

# Item no.

Report to: **Development Control and Regulatory Panel**

Date: **25 April 2006**

Report of: **Head of Planning and Building Control Services**

Subject: **Applications under the Town and Country Planning Acts  
Town and Country Planning Act 1990  
Planning (Listed Buildings and Conservation Areas) Act 1990**

Ward: **All**

## **A INTRODUCTION**

Members are advised that in preparing the attached report full consultation responses are not presented. Care is taken to ensure that principal issues of all relevant responses are incorporated into the report. Notwithstanding this Members are invited to view all submitted plans and consultation responses prior to the Panel meeting by contacting the Head of Planning and Building Control Services.

The Easington Local Plan was adopted by the District of Easington on 28<sup>th</sup> December 2001. Together with the Durham County Structure Plan it is a material consideration in the determination of planning applications. All relevant policies have been taken into account in making recommendations in this report. A view as to whether the proposals generally accord with policies is identified in the relevant section.

Section 54A of the 1990 Town & Country Planning Act (as amended) requires the Local Planning Authority to have regard to the development plan policies when they are relevant to an application and hence are a material consideration. Where such policies are material to a proposal, section 54A requires the application to be determined in accordance with the Development Plan policies unless material considerations indicate otherwise.

The recommendations contained in this report have been made taking into account all material planning considerations including any representations received and Government guidance in Planning Policy Guidance Notes and Circulars. Consideration has been given to whether proposals cause harm to interests of acknowledged importance.

Members attention is drawn to information now provided in respect of time taken to determine applications. Following each recommendation a determination time is provided based on a decision at this Panel. Where a decision time exceeds the 8 week target a reason for this is given in brackets.

In considering the applications and preparing the report the District of Easington has fully taken into account the duties imposed on Local Planning Authorities by the Human Rights Act 2000. In particular, regard has been given to Articles 6, 7, and 8, the First Protocol and Section 6. Where specific issues of compliance with this legislation have been raised these are dealt with within each report.

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## **B SPEAKING AT THE PANEL**

The District Council is one of the few Councils in the country who allows verbal representations when decisions on planning applications are being made. The Panel has to balance listening to views with the efficient conduct of the business of the Panel. The following procedures have therefore been agreed. These procedures will be adhered to in respect of the items within this report. Members of the public will also be expected to follow these both in their own interests and that of other users of the service.

1. The Planning Officer will present his report.
2. Objectors and supporters will be given the opportunity to speak. Five minutes will be given to each speaker. If there is more than one speaker upon an issue, the District Council recommends the appointment of a spokesperson and that speakers register their request prior to the Panel meeting.
3. After registered speakers have had their say the Chair of the Panel will ask if there is any other member of the public who wishes to speak. Those who do may be allowed to speak. The Chair of the Panel will exercise discretion in this regard. Where the number of speakers or the repetitive nature of the points that may be raised may impact on the other business of the Panel then the Chair will restrict the number of speakers and progress the matter.
4. The applicant or representative may then speak for a duration of up to five minutes.
5. At the discretion of the Chair, objectors or supporters or applicants may ask officers questions then may be asked questions by Members and Officers
6. The Members of the Panel will then finally debate and determine the application with the assistance of officers if required.

## **C RISK ASSESSMENT**

A risk assessment has been carried out in respect of individual cases. Overall, it is concluded that any risks to the Council, for example relating to an appeal being lost and costs awarded against the Council, are low, provided that decisions are made in accordance with recommendations. Risks will increase when decisions are made contrary to recommendations, and the degree will vary depending on the particular case.

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## D GENERAL APPLICATIONS

03/231

**SEAHAM NORTH (SEATON WITH SLINGLEY) – Proposed Residential Development (Outline) (Resubmission) at Disused Reservoir Site, Stotfold Farm, Seaton for Mr M Bulmer**

### **Planning History**

A previous application for residential development (outline) was reported to the Development Control and Licensing Panel on 4 February 2003, but was withdrawn prior to a decision being made.

Previous approvals in the vicinity have related to a water bottling plant and two residential conversions.

A further residential conversion was approved in February 2003.

Certificates of lawfulness for existing uses were issued in September 2002 for vehicle repairs, storage and caravan storage, in respect of land and buildings near this site.

### **Consultations**

Seaton Parish Council reiterates previous concerns, noting that access is obtained via Hillrise Crescent in Seaton Village. They are concerned that this road is narrow and cannot take any increase in traffic without the prospect of further damage and the possibility of accidents.

Seaham Town Council has expressed concerns on behalf of residents of the Westlea Estate, if there is any prospect that occupiers of the new development would be required to use the access which runs south-eastwards from the site towards their estate. They consider that this would introduce significant additional traffic on an unsuitable road as well as the junction with Stockton Road being hazardous to negotiate. They consider that a better route is via Hillrise Crescent in Seaton. In response to these concerns, there is no indication in the planning application that such a requirement is being considered. On the contrary, the applicants have submitted a separate planning application detailing proposed highway improvements in association with this development, involving access via Seaton Village.

The Environment Agency consider the proposed sewage disposal facilities to be acceptable.

Northumbrian Water had no objections or comments to make.

The Council's Environmental Health Officer advises that a contaminated land risk assessment should be carried out.

The Highway Authority has concerns about certain aspects of the highway improvement works proposed in conjunction with this proposal, under Application Reference 04/1097. Whilst the details of those concerns will be principally dealt with in the context of that application, the Highway Authority objects to this proposal on grounds of highway safety, in the absence of an acceptable pedestrian footway link to Seaton Village.

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The proposals were publicised by means of a press notice, site notices displayed in the vicinity and letters sent to individual occupiers. As a result, one letter has been received indicating no objections, welcomes the development and considers it would enhance the area.

