



Area Planning Committee (North)

Date Thursday 20 December 2018

Time 1.00 pm

Venue County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meeting held on 25 October 2018 (Pages 3 - 8)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) DM/18/03060/FPA - Site of former Ouston County Infants School (Plots 14 and 15) Cromarty, Ouston, Chester-le-Street (Pages 9 - 28)
Two bungalows to replace approved bungalows on plots 14, 15 and 16 within housing application DM/17/01683/FPA
 - b) DM/18/02807/FPA - Station House, Lintz Green Lane, Lintzford, Rowlands Gill NE39 1NN (Pages 29 - 52)
Erection of a single storey cafe
 - c) DM/18/02961/FPA - 41 Carrowmore Road, Chester-le-Street, DH2 3DY (Pages 53 - 64)
Change of use of public open space to domestic garden
6. Appeal Update (Pages 65 - 68)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
12 December 2018

To: **The Members of the Area Planning Committee (North)**

Councillor I Jewell (Chairman)
Councillor S Wilson (Vice-Chairman)

Councillors A Bainbridge, D Bell, L Boyd, D Boyes, G Darkes,
A Hopgood, C Martin, J Robinson, A Shield, J Shuttleworth,
T Tucker, M Wilson and S Zair

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DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (NORTH)

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber - County Hall, Durham on **Thursday 25 October 2018 at 1.00 pm**

Present:

Councillor I Jewell (Chairman)

Members of the Committee:

Councillors A Bainbridge, D Bell, G Darkes, A Hopgood, C Martin, O Milburn, A Shield, J Shuttleworth and S Zair

Apologies:

Apologies for absence were received from Councillors L Boyd, D Boyes, M McKeon, J Robinson, L Taylor and S Wilson

Also Present:

Councillors D Hicks, O Temple and A Watson

1 Apologies for Absence

Apologies for absence were received from Councillors D Boyes, J Robinson and S Wilson.

2 Substitute Members

There were no substitutes.

3 Minutes

The minutes of the meeting held on 27 September 2018 were confirmed as a correct record and signed by the Chairman.

4 Declarations of Interest

There were no declarations of interest.

5 Applications to be determined by the Area Planning Committee (North Durham)

a DM/17/03908/FPA - Land to the West of Hall Cottage, Hall Road, The Grove

The Committee considered a report of the Senior Planning Officer regarding an application for the development of 29 dwellings including means of access, associated car parking and landscaping (for copy see file of Minutes).

The Senior Planning Officer gave a detailed presentation on the application, which included photographs of the site and plans of the proposed layout and those members who had visited the site on the previous day so were familiar with the location and proposals.

Councillor D Hicks, Local Member, addressed the committee to outline concerns regarding the application.

It was noted that The Grove area had over recent years seen a number of larger brownfield and playing sites lost to housing development. Many concerns and objections had been raised regarding the application and despite the applicant trying to do their best to mitigate those concerns, issues remained, mainly relating to loss of countryside and the additional traffic that would be forced onto the roundabout at the top of Mutton Clog bank.

Despite all of the concerns however, he did believe that the development would be well executed by the developer and would lead to improvements at the nearby ponds. In addition, more pupils would attend the local school, so it would benefit them also.

Mrs R Armstrong, local resident, addressed the committee to speak in objection to the application. She advised that committee that the 'white wickets' site was at the heart of The Grove and was of significant landscape value to residents. She noted that because of its beauty, it had been featured on national tv and had featured within regional newspapers.

A dedicated facebook page, followed by up to 300 people regularly shared photographs and memories of the local amenity and was also featured as a guided walk and used daily by walkers.

Mr S Garden, local resident, addressed the committee to speak in objection to the application. Mr Garden acknowledged the work of the Planning Officer and thanked them for their work in bringing forward this application today with a recommendation of refusal.

He noted, that whilst Amethyst Homes had undertaken excellent work to redevelop the brownfield site at Genesis Way and other brownfield sites left over from the old steel works, this site was not brownfield and mother nature had reclaimed it and made it into a beautiful spot within the local area.

Ms K Reed, Planning Agent for Project Genesis addressed the committee to speak in support of the application. She advised that the Trust had a good reputation for redeveloping other areas in The Grove area such as Hallgarth and Fell View. The application site was included within the Project Genesis masterplan developed in 2012 and would provide much needed revenue for environmental improvements and industrial improvements in the area

She went on to highlight the following points in relation to the Planning Officers statement:

- Mitigation of concerns met

- Landscape visual assessment undertaken had not been fully considered by the Council
- Housing Position Statement had not been fully considered by the Council
- Inadequate 5 year housing supply.

Ms Reed, further went on to refer to a recent appeal at Esh Winning which had been upheld by the Planning Inspector which had significant implications to the consideration of the current application.

Councillor Shield added that whilst he acknowledged the laudable work of the developer in attempting to mitigate concerns of residents and that the site was brownfield since reclaimed by mother nature in to somewhat of a beauty spot he did feel that the application site was outside of the village curtilage and the development of the site would cause traffic issues.

Whilst **moving** refusal of the application, he did however note the application may had been deemed acceptable if it had been in a more amenable position.

Councillor Darkes **Seconded** the proposal.

Following a vote being taken it was

Resolved:

That the application be refused for the reasons as detailed in the report.

b DM/18/02339/FPA - Site of Former Belle Vue Swimming Centre, Ashdale Road, Consett

The Committee considered a report of the Senior Planning Officer regarding a proposed residential development of 24 bungalows with associated access and landscaping (for copy see file of Minutes).

The Senior Planning Officer gave a detailed presentation on the application, which included photographs of the site and plans of the proposed layout and members had visited the site on the previous day so were familiar with the location and proposals.

Councillor Temple, Local Member commented that whilst he considered the proposals to constitute a good development by a first class local provider he did have some reservations mainly relating to the withdrawal of a car park which currently accommodated up to 80 cars during school drop off and pick up times. The loss of this informal car park would displace cars elsewhere and ultimately would be felt by the inhabitants of the cul-de-sac.

The second issue related to the positioning of the footpath and the issues that this could bring having heavy footfall, mainly secondary school children, walking through the estate where elderly residents would be living. He therefore queried whether the layout could be reviewed so that the footpath was diverted along the outside of the estate rather than through the middle.

Furthermore, Councillor Temple queried whether it would be possible to consider widening the footpath so that elderly residents who use mobility scooters could easily pass side by side. In addition, he asked whether a condition could be agreed which stipulated that work on site should not commence before 8 am due to the proximity to Ferndale Court.

The Senior Planning Officer advised that the application was subject to grant funding and deferral of the application could potentially prevent the scheme from progressing. In addition, he noted that condition 10 stipulated that work on site could not commence before 8am.

With regard to the issues raised relating to the footpath, the Principal DM Engineer advised that there was potential for this however rerouting the footpath would create difficulties.

Councillor A Watson, Local Member, addressed the committee and advised that whilst he welcomed development, the removal of the car park would cause major issues on what was an already extremely busy highway at school pick up and drop off times.

He added that despite the grant funding potentially being in jeopardy there were still issues that remained unresolved and could if ignored lead to a fatality.

Mr S Donoghue, Architect for Karbon Homes, addressed the committee to speak in support of the application. He noted that he did foresee any issues in widening the footpath, however the ability to maintain access during development was unknown until contractors had been appointed.

Regarding the layout of the site it was noted that this had been assessed in great detail in consultation with the Senior Planning Officer and amendments to such would likely have an impact upon the number of dwellings that could be provided.

Councillor Shield in referencing paragraph 64 of the report asked for some clarification regarding the traffic survey. The Senior Planning Officer advised that the council had been criticised for the timing of the traffic survey undertaken, however this had been undertaken by the developer, not Durham County Council.

Councillor Shield further added that as a local to the area he was also aware of the congestion issues on Sherburn Terrace and Medomsley Road however acknowledged that the two proposed unconnected access roads was more acceptable.

He went on to note that on planning balance there was an identified need for bungalows in the Consett area and with the suggestion of the widened footpath and 8 a.m. starting times he was minded to **Move** approval of the application, despite the concerns which he shared relating to pedestrians, students and loss of the informal car park.

As a point of clarification, the Solicitor advised that members could not grant permission then requires changes to the granted permission by way of condition. Councillor Shield further queried whether the developer could be asked to work with officers and local members to address and mitigate the concerns.

Councillor Hopgood further queried whether there was any legal way of prohibiting non-resident traffic within the site so that parents picking children up from school did not park within the estate, noting that sixth formers also had cars and would also be displaced from parking at the former swimming baths. The Principal DM Engineer advised that resident parking permits would only be introduced should an issue arise in the future and an assessment be undertaken.

Councillor Jewell reminded the committee that as earlier explained as the car park was private land this could be fenced off at any time displacing cars. The Senior Planning Officer advised that this issue of illegal parking was not an issue for the planning committee to remedy.

Councillor Milburn **Seconded** the proposal.

Councillor Martin commented that he found it disappointing that Karbon Homes were not in attendance and in acknowledging the concerns raised, agreed that the application be deferred.

Following a vote being taken it was

Resolved:

That the application be approved subject to the conditions as listed within the report.

c DM/18/02098/FPA - 29 Front Street, Chester-le-Street

The Committee considered a report of the Planning Officer regarding the change of use of first floor from retail use to 14 apartments, installation of external door, additional first floor windows and rooflights (for copy see file of Minutes).

The Planning Officer provided a detailed presentation on the application, which included photographs of the site and plans of the proposed layout. He went on to advise that should members be minded to approve the application condition 3 as outlined in the report could be omitted as acceptable details had now been received. In addition, condition 2 could be amended as amended plans had been received.

Councillor Martin commented that a similar development had been undertaken at the former old Lloyds Bank in Chester-le-Street which had proved to be successful. As a result, initial car parking concerns he had no longer existed and he felt that encouraging people to live in the town centre would be positive for businesses.

He therefore **Moved** that the application be approved subject to the amendment of condition 2 and omission of condition 3.

Councillor Shield, in referencing paragraph 3 of the report asked whether it was known what the distance from the rear entrance to the proposed bin storage was. The Planning Officer advised that residents would take access to the bin storage area from a secondary access at the rear of the building at a distance of approximately 50 metres, and bin crews would access bins on collection day via the rear of Morrisons Car Park.

Councillor Shield further asked what measures were in place to prevent the accommodation being used for supported living or as a hostel. The Planning Officer advised that this would require a further change of use and therefore there was no requirement for this to be included within the list of conditions.

Councillor Shield **Seconded** the proposal.

Councillor Bainbridge commented that the building hadn't been in use for some years and he welcomed the investment in the area which along with the work to be undertaken to Congburn would bring much needed vitality to the town centre.

Following a vote being taken it was

Resolved:

That the application be approved subject to the developer entering into a s.106 legal agreement to provide the following, and the conditions as listed in the committee report.

A section 106 Legal agreement to secure, proportionate to the direct impacts of the development:

- monies to make provision for off-site open space shortfall as assessed through the Council's OSNA model (£24,506)
- monies to make provision for public art (£7,800)

6 Appeal Update

The Committee considered a report of the Principal Planning Officer which provided details of a recent appeal decision in relation to application DM/17/03494/OUT for the erection of two semi-detached houses.

The Principal Planning Officer advised that the appeal had been dismissed, by the Planning Inspector.

Signed
Chairman of the meeting held on 20 December 2018

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/03060/FPA
FULL APPLICATION DESCRIPTION:	Two bungalows to replace approved bungalows on plots 14, 15 and 16 within housing application DM/17/01683/FPA
NAME OF APPLICANT:	Karbon Homes Ltd.
ADDRESS:	Site of former Ouston County Infants School (Plots 14 and 15) Cromarty, Ouston, Chester-le-Street
ELECTORAL DIVISION:	Pelton
CASE OFFICER	Fiona Clarke Principal Planning Officer Telephone: 03000 264868 fiona.clarke@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms part of a larger site which was formerly occupied by Ouston Infants School, Cromarty, Ouston where planning permission was granted in September 2017 for a development of 16 bungalows (DM/17/01683/FPA). The site infrastructure, including roads, have been constructed within the larger site and work is well underway on many of the properties. The foundations have been installed on the plots that are the subject of this application in accordance with the previous application however, work on these specific plots has stopped. Due to a change in levels between the site and the adjacent properties in Cromarty, the application site is set at a higher level than the adjoining houses.

The Proposal

2. The application has been submitted following the receipt of concerns from residents at the south eastern corner of the site regarding the works taking place in relation to the previously approved scheme described above. Residents were particularly concerned about the height at which the properties were being erected, surface water run off/flooding and the structural stability of the site. Whilst investigations showed that the development is taking place in accordance with the approved plans, planning officers had concerns about the relationship between the dwellings under construction and the existing dwellings, in particular the proximity of the windows of principle rooms to those of the adjacent two storey dwellings. The ramifications of the changes in levels between the application site and the surrounding dwellings had not been fully accounted for in the determination of the application which is partly attributable to the fact that the site levels were altered when the former school was demolished. Detailed discussions with both Karbon Homes and the development contractor to

improve the scheme has resulted in the submission of the application currently under consideration.

3. The current application relates only to the area of the larger site where planning permission was granted for three bungalows and is not a resubmission of the entire original application therefore the application only relates to these plots. In response to the concerns expressed above by residents the applicants have made the following changes –
 - The three bungalows on plots 14, 15 and 16 will be replaced with two bungalows which will be known as plots 14 and 15.
 - The approved bungalow that was in the centre of the terrace will be removed.
 - The orientation of the dwellings has changed through the repositioning of windows to habitable rooms.
 - Enhanced boundary fencing/screening have been provided.
 - Details of retaining structures have been submitted.
 - An explanation has been provided regarding drainage and site stability.

Notwithstanding the above, the plans submitted with this application show that the proposed properties will be erected at the same level as previously proposed. The applicant has advised that it is not possible to reduce the levels due to the requirements to provide level access in accordance with the Building Regulations and Disability Discrimination Act (DDA).

