape value development will be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals:

Beamish and Causey  
Browney and Smallhope Burn Valleys  
Hownsgill  
Lower Derwent and Pont Valleys  
Middle Derwent Valley  
Ushaw College  
Beggarside and Knitsley Burn Valleys  
Hedleyhope Fell and Hedleyhope Burn  
Newhouse Burn  
North Langley  
Pan Burn  
Whiteside Burn

## **Policy HO5**

Housing development on small sites will only be permitted in the settlements listed below, where the development:

- (a) is appropriate to the existing pattern and form of development in the settlement; and
- (b) does not extend beyond the existing built up area of the settlement; and
- (c) represents acceptable backland or tandem development; and
- (d) does not exceed 0.4 hectares in size if taken together with an adjoining site.

Annfield Plain (Including Catchgate And West Kyo)  
Blackhill  
Burnhope  
Burnopfield  
Castleside  
Consett



**Cornsay Colliery  
Craghead  
Crookgate  
Delves Lane (Including Crookhall)  
Dipton (Including Flinthill)  
Ebchester  
Esh  
Esh Winning  
Greencroft  
Hamsterley (Including Low Westwood)  
Hamsterley Mill  
Harelaw  
Hobson (Including Pickering Nook)  
Iveston  
Lanchester  
Langley Park  
Leadgate  
Maiden Law  
Medomsley  
Moorside  
New Kyo  
No Place  
Oxhill  
Quaking Houses  
Quebec  
Satley  
Shotley Bridge  
Stanley (Including Shield Row)  
Tanfield  
Tanfield Lea (Including Broomhill)  
Tantobie  
The Dene  
The Grove  
The Middles  
South Moor (Including Oxhill)  
White-Le-Head**

**Policy TR2**

**Planning permission for development will only be granted where the applicant can satisfy the Council that the scheme incorporates, where necessary:**

- (a) a clearly defined and safe vehicle access and exit; and**
- (b) adequate provision for service vehicles; and**
- (c) adequate vehicle manoeuvring, turning and parking space; and**
- (d) effective access at all times for emergency vehicles; and**
- (e) satisfactory access to the public transport network; and**
- (f) a satisfactory access onto the adopted road network.**

**Planning permission will only be granted if the proposal also complies with the car parking standards in Appendix D.**