Letters have also been received from four properties expressing concerns as follows:-

- no mention of number of houses
- reservoir walls not included in site
- photographs do not show views from outside site
- not clear where access road would be widened, but still does nothing to overcome concerns about traffic through Seaton Village
- existing traffic estimates do not include the caravan storage or bottled water business
- notes that some existing uses “could be sacrificed”, wonders if this is an acknowledgement of current problems, and queries how this would be secured
- proposal should be considered as part of overall development of area, including three barn conversions and changes of use
- farmsteading likely to be converted to hamlet with business activity alongside
- conversion of agricultural land to woodland is environmentally useful, but probably to provide cover for game shooting to create revenue
- traffic increase on local roads
- risk to pedestrians and horse-riders.
- new residents would be intolerant of farm noise and smells
- would lead to further development
- at odds with creation of rural walk/cycle track
- reservoir has blended into landscape
- query whether condition of reservoir accelerated by actions of landowner
- estimates of traffic generation from farm considered to be exaggerated
- query extent of land where future agricultural use to be restricted
- some buildings not under control of applicant – may be traffic from new businesses
- increased congestion at peak times
- Highway Authority has ignored problems with road alignment and Hillrise Crescent junction
- parking on Hillrise Crescent causes difficulties
- access road unsuitable
- many of the concessions offered by the applicants if permission is granted have already been implemented, including selling off farm machinery, removal of grain dryer and planting of woodland

A survey was carried out by a resident in Seaton and in the Walton Avenue area of Seaham, both areas on routes out of Stotfold Farm and affected by traffic generated. Petition collected, indicating that 100 out of 112 houses in Seaton were opposed to the development. The main objection was traffic, and also possible further developments, loss of countryside and increased danger for walkers or horse-riders. In the case of the Walton Avenue area, 56 out of 62 people were opposed to the proposals, mainly on traffic increase.

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Since the application was submitted, it has become necessary for local planning authorities to take account of potential impact on protected species, including bats. As the reservoir site appears to have the potential for providing appropriate habitat for bats, advice is being sought at the time of preparing this report, and the Panel will be updated accordingly. The implication is that if there is evidence of bats being present, planning permission should not be granted unless appropriate mitigation measures are identified and included.

## **Development Plan Policies**

### *County Durham Structure Plan*

- 2 travel/transport
- 3 development well related to towns
- 4 development in the countryside
- 9 location of new housing development
- 14 justified housing development

### *Easington District Local Plan*

- 1 general principles
- 3 development in the countryside
- 25/26 groundwater and waste water
- 35 amenity
- 36 access
- 67 housing development
- 68, 69 housing development in the countryside

## **Comment**

This application was first submitted in March 2003. It was reported to the Development Control and Licensing Panel on 27 May 2003, but was deferred to allow further consideration of highway matters, at the request of the applicants. They subsequently commissioned a report on highway matters in an effort to resolve those particular areas of concern. That report forms the basis of a separate planning application, Reference 04/1097, which should be considered in conjunction with the housing proposal.

The site is located adjacent to Stotfold Farm, some distance to the south of Seaton Village. It comprises the former reservoir of the waterworks site and is a solid base surrounded by high blockwork walls and grassed embankments. The proposal seeks planning permission for residential development on the base of the existing reservoir site. Access is obtained via the existing single track farm road, which links to Seaton Village via. The unclassified road to the north.

In support of the application the applicants have provided some additional information which they consider makes a case for approval of the development. This is up-dated as necessary to take account of the time elapsed since the original submission. In terms of planning policy, they accept that the application should be determined in accordance with the Development Plan, which in this case comprises the County Durham Structure Plan and the Easington District Local Plan.

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They note that planning officers agree that the site constitutes previously-developed land for the purposes of Government guidance. They feel that other material considerations should be taken into account, which strongly suggest the development is acceptable in principle. These are:

- the need for a beneficial use of the site
- potential reduction in urban fringe problems
- contribution to Easington's range and choice of housing
- support to services in Seaton
- farmstead has ceased to be a working farm, significantly reducing amount of heavy traffic to other farms, and may have to recommence if planning permission refused
- grain drying facility could be dismantled and removed – currently serves other farms as well, thereby further reducing traffic movements
- applicant willing to relinquish a number of existing uses benefiting from planning permissions and certificates of lawful use, specifically calor gas business, caravan storage and commercial vehicle repairs, again reducing traffic movements further
- applicant willing to provide passing places along private access road to site
- land has been entered into Community Forest to enhance area, including encouraging educational visits by schools – planting took place in the period December 2003 – March 2004.
- land could be taken out of agricultural use, reducing smells from certain crops and fertilisers for the surrounding area including residential properties
- reservoir banks would be removed to ensure residential amenity, with excess surrounding soil used to mitigate visual impact on surrounding countryside.

The applicants point out that the site is previously developed land having regard to Planning Policy Guidance Note No. 3, Housing. They refer to the need to locate development on previously developed land and feel that the site could make a contribution to this, taking account of Government guidance. They consider that the land should be recycled into a beneficial use and consider that housing development would achieve this. They feel that it is not currently useful for agricultural purposes, and the high reservoir walls are dangerous as children have been found playing there. They consider that Easington has a shortage of good quality, low density housing. They consider the site would provide an ideal opportunity for this form of development and suggest a maximum of 8 dwellings. They point out that the site is in close proximity to the village of Seaton, within walking distance in their view. They consider that development of housing on the reservoir site would support existing services in the village, including two public houses, a village hall, garden centre and a shop. They consider the site is reasonably well related to public transport, pointing out that a regular bus service travels through Seaton, a village which is approximately 0.8 miles from the reservoir. They also state that the site is within 380 metres of a national cycleway network.

In an update from August 2004, the applicants indicate they would be prepared, if there is a resolution to approve the application, to enter into a Section 106 Agreement to preclude the use of land for purposes of agriculture, which would:

- secure the future of the area as woodland

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- maintain the reduction in agricultural vehicles and machinery
- ensure that crops such as oilseed rape are not planted
- ensure there is no need to fertilise the land

In respect of the highway improvements, the applicants would be willing to dedicate a direct footpath link to the National Cycle Way which links Murton with Seaham. Other works would include additional passing places along the access road and the unclassified road; a 1.8 metre wide footway installed along the access road; access road be put forward for adoption; junction at Seaton Bank be realigned; and a link provided from Seaton Bank to the National Cycle Route. Consideration was given to street lighting, but was decided against due to potential adverse impact on the character of the area.

The applicants conclude that the site is previously developed and suffering from disuse. They consider that a judgement should be made on the basis of the environmental improvement package offered. Their view is that high quality executive housing would be the most suitable and sustainable form of development for the site. They further consider that the proposal is now acceptable in highway terms.