4. As a response to the representations received during the public consultation exercise on this application further revised plans have been submitted. These amend the levels of the garden area to plot 14 and provide enhanced screening between this dwelling and the existing properties in Cromarty. A 1.8m high hit and miss timber fence will be provided between the upper and lower garden areas which will screen the garden area of plot 14. Regarding plot 15 a path will be constructed around the side elevation of the property (facing towards Cromarty) screened by a 1.2m high trellis. The garden area will be stepped down by approximately 0.8m and the garden will slope down towards 92 Cromarty from which it will be separated by a 1.8m high fence. In addition, planting will take place in strategic locations to interrupt intervening views.
5. This application is reported to Committee at the request of Councillor Batey to enable the Members of the Committee to consider the impact the development has on residential amenity as per the guidelines laid out in Policy HP9 of the Chester-Le-Street Local Plan.

PLANNING HISTORY

6. Prior Notification was given for the demolition of the former Ouston County Infants School, Cromarty, Ouston on 25.11.15 (DM/15/03330/PND).
7. Planning Permission was granted on 26.09.17 for the construction of 16 new build bungalows and associated footways and landscaping (DM/17/01683/FPA).

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
10. In accordance with paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
11. The following elements of the NPPF are considered relevant to this proposal;
12. *NPPF Part 2 - Achieving sustainable development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 4 - Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
14. *NPPF Part 5 - Delivering a sufficient supply of homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
15. *NPPF Part 9 - Promoting sustainable transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

16. *NPPF Part 12 - Achieving well-designed places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

NATIONAL PLANNING PRACTICE GUIDANCE:

18. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in several topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
19. *Design - The importance of good design.* Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

LOCAL PLAN POLICY:

20. The following saved policies in the Chester-le-Street Local Plan 2003 are relevant to the consideration of this application.
21. *Policy HP6 - Residential within settlement boundaries* – Proposals for residential development will be permitted within the defined settlement boundaries of a number of listed settlements providing it is classed as previously developed land and meets the general criteria of Policy HP9.
22. *Policy HP9 - Residential Design Criteria (General)* - requires new development to; relate well to the surrounding area in character, setting, density and effect on amenity of adjacent property, to provide an attractive, efficient and safe residential environment, to provide adequate privacy and amenity, safe road access and retain existing landscape features.
23. *Policy T15 - Access and Safety provisions in design* - Development should have safe access to classified road, should not create high levels of traffic exceeding the capacity of the local road network, and have adequate links to public transport, with consideration for cyclists and service vehicles and emergency vehicles.
24. *Policy T17 - General Policy* - All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking

RELEVANT EMERGING POLICY:

25. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. *Highways* – note that the proposal would result in the removal a two-space approved visitor parking layby which would result in parking problems for future residents. If an adoption standard visitor parking space layby for a single vehicle was provided to the westside of plot 15 entering the site, no highways objection would be raised.

INTERNAL CONSULTEE RESPONSES:

26. *Drainage and Coastal Protection Officer* – advised that the proposal will have very little effect about the management of surface water for the development and therefore has no comments to make.

PUBLIC RESPONSES:

27. Ten letters of consultation were sent out to immediate neighbours surrounding the application site. This has resulted in eleven letters of representation being received from the ten immediate neighbours, with the concerns summarised as follows:
- The new plans do not address concerns but raise new ones.
 - Overlooking/loss of privacy to bedrooms (including children's), bathrooms and gardens.
 - Loss of light due to the height of the bungalows.
 - Overbearing impact due to height.
 - The distance between the bungalows and the existing houses is unreasonable.
 - Bungalows at same height as adjacent two storey houses.
 - There was a stipulation when the land was sold that only bungalows could be built and that these would not encroach on existing dwellings or affect privacy.
 - Originally, the site was level with the base of our fence.
 - At the time of the original application it was not clear that the land would be built up and the relationship between the new bungalows and the existing houses was not clear.
 - Ground levels have increased massively – the extent of this was not shown on the original plans otherwise objections would have been raised.
 - The height of the bungalows exceeds expectations given by original application and residents did not have any idea of the height relevant to their homes at the time of the original application.

- The development does not fit in with its surroundings due to the levels changes.
- Concerns about surface water drainage and water running into gardens and properties.
- Impact of surface water drainage on fencing and log retaining structures (will cause rotting).
- The drainage installed is different to that agreed with the original application (water attenuation tanks have not been installed) – is this fit for purpose?
- Drainage issues have worsened since the development began. Who will be responsible for damage to my property in the event of flooding/landslides?
- Stability of the foundations and concerns about subsidence given that the bungalows have been constructed on made up ground.
- Have the foundations been checked by the Building Inspector?
- The timber retaining wall will not be adequate. In time it will deteriorate and rot causing subsidence.
- No retaining walls are proposed to the rear of my property to support the land which has been raised by approximately 3 metres plus the bungalow.
- Additional weight could cause slippage and landslide into my property.
- Doubts over the capability of fences/log retaining walls to hold back the additional weight of the land.
- Lack of respect for residents.
- Difficulty in visualising plans prior to work commencing.
- Plans to extend our property may be declined because of this development.
- Request an independent assessment of all plans and information and no further work should be undertaken until this has been done.
- Planning Department must be held accountable for allowing work to get to this stage -stress and upset for residents. Approval of the application shows disregard for residents and an incompetency of the Planning Department in assessing the height in relation to existing dwellings.
- Loss of confidence in Karbon Homes.

28. In addition, four representations have been received from a resident that does not live adjacent to the current application site but next to the originally approved development. The comments are as follows –

- Concerns in the way that the perimeter fence has been shored up. It is expected to hold back a lot of weight and the wooden posts that have been used will rot within 10 -15 years. The objector would like assurances that the Council will adequately repair this when this happens and that he will bear no responsibility.
- Since work on the site commenced my back garden has flooded regularly.
- At the pre-application meeting we were told that large water storage tanks were to be installed to prevent any excess water flowing into gardens, however these have not been installed – this horrifies me.
- Concerned about the height of the bungalows which have a high-pitched roof and will look into my children's bedrooms.
- Loss of privacy and light.
- It looks like the bungalows are closer to our properties than shown on the plans.
- No consideration was given to the fact that the existing dwellings are stepped down on a falling gradient on each side of the site.
- At the time of the original application it was not clear that the land would be built up and the relationship between the new bungalows and the existing houses was not clear. Insufficient information was provided to allow a full assessment to be made and the application was flawed.

- The developer made it clear to the County council that the land was to be re-graded and re-profiled but either through misrepresentation or misunderstanding this was never passed on or discussed.
- Lack of empathy and respect to residents living at the bottom of the hill who look onto a mound of earth. Common sense would have dictated that this would never be acceptable.
- It was expected by everyone that the bungalows would follow the slope of the land and it was not expected that the land would be built up.
- Concerns regarding rubbish being blown off site and Health and Safety Regulations not being adhered to.
- Request that an amended application is drawn up to address the original shortfalls in order for homeowners to reappraise and if necessary react to the proposals therein.

29. In response to the amended plans six further responses have been received on the following grounds –

- The amended plans still do not address original complaints and in particular the issue of the height. The height of the heras fencing around the site is 1.8m high yet you can clearly see from the photos I submitted that the builds are higher than this fencing therefore have not been built to the plan (this was 1.2m – this is without addressing the issue that DCC increased the height of the land prior to sale).
- No land levels were taken for the site prior to the demolition of the school. The land was regraded and soil imported to leave a level surface where originally the land had sloped in keeping with surrounding properties. The higher levels were taken as the basis of the new site and not picked up by the Assets and Planning Department. This has now been realised as a major mistake and should have been taken into account at the design stage.
- I do not understand how plots that are over 1m higher than the plans submitted can even be considered for approval even if you exclude the obvious mistakes that DCC have made when levelling the land (if you include that you have increased the levels by over 3m).
- The main issue is the height of the properties and always will be. When the school was demolished DCC decided to bring in top soil and level the land. This raised the levels on the site but probably made it look good to any potential buyer. This has been made a bigger issue by the fact that planning permission was granted and allowed to build up the land to an unacceptable level which should not have been allowed to happen. Had planning done their job correctly this would have been noticed but instead you are now making all the residents suffer because of the failings of your staff. Could someone explain why this was allowed to happen?
- The bungalow on plot 14 is now higher than my two storey house below it. The windows are higher than that of my daughters bedroom, family bathroom and ensuite creating major privacy issues.
- Overlooking of garden/patio and downstairs windows due to land being so high.
- Concerns at lack of retaining features now that work has begun – cannot understand why a retaining wall would be built after the additional weight of the building has been added.
- The fact that the wooden retaining wall has been revised and replaced with a masonry wall addresses the concerns that this land needs retaining and supporting to protect all subsequent land and property below.
- The plans refer to a 'hit and miss' fence – why isn't this explained in layman's terms? This shows a lack of respect.
- The idea of trees and fencing to resolve issues is an insult to residents. The trees and fence would compound the issue as nobody would be responsible for the upkeep and it would mean loss of light.

- 6 m high trees and a 1.8m fence between my property and the site is a cheap alternative to hide overall problem. Trees will be the responsibility of new owners and these could be removed in future leaving little or no screening for privacy. It would be my responsibility to monitor this but surely this is not something that I should have to deal with. These measures are being put in to make the development acceptable therefore their removal would make it unacceptable.
- The proposal to plant trees is a joke considering three trees were cut down behind our fence before work was carried out. We were told that this had been done as there would be no-one to take ownership of the trees. Again, we feel that this is an insult to resolve the issue.
- Quality of life would be affected due to being directly overlooked.
- Not enough distance from some of the houses to the bungalows to allow privacy especially into bedrooms regardless of where the windows are placed within the building.
- Concerns about the outcome of potential planning applications for extensions to own home.
- Drainage/flooding issues have still not been addressed.
- Drainage is a major concern. Past problems with flooding will be worse now the land has been raised and is sloping towards my property. In recent years we have spent a great deal of time and money on draining our garden due to surface water causing extensive damage. Since building work has started the problems are worse and it is assumed that the site levels are causing this.
- We feel that we have been badly let down by DCC and our County Councillors do not appear to have been taken seriously in voicing residents concerns. If they cannot get anywhere what chance do residents have? It feels like DCC just don't care. The land has been sold and they are not bothered because they are not living there, if they were I can assure you that planning permission as it stands would not have been granted.
- Causing significant levels of stress to residents.
- Concerns regarding health and safety issues.
- Concerns that this development would prevent future extensions being undertaken to existing properties.
- Devaluation of property prices – residents should be compensated if this is the case.
- When is anybody going to listen to the residents and resolve the issue by lowering the land level to what it should have been, then there would be no issues.
- Would you like to live in a property with all these on-going issues that directly affect your health and mental wellbeing which has been forced upon you by the fundamental errors of DCC.
- Residents feel that they have not been taken seriously or listened to.

A letter has been received from Kevan Jones (MP) stating that he has received further representations from residents who remain concerned about the way that Durham County Council have dealt with this issue. He comments that the application does not address the concerns that have been consistently raised by residents since July – which is that the level of the land was changed after the school was demolished. The land is now substantially different from the surrounding streets and he advises that for this reason he is writing to object to this application. The site is now substantially different from the surrounding streets and he advises that he objects to the application.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P7ACJGGDKOB00>

APPLICANTS STATEMENT

30. This application was submitted following receipt of complaints from local residents during the construction stages on site of the previous fully approved application DM/17/01683/FPA. Investigations by the planning department revealed that despite the development having been built in accordance with the approved plans planning officers now had new concerns about the relationship between existing and proposed dwellings.
31. Whilst privacy distances had, on the whole been met, the ramifications of the change in levels upon privacy had not been fully accounted for. As a result, this amended application was agreed upon and submitted to resolve the officer and resident concerns.
32. This application replaces plots 14, 15 and 16 of the previous application with newly positioned and redesigned bungalows to new plots 14 and 15 thus reducing the scheme from 16 bungalows to 15 bungalows. The new bungalows for these plots are redesigned to have no rear facing windows towards the closest dwellings on Cromarty No's 89 to 92. The separation distances to these plot were also increased to in excess of 16m when the spatial requirements of the LA are 12m (blank elevation to habitable windows). For the avoidance of doubt the new bungalows will have NO windows facings 89 to 92 Cromarty except for a frosted bathroom window and the spatial standards are exceeded.
33. Separation distances to No's 86 & 87 Cromarty already exceed 21m and this remains (elevation to elevation).
34. Separation distances to Houses No's 80 to 85 Cromarty are also beyond the 21m requirement and these properties are not affected by the resubmission as they face properties of the original approval unchanged in this new application. Thus, new objections raised by these properties and others are to the previous approved scheme. Only properties from 85 to 92 Cromarty are affected by the new application.
35. In addition to the redesigned bungalows additional screening was included in the application to aid privacy and external amenity with fixed timber screens and boundary enclosures proposed and detailed on the drawings, these screens have also been gradually increased and refined at the request of the planning officers. Also, recently 6m high semi-mature tree planting band has been proposed to act as a further screen between the window lines.
36. We note for clarity and for the avoidance of doubt the required separation distances set by DCC and generally used nationally for privacy are: Habitable room to habitable room = 21 meters and Gable to Habitable room = 12 meters (blank gable or windows otherwise not to habitable rooms).
37. These distances set the requirement and standard for determining overlooking and privacy and not the subjective interpretation or perception of an objector. The objectors may state they are being overlooked but by the definition of the set standards they are not and the application is fully compliant with these separation distances.
38. The objectors' perception of lack of privacy and overlooking is purely that, a perception, and not an issue that could be stated as a fact. There must be a hard figure for compliance otherwise if it were left to only perceptions no new housing would ever be built.