It is acknowledged that the site may fall within the definition of brownfield land, i.e. previously developed land, under the terms of PPG3. However, the proposals must still be considered in the context of development plan policies relating to housing development. This site is clearly located in the countryside and not within any existing settlement boundary. It is some distance from Seaton Village, and is accessed by an unadopted single track road. Local Plan policies generally consider that new development, and specifically housing development, should be located within the existing towns and villages of the district. Any housing development in the countryside ought to be justified on agricultural or similar grounds. Such a justification is not being claimed in this instance. The proposal instead is for general residential development, albeit suggesting executive development. Whilst the proposal could be secluded within the existing reservoir site by retaining existing walls, this would not provide an appropriate standard of amenity for prospective occupiers. On the other hand, by demolishing those walls the development would then be prominent and open to view in this isolated location. It is not considered that redistribution of the surrounding soil material would mitigate this sufficiently. On this basis it is considered that the development would create an unacceptable and prominent development in the open countryside.

In highway terms, the applicants propose a series of works to facilitate an appropriate standard of access to the site. Whilst considering that many of the proposed measures are satisfactory from a highways viewpoint, the Highway Authority considers that the proposal to use the National Cycle Network as the main pedestrian link between the development and Seaton Village remains unacceptable. On this basis, they object to the proposal on grounds of highway safety.

The Government, through PPG3, is committed to maximising the reuse of previously developed land and to minimise the amount of greenfield land being taken for development. Nevertheless, they also consider that housing development should be located appropriately. Specifically they indicate that most additional housing development should be concentrated within urban areas. In addition they seek to promote

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sustainable residential environments, both within and outside existing urban areas, by, amongst other things, ensuring that development is linked to public transport. The proposed development in this case, as indicated by the applicants, is nearly a mile from the nearest village. This is considered to be further than people would be expected to walk to a bus stop and on that basis it is considered that the proposals are likely to encourage the use of private cars.

The applicants have suggested a number of measures aimed at improving the environment around the site and over a wider area, as a means of providing a stronger case for granting planning permission. These are material considerations to be taken into account in terms of whether a departure from policy would be justified. They have indicated that they would be prepared to enter into a legal agreement to preclude the future use of the land for agriculture. However, 'agriculture' does not require planning permission, and it is considered debatable whether such a restriction would be lawful. In any event, taking land out of agricultural use is not necessarily considered to be a benefit to the area, given its countryside setting. The applicants similarly suggest legal agreements to secure the cessation of uses and operations benefiting from planning permission and Certificates of Lawful Use. In theory, some environmental benefits may result. However, planning permissions apply to the land and not to the individual, and it is considered questionable whether such rights can be given up as offered, although a different situation may apply to the Certificates of Lawful Use. Overall, it is considered doubtful whether legal agreements would be appropriate or effective in securing all of these measures on a permanent basis. In any event, it is not considered that the potential environmental benefits would outweigh concerns about the visual impact of the development and the significant departure from policy. In particular, it is considered that the amount of traffic generated by a development of up to eight executive houses would still exceed that resulting from cessation of the specified uses. It is acknowledged that entering some of the land into Community Forest may be a benefit to the area, but this is not, in itself, sufficient to justify a grant of planning permission. Furthermore, this has already been implemented.

In response to the various concerns raised, many of them relate to highway matters. As indicated, the applicants have submitted a detailed report on this, and the Highway Authority considers the submitted proposals to be generally acceptable, other than maintaining an objection to the pedestrian access arrangements. Other concerns relate to uncertainty over the cessation of some uses, and the environmental/amenity impact of the development, and these are dealt with above. Reference is made to increased traffic, and whilst this is considered to be valid, the Highway Authority does not consider this to provide reason for objection. Finally, the possibility of the proposal leading to further development is raised. This is not currently proposed and the application must be considered on its own merits, with any future proposals being considered in their own right. Nevertheless, the development of an adoptable road to serve the site, as proposed, would provide the necessary highway conditions to facilitate further development.

It is acknowledged that this site may be classed as a previously developed site and to constitute a brownfield site for the purposes of Government advice. Nevertheless, it is considered that the proposals would represent an unacceptable form of development in the open



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countryside without an appropriate agricultural or similar justification. The site is considered to be a significant distance from the nearest settlement, such that it does not represent a sustainable location. The development would be prominent in the countryside and in addition would result in highway safety problems as a result of the means of pedestrian access proposed. Taking all relevant matters into account therefore, it is considered that the development is unacceptable, and that there are no overriding reasons to justify the grant of planning permission, notwithstanding the applicant's comments in support of the proposals and the various environmental measures suggested.

**Recommend** Refusal for the following reasons:

1. The proposals would result in an inappropriate and prominent residential development in the open countryside without an appropriate agricultural or similar justification, adversely affecting the character and appearance of the area. As such the proposals would be contrary to Policies 2, 4 and 14 of the County Durham Structure Plan and Policies 1, 3, 35, 67, 68 and 69 of the Easington District Local Plan.
2. The proposals, considered in conjunction with proposed highway works, do not provide for a safe pedestrian access from the development to Seaton Village, contrary to Policies 1 and 36 of the District of Easington Local Plan.

**Decision Time:** 25 months (deferral, negotiations and further submission of highway proposals)

**04/1097**

**SEAHAM NORTH (SEATON WITH SLINGLEY) – Proposed Highway Works including passing places, footpath, junction improvements & cycle link at Access Road to Stotfold Farm, Seaton for Mr M Bulmer**

## **Planning History**

No previous planning history relating to the roads, but this proposal is directly related to a current planning application for residential development at Stotfold Farm, Ref 03/231, also reported as part of this agenda.

## **Consultations**

The Parish Council objects to the proposed highway works. They consider that Hillrise Crescent is unsuitable to carry more traffic, particularly as vehicles are generally parked outside the houses, causing larger vehicles to drive onto footpaths. They consider that residents will be concerned about the anticipated increase in residential traffic and will have reservations about accepting the statement that commercial activities will be removed.