39. Further current objections focus around level changes, drainage, foundation levels (buildings slipping), timber retaining structures, and overlooking to bedrooms.
40. Floor Levels of the previous approval were (plot 14 - 66.260) (plot 15 - 66.560) (plot 16 – 66.860). New levels are (plot 14 - 66.260) (plot 15 - 66.860). Much has been made about the developer raising the levels of the site excessively and unsafely. These levels are dictated by the levels of the access road (tied to existing road) and the falls dictated by highway design requirements. Then the need for level disabled access to the dwellings further controls the final finished floor levels.
41. We acknowledge that this does raise the rear of some the dwellings above existing levels but this is unavoidable when you are working to a sloping site. Other properties in the scheme are deeply cut into the site and a balance must be struck between the cut and fill exercise needed to plateau the site. We also note the site was already significantly raised in this corner and the existing topographical survey demonstrates this. Plot 14 sits over existing contours of 65.5 at the front and 65.00 at the rear therefore a 1.26m raise over existing levels at the worst point and not the 3m changed expressed by the objectors.
42. We note that the use of the proposed unilog retaining system was proposed to level and plateau the garden and amenity area to plot 14 and in no way secures the building. Foundations of the new buildings extend deeply into existing good ground and the bungalows are bounded by a masonry retaining walls, however to allay fears we propose this unilog system will be replaced with a masonry system further controlled under planning conditions. Concerns of the building slipping down the hill are simply unfounded and lack understanding of the technical facts and checks and balances in place.
43. Concerns of foundation and drainage design are further addressed in a statement submitted during the application and we note that there are no consultee objections to the drainage proposals.
44. It should also be noted that the objections are raised at a time when the construction work is still ongoing and in flux and a large amount of mounded earth is still to be removed from site and could be leading to misinterpretations of the finished levels.
45. Thus in conclusion far from ignoring the residents' concerns the applicant with Karbon Homes and DCC have sought this compromise in response and to assist the resident concerns. We note the original application attracted no objections and that a number of the current objectors are unaffected by the new amended application.

PLANNING CONSIDERATIONS AND ASSESSMENT

Background

46. As outlined in paragraph 2 of this report the application has been submitted due to concerns from residents following implementation of the previously approved development on the former school site. Particular concerns related to the height at which the bungalows were being erected (that is at a similar level as the first floor of the adjacent two storey properties). Residents complained that this resulted in direct overlooking and a loss of privacy which adversely affected their residential amenity. Following the receipt of several complaints from residents discussions took place between Officers, Karbon Homes and the development contractor to address the areas of concern. This has resulted in the submission of the current application which

as previously stated relates only relates to part of the site where three bungalows were to be erected..

47. Members will note that residents remain concerned about the impact of the revised plans on their residential amenity, in particular they are concerned about the separation distances between their properties and the proposed bungalows and the potential overlooking of their properties including bedroom, bathroom windows and gardens. They are also concerned about the stability of the site and flooding/surface water issues. Ideally they would like to see the site levels reduced.
48. The demolition of the school took place between February and May 2016. From photographic evidence it appears that levelling works took place as part of the demolition process however Officers do not have details of the previous levels when the site was occupied by the school. However, it is apparent that the site would always have overlooked the adjacent properties to some extent and that the adjacent properties were set at a lower level than the neighbouring school site, with the adjacent properties having terraced gardens to take into account the change in levels.
49. The planning application for the redevelopment of the site for 16 bungalows included a topographical survey which was prepared following the demolition of the school buildings. An Engineering layout was also submitted showing the existing and proposed levels. Cross sections were also provided showing sections through four parts of the site to demonstrate the relationship of the proposed properties with the existing. This information was available to view on the Council's website. No information was submitted showing the levels prior to the demolition of the school.
50. Thirty-nine properties surrounding the application site were consulted regarding the original application. No objections to the application were received. This indicated to Officers that residents did not have any concerns with regard to the proposal.
51. The details submitted with the original application indicated that the properties would be built at a higher level than the site following its levelling after the demolition of the school. The approved changes in levels were as follows –
 - Plot 14 – 1.1m increase
 - Plot 15 – 0.85m increase
 - Plot 16 – 0.86m increase
52. On receipt of residents' concerns regarding the height of the properties the site levels were checked and found to accord with the approved plans submitted by the applicant in support of their application.
53. During recent discussions neighbouring residents have indicated that they did not foresee any issues of overlooking occurring due to the application proposing bungalows. However, in making this assessment they were not aware, or did not take into account, that the site levels had changed following the demolition of the school or that further changes to the levels on the site would take place as part of the development. These changes were shown on the documentation submitted with the original application. The site sections showed the relationship between the existing and proposed properties and illustrated how the existing properties are cut into the hillside. These were available for residents to view as part of the planning application for the redevelopment of the site, however residents have stated that they were unable to interpret the submitted plans. Whilst this is understandable, it is unfortunate that the affected residents did not contact Planners at the consultation stage as Officers would have been able to explain the proposed changes in levels to them. However, in reality the proposed bungalows were always going to be set at a higher

level than the adjacent properties given that the adjacent houses are set down at a lower level than the site and are stepped down from the fence line.

54. On receipt of the current application Officers, Councillors Batey and Wood met with residents. Following which a further meeting was held with the applicant and Councillors to look at how residents' concerns could be addressed. At this meeting the applicant advised that they would contact residents individually to discuss their concerns however, it seems that this exercise has not been as extensive as suggested.

The Principle of the Development

55. The principle of residential development on the site has been established by the original consent for the erection of 16 bungalows on the larger site. The application which is now under consideration only relates to the south east corner of the original site in which the number of bungalows within this area would be reduced from three to two. Nevertheless, paragraph 11 of the NPPF which requires development to be determined in accordance with the most important policy contained within the development plan, is still relevant.
56. The most important policy for determining the application is Policy HP9 (Residential Design Criteria – General) of the Chester-le-Street District Local Plan. This policy is considered to be consistent with Part 12 of the NPPF which seeks to achieve well designed places. In this regard, it is considered the most important policy is consistent with the NPPF and is not out of date. Accordingly, paragraph 11 of the NPPF is not engaged.
57. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to residential amenity, site stability and drainage.

Residential Amenity

58. The current application, while reducing the number of properties on this part of the site does not change the level at which the properties will be constructed, therefore these will be as outlined above. For clarity the bungalows will be built at a similar level to the first-floor level of the surrounding houses.
59. All new development, including new dwellings, will have some bearing on neighbouring properties and it is important to ensure that the impact does not reduce the level of amenity that the occupiers of new and existing dwellings could reasonably expect to enjoy. Applications for Planning Permission are assessed against policy HP9 (Residential Design Criteria). Criteria i) of this policy requires new development to relate well to the surrounding area, respect its predominant character, street pattern, setting and density, and avoid damage to the amenities of adjoining properties while criteria iii) requires new development to provide adequate privacy in the rooms, gardens and other outdoor areas of the proposed dwellings and adjacent properties.
60. This Policy is supported by Appendix I of the Local Plan which sets out a number of guidelines which are intended to ensure that there are adequate separation distances between dwellings. The guidelines are intended to help Officers to assess the impacts of new development on the privacy and amenity of existing residents. Such standards are commonly used by Local Planning Authorities and the specific distances quoted below are widely used by many Councils. It should be noted that the distances

contained within this appendix are intended to be indicative and should not be seen as prescriptive.

- Two storey development to two storey development (containing habitable room windows) – 21 metres back to back distance.
- Single storey development to single storey development (containing habitable room windows) – 15 metres back to back distance.
- Habitable room window (to both single and two storey buildings) and a gable elevation (including garages) with no windows to habitable rooms in that elevation – 12.5m.
- Where dwellings are offset, therefore not directly overlooking each other, the privacy distances may be reduced to reflect this.

61. As the floor levels of the bungalows will be at a similar level to the first floor level of the adjacent properties (84 – 92 Cromarty) this creates a situation which is similar to two storey development being proposed adjacent to two storey development on a flat site. As such Officers consider that assessment of the application should be made with reference to the privacy guidelines relating to two storey development facing two storey development, which means that there should be a minimum of 21 metres between habitable room windows and 12.5 metres between the existing unextended face of two storey properties and any blank gables proposed within the application site.

62. It should be noted that there are no windows to habitable rooms proposed within the elevation of plot 15 that face towards 92 Cromarty. There are no windows to habitable rooms within the elevation of the bungalow proposed on plot 14 facing towards 89/90 Cromarty however there are habitable room windows facing towards 85/86 Cromarty.

63. The submitted plans indicate the following privacy distances -

Plot	Proposed Distance	Required Distance	Difference between Proposed and required distance
92 Cromarty to Plot 15	16.36m	12.5m	3.86m greater
91 Cromarty	No property directly to rear		
90 Cromarty to Plot 14	16.7m	12.5m	4.2m greater
89 Cromarty to Plot 14	16.7m	12.5m	4.2m greater
88 Cromarty	No property directly to rear	N/A	
87 Cromarty	No property directly to rear	N/A	
86 Cromarty to Plot 14	21.785m	21m	0.785 greater
85 Cromarty to Plot 14	26.8m	21m	5.8m greater
84 Cromarty	No property directly to rear	N/A	

64. The table above demonstrates that all the privacy distances fully accord with Appendix I of the Chester Le Street Local Plan and in all cases exceed the indicative distances, in some instances to a significant degree. As such it is considered that the proposed bungalows would be sited at sufficient distance from the existing dwellings to ensure that they would not result in significant overlooking, loss of privacy or overbearing impact to the adjacent two storey properties. Indeed, in some cases it would have been possible for the properties to have been brought closer to the existing dwellings and still comply with the guidelines. For example, the southern elevations of plots 14

and 15 do not contain windows to habitable rooms therefore instead of these being approximately 16.3m from 89 to 92 Cromarty as proposed, this distance could be reduced to 12.5m. Similarly, the distance of 21.7m between the rear elevation of plot 14 and 84 Cromarty could be reduced to 21m. It should also be noted that the removal of the central bungalow of the three approved significantly reduces the impact of the proposed development on 91 Cromarty by removing the bungalow immediately to the rear thereby removing any direct overlooking. In addition to concerns regarding potential overlooking of bedrooms residents have expressed concern about the overlooking of bathroom windows. Bathrooms are not regarded as habitable rooms and are normally designed with obscured glazing in the interests of privacy.

65. Due to ongoing concerns expressed by residents in response to the current application the applicant has submitted revised plans to address concerns of overlooking occurring from the garden areas of the properties. With regard to plot 14 there will be a narrow path surrounding the property (approximately 1.3m in width) before the garden drops down by approximately 1.3m before stepping down again to a lower level. A 1.8m high hit and miss timber fence will be provided between the upper and lower garden areas which will screen the garden area of plot 14. Regarding plot 15 a path will be constructed around the side elevation of the property (facing towards Cromarty) screened by a 1.2m high trellis. The garden area will be stepped down by approximately 0.8m and the garden will slope down towards 92 Cromarty from which it will be separated by a 1.8m high fence. In addition, planting will be required by condition to further interrupt views. A resident has expressed concerns about the future maintenance of the landscaping. As this will be within the garden areas of the proposed new bungalows the responsibility for its maintenance will rest with the householders. A condition will ensure that this is retained in perpetuity. An objector is concerned that it will be their responsibility to monitor the retention of the landscaping/screening, however this is situated between the private gardens of the properties and will not be in public view therefore the Council would be reliant on neighbours to advise of any potential breach of the conditions.
66. While it should be noted that there will be an element of overlooking of the gardens of the existing properties due to the elevated location of the site, this situation is no different from existing two storey properties being able to look down into their neighbours gardens both from within the property and from in the gardens due to the fact that the existing gardens are terraced. In addition, the site was formerly occupied by a school and its associated playgrounds therefore the garden areas of the adjacent properties were not previously completely private.
67. The proposed development will undoubtedly change views of the site from the existing properties however a loss of view is not a material planning consideration. Officers are satisfied that the outlook from the existing properties would not be so materially affected as to warrant refusal of the application.
68. In order to ensure that the future privacy of residents is protected conditions are recommended to remove the Permitted Development Rights of the proposed dwellings and to require the boundary enclosures and screening to be erected prior to the occupation of the bungalows and retained in perpetuity.
69. As the privacy guidelines are met, and in many cases exceeded, and the proposal would not result in significant loss of privacy to neighbouring residents therefore the development is considered to comply with Policy HP9 and Appendix I and parts i) and iii) of the Chester le Street Local Plan.

Site stability

70. Concerns have been expressed by residents that bungalows may be likely to slip down the slope towards their houses due to the foundations being constructed on made up ground. The applicant has advised that the foundations have been designed to ensure that no pressure is placed on unmade ground and that the buildings are constructed into the existing strata. This has been confirmed by the Council's Building Control Officers who inspected the foundations on 28.06.18 and have advised that the foundations are in accordance with the Site Investigation and Structural Engineers details. The foundations are therefore considered to meet the technical requirements and structural warranty guidelines. Officers are therefore satisfied that the foundations have been designed and constructed to ensure that subsidence would not occur.
71. Residents expressed concerns through the consultation exercise regarding the log retaining structures proposed on the basis that these would not be strong enough to hold back the weight of the land and that over time the condition of these would deteriorate lessening their effectiveness. Due to these concerns the applicant has now proposed a masonry retaining wall details of which will be secured by condition.