In the course of progressing this application, a number of detailed issues have been raised by the Highway Authority and responses sought and received from the applicant. Whilst considering that some matters such as junction improvements have been resolved satisfactorily, the Highway Authority continues to have some concerns. They accept that street lighting is not required, but consider that the proposal to use the National Cycle Network as the main pedestrian link between the development and Seaton Village remains unacceptable. Although such a

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route may be attractive from a recreational point of view during daylight hours, it would be unsatisfactory during the hours of darkness, particularly regarding personal safety for children and other vulnerable residents. On this basis, a 1.2 metres wide footway is required adjacent to the unclassified road to link with the footway proposed alongside the upgraded farm access track. In the absence of such an acceptable pedestrian footway link being created to Seaton Village, the Highway Authority raises a highway objection to the proposal on grounds of highway safety.

The Landscape Officer considers that details should be provided of the materials to be used in the construction of the highway works, and that proposed hedge planting should be undertaken in accordance with appropriate specifications.

One letter has been received from a local resident. It is pointed out that many of the concessions offered by the applicant if permission is granted have already been implemented, including selling off farm machinery, removal of the grain dryer and planting of woodland for the Great North Forest. It is also pointed out that public access is a condition of the grants for the Great North Forest, but no reference has been made to this increased traffic. Concern is also expressed that this application does not address problems created along the farm road to Walton Avenue (an alternative route to and from the application site) nor traffic being diverted through Haverley House Farm. In addition, the applicant's implication that there will no longer be a need for pedestrians or cyclists to use the unclassified road is not regarded as valid, as the public could not be prevented from continuing to use the existing route. The resident considers that despite the proposed highway improvements, the development of a housing estate is inappropriate to the area.

## **Development Plan Policies**

### *County Durham Structure Plan*

- 2 travel/transport
- 4 development in the countryside

### *District of Easington Local Plan*

- 1 general principles
- 3 development in the countryside
- 35 amenity
- 36 access

## **Comment**

This proposal has been submitted in association with an outline planning application for residential development at the disused reservoir site, Stotfold Farm, Reference 03/231 (also being considered on this agenda). That proposal was previously reported to the Development Control and Licensing Panel on 27 May 2003, but was deferred to allow further consideration of highway matters, at the request of the applicants.

As a result the applicants held discussions with planning and highway officers, and subsequently commissioned a report on highway matters in an effort to resolve those particular areas of concern. The report forms

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the basis of this current application, which proposes various highway works as part of the overall housing development.

The report provides details of existing highway conditions, accident records and existing and proposed vehicle trip generation. The following highway works are proposed to facilitate the development of the reservoir site for housing:

- passing places provided on the existing single track private access road from the public highway to the development, and a footway provided along its length
- junction of the access with the public highway relocated to improve visibility
- passing places provided along the unclassified section of road between the development access and Hillrise Crescent
- construction of a footpath/cycleway link from the development access junction to the National Cycle Network route, to provide an off-road route for pedestrians and cyclists from the proposed development to Seaton, thus avoiding the necessity of walking or cycling on the unclassified road.

The report concludes that the proposed development will result in an insignificant increase in vehicle movements overall but there will be a reduction in movements by large and slow-moving vehicles, to the benefit of the wider community. Other benefits are considered to be the provision of passing places and a pedestrian/cycle link.

The applicants indicate that the proposed highway improvements will only be implemented if the housing development the subject of Application 03/231 is approved. Accordingly, they must be considered in the context of that development. They have been the subject of detailed consideration by the Highway Authority, and a basic concern remains in respect of proposing a link to the National Cycle Network as the main pedestrian/cycle route for connecting the proposed housing development with Seaton Village. The Highway Authority considers that this aspect of the proposals, and a failure to provide for a footway alongside the unclassified road, would create an unsafe situation for pedestrians and cyclists, particularly during the hours of darkness. The applicants have been made aware of this concern, but consider that the submitted proposal is the best solution to providing pedestrian access to Seaton.

With reference to the representations received, the Highway Authority has not expressed any concerns about traffic on Hillrise Crescent. The concerns of the local resident are largely related to the principle of the housing development, and will be considered in the context of that proposal.

Taking all relevant matters into account, including representations received, it is considered that whilst some of the highway works would be acceptable in the context of the housing proposal, concern remains about the safety of the pedestrian/cycle link. The applicants have declined to amend the proposal to incorporate a footway along the unclassified road, and this is considered to be seriously detrimental to highway safety. It is considered that the proposals as submitted would create unsafe conditions for pedestrians and cyclists moving between the development and Seaton via the National Cycle Network route.

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On this basis, the proposals are considered to be unacceptable. Separate consideration of the principle of housing development will be given under Reference 03/231.

**Recommend** Refusal, for the following reason:

The proposals, by reason of providing a pedestrian/cycle link to Seaton via the National Cycle Network route and failing to provide a footway alongside the unclassified road leading to the proposed housing development access, would lead to conditions prejudicial to the safety of pedestrians, particularly during the hours of darkness, contrary to Policies 1 and 36 of the District of Easington Local Plan.

**Decision Time** 18 months (negotiations and consideration of highway issues).

**2005/0928 HUTTON HENRY (CASTLE EDEN) - House at Land adjacent Ivy Cottage, Castle Eden for Mr K Birks**

## **Planning History**

93/604 – Post Office and Shop with associated car parking and living accommodation – Refused.  
02/177 – House – Approved.

## **Consultations**

The application has been advertised by press and site notices and the neighbouring properties have been consulted. Three letters of representation have been received in relation to this application. Objections have been made to the application on the following grounds:

- The impact on residential amenities currently enjoyed by neighbouring occupants.
- The impact on mature trees on the site.
- Highway Safety issues relating to the access to the site, and parking provision for the neighbouring property Ivy Cottage.
- The proposed dwelling is out of character with the area and current street scene, and particularly the adjacent neighbouring property Ivy Cottage.