Drainage

72. Residents have expressed concerns that the proposed development has resulted in surface water drainage and flooding problems to the south eastern corner of the application site.
73. Historically, the school buildings and playground were at a higher level than these properties and the school site sloped down to the property boundaries. Following the demolition of the school the site 5294 sqm of the site was undrained. The proposal for the 16 bungalows on the larger site indicates that 3868 sqm of the site will be drained as part of the development into the main surface water sewer. A high proportion of rain water from the roads, buildings, drives, patios and other hard surfacing will be drained. The surface water connects into the main sewer through an attenuation system which restricts the flow from the site during periods of heavy rain. When this system is in operation and the water is been restricted from leaving site it backs up into a series of holding tanks which are specifically designed to hold the water. The flow rates were designed by a Structural Engineer and comply with the Building Regulations 2010. This is a positive improvement to the drainage of the site.
74. Only the surface water from plots 14 and 15's rear gardens will run off to the south east, which is considerably less than previously and therefore represents a net benefit. It should be noted that the full on-site drainage system is not yet operational.
75. Detailed drainage drawings and calculations were submitted with the application and these were scrutinised by both the LLFA (Lead Local Flood Authority), in this case Durham County Council (DCC), the SUD (Sustainable Urban Drainage) department, in this case DCC again. These two departments check to ensure that the site is designed to be drained in accordance with the current regulations. As part of this process the Local Water Authority also reviews the application and makes comments. In addition, they confirm connection points and that the system is suitable for adoption along with not having a detrimental impact on the existing sewerage system.
76. Planning applications should not be used as a vehicle to address existing issues, such as drainage, but only deal with the impacts of their development. As such neither the original or the current application should be expected to address problems that occurred historically. However, it is noted from the above that the drainage to be installed on site results in a greater proportion of the site being drained than previously

therefore the impact of surface water run off should be less. Residents have reported that the drainage situation has worsened since development commenced on site. It should be noted that the on-site drainage system is not yet operational as the necessary connections have not been made.

Other Issues

77. The Highways Officer has commented that the proposal would result in the removal a two-space approved visitor parking layby which would result in parking problems for future residents. He has requested that a further single parking bay is provided. While the two parking bays that were shown as proposed adjacent to the site entrance are to be removed one of these will be repositioned between plots 14 and 15. While this reduces the visitor parking on site this is considered to be acceptable given that the number of dwellings within the overall development has been reduced.
78. Concerns regarding rubbish being blown off site and Health and Safety Regulations not being adhered to and devaluation of property prices are not material planning considerations.
79. A resident is concerned that the development will prevent extensions from being undertaken to the existing properties in Cromarty. The development will not prevent householders extending their properties but each proposal which requires planning permission would have to be assessed on its own merits at the relevant time. The properties in Cromarty benefit from Permitted Development Rights and therefore some extensions can be erected without requiring planning permission.
80. It should be noted that one of the objections to the amended plans was received from the resident most affected by the originally proposed central bungalow of the approved three which has since been deleted. The amended plans show that there will no longer be a dwelling situated to the rear of this property.
81. Residents unaffected by the current proposal have raised several concerns regarding the original proposal for the erection of the 16 bungalows on the site. These concerns are not relevant in the determination of the current application as planning permission already exists, but these will be dealt with separately by Officers. The allegations that the properties have been built closer to 75/76 Cromarty than shown on the approved plans has been checked and the bungalow on plot 10 is slightly further away from the adjacent properties than approved.

The Fall-Back Position

82. The application under consideration has been submitted in order to address the concerns that residents living adjacent to the south eastern corner of the site expressed with regard to the impact of the originally approved development on their amenity. It should be noted that the planning permission for the original scheme remains in place and if planning permission were to be refused the developer could legitimately construct the approved development in accordance with the existing planning permission. While it is apparent that residents remain concerned about the impact of the revised proposals on their amenity, Officers are satisfied that the revised plans address the previous amenity issues. The construction of the three originally approved bungalows would, in your Officers opinion, undoubtedly be a worse outcome for the surrounding residents than the implementation of the currently proposed application.

CONCLUSION

83. The application proposes amendments to the approved development to address the concerns raised by residents including completely removing the central bungalow, re-orientating the properties and changing the position of windows to principle rooms. During the course of the application further changes have been made to enhance the screening between the existing and proposed properties. Clarification has also been provided regarding drainage and site stability. In their comments residents may have given the impression that the amendments only relate to landscaping and screening however Officers have worked with the applicant to try to resolve neighbours concerns and have secured all of the above changes to the scheme.
84. The siting of the proposed bungalows fully complies with the guidelines contained within Appendix I of the Chester-le-Street Local Plan providing adequate separation distances between the existing and proposed properties to ensure that the proposal would not result in a loss of amenity to the residents of the adjacent properties in accordance with saved policy HP9. The landscaping scheme and screening will be secured by condition and will further interrupt intervening views. In terms of site stability, the foundations of the bungalows have been designed to take into account the ground conditions and sloping land and masonry retaining structures are proposed to retain the garden areas. Adequate drainage will be provided on site to deal with surface water from the proposed development. The proposal is therefore acceptable and in accordance with the NPPF and Chester-le-Street District Local Plan.

RECOMMENDATION

That the application be **APPROVED**, subject to the conditions detailed below:

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out only in accordance with the following approved plans:

Plan Ref:	Date Submitted:
Proposed bungalow 1039-01	08.10.18
Proposed site plan 1039-02	05.12.18
Proposed engineers site plan 1039-03A	05.12.18
Boundary Enclosure Details 1039-04A	05.12.18
Proposed site sections (sheet 1) 1039-05	05.12.18
Proposed site sections (sheet 2) 1039-06	05.12.18
Proposed site block plan 1039-07	08.10.18
Site location plan 1:1250 1039-SLP	08.10.18

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies HP9 of the Chester-le-Street District Local Plan.

3. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the reasonable expectations of residential amenity from surrounding dwellings as required by Policy HP9 of the Chester-le-Street Local Plan.

4. Prior to the occupation of the dwellings hereby approved the boundary treatments and screening relating to each specific plot shall be erected in accordance with the approved plans. The boundary treatments and screening shall remain in place in perpetuity.

Reason - To protect the residential amenity of the occupiers of neighbouring properties in accordance with Policy HP9 of the Chester-le-Street Local Plan.

5. Prior to the commencement of the development full details of the masonry retaining walls shall be submitted to and approved in writing by the Local Planning Authority. The retaining walls shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate and shall be retained in perpetuity.

Reason - To protect the residential amenity of the occupiers of neighbouring properties in accordance with Policy HP9 of the Chester-le-Street Local Plan.

6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within Classes A to H of Part 1, Class A of Part 2 and Classes A Part 14 of Schedule 2 of the said Order shall be carried out on the site without an application for planning permission having been first made to and approved in writing by the Local Planning Authority.

Reason: In order that the Local Planning Authority may exercise further control in this locality in the interest of the amenity of neighbouring residents and to comply with Policy HP9 of the Chester-le-Street Local Plan.

7. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority and the approved landscaping scheme shall thereafter be implemented on site.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.
Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
Details of planting procedures or specification.
Finished topsoil levels and depths.
Details of temporary topsoil and subsoil storage provision.
Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The local planning authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall be retained in perpetuity and should any fail they shall be replaced with specimens of a similar size and species.

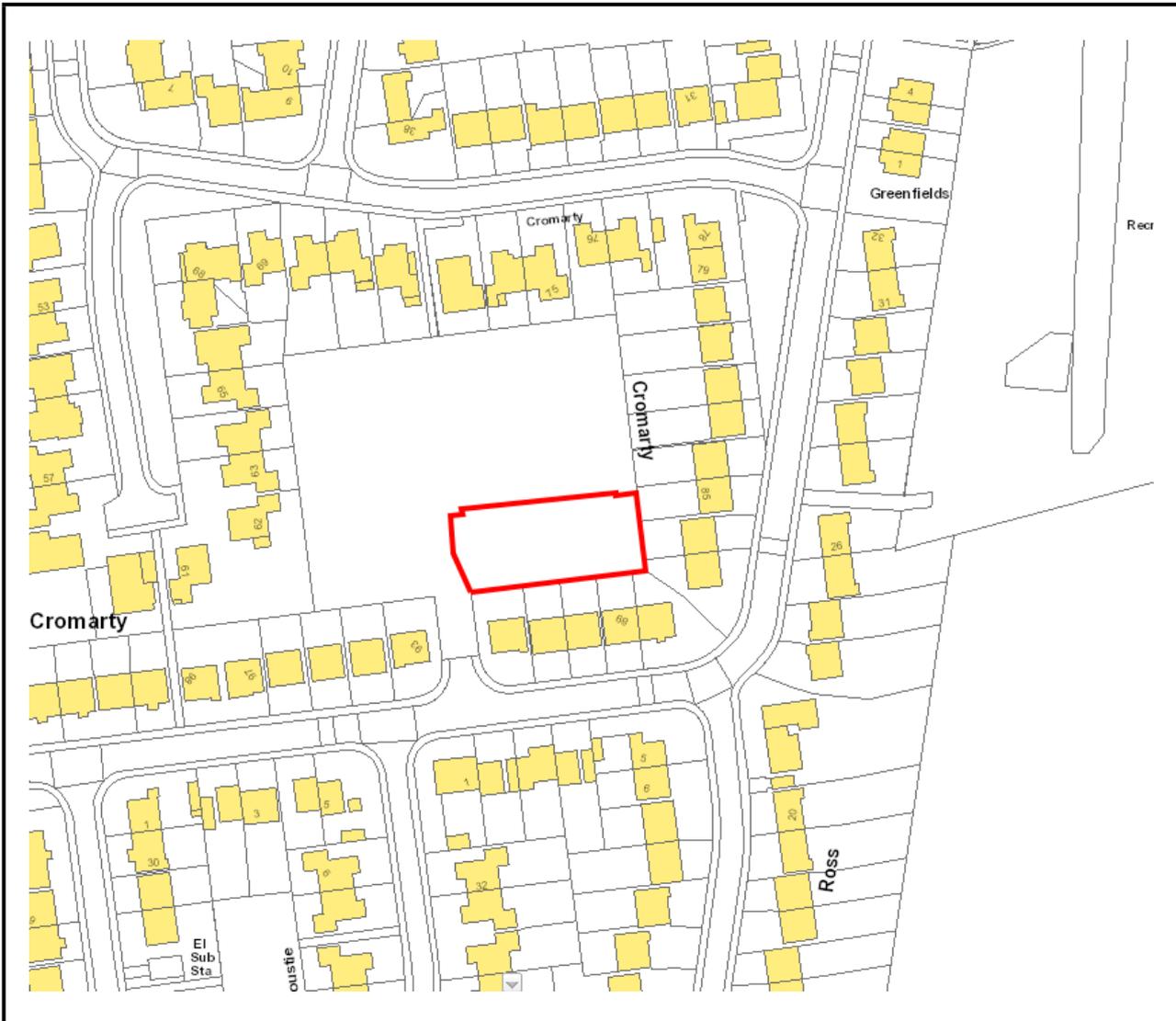
Reason: In the interests of the visual amenity of the area and to comply with Policy HP9 of Chester-le-Street Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. However, the delivery has not been possible in this instance. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Chester-le-Street Local Plan 2003 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

2 bungalows to replace approved bungalows on plots 14, 15 and 16 within housing application DM/17/01683/FPA

Application Number - DM/18/03060/FPA

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Comments

Date 20.12.2018

Scale NTS

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/02807/FPA
FULL APPLICATION DESCRIPTION:	Erection of a single storey cafe
NAME OF APPLICANT:	Dr Rod Sinclair Station House Lintz Green Lane
ADDRESS:	Lintzford Rowlands Gill NE39 1NN
ELECTORAL DIVISION:	Burnopfield and Dipton Nick Graham Planning Officer
CASE OFFICER:	Telephone: 03000 264960 nicholas.graham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

- 1.The application site lies within the garden area of the property known as Station House, within the Lintz Green collection of properties, which includes seven properties to the south east of the site known as Station Cottages. Historically, the site accommodated Lintz Green railway station on the Derwent Valley Railway with the station closing in 1953 and the line in 1963. The dwelling at the site was the station master's property and is now a private residence, with the former railway line becoming the route known as the Derwent Walk and is a popular route for countryside recreational activity. The site is located to the south of the Lintzford Conservation Area and is within the Lower Derwent and Pont Valleys Area of High Landscape Value (AHLV).

The Proposal

- 2.The development proposed is a single storey dual pitched roof building with single storey flat roof off-shoot to be used as a café and local community hub situated within the garden area of the Station House. The café is proposed to accommodate a maximum of 20 seated customers, with a garden space which could also accommodate a maximum of 20 seated customers. The proposed building will be constructed using a mixture of glazing and timber boarding, with access taken from the former platforms and a small outside seating area proposed within the garden. The café would sit to the east of the Station House, and north west of the Station Cottages. No vehicular parking is proposed at the site, with all users being recreational users of the Derwent Walk.
- 3.This application is reported to Committee at the request of the divisional member.

PLANNING HISTORY

4.The planning history of the site notes the following applications of most relevance to this application:

5.1/2003/0170/16168 - Alteration to outhouses and yard to form increased kitchen/dining area - Approved

PLANNING POLICY

NATIONAL POLICY

6.The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

7.The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.

8.In accordance with Paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

9.The following elements of the NPPF are considered relevant to this proposal;

10. *NPPF Part 2 - Achieving sustainable development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

11.*NPPF Part 4 - Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

12.*NPPF Part 6 - Building a strong, competitive economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

13. *NPPF Part 8 - Promoting healthy and safe communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. *NPPF Part 9 - Promoting sustainable transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 12 - Achieving well-designed places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
17. *NPPF Part 15 - Conserving and enhancing the natural environment* - The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
18. *NPPF Part 16 - Conserving and enhancing the historic environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

NATIONAL PLANNING PRACTICE GUIDANCE:

19. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
20. *Design* - Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

21. *Natural Environment* - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.

22. *Noise* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 123 of the NPPF provides policy support to this aspect.

23. *Light Pollution* - Artificial light can be a source of annoyance to people, harmful to wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky. Some proposals for new development, but not all, may have implications for light pollution. Impacts upon background light levels, impacts from existing lighting, impacts upon protected species and wildlife, dark landscapes and reflection from existing buildings all are important factors to consider. If any of these are affected, then where light shines, when it shines, how much shines and ecological impacts should be investigated.

LOCAL PLAN POLICY:

24. The following saved policies in the Derwentside District Local Plan are relevant to the consideration of this application.

25. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.

26. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.

27. *Policy EN2 – Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.

28. *Policy EN6 - Development within Areas of High Landscape Value* - Development will only 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.

29. *Policy EN11 – Trees and Development* – Throughout the district existing trees should be retained where possible. In determining planning applications consideration will be given to the effect of a proposed development on any existing trees, which contribute significantly to the setting of nearby existing buildings or visual amenity.

30. *Policy EN26 – Control of Development Causing Pollution* – permission will only be granted for development which is not likely to have an adverse impact on the environment having regard to likely levels of air, noise, soil or water pollution.
31. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle maneuvering, access for emergency vehicles and access to the public transport network.
32. *Policy CO12 – Hot food take-away shops and cafes* – permission will only be granted for uses in the following locations: Within town centres if: a) premises are not located close to concentrations of residential property, and b) are not located close to parking restrictions. Within mixed use areas or local shopping centres if: a) there would be no harmful effect on living conditions of nearby residents from noise, disturbance, smells and odours, and b) premises are not located adjacent to parking restrictions. Moreover, such uses can only be considered appropriate if: a) satisfactory opening hours are proposed, b) satisfactory details of fume extraction including its siting have been agreed, and c) an approved scheme for the collection / disposal of litter can be effectively implemented, and d) satisfactory trade refuse facilities are available. Hot food uses are considered unacceptable located amidst dwellings and isolated from other non-residential uses.

RELEVANT EMERGING POLICY:

33. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

34. *Highways Engineer* – Having reviewed the original pre-application comments provided and the plan submitted no objection is raised to the proposal. The site is unsuitable for additional motorised vehicle traffic generation however the applicant has stated that the site is not to be accessed by motorised vehicles and its intended use is for recreational purposes for cyclists and walkers of the Derwent Walk and will not be road signed from the local B and A roads.
35. *Pre-Application Comments: The application site lies 620m north of the B6310, one of the two adopted highways nearest to Station House. The site is, presumably, accessed along the public right of way, footpath 0000208. This footway continues to the north of the site for some 540m before joining bridleway 0000207 at Lintzford, where it connects to the A694. At this point the A694 is in the Gateshead MBC area and I cannot comment on this access.*

36. I assume that vehicular access for deliveries etc. will be from the B6310 road. While this access is substandard, I do not consider that the slight increase in traffic generated by delivery vehicles would be sufficient to oppose this proposal. As I would oppose any development which significantly increased the use of the substandard junction with the B6310, the proposed café must not be signed from either the B6310 or the A694.
37. However, based on the enquirer's statement that "The food provision will be for those using the walk for recreation-there will be no provision for cars or for those arriving by car!" I cannot object to the proposed café for users of the Derwent Walk.
38. Following additional correspondence between the applicant and Officers during this application, a further response was received:
39. It is noted that there have been some neighbouring objections that have been received in relation to this application which have been acknowledged by the highways department. The applicant's site is not intended for car borne patrons and the lack of car parking allocated to the business to support these proposals reflects this. The sites intended use is for walking, cycling and equestrian patrons visiting the café from the bridleway and the highways assessment is undertaken on this basis. It is however requested that suitable conditions are imposed to this application, subject to the below no highways objections are raised -
40. In terms of advertisement, no advertising signs for the café should be permitted on the public highway or private land facing the public highway.
41. An occupancy condition is needed for the café business owner which should only be operated ancillary of the main building owner.

INTERNAL CONSULTEE RESPONSES:

42. *Design and Conservation Officer* – The site of the proposed café is located within an Area of High Landscape Value (AHLV) to the south of Lintzford Conservation Area and not within the setting of any listed buildings. Station House would be considered a non-designated heritage asset along with the visible remnants of the former railway line including the platforms and road bridge.
43. The proposed café is to be a single storey structure composed of two elements, a predominantly glazed public area with an adjoining flat-roof kitchen area/toilet. The café seating area is a simple lightweight structure with a pitched roof which would be comfortably accommodated within the garden of Station House. In contrast the kitchen / toilet area is also single storey but a flat-roofed block attached to the side of the café. The design of the overall building at present comprising of two distinct and unrelated sections does not appear appropriate based on the information provided and a simpler structure should be considered formed from one architectural style such as the glazed element. As such consideration should be given as to how to accommodate all the necessary services for the business within one unified structure. Note that the key to final suitability would also rely on the use of a high-quality palette of materials.
44. Originally Lintz Green Station appears to have featured another station building, such as a waiting room, aligned with the railway line and platform. This is in contrast to the siting of the proposed new building which is instead aligned with the access track to the rear. However this new position set back at an angle from the platform does ensure that the proposed new building would appear more subservient to the surviving structures connected with the former railway which would still take

precedence within the site. Being sited closer to the platform may give any new structure unwarranted prominence within the wider station site.

45. A structure which is lightweight in appearance such as what is proposed for the main part of the building would not be objectionable in this location, however the design should be reconsidered to ensure the property appears as a unified whole rather than the ancillary areas such as kitchen and toilet being located in what could appear to be an additional secondary structure.

46. This proposal would not have an impact on the setting of any designated heritage assets however amendments to the design of the café to incorporate all elements of the business into one structure should be considered. A simple lightweight structure as proposed for the main café seating area would not be considered to detract from the setting of the surrounding non-designated heritage assets. Should approval be granted conditions should be attached for provision of samples of all materials to be used in the construction of the building.

47. Following the receipt of amended plans, a further response was received:

48. The elevations appear similar to the original plans submitted. Whilst it was stated originally about the possibility of assimilating the structure into one element, it is understood that the sections forming the kitchen, toilets etc. may be more suited into being in a separate timber boarded section as proposed. The proposed layout of the structure would ensure that the glazed element would be the more dominant section with the timber boarded section being a subservient portion to the side.

49. It must also be noted that the site is not within the setting of any designated heritage assets and well outside the boundary of Lintzford Conservation Area. The setting of Station House, a non-designated heritage asset, would also not be deemed to be compromised by what would be a clearly subservient and lightweight structure within its garden area. The main dwelling and associated buildings and structures associated with the former railway would remain the dominant features of the area. Conditions should be attached for submission of details of all walling and roofing materials.

50. *Landscape Officer* – The area is within an AHLV, close to the Lintzford Conservation Area, and beyond the edge of the settlement boundary. The site is highly visible from the adjacent Derwent Valley Walk which is a regional recreational asset and within an adopted DCC *Landscape Conservation Priority Area* where the spatial strategy is to *Conserve and Enhance*.

51. I would defer to the DCC Design and Conservation Team on matters of architectural expression. However, should the application be regarded favourably in principal, a structure with a single pitched roof and roof line would be potentially more sympathetic to the location.

52. Signage has not been detailed. This should be relatively discreet to be in keeping with the location and not damaging to the visual amenity value of Lintz Green. The proposals as illustrated would have some minor adverse landscape and visual effects. I would welcome an opportunity to consider an amended design.

53. Following additional correspondence between the applicant and Officers, a further response was received:

54. The revised layout and elevations appear similar to those originally submitted. With reference to proposed perimeter hedging. The elevations show peripheral beech

hedging maintained at about waist height. A shrub hedge might be a more suitable maintainable choice because of beech's vigour and habit. Any planting scheme should be detailed in terms of species/varieties, size of stock, numbers, planting densities, ground preparation and establishment maintenance regime. No details of signage or lighting have been submitted.

55. *Tree Officer* – A mature birch tree is shown to be a main feature within the site, other mature trees are situated to the north. For these to be retained and protected through any construction process the following is required, all of which must comply with BS 5837 2012.

- Tree Survey
- Arboricultural Impact Assessment
- Tree Protection Plan
- Arboricultural Method Statement

56. Following additional correspondence between the applicant and Officers, a further response was received:

57. A method statement complying with BS 5837 2012 would be acceptable and this would still give the correct distance for the root protection area RPA. Figure 2 for protective fencing within BS 5837 2012 is preferred.

58. Following additional correspondence between the applicant and Officers, a further response was received:

59. Providing the tree is protected with fencing complying with BS 5837 2010 I have no objections for the proposed.

60. *County Ecologist* – A low level lighting scheme will be required that maintains dark corridors around development.

61. *Environmental Health Officer* – Further information should be provided in terms of noise/odour and lighting. A fume extraction system and noise management plan should be provided, and the proposed 2200 Saturday and Sunday closing times would require external lighting, details of which are required.

62. Following additional correspondence between the applicant and Officers, a further response was received:

63. The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact. However I would recommend that the occasional use of the proposed development for "special occasions" is restricted to 12 events per year at the discretion of the applicant. This may also be controlled through conditions under the licensing regime should it be required.

64. In addition I can confirm that I have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment as follows:

65. I am satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.

66. *Public Rights of Way Officer* – There are no registered public rights of way directly affected by the proposal. Vehicular access to the Station House and other properties at Lintz Green is via public footpath no. 208 Stanley. The applicant is looking to attract passing trade from the non-motorised Derwent Walk. Additional vehicular use of footpath 208 directly linked to the cafe should therefore be minimal. For the record I would not be in favour of any attempt to attract passing motorised customers from the B6310 who would need to access the cafe by driving over footpath 208.

67. *Countryside Officer* – No mention of access arrangements to the Derwent Valley Railway Path, there are existing issues with different user groups. Not enough ecological mitigation and issues regarding litter. Unclear about access rights and no mention of accommodating horse riders. No business plan identifying the market need.

EXTERNAL CONSULTEE RESPONSES:

68. *Environment Agency* – Views awaited.

69. *Northumbrian Water* – Views awaited.

70. *Campaign to Protect Rural England* – No objection in principle however considers a glass building out of keeping, with the proposed closing time of 10pm and vehicular access also problematic.

71. *British Horse Society* – The proposal would severely restrict or prevent historical access to the Derwent Walk due to reflecting light, movement of bikes and people, aromas from food. Visitors could be trampled, kicked or bitten. Bolting horses could lead to a fatality. Litter and noise would further startle a horse.

PUBLIC RESPONSES:

72. 28 letters of consultation were sent out to surrounding residents, and a site notice was posted close to the site. This has resulted in 55 letters of objection being received at the time of the report being published, with the concerns summarised as follows:

- Alterations are also being made to the house and garden, these should be included on the application.
- What would happen to the proposal if the café is unviable and fails?
- 10pm is too late for the adjoining homes to tolerate and 6pm is too early for drinking.
- Light pollution will increase from the large glazed areas into the evening.
- Safety concerns regarding how people access and egress the café after dark.
- Flat roofed extension is inappropriate.
- The proposal does not fit in architecturally with the remainder of the hamlet or the host property.
- Café is too large for the actual site.
- A modern water treatment plant will need to be installed to cope.
- Current septic tank is located on land in different ownership and may place strain on the 150 year old tank and pipework.
- No parking is proposed and I do not want to see fencing or signage.
- People will naturally try and approach the café by vehicle causing highways issues.
- Illegal parking will block access for emergency services.

- The road leading to the site is in private ownership and disrepair.
- No capacity for servicing / deliveries.
- Vehicles currently park on the permissive path without consent.
- Delivery wagon recently damaged a post and a large lorry almost hit a telegraph pole recently.
- Tying the house and café together would be of benefit.
- Worried for my own safety crossing the lane.
- A lack of lighting in the area.
- No health and safety risks have been accounted for.
- No staff toilet is proposed.
- How would disabled people access the site.
- What provision is there for smokers?
- The Council should be ready to pay compensation for broken bones if this proposal is granted, the walk has loose stones, can be uneven underfoot and there are some deep banks to the sides.
- An intoxicated person could fall in the lake or lose their way.
- Attracting the wrong clientele.
- May encourage drink driving.
- Criminals could wait in the woods for people walking home from their evening out.
- Attention drawn to the site and may cause crime in the cottages.
- It is not clear whether the proposal will be a vegetarian / vegan café.
- A community hub is not required given the small number of residents.
- There are sufficient cafes / refreshment outlets within the vicinity.
- The proposal is for personal profit above any other consideration.
- Defeats the object of having a quiet peaceful space in the countryside.
- It is rare for groups of people to stop at the site currently.
- People will spend longer in the area, increasing the noise levels.
- Horse riders would not stop at the café due to other traffic on the Derwent Walk.
- People feed our horses bread, this will increase and is a safety concern.
- The track would be unusable for horse riders due to machinery, noise etc. during the construction period.
- Horses and other animals could be spooked and collide with other users.
- Horses are fright and flight animals and will spook at being able to see movement in a glass building.
- If a spooked horse kicks a child who would be liable.
- Popular route for horse riders linking to Chopwell Woods.
- Off riding routes need to be protected.
- Horse riders should not be penalised to have a café erected that is not required.
- Horse riders bring a lot of revenue to the local area and the Council should be supporting safe routes for riders.
- My nervous dog likes to use this currently quiet end of the Derwent Walk.
- My friend who is a disabled horse rider also considers this a safe place to ride.
- Increase in litter.
- 65-80 horses are stabled nearby and would be restricted.
- I have been chased by dogs and nearly hit by cyclists when riding, this risk will increase if the café goes ahead.
- Horse riders, dog walkers and cyclists would all be at risk of increased traffic.
- No group should be excluded or made to feel unsafe, and the Derwent Walk should be accessible to all.

- Odour, noise and light pollution to nearby properties, the closest property being 32 metres away with the nearest garden 12 metres away.
- Wood burning stove is inappropriately low in terms of fumes.
- Affect on wildlife; nesting birds, horses and sheep.
- Badgers, foxes, newts, butterflies, bats, deer and varieties of birds live in this area.
- Proposal will adversely impact on conservation and wildlife work who are sensitive to noise and light pollution.
- Pre-application advice for a proposal nearby was given contrary highways advice.
- Proposal is out of character in an Area of Outstanding Natural Beauty.
- The proposal falls in a Conservation Area or very close to it.
- Station House is of special architectural and historic interest and should be considered for Listed Building status.
- The land adjacent to the site, including the former platform from which the site is to be accessed, is leased to a neighbour who will not allow access.
- Concerns regarding the proposition of 'events' and what these mean.
- Live music is proposed at the site, the applicant is in a band and an online statement implies other musicians from the North East are welcome.
- There is no mention of such events in the proposal and it is unfair to land this on residents at a late stage.
- How will band members bring their equipment to the site.