Easington District Council, Tree Officer comments:

No objections to the proposed scheme subject to the following conditions:

- The trees should be protected by secure fencing especially to preserve the root zones as in accordance with current British Standards 5837:2005 "Trees in relation to Construction". This fencing must be secured by scaffolding posts and kept in situ to protect the root protection area
- There should be no materials building or otherwise located within 10 metres of the trees / fenced off area or mixing of cement within this area.
- There should not be any fires lit on the site where flames can extend within 5 metres of foliage, branches of trunk

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Durham County Council, Conservation Officer, comments:

The site has a history, firstly about the principle of allowing a building on this site and secondly about design. The Inspector for the Local Plan dealt with both issues; he said that a dwelling was acceptable here but that the design should reflect the character of Castle Eden. The design of the proposed dwelling closely reflects the plans approved in 2002. I consider that the application can be approved with conditions:

- Samples of the natural slate and the brick to be approved.
- Details of the bargeboard to be agreed.
- Windows on the front elevation to be timber-sliding sash to be set in reveal as shown on the drawing.
- Rooflights to be of the conservation type and sit within the slope of the roof. Windows to have a vertical emphasis.

Durham County Council, Highways Authority, comments:

- Subject to the relocation of the bus shelter, the construction of 2.1metres wide footway to adoption standard, the creation of a vehicular access and the creation of 2.4m x 120 metres sight visibility splays in both directions, I would not have any highway objections to this planning application.

Castle Eden Parish Council Comments:

- The proposed planning proposal will be an overdevelopment of the site.
- Concern is expressed in relation to access, which would lead onto a 40mph busy road. It is opposite to the Golf Club access route to the Golf Club car park.
- Concern is with the apparent disregard of recommendations made by the Government Inspector specifically to this part of Castle Eden. Ivy Cottage itself has historic connections with the village but also the terrace known as the Factory is recognised by the County Council and listed as an example of a limestone building. A building of this size on this plot and also design does not reflect in any way the recommendations made by the Government Inspector. The Parish Council would therefore ask that a complete review of the application is made before determination.
- Planning on this road B1281 has in the past been refused by Durham County Council Highways section.

Castle Eden Society comments:

- The hazardous entrance to Castle Eden Golf Club car park is situated on the opposite side of the road to the proposed access for the development.
- The proposed dwelling is not in keeping with the relevant development plan policies or the comments made by the Inspector for the Local Plan. The proposal would not meet the requirements of the relevant development plan policies: at two and a half storeys and six bedrooms it is totally out of proportion with the existing bungalow and is certainly not “modest” and is not a

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Bungalow in keeping with the adjacent property Ivy Cottage. It represents a very urban design in a rural conservation site and is sited close to a row of listed cottages on the opposite side of the road. In this particular location the proposed house could not be considered to “preserve or enhance” the character of Castle Eden Conservation Area.

- The development would require the loss of mature trees within the conservation area.

## **Development Plan Policies**

### *County Durham Structure Plan*

- 1 General Principles of Development
- 65 protection of Character of Conservation Areas

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### *District of Easington Local Plan*

- 1 General principles of development
- 10 Trees and Hedgerows
- 22 Preservation and Enhancement of Conservation Areas
- 35 Impact of Development
- 36 Design for Parking
- C1 Requirement that development proposals in Castle Eden preserve or enhance the character of the village
- C5A Allocation of Land for 1no. dwelling.

The proposal is considered to be in keeping with the relevant development plan policies.

## **Comment**

This application was reported at the Development Control and Regulatory Panel on 4<sup>th</sup> April 2006 and deferred to allow Members to make a further site visit.

The application seeks planning permission for the erection of a two-storey six bedroomed dwelling house with detached double garage to the rear on a parcel of land immediately west of Ivy Cottage in Castle Eden. The site is screened by existing mature landscaping when viewed from the west and the south and in part by the existing Ivy Cottage bungalow from the east. To the north lies the Castle Eden and Peterlee Golf Clubhouse and car park. The site lies within the Castle Eden Conservation Area.

This application represents a similar scheme to that approved by the Council in June 2002 (see relevant planning history). Planning permission was granted for a two-storey four bedroomed property with a detached garage to the rear. The current application shares the same footprint as the approved dwelling, and the proposed access to the development is to be as originally approved. The differences between the two proposals relate to the design of the proposed dwelling, and the size of the proposed garage. The current application relates to a two-storey dwelling with a ridge height of 10.0metres, the previous application was for a property with a ridge height of 9.5metres. The current proposal incorporates six bedrooms, as opposed to the four incorporated in the previously approved application; these extra rooms are to be sited in the

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roof space of the property, with rooflight windows proposed to the rear/south. Other differences relate to changes in the design of the proposed dwelling; for example the current application incorporates bay windows at the front of the property whereas these were not included in the previously approved application. The other difference between the approved application and the proposal relates to the size of the proposed garage; the previously approved application gave permission for a single detached garage to the rear, the current application includes the erection of a double detached garage to the rear of proposed property.

With regard to the previous Planning Approval on this site, it is considered that the Council has accepted the principle of a two-storey dwelling in this location. It is therefore considered that the main issues to assess in determining this application are the design of the proposed dwelling, and the impact of the proposal over and above any impact accepted under the previous application on the residents of neighbouring properties.

Planning Policy Guidance Note 15: Planning and the Historic Environment, is of importance in this case. The document essentially advises that the planning system should seek to preserve the character and appearance of conservation areas and that any development proposed for any conservation area should preserve or enhance the character of that particular area. New developments should be of the highest quality and should be sensitively designed and sited. The general thrust of this established national guidance has been followed through the relevant District of Easington Local Plan Policies. Policy 22 establishes a general presumption that all development proposals for conservation areas should preserve or enhance the character of that particular area. Policy C1 specifically states that development proposals for Castle Eden should preserve or enhance the character and appearance of the village and take into account wherever relevant the setting of any listed buildings.

The application site is one of several sites, which have been allocated, in the District of Easington local Plan as being suitable for residential development within Castle Eden. This has been established through policy C5a that allocates the land for one dwelling.

Several objections have been received in relation to this application. The principal objectors being Castle Eden Parish Council and Castle Eden Society, disputing the fact that the application could be seen to be in accordance with the Development Plan Policies and the reasoning behind the Planning Inspectorates decision to allocate the site for one dwelling. These objections were discussed in the report relating to the previously approved application for development of this site. As previously stated the principle of a two-storey dwelling on this site has been set by the previous planning approval, and therefore it is not considered that these objections are relevant in this case.

Objections have also been received from the occupants of Ivy Cottage on the grounds that the proposed dwelling would overpower the adjacent residential property, and affect the privacy of the adjacent resident.

In terms of assessing this proposal officers consider that in design terms, and the impact the proposal would have upon the street scene, it is not necessarily considered a disadvantage that the proposal would screen Ivy Cottage, particularly when viewed from the west. Ivy Cottage is

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of no particular architectural merit and does not contribute to the character of the Castle Eden Conservation Area. Accordingly, the proposals will not restrict views of a prominent complimentary building and indeed it could be argued that they could help to screen a non-conforming building with a more appropriate form of development.

With reference to the impact upon the residential amenities currently enjoyed by Ivy Cottage, it is considered that the current proposals will not lead to any significant additional reduction in daylight entering Ivy Cottage over or above that accepted under the previous application. The increase in ridge height between the proposals of 0.5m is not considered to affect the residential amenities of neighbouring occupants sufficiently to warrant refusal of the application. However, there is concern relating to loss of privacy for the occupants of Ivy Cottage, the current proposal includes the insertion of three windows into the eastern elevation facing Ivy Cottage. The windows are to serve two 1<sup>st</sup> floor bathrooms, and a 2<sup>nd</sup> floor bedroom, the impact of these windows on the adjacent occupiers in terms of loss of privacy can be overcome by the use of obscure glazing. It is proposed that a condition be attached to a grant of planning permission to ensure the use of obscure glazing to protect the privacy of the neighbouring occupants.

Objections have also been received relating to the impact upon the adjacent Listed Building, The Factory, and the impact of the development on the character of Castle Eden Conservation Area. The proposal attempts to follow the established traditional detached family dwelling house typical of Castle Eden properties, and includes such design features as two pane window openings, decorative eave boards, and the provision of finials to ridge. It is envisaged that externally the dwelling will be faced with slate and dark red multi-brick. In relation to the impact of the proposal on the Listed Building, it is not considered that the proposals would be viewed in conjunction with the adjacent Factory buildings sufficient to conclude that they have an impact on the setting of a Listed Building. Durham County Council's Design and Conservation Officer considers that the proposal is in keeping with the character of the Castle Eden Conservation Area, and has recommended conditional approval of the scheme. The conditions suggested relate to the materials, and design features being agreed with the Local Planning Authority prior to construction.

Concerns have also been raised by the occupants of Ivy Cottage relating to the access for the site. The proposed access for the application site is proposed to be as agreed as part of the previously approved application. Durham County Council, Highways Authority have been consulted on the application, and have recommended conditional approval of the scheme. The conditions suggested relate to the re-location of the existing bus shelter situated adjacent to the public highway at the front of the site, in keeping with the required visibility splay to serve the proposed access. The re-location of the bus shelter will be in keeping with the agreement reached under the previously approved application.

The District of Easington, Tree Officer has been consulted on this application. There is a group of mature trees in the southeast corner of the application site, these are not to be affected by the proposed development, however it is considered that they should be protected during the construction work. The Tree Officer has recommended a conditional approval to the scheme with conditions relating to the protection of the existing trees on site; it is proposed that regular site



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visits are carried out during the construction process, if planning permission is granted, to ensure protection of the trees.

## Conclusions

The principle of the development of a 2-storey detached dwelling on this site has been established by the previous planning approval in 2002. The main considerations relating to the current application relate to the proposed changes to the scheme, and how these affect the impact of the property on the character of the Castle Eden Conservation Area and the residential amenities currently enjoyed by neighbouring occupants. In both respects the proposal is considered to be acceptable, it is considered that the proposed dwelling will have no detrimental effects beyond those accepted under the previous grant of planning permission. The proposal is therefore considered to accord with the relevant development plan policies, and to be acceptable subject to the suggested conditions.

**Recommend** Conditional Approval (conditions relating to realignment of bus shelter in accordance with approved plans prior to commencement of development, external materials to be agreed, means of enclosure to be agreed, landscaping scheme to be submitted and approved, existing trees on site to be protected during construction of the development, the use of obscure glazing on windows in the eastern elevation of the property.)

**Decision Time** Over 8 weeks – due to amended plans being requested and publicity requirements.

**2005/0938 WINGATE (HUTTON HENRY) – Proposed Detached House (Outline) at Beaumont Nursery, Trimdon Road, Station Town for Mr and Mrs D Levingon**

## Planning History

04/1011 – Change of use of domestic outbuilding for the keeping and sale of koi carp and ancillary goods (retrospective) – Conditional Approval October 2004.

## Consultations

The application has been advertised by site notices and in the press. No representations have been received.

Environmental Health Officer comments:

- A contaminated land risk assessment should be carried out in relation to the proposal.

Durham County Council, comments:

The following comments are made on behalf of the County Planning Authority in order to achieve the general objectives of the adopted County Durham Structure Plan.

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- Policy 14 of the Structure Plan specifically relates to new housing development in the countryside. In order to protect the countryside from unnecessary development new housing is restricted to that which is required to support the employment needs of agriculture and forestry.
- It would be contrary to Structure Plan Policy to grant planning permission for the development, particularly given that there is already a substantial residential property on site associated with the fairly low-key koi carp business. According to this Council's records the commercial operation was regularised by the approval of retrospective planning consent of a change of use application for the "domestic outbuilding" (planning ref: 5/04/1011/DM). In that application the house was within the application site and the new use was regarded as being incidental to the site's commercial/residential use. It is not accepted that the area of business activity is separate from the existing living accommodation thus forming different "planning units" as suggested in the applicants' supporting statement. Arguments regarding the need to build an additional house in the area to allow 24-hour maintenance of the business are weak.

Durham County Council, Highways Authority, comments:

- No highway objections are raised to the proposed development. Any grant of planning permission will need to include a condition requiring that an amended plan be submitted to and agreed by the Local Planning Authority showing the required visibility splays associated with the proposed access.

The Environment Agency

- Flood risk standing advice applies to this application. The application site falls outside areas identified for flood risk.

## **Development Plan Policies**

### *County Durham Structure Plan*

- 1 General Principles of Development
- 7 Housing Requirements
- 9 Locational Criteria for New Housing
- 14 Housing in the Countryside=

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### *District of Easington Local Plan*

- 1 General principles of development
- 35 Impact of Development
- 36 Access and Means of Travel
- 68 Housing Development in the Countryside
- 69 Rural Workers Dwellings

The proposal is considered to conflict with the relevant development plan policies.