73. An online petition in objection to the development has also been brought to the attention of Officers with 268 signatures at the time of the report being published primarily raising concerns relating to a perceived negative impact on horse riding activities in the vicinity of the site.

74. Nine letters of support were also received and two letters neither supporting nor objecting to the application, with the following comments:

- A perfect location for a facility which will likely be well used.
- As a member of walking group and cyclist, a refreshment place in this area would be of great benefit.
- Café could be a good facility for local conservation groups, and encourage new users to visit a beautiful area of County Durham.
- Rarely any horse riders on the Derwent Walk.
- A new facility for the residents of Hamsterley Mill, walking groups, cyclists, holiday lets and caravan sites.
- Most walkways around the UK have places like this to stop and have a drink.
- A café would help my wife to walk on a relatively flat walk.
- This location would ideal for a snack or hot drink and the use of a toilet.
- For C2C riders a café here would be ideal as the next appropriate stop is Newcastle Quayside.
- The café at Gibside is off the main route and up a steep hill and requires National Trust membership.
- The café at the Land of Oak and Iron Centre is quite small and I think it will be difficult to find a seat at busy times.
- Such proposals are essential if the UK is to overcome obesity and economic decline.
- Addition of a social space is a positive step which would prevent public nuisance.
- Recreational users of the Derwent Walk are not a raucous bunch of people.

- A small café would enhance the experience of a walk or bike ride in the natural environment of the Derwent Walk.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P7ACJGGDKOB00>

APPLICANTS STATEMENT

75. Lintz Green Station from its opening in 1867 to its closure in 1953 was a hive of activity, station records from the early years of the 20th Century record over 30,000 people per year using the station- the worn treads on the stairs from the bridge to the platform bear witness to this. After the station closed in 1953 the hamlet entered a period of decline, reaching a point of dereliction in the early 1970s, the railway line was removed, ancillary buildings including the station waiting rooms demolished or fallen down and the platforms plundered for stone. The access road from the B6310 deteriorated to an almost unusable condition.
76. In 1992, attracted by the unique environment and historical importance of the Station House we bought the property and commenced a long and careful process of restoration of both the garden and the house. In March 2013 my wife and I brought together the community in the formation of the Lintz Green Resident's Association, of which I am Chairman. The association has in its five year existence and with the aid of DCC managed to reinstate the access road by creating drainage channels and repairing and upgrading the road surface. The road is now usable and a maintenance programme is in place to ensure that access continues to be maintained and improved.
77. Lintz Green is no longer a forgotten backwater, houses are being improved, and the hamlet is finding a new energetic identity. There are several businesses now operating from the Station Cottages, two smallholdings and in the last year one permanent holiday home and two Airbandb developments (one is located on Lintz Green Lane).
78. For several years we have observed the increased usage of the area by cyclist, walkers and horse riders and having spoken to many users have become convinced of the demand for a food and drink outlet at Lintz Green. [Derwent Walk (406,000 users per annum), The Red Kite Trail, (no usage figures available), Chopwell Woods (connected by footpaths and cycleways-200,000 users per annum) and the Sustrans C2C route(7,500-15,000 users per annum). (<http://landofoakandiron.org.uk/loi/wp-content/uploads/2015/09/Land-of-Oak-Iron-Green-Travel-Audit.pdf>.) There is a projected 10% per year growth of visitors
79. Lintz Green Station House is the focal point of the hamlet and the perfect location for a café to serve the upper Derwent Valley. The plot is situated in a triangle of land at the junction of all three major walks and there isn't another outlet located directly on the walk for approximately 22mls. The closest being Parkhead, The Waskerley Way (16mls) to the west and The Land of Oak and Iron and Red Kite Pub, Winlaton Mill (6mls) to the North.
80. Social, economic and cultural regeneration is an essential component of the regeneration of the Derwent Valley and the café will promote these through: job creation (the business plan forecasts the creation of 2.5 ft equivalent jobs); the use of local services (gardening, building and maintenance); the support of local food producers; an enriching of the cultural fabric of the area by providing an outlet for the work and practice of regional arts and craft workers.

81. The simple but elegant architectural style utilises a glasshouse building for the café sitting area and a small grass roofed, timber clad building for the ancillary services (kitchen/wc). The inside of the café will be decorated with glasshouse plants and the outside garden space will include seating on gravel standings set amongst fruit and vegetable plots. The aesthetic will be that of an English country garden and the ambience one of calm and tranquillity. The Station House garden already attracts a wide range of wildlife: toads, birds, butterflies, dragon and damselflies, song birds and red kites and the locating of new bird nesting boxes, insect hotels and a careful gardening scheme will provide a balanced and nurturing ecological environment. We have recently planted a beech hedge around the perimeter of the site and we will carefully control the hedge height to enclose the site in parts and make the café sit comfortably and naturally into its environment
82. The lighting scheme will follow an ecological ethos, the café, when on occasion lit after dark, will employ low level lighting combined with blinds and foliage to dissipate any escaping light into a diffuse warm domestic ambience. The external lighting will be sufficient to mark path edgings but leave the majority of the site in pools of darkness.
83. The café will provide a valuable social hub for the residents of the three closest hamlets: Lintz Green, Lintzford and Hamsterley Mill. The owners of the café have a strong community ethos and will encourage the use of the café as a location for community events: public talks on the historical heritage of the area and its wildlife (the red kites are already a national attraction and can be seen most days from the site) and other interest and support groups: health, walks, reading circles etc. The existing noticeboard on the platform can be replaced with an electronic board located in the café grounds offering a wide range of community information.
84. A bicycle maintenance facility will be provided where cyclists can inflate tyres, carry out maintenance and adjustments and repairs. Owners of electric bikes can recharge their bikes whilst taking refreshments. We hope in the future to install a defibrillator and host training courses in its use. The café will be dog friendly and provide drinking water for dogs.
85. The café will create a point of focus for existing users and a point of destination for new users. Existing walk users can use the café to take refreshments and mix socially with others and the location of the facility will become a destination point for others-it is within one hours cycle ride from the Newcastle/Gateshead conurbation and the communities of the upper Derwent Valley.
86. The historic nature of the Station House attracts a great deal of interest from those interested in industrial archaeology and social history-including the macabre and unsolved murder of the station master in 1911.
87. We aim to make this a destination of choice, to add something new and unique to the area by providing a ecologically sensitive café facility which will protect and improve the existing natural environment and ecology of this beautiful area. The development will attract local, national and international visitors and add to the social and economic regeneration of the area.

PLANNING CONSIDERATIONS AND ASSESSMENT

88. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, impact on the character and appearance of the area, residential amenity, highway safety, biodiversity, and trees.

The Development Plan

89. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

90. In accordance with Paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

The Principle Issues

Engagement of Paragraph 11 of the NPPF

91. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):

- approving development proposals that accord with the development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

92. Policy EN1 of the Derwentside District Local Plan supports development in the countryside, where it would benefit the rural economy or help to maintain or enhance landscape character, subject to criteria. This policy is considered to be consistent with Paragraph 83 of the NPPF which supports the development of all types of business, accessible local services and community facilities in rural locations.

93. In this regard, it is considered the most important policy is consistent with the NPPF and not out of date. Accordingly, Paragraph 11 of the NPPF is not engaged.

The principle of development

94. The role of the countryside, as well as providing a pleasant environment, is the provision of leisure and recreational activities. The protection of the countryside and undeveloped land needs to be balanced against the vitality and viability of the rural economy. This proposal would involve the creation of a new business in a rural location, including the creation of jobs and associated economic activity brought into the area through users of the development. In this regard, the proposal is considered to be of benefit to the rural economy and is compliant in principle with Policy EN1 of the Derwentside District Local Plan, subject to satisfaction of the other criteria contained within that policy.

95. Additionally, Policy CO12 of the Local Plan typically directs hot food uses towards town centre and mixed use areas, however it is considered this policy is not wholly compatible with Paragraph 83 of the NPPF which indicates the development of a variety of facilities is considered acceptable in rural locations.

Impact on the character and appearance of the area

96. The development proposed is a single storey dual pitched café, with single storey flat roof off-shoot for the kitchen area. The building is predominantly glazed in design, with timber boarding and a 'grass' roof to the flat roofed element also proposed.

97. The design is in two main sections, a glazed area which would be used as the public seating area, and a flat roofed extension which would accommodate the kitchen area and toilet. The development would be set back from the platform edge and Derwent Walk and would appear subservient to the main property and nearby Station Cottages. Concerns have been raised regarding the design of the proposal, considering it is too large for the actual site, is not architecturally in keeping with the remainder of the hamlet or the Station House, the flat roofed element being inappropriate and the wood burning stove inappropriately low.

98. The Design and Conservation Officer has queried the two competing designs in terms of their material and form, however has raised no objections in principle to the design. It is also considered it would likely be difficult to screen a working kitchen if it were to be fully glazed or lightweight in appearance. In this regard the design of the proposal submitted is considered acceptable subject to a condition requiring a full specification of the materials proposed to be submitted. The Landscape Officer has requested a detailed specification of landscaping regarding the proposed planting method around the perimeter of the site, which is considered appropriate and in accordance with Part 12 of the NPPF and Policy GDP1 (A) of the Derwentside District Local Plan.

99. It should be noted that Station House does benefit from householder Permitted Development rights, and a building of a similar design, for domestic purposes and ancillary to the main dwelling, could be constructed at the site without any planning permission and with no control regarding the style or design, subject to certain parameters relating to size and height.

Residential Amenity

100. Derwentside District Local Plan Policy GDP1 (H) requires proposals to protect the amenity of neighbouring occupiers and land users. The closest residential properties are at Station Cottages, approximately 33 metres to the east of the application site. Concerns have been raised regarding the proposed late hour of operation, until 10pm, and consequently light pollution from the large glazed areas

into the evening hours. Additionally, noise and odour issues to nearby residential properties have also been raised as well as an increase in litter in the vicinity.

101. It is considered a 10pm standard closing time is inappropriate given the site's location, lack of lighting, and the potential for people to be walking home in hours of darkness, particularly during the winter months. In this regard, should the proposal be considered acceptable in principle, a 6pm closing time is considered appropriate, with allowances for twelve late night openings until 10pm across the year at the applicant's discretion for evening usage at the premises. This would alleviate the light issue as the lighting would not extend into the hours of darkness for over 96% of the year, thereby protecting the amenity of nearby residents.

102. Concerns have been raised regarding the potential for live music at the site, and the possibility of live music 'events' particularly stretching into the evening hours. There is limited indication in the submitted documentation that such live music 'events' are proposed, however a restriction on amplified live music or instruments at the premises is recommended in the interests of residential amenity, which would allow the premises to play background music, for example the radio, or unamplified live music or instruments, if they chose to do so, but would restrict live amplified music or instruments at the site.

103. In terms of noise and odour, the Environmental Health Officer has considered submitted details relating to noise outbreak and odour extraction, and raises no objections on the basis of the detail provided. Details of the location of bin stores and a waste management plan have also been provided and these are considered acceptable. Conditions securing the odour and waste management details in line with the above are recommended and on this basis the proposal would accord with Policy EN26 of the Derwentside District Local Plan. Additionally, given the distances to the closest residential properties and subject to the above, it is considered the proposal would protect the amenity of neighbouring occupiers and land users, in accordance with Policy GDP1 (H).

Countryside Recreational Activity

104. Significant representations have been received by the horse riding community in objection to the application. The concerns relate to the fact that horses and other animals could be 'spooked' and collide with other users, and that horses are fright and flight animals who will spook at being able to see movement in a glass building. Objectors note the Derwent Walk and nearby tracks are popular routes for horse riders linking to Chopwell Woods, and off-riding routes should be protected. Additionally horse riders have noted they should not be penalised by having a café erected that they deem not to be required, and consider they bring a lot of revenue to the area, and the Council should be supporting and promoting safe riding routes.

105. Concerns go on to note between 65-80 horses are stabled nearby and would be restricted as a result of the noise, odour and appearance of the development. During the construction period the track would be unusable for horse riders. Queries are also raised regarding who would be liable if a horse kicked a person, and noting horse riders would not stop at the café due to other traffic on the Derwent Walk. An objection has also been received by the British Horse Society in respect of the above.

106. The above representations are noted and it is appreciated the development may impact on the behaviour of some horses. However, it should be recognised that horse riders are only one group of individuals who use the countryside and recreational routes and that the countryside should be accessible for a variety of

countryside activities. Some walkers and cyclists have expressed support of the proposal, and horse riders themselves have noted that dogs and cyclists use the Derwent Walk also, and that no group should be excluded with the Derwent Walk accessible to all.

107. The applicant has amended the proposal to remove the large glazed element to the northern elevation adjacent to the permissive route between the Public Right of Way and Derwent Walk in an attempt to address the above concerns. It is also noted the development is set back from the Derwent Walk itself and is at a lower level. Horses viewing the development from the nearby bridge would have to look past the host property, with windows, as well as potential vehicles parked at the host property, again with windows. It is also acknowledged a large glazed structure or greenhouse ancillary to the host property could be constructed in the garden area under Permitted Development.

108. Objectors have disputed the fact that groups of people stop at the site, however the applicant has provided photographic evidence of walking groups sitting on the former station platforms. Horse riders using this route would typically encounter such groups, along with cyclists, dog walkers and children. In this respect, the erection of a café at this location, subject to design considerations, on balance is not considered likely to have an adverse effect on horse riders to an extent which would justify refusal of the application.

Highway Safety

109. Given the location of the proposal, the development is not proposing any vehicular parking for visitors. The residents of Station House would be the employees in the business and would be responsible for deliveries to the business. Concerns have been raised regarding the access to the site from the south being in private ownership and in disrepair, no capacity for servicing and deliveries, and that people will naturally try and drive to the café.

110. Additionally, objectors have raised concerns regarding illegal parking blocking access for emergency vehicles, current parking issues, safety crossing the lane and the risk for users of the Derwent Walk to increased traffic.