## **Comment**

The proposal is for Outline Planning Permission for the erection of a Detached House. This application deals with the principle of development on this site, and the means of access to the proposed dwelling. The

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siting, design of the dwelling, and landscaping of the site are reserved and would be subject to a subsequent application if planning permission were to be granted.

The application site relates to Beaumont Nurseries, situated to the southwest of Station Town and Wingate. The application relates to a plot of land adjacent to the existing building used to house a koi carp business. Planning permission was granted for the koi carp business in 2004. An existing dwelling known as Beaumont is situated to the east of the application site. The application site is located to the southwest of Wingate/Station Town, and is situated away from the existing settlement limits as identified in the District of Easington Local Plan. The application site is therefore considered to be in the countryside.

The property known as Beaumont Nurseries has been in the ownership of Mr & Mrs A Levington for eighteen years. Mr and Mrs A Levington live adjacent to the Beaumont Nurseries in the house known as Beaumont. Outline planning permission is sought for the erection of a new dwellinghouse at Beaumont Nurseries; Mr and Mrs D Levington, the son and daughter in law of Mr and Mrs A Levington, are making the application. The applicant is aware that this is a proposal for a new dwelling in the countryside but considers it to be within the scope of Annex A Agricultural, Forestry and other Occupational Dwellings of Planning Policy Statement 7 (PPS7) – Sustainable Development in Rural Areas. The circumstances which give rise to the preparation and submission of the application are that Mr and Mrs A Levington are now reaching an age when they must reasonably plan for retirement from business life, additionally Mr A Levington who deals with the day to day running of the business and its practicalities, has a heart condition which will increasingly require a reduction in his active business involvement. Therefore, a business plan is being put into effect for a succession to take place, this being by the son and daughter in law of Mr and Mrs A Levington. The applicant believes that the proposal for a dwelling in such retirement/succession circumstances as described above is one, which has been considered to be acceptable, and which has been tested both on appeal and through the courts. The applicant has stated that the granting of planning permission would enable Mr and Mrs A Levington, to continue living in their own home, whilst implementing the succession intended for their son and daughter in law to take over the business in due course.

Planning Policy Statement 7: Sustainable Development in Rural Areas is the national planning guidance relating to development in the countryside. PPS7 states that Local Planning authorities should strictly control new house building in the countryside, away from established settlements or from areas allocated for housing in development plans. Paragraph 10 of PPS7 makes clear that isolated new houses in the countryside require special justification for planning permission to be granted. One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time workers to live at, or in the immediate vicinity of, their place of work. It will often be as convenient and more sustainable for such workers to live in nearby towns or villages, or suitable existing dwellings, so avoiding new and potentially intrusive development in the countryside. However, there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to, the site of their work. Whether this is essential in any

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particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved.

It is essential that all applications for planning permission for new occupational dwellings in the countryside are scrutinised thoroughly with the aim of detecting attempts to abuse (e.g. through speculative proposals) the concession that the planning system makes for such dwellings. PPS7 states that new permanent dwellings should only be allowed to support existing agricultural activities on well-established agricultural units, providing:

- (i) there is a clearly established *existing* functional need;
- (ii) the need relates to a *full-time* worker, or one who is primarily employed in agriculture and does not relate to a part-time requirement;
- (iii) the unit and the agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;
- (iv) the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned; and
- (v) other planning requirements, e.g. in relation to access, or impact on the countryside, are satisfied.

PPS7 continues by stating that there may also be instances where special justification exists for new isolated dwellings associated with other rural based enterprises. In these cases, the enterprise itself, including any development necessary for the operation of the enterprise, must be acceptable in planning terms and permitted in that rural location, regardless of the consideration of any proposed associated dwelling. Local planning authorities should apply the same stringent levels of assessment to applications for such new occupational dwellings as they apply to applications for agricultural and forestry workers' dwellings

In relation to the requirements of PPS7 relating to the erection of a new permanent dwelling in the countryside, it is important to consider each requirement individually. The question over whether or not there is a functional need for a dwelling on this site, and whether or not it is essential for one or more workers to be readily available at most times needs to be considered. The proposed dwelling will be linked to the existing koi carp business. The business involves the breeding, keeping, and selling of koi carp and associated equipment. Koi carp need to be kept within specific conditions; automatic control systems are in place to control the fish's environment. In terms of whether or not a worker is required on site at all time, it is accepted that there is a need to deal quickly with emergencies that could otherwise cause serious loss of products, for example, by the failure of automatic systems resulting in the loss of fish. The proposal is therefore considered to conform to the functional requirements of PPS7, in that it is accepted that a worker is required on site at all times.

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PPS7 also states in order for a dwelling to be allowed in the countryside, the business in which the occupants are to be employed need to be financially sound and have a clear prospect of remaining so. Company accounts for the last three years have been submitted as supporting information with the application. It is accepted that the business has been established for at least three years, and that it has been profitable for at least one of them; in keeping with the financial requirements of PPS7.

PPS7 also states that planning permission should only be granted when the functional need for a worker on site cannot be fulfilled by another existing dwelling on the unit or any other existing accommodation in the area, which is suitable and available for occupation, by the workers concerned. In relation to this application it has been accepted that there is a functional requirement for a worker to be on site at all times. The business is currently run by the occupants of Beaumont a property situated to the east of the application site. Beaumont was included within the application boundary of the planning permission relating to the establishment of the Koi Carp business on this site, and therefore is considered to be linked to the business. Therefore, it could be argued that the requirement for a worker on site can be met by the existing dwelling, and that there is no need for a new dwelling in relation to the established business. However, in the supporting information submitted with the application the applicant has stated that the new dwelling is to allow a succession to take place; with the business passing from the current owners and occupiers of Beaumont to their son and daughter in law who would take up residence in the proposed dwelling. The applicant has referred to certain appeal and court decisions in relation to the erection of new dwellings in the countryside.