111. Given the nature of the proposal and its location, it is considered unlikely visitors will try to access the café by car as it would not be signposted and would rely primarily on recreational users of the Derwent Walk. Alternate facilities in the vicinity with car parking would be much more likely to be frequented by car users. A parking space is proposed within the site to account for servicing and deliveries and can also facilitate non-visitor parking to the site, which could be secured via condition.

112. The Highways Engineer has also noted the proposal and that the users of the café would not visit by car. In this respect no objections have been raised in this regard subject to conditions relating to a restriction on signage and the café being operated by the owner of the Station House. Any signage would require separate advertisement consent and therefore it would not be appropriate to condition this. The Council would therefore retain control over the erection of advertisements. In terms of the café operating ancillary to the dwelling it is considered possible to condition the operator of the business is the occupier, or widow or widower, of the Station House. This would limit the number of vehicular journeys to those who would live and access the site ordinarily as a result of living there.

113. A comment has been made regarding pre-application advice for a proposal nearby which considered it would be unsuitable for development due to

substandard access to the site. The proposal in question would have been more intensive in terms of journeys. The application under consideration in this application is intended to rely on passing trade and not car borne customers given the constrained nature of the vehicular access to the site. In this regard the proposal is considered acceptable in terms of highway safety and access and in accordance with Policy TR2 of the Derwentside District Local Plan.

Drainage

114.A septic tank owned by the applicant however on land outwith the applicant's ownership is proposed to be utilised for foul water drainage from the site. This is currently used for foul water drainage from the Station House itself and is considered to have sufficient capacity to accommodate foul waste from the development. The applicant has completed the required Foul Drainage Assessment Form and initial correspondence between the applicant and the Environment Agency raises no objections in principle to this approach. The applicant has also confirmed a permit would likely not be required from the Environment Agency as the proposal would accord with the General Binding Rules.

115.A condition requiring full details of the proposed foul water discharge method to be submitted is recommended in this regard to confirm the approach. In this regard the proposal is considered to accord with Part 14 of the NPPF. Any issues regarding land ownership or discharge to land outwith the ownership of the applicant is a civil matter and not relevant to the planning process.

Biodiversity

116.The site falls within water and woodland buffer zones, and the applicant has provided a bat and barn owl risk assessment in support of the application, which notes a low risk of bats to be found at the site. Concerns have been raised by objectors relating to the abundance of wildlife within the vicinity of the site, including those who are sensitive to noise and light pollution. However, the County Ecologist has commented noting no objections in principle subject to details of a lighting scheme confirming dark corridors are maintained. This could be secured via an appropriate condition, along with the mitigation measures set out in the bat and barn owl risk assessment, and would accord with Part 15 of the NPPF.

Trees

117.A mature tree is located immediately to the north west of the proposed development site. It is noted that this tree is not formally protected and could be removed at any time without the consent of the Local Planning Authority, however the applicant wishes to retain the tree for amenity purposes. The Tree Officer has raised no objections in principle to the development and a condition requiring a protection area to be defined relating to the tree is considered reasonable to ensure it is not damaged during the construction period should permission be granted. In this regard the proposal is considered to accord with Policy EN11 of the Derwentside District Local Plan.

Other issues

118.Concerns have been raised regarding the actions of potential users of the café, that they may be drunk, encourage drunk driving, or be victims of burglary due to their intoxicated state and the remote environment. Given the nature of the proposal, and the standard conditioned closing time of 6pm, it is considered unlikely the above would occur. The twelve late night openings are considered acceptable

given these would likely occur during summer months on lighter evenings, and on Friday and Saturday evenings only. If drunk driving or burglaries do occur this would be a matter for the Police.

119. Objectors have noted the site falls within an Area of Outstanding Natural Beauty and a Conservation Area however this is not the case. Concerns have been raised regarding alterations to the house and garden, however none have been identified within the application. A query has also been raised regarding whether the proposal will be a vegan or vegetarian café, as well as a potential increase in feeding bread to nearby horses, neither of these are material planning considerations.

120. Several objectors have noted the proximity of other cafes within the vicinity of the site, including at Lintzford Garden Centre, the Gibside Estate, and the Land of Oak and Iron Visitor Centre. The motivations of the applicant, developing the café for personal profit, is also queried with a community hub identified as not being required by some. However, neither competition or the motivations of the application are material planning considerations. Finally, concerns have been raised regarding the use of the building if the café is unviable, it is considered this could happen with any building or land and is not unique to this site.

121. An objector has noted parts of the Derwent Walk are uneven underfoot, with some of the walk having loose stones. Any maintenance issues should be reported to the landowner and is not the responsibility of this application.

122. A comment has been made recommending the Station House for Listed Building status. This should be taken up directly with Historic England by the objector.

123. Health and safety issues have been raised regarding disabled access to the site, the lack of a staff toilet, and provision for smokers. It is considered these issues are dealt with under separate legislation and do not form part of the planning assessment.

124. A comment has been raised noting the land immediately adjacent to the application site, including the former platform from which the café would be accessed, is not within the applicant's ownership and is instead leased by Durham County Council to a neighbour, and access would not be permitted to the site from this point. It is considered this is a civil matter and does not preclude the granting of planning permission. It would also appear the site could feasibly be accessed from the north if required, adjacent to Station House itself.

CONCLUSION

There would be no significant adverse impacts in terms of the impact on the character and appearance of the area, residential amenity, noise, highway safety, biodiversity and trees, subject to relevant and proportionate conditions. The concerns raised by the horse riding community in particular have been carefully considered, however horse riders are only one group of individuals who use the countryside and recreational routes and the countryside should be accessible for a variety of countryside activities and users. The proposal would be of benefit to the rural economy and the proposal is therefore acceptable and in accordance with Paragraph 83 of the NPPF and Policy EN1 of the Derwentside District Local Plan.

RECOMMENDATION

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

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

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out only in accordance with the following approved plans:

Plan Ref:	Date Submitted:
Location Plan 1:2500	13 September 2018
Elevations and Cross Section	19 November 2018
Site Plan	19 November 2018
Amendment including service hatch	4 December 2018
Bin / waste storage and turning / service bay	4 December 2018

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy EN1 of the Derwentside District Local Plan.

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

Reason: In the interests of the appearance of the area and to comply with Policy GDP1 of the Derwentside District Local Plan.

4. No development shall commence until a scheme for the provision of foul water drainage works has been submitted to, and approved in writing by, the Local Planning Authority. The drainage shall be completed in accordance with the details and timetable agreed.

Reason: To prevent pollution of the water environment in accordance with Part 14 of the NPPF.

5. Details of all internal and external lighting, including hours of illuminance, shall be submitted to, and approved in writing by, the Local Planning Authority to maintain a dark corridor. The development shall operate in accordance with the approved details.

Reason: In the interests of residential amenity and biodiversity, in accordance with Policy GDP1 of the Derwentside District Local Plan, and Part 15 of the NPPF.

6. No development shall take place until a tree protection plan identifying a root protection area, has been submitted to, and approved in writing by, the Local Planning Authority, and protective fencing erected placed as indicated on the plan and comprising a vertical and horizontal framework or scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS 5837:2012.

Reason: In the interests of the visual amenity of the area and to comply with Policy EN11 of the Derwentside District Local Plan.

7. No development shall commence until a detailed landscaping scheme has been submitted to, and approved in writing by, the Local Planning Authority. The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with Policy EN6 of the Derwentside District Local Plan.

8. No development shall take place unless in accordance with the mitigation detailed within the Section 2 of the Bat and Barn Owl Risk Assessment, but not restricted to adherence to timing and spatial restrictions; adherence to precautionary working methods.

Reason: To conserve protected species and their habitat in accordance with Part 15 of the NPPF.

9. The operator of the development hereby permitted shall be limited to the occupier(s) of Station House, outlined in red on the location plan, or a widow, or widower of such a person.

Reason: In the interests of highway safety and in accordance with Policy TR2 of the Derwentside District Local Plan.

10. The premises shall not be open to customers outside the hours of 8am to 6pm on any day of the week, except for up to 12 days per calendar year where the premises shall not be open to customers outside the hours of 8am to 10pm, on Fridays and Saturdays only. The operator of the premises shall notify the Local Planning Authority of any proposed usage of the premises between the hours of 6pm and 10pm a minimum of seven days in advance of the usage.

Reason: In the interests of residential amenity in line with Policy GDP1 of the Derwentside District Local Plan.

11. The odour extraction system as set out within ref. COVERING EMAIL FROM AGENT – RESPONSE TO COMMENTS – Odour Abatement, received 29 October 2018, shall be installed prior to the use commencing and shall be operated at all times when cooking is being carried out on the premises.

Reason: In the interests of the amenity of the area in line with Policy GDP1 of the Derwentside District Local Plan.

12. The waste management system as set out within ref. WASTE MANAGEMENT DOCUMENT and BIN / WASTE STORAGE AND TURNING / SERVICING BAY, received 4 December 2018, shall be carried out in accordance with the approved details in perpetuity.

Reason: In the interests of the amenity of the area in line with Policy GDP1 of the Derwentside District Local Plan.

13. Notwithstanding the information submitted, no amplified music or amplified instruments or any other device designed to amplify live music or noise shall be played within the application site hereby approved.

Reason: In the interests of the amenity of the area in line with Policy GDP1 of the Derwentside District Local Plan.

14. Before the building hereby approved is brought into use, the car parking / turning space as annotated on plan ref. BIN / WASTE STORAGE AND TURNING / SERVICING BAY, received 4 December 2018, shall be made available for use for premises deliveries, servicing, and non-visitor parking only, and remain so in perpetuity.

Reason: In the interests of highway safety and in accordance with Policy TR2 of the Derwentside District Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Derwentside District Local Plan (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

Erection of a single storey cafe

Application Number DM/18/02807/FPA

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Comments

Date 20.12.2018

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/18/02961/FPA
FULL APPLICATION DESCRIPTION:	Change of use of public open space to domestic garden
NAME OF APPLICANT:	
ADDRESS:	41 Carrowmore Road Chester-le-Street DH2 3DY
ELECTORAL DIVISION:	Chester-le-Street South Nick Graham Planning Officer
CASE OFFICER:	Telephone: 03000 264960 nicholas.graham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

- 1.The application site lies to the south of, and directly adjacent to, 41 Carrowmore Road, a detached two-storey property located on the southern boundary of the settlement of Chester le Street. It is a small grassed area that forms part of a long amenity strip to the south of the residential street of Carrowmore Road. The East Coast Main Line railway runs to the east of the site and to the south lies the grounds of The Hermitage.

The Proposal

- 2.The application proposes the change of use of part of the larger area of grassed amenity land to the south of 41 Carrowmore Road to private garden. The area would be enclosed by a post and wire fence initially, until an evergreen hedge has grown and would be maintained thereafter. The application as submitted involved an area of land measuring approximately 400m². However, through the course of the application this area was reduced by 25% to approximately 300m² in area, in an attempt to address concerns that had been raised regarding the impact of the proposal.
- 3.This application is reported to Committee as the applicant is an employee of the Planning Development service and one or more objections have been received to the proposal.

PLANNING HISTORY

- 4.The following applications are of most relevance to the application:

- 5.2/91/00344/OUT – OUTLINE APPLICATION FOR 2 DETACHED HOUSES – Refused and dismissed on appeal
- 6.2/00/00239/COU – Change of use and enclosure of open grassed area to private garden – Approved
- 7.2/01/00143/COU – Change of use and enclosure of open grassed area to private garden – Refused and dismissed on appeal
- 8.2/12/00259/FUL – Proposed change of use from public open space to private garden use – Approved
- 9.2/13/00249/FUL – Erection of two-storey extension with front canopy at side of dwelling – Approved
- 10.DRC/14/00054 – Discharge of condition 3 (boundary treatment) of planning permission 2/12/00259/FUL for the change of use from public open space to private garden use - Approved

PLANNING POLICY

NATIONAL POLICY

- 11.The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
- 12.The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
- 13.In accordance with Paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
- 14.The following elements of the NPPF are considered relevant to this proposal;
15. *NPPF Part 2 - Achieving sustainable development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
- 16.*NPPF Part 4 - Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and

permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

17. *NPPF Part 12 - Achieving well-designed places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

18. *NPPF Part 16 - Conserving and enhancing the historic environment*. Heritage assets range from sites and buildings of local historic value to those of the highest significance. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

NATIONAL PLANNING PRACTICE GUIDANCE:

19. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.

20. *Design - The importance of good design*. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.

LOCAL PLAN POLICY:

21. The following saved policies in the Chester-le-Street Local Plan 2003 are relevant to the consideration of this application.

22. *Policy HP16 – Enclosure of Open Land in Residential Areas* - relating to the enclosure of open land in residential areas states that applications are expected to have regard to the effect upon the residential amenity and character of the area; the use and location of the land in question; the effect upon highway safety; and the design and style of the means of enclosure.

23. *Policy NE6 – Development affecting the Visual Amenity of the Green Belt* – Development within or conspicuous from the Green Belt will not be granted where the proposal by virtue of its scale, siting, materials or design is detrimental to the visual amenity of such.