PPS7 advises that it is the needs of an enterprise that is important to the justification of an agricultural dwelling and not the personal preferences or circumstances of any of the individuals concerned. However Planning Policy Statement 1 (PPS1) states that the personal circumstances of an occupier, personal hardship or the difficulties of business which are of value to the welfare of the local community, may be material. Although at appeal personal matters are usually given little weight in relation to farm dwellings, the court case *R v Maidstone Borough Council. ex parte Tait 12/7/2000* showed that if local authorities do take them into account and grant permission, this course of action will not necessarily be found unreasonable. A common situation relating to personal circumstances arises where a farmer decides to retire or semi-retire for reasons due to old age or ill health, but wishes for practical/family reasons to continue to live at his farm. In relation to the situation where the retiring farmer wishes to remain in the original farmhouse it is difficult to argue that it is reasonable to expect him to move away to provide the accommodation for an active essential worker, be it another family member or a manager/worker brought in from outside. Indeed the *Keen v SOS & Aylesbury Vale DC 12/5/1995* appeal case has been interpreted as meaning that the accommodation needs of a holding should not result in a retiring farmer being forced to move. Other appeal decisions have subsequently supported this stance.

In relation to this application, the proposal relates to the erection of a new dwelling to serve an established business. The proposal is considered to accord with the functional and financial requirements of PPS7, however there are questions over whether or not the need for

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accommodation on the site can be fulfilled by the existing dwelling known as Beaumont rather than through the erection of an additional dwelling. The new dwelling is proposed to allow the existing occupants of the existing dwelling to retire from the running of the business. As outlined above recent appeal and court decisions with regard to retiring farmers have been interpreted as meaning that a retiring farmer should not be forced to move to provide accommodation for an essential worker to be brought in from outside. It is possible to draw parallels between the basis of retiring farmers not being expected to move, and Mr and Mrs D Levington not being expected to move from their existing dwelling. Therefore a case can be made for approval of the erection of a new dwelling to serve the functional needs of the established business, even though an existing dwelling on the site would be able to meet the requirements of an essential worker. It is accepted that it would be unreasonable for the retiring occupants of that dwelling to move to provide the needed accommodation.

Durham County Council have objected to the proposal on the grounds that there is already a substantial residential property on site associated with the fairly low-key koi carp business. They consider that arguments regarding the need to build an additional house in the area to allow 24-hour maintenance of the business are weak.

The District of Easington Local Plan Policy No.68 deals with Housing in the Countryside. It states, "other than provided for in policies 60 (re-use of dwellings in the countryside), 69 (rural workers dwellings) and 70 (re-use and adaptation of buildings in the countryside for residential use) housing development in the countryside will not be approved. Although the proposal represents a new build in the countryside, it is accepted that the proposed dwelling is to serve an existing financially sound business and that a functional requirement for a worker to be on site at all times has been met.

## **Conclusion**

The proposal relates to the erection of a new dwelling in the countryside to serve an existing koi carp business. The proposed dwelling is to allow the succession of the business from father to son, without the need for the father to move from his existing home. The proposal is considered to accord with the general principles of PPS7 in terms of a functional requirement for a full time worker to be on site to serve a financially sound business. It could be argued that the existing dwelling could meet this requirement and therefore remove any need for a new dwelling to serve the established business. Due account needs to be taken, however, of recent planning case law as well as Development Plan policies. Recent court rulings have established that it is unreasonable for retiring farmers to be expected to move from their homes to make way for workers that wish to take on agricultural businesses. Although this application does not relate to an agricultural business, it does relate to an established business within the countryside, therefore parallels can be drawn between the court rulings regarding retiring farmers, and the circumstances that have led to the submission of this application. On balance it is accepted that it would be unreasonable for the current occupiers of Beaumont to have to move in order to retire, and that a new dwelling would be acceptable in this location to meet the functional needs of the established financially sound business.

**Recommend** Conditional Approval (conditions relating to reserved matters to be approved; occupancy condition linking

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dwelling to existing business; amended plan showing required visibility splays in relation to the proposed access; contaminated land risk assessment to be carried out.)

## **Reason for Recommendation**

The proposal is considered to be in keeping with polices 1, 35, 36, 68 and 69 of the District of Easington local Plan. The proposed dwelling is to meet a functional need identified to serve an established business.

**Decision Time** Over eight weeks target due to publicity requirements.

**2006/0182**

## **WINGATE – Proposed Garden Room Extension at 33 Ingram Way, Wingate for Mr And Mrs G Collins**

This application is brought before the Panel as one of the applicants is a Council employee.

## **Planning History**

None relevant.

## **Consultations**

The application has been advertised by a site notice and the neighbouring properties have been consulted. No representations have been received.

## **Development Plan Policies**

### *District of Easington Local Plan*

- 1 General principles of development
- 35 Impact of Development
- 73 Extensions and/or alterations to dwellinghouses

The proposal is considered to be in keeping with the relevant development plan policies.

## **Comment**

Planning permission is sought for the erection of a garden room at the rear of the property. The planning application relates to a two storey detached dwelling situated within a modern housing development. The property is east facing onto similar residential properties. The property has a relatively large garden with a detached garage situated to the south of the property.

The neighbouring property to the north of the application site is a single storey dwelling, which projects further east on its plot than the host dwelling. The difference between rear building lines is approximately 4.0 metres.

The proposed garden room is to project 3.35m from the rear of the property, and will be 5.5m in width. The proposed structure will have a

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lean-to pitched roof with a maximum ridge height of 3.5m. The proposed garden room is to be finished in materials to match the existing dwelling.

The proposed garden room is considered to be in keeping with the relevant development plan policies. It is not considered that the extension will have any detrimental effects upon the residential amenities currently enjoyed by the neighbouring occupiers to the north.

**Recommend**            Conditional Approval (condition relating to materials to be used.)

## **Reason for recommendation**

The proposal is considered to be in accordance with local plan policies, particularly policies 1, 35 and 73 of the District of Easington Local Plan, as there is not considered to be a significant adverse impact on adjacent properties.

**Decision Time**        Within 8 weeks target.

## **E                            Background Papers**

The following background papers have been used in the compilation of this report.

Durham County Structure Plan  
District of Easington Local Plan  
Planning Policy Guidance Notes  
Planning Policy Statements  
Regional Spatial Strategy  
DETR Circulars  
Individual application forms, certificates, plans and consultation responses  
Previous Appeal Decisions



**Graeme Reed**  
**Head of Planning and Building Control**