RELEVANT EMERGING POLICY:

24. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at

Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

INTERNAL CONSULTEE RESPONSES:

25. *Tree Officer* – The proposed development will include trees which are part of Tree Preservation Order CLS-16. Providing these are retained within the proposed garden area I have no objection. The TPO will remain as CLS-16 Garden Farm 2 – G2. Works to trees under the order applies.
26. *Spatial Policy Officer* – The application site is located within the settlement boundary, adjacent to land identified as Green Belt. The site appears to contain some mature/semi-mature trees and to have been connected to the Hermitage Estate. Design and Conservation will be able to advise further in relation to the significance of this piece of land in relation to the significance of the Hermitage Park and Garden.
27. The site is also identified in the Open Space Needs Assessment 2018 (OSNA) as private space (parks and gardens). Given its relationship with Carrowmore Road the land also appears to provide a part of a larger area of amenity open space for residents on this side of the wider park and garden area. The OSNA identifies a shortfall of all types of open space within the North Durham Monitoring Area, and advises that development may be resisted where that land performs as community open space, which this site appears to do).
28. *Design and Conservation Officer* – There are no designated heritage assets within red line boundary plan and none adjacent to it. The plot of land does however form part of a non-designated heritage asset, The Hermitage Park and Garden of local interest.
29. The Hermitage, located approximately 400 metres to the south-west of the site, is a large stone house reputedly built around 1820 that is Grade II listed, in a 17th century style. The property was set in a designed parkland that continued the 17th century theme. This included private pleasure grounds, elaborate gardens, a kitchen garden, an ornamental lake and areas of woodland, along with a range of buildings such as glasshouses, summer house and ice-houses. It is the combination the parklands age and the above features that contribute to it being of local interest.
30. The loss of the plot of land in question would not be considered detrimental to the special interest of the park and garden. This is due to the wider original parkland being fragmented and lost to extensive modern housing development in the north from the 1970s onwards, meaning that the land which bounds the housing immediately on the north side of the access road to The Hermitage is no longer seen as an intrinsic part. It reads in the context of the modern housing estate and in being physically and visually divorced from the heritage asset. Loss of this plot of land would therefore not be considered to detract from the historic layout, design, character, appearance or setting of the park and garden and as such would not harm its significance as a non-designated heritage asset.

31. On the basis of the above, there is no heritage based objection to this application, the main issue would relate to the existing trees on the site (covered by a TPO) which is a consideration for colleagues in the landscape team. It would however be very important that the high hedgerow forming the south boundary to the plot is retained as this provides a natural buffer/screening between the housing area and the parkland.

PUBLIC RESPONSES:

32. Six letters of consultation were sent out to surrounding residents, and a site notice was posted close to the site. This has resulted in two letters of objection being received, with the concerns summarised as follows:

- The area of land applied for is much too large and would affect the present use of this recreational land.
- We would be looking out at an allotment.
- The proposal would be of no benefit to anyone other than the applicant.
- The site contains a number of mature trees.
- The applicant has already been successful twice in enlarging his garden.
- This area was always meant to be open space and has been for over 50 years.
- The applicant is a Planning Enforcement Officer with the Council and it is assumed processes are in place to safeguard the integrity of the application.
- No concerns raised with the previous applications, and the extension has been completed to a high standard.
- Concerned further creepage into the amenity land by the current or future owners would become an issue.
- If successful, future applications could be made for other uses.
- An application for any change of use would be more likely to succeed if the land was actually owned by the applicant. I would not want to see dwellings or buildings erected on this popular and well used area.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P7ACJGGDKOB00>

APPLICANTS STATEMENT

33. This application has been driven by the necessity to protect my property from what is an increasing incidence of Anti-Social Behaviour whereby unknown persons are using the cover of darkness, to throw items at my home from the land subject to this application. Recently those items thrown at my home have included eggs (2nd – 3rd November 2018) which have struck the house and also conkers discovered on 13th November 2018 and also 23rd November 2018. Although the eggs were cleared away as soon as they were discovered, you will be aware that they do leave a permanent stain on the brickwork, which is the case in two areas of my home.

34. In addition, it is a regular occurrence for youths to congregate within the area to the side of my home and, on several occasions, they have scaled the palisade fencing onto the rail line or the less secure fencing into The Hermitage Parkland. The fencing of the area described in the presented site plan amounts to an area of approximately 0.03 of a hectare, with the area as a whole being approximately 0.35 of a hectare which approximately 8% percentage of the land.

35. The area is unlit and does not benefit from any forms of either formal or natural surveillance, therefore they are emboldened by the lack of any observation which provided them with anonymity with which to carry out the attacks. In addition, the area is a popular place for dog walkers, with the vast majority understanding their responsibilities to remove their dogs waste, but the land attracts dog walkers that are failing to clear up after their animals leading, so much so that several dog walkers from the street are complaining about those that do not remove the waste produced by their dogs.
36. The whole area of the land has always been an attraction for anti-social behaviour which also prompted the management of The Hermitage development to install a solid boarded wooden fence, topped with barbed wire, to prevent access into their grounds. Under Section 17 (1) (a) of The Crime and disorder act 1998 each Statutory Partner has a duty to consider crime and disorder implications, without prejudice to any other obligation imposed on it, to do all that it reasonably can to prevent crime and disorder in its area, including anti-social and other behaviour adversely affecting the local environment.
37. There are several factors that can positively reduce the occurrence of the anti-social behaviour: by target removal, changing the environment or the removal of the offender. In these circumstances the primary option is to change the environment which is enabling the anti-social behaviour to take place by removing their anonymity and removing the place where they are the youths and the dog walkers are “comfortable” enough to offend.
38. The granting of planning permission to enclose this piece of land will reduce the opportunity for the offending to take place as the offenders will have to stand in a more open public area in which to offend. The area where they would be displaced to is lit with standard street lights and is also observed by users of the street and by other residents from their homes, thereby removing their anonymity and reducing their confidence to offend.
39. Amenity is defined as “The pleasantness or attractiveness of a place” (Oxford English dictionary) or “Something intended to make life more pleasant or comfortable for people” (Cambridge English dictionary). To address amenity in the use and open access to the land, it has been shown that by reducing the total land area by 8% the area as a whole would benefit from a reduced level of anti-social behaviour.
40. In response to the openness of the area it must also be noted that the same development has, in the past, been undertaken at the opposite end of the open space, adjacent to number 50 Carrowmore Road. This resultant hedging, although now mature, compliments the street scene and does not affect the amenity or visual amenity of the public open space.
41. The means of enclosure for the requested area of land would be a mixed evergreen hedge maintained to a height of approximately 1.8 meters. Initially there would be a 1-1.2-meter-high post and wire fence to delineate the area and to assist in supporting the hedging as it becomes established. Once the hedging was established the post and wire fencing would be removed.
42. The hedging itself would not be detrimental to the amenity of the area and would actually improve the visual amenity providing an evergreen leafy hedgerow to obliterate the views of the industrial palisade track side fencing which delineates the east boundary of the land and also of the parked blue HGV horse box located at the stables to the rear of the fencing. Although located outside of the redline boundary

of this application, the stables and parked HGV horse box they are on land designated as Greenbelt, both of which, and especially the HGV horse box, are a blight on amenity of the area.

43. The growth of the leafy hedge row over time would mirror the hedge row at the top of the grassed area, providing a balance to the area and would successfully obscure the industrial palisade fencing, the stable block and the unsightly HGV horsebox located on the Greenbelt land thereby improving the character and visual amenity of the area as a whole.

PLANNING CONSIDERATIONS AND ASSESSMENT

The Principle of the Development

56. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, and residential amenity and character of the area.

The Development Plan

57. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The NPPF was updated in July 2018. The overriding message remains that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

58. In accordance with Paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

The Principle Issues

Engagement of paragraph 11 of the NPPF

59. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):

- approving development proposals that accord with the development plan without delay; or where there are no relevant development plan policies, or the policies which are most important for determining the application are out of date, granting permission unless:
 - i) the application of policies in the Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework as a whole.

60. Policy HP16 of the Chester-le-Street Local Plan permits the change of use or enclosure of public open spaces, landscaping and amenity strips of land for private residential purposes, subject to criteria. This policy is considered to be consistent with Paragraph 127(e) of the NPPF which promotes the optimisation of sites to accommodate and sustain an appropriate amount and mix of development, including green and other public spaces.

61. In this regard, it is considered the most important policy is consistent with the NPPF and is not out of date. Therefore Paragraph 11 of the NPPF is not engaged.

Residential Amenity

62. Chester-le-Street Local Plan Policy HP16(i) and (ii) requires proposals to have regard to the effect upon the residential amenity and character of the area. The Policy supporting text goes further, noting the contribution smaller areas of incidental open space, landscaping strips and verges, make within residential areas. Means of enclosure can also erode the visual amenity of a site.

63. There are two previous applications which are of particular relevance and significance in the consideration of the application. Planning permission was refused at this site, and dismissed at appeal, relating to the erection of two detached dwellings (ref. 2/91/00344/OUT) The Council considered in that application that the loss of the amount of open space would be seriously detrimental to the amenities enjoyed by local residents, with the Inspector re-affirming this view and specifically noting the development would erode the character and diminish the value of an amenity which local residents have enjoyed for so long should be resisted.

64. In 2001, an application for the change of use of a smaller area in a similar location to this proposal (ref. 2/01/00143/COU) was also refused and dismissed at appeal. Again, the Council considered the proposal would be detrimental to the character of the street scene and the amenities of local residents and would establish an undesirable precedent which could be repeated elsewhere on the Garden Farm Estate. The Inspector added that due to the open plan nature of the estate this corner site is prominent in the street scene and important in providing an attractive setting for the surrounding houses. Its enclosure would be a small but significant visual encroachment, unacceptably affecting the character and appearance of this part of the estate.

65. More recently, an application was approved in 2012 for a small enclosure of land immediately to the south of 41 Carrowmore Road measuring approximately 4.6 metres in width (ref. 2/12/00259/FUL). This was approved under delegated powers and the Officer considered the proposal would not have detrimentally impacted on the character and appearance of the estate as the open space would be retained along the length of the southern part of Carrowmore Road. This area has partly been built upon to accommodate a two storey side extension approved as part of a later application (ref. 2/13/00249/FUL). The Officer did also note in their report at the time that any future encroachment into this space would be deemed to seriously erode the amenity value provided by the overall stretch of land and would need to be resisted.

66. Given all of the above, it is considered that the proposal would constitute a significant visual encroachment that diminishes the attractiveness of the open space. Additionally, the Spatial Policy Officer has noted the site falls within an area designated as private open space, and there is a deficiency within the Chester-le-Street area. This proposal would further reduce the open space provision within the locality, and the means of enclosure erode the visual amenity of the site. Two objections have also been received to the proposal in this regard, with concerns regarding the loss of existing open space, and demonstrating the amenity value of the site.

67. In terms of the use and location of the land, the layout of the proposed area and the site history indicates such a proposal would have an unacceptable impact. Therefore, the proposal would have an adverse effect upon the visual amenity and character of the area, with the use and location of the land in question unacceptable for private residential purposes, and is considered contrary to Policy HP16 (i) of the Chester-le-Street District Local Plan.

Green Belt

68. The site is located immediately adjacent to the North Durham Green Belt where by virtue of Policy NE6 of the Chester-le-Street District Local Plan, conspicuous development, that would be detrimental to the visual amenity of the Green Belt would not be permitted. Given the nature of the proposal, it is not considered to be detrimental to the visual amenity of the Green Belt and would accord with Policy NE6 of the Chester-le-Street District Local Plan.

Trees

56. Concerns have been raised regarding the mature trees located at the site, and the Tree Officer has noted these are protected by virtue of a Tree Preservation Order. However, no objections have been raised to the proposal in this regard as the trees are proposed to be unaffected, and any works to the trees would require consent. Incorporating protected trees within private gardens does however potentially give rise to additional pressure to carry out trees works to reduce the overshadowing of lawns and outdoor seating areas.

Historic Parks and Gardens

69. The Spatial Policy Officer has noted the site forms part of the former Hermitage Estate as part of a Park and Garden, however the Design and Conservation Team have noted the historic heritage link to the estate has been lost following the construction of the Garden Farm Estate. It is also noted the Park and Garden is on a Local List and does not form part of any national designation and therefore there is no harm in this regard and the proposal is not in conflict with Policy BE9 of the Chester-le-Street District Local Plan.

Other issues

70. Concerns have been raised regarding precedent elsewhere on the estate if this application is approved. Each application is considered on its own merits.

CONCLUSION

There would be no significant impacts in terms of highway safety, trees or impacting on the setting of the Green Belt. However, the change of use of this land to domestic garden and

the enclosure of the site would have an adverse effect upon the character and visual amenity of the area. The proposal is therefore unacceptable and contrary to Policy HP16 (i) of the Chester-le-Street District Local Plan.

RECOMMENDATION

That the application be **REFUSED**, for the following reason:

1. The proposed change of use of land to domestic garden and its enclosure would have an unacceptable effect upon an important landscape feature which by virtue of its open nature and appearance significantly contributes to the character and visual amenity of the area contrary to Part (i) of Policy HP16 of the Chester-le-Street District Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the decision to refuse the application has tried to secure a positive outcome in accordance with the NPPF however the proposal is considered to be unacceptable in principle.

BACKGROUND PAPERS

The National Planning Policy Framework (2018)
National Planning Practice Guidance Notes
Chester-le-Street Local Plan 2003 (saved policies)
Statutory, internal and public consultation responses
Submitted forms, plans and supporting documents



Planning Services

Change of use of public open space to domestic curtilage

Application Number DM/18/02961/FPA

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Comments

Date 21.12.2018

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Planning Services

COMMITTEE REPORT

AGENDA ITEM NUMBER:

APPEAL UPDATE REPORT

APPEALS DETERMINED

Appeal against the refusal of planning permission for the erection of a general purpose agricultural building at land to the rear of 5 Front Street, Burnhope (DM/17/03957/FPA).

An appeal against the refusal of permission for the above development was received on 12th May 2018. The application was refused under delegated powers for the following reason:

'The applicant has failed to demonstrate that the proposed building is required for the operational needs of an existing agricultural unit, in conflict with criterion (a) of Policy AG3 of the Derwentside District Local Plan.'

The appeal was dealt with by way of written representations.

The Inspector considered the main issue to be whether the proposed building would be required for the operational needs of an existing agricultural unit.

The Inspector noted the planning history of the site, including a previous refusal and dismissed appeal for the same development, and considered the additional information submitted by the appellant as evidence demonstrating the operational need for the agricultural development.

On the basis of the evidence provided, the Inspector concluded that the proposal would be required for the operational needs of an existing agricultural unit, in accordance with Policy AG3 of the Derwentside District Local Plan, and the aims of the NPPF in supporting a prosperous rural economy.

The appeal was allowed. There was no application for costs.

Appeal against the refusal of planning permission for the material change of use of a residential annex to a dwelling at Woodlea Manor, Browney Bank, Lanchester (DM/18/00036/FPA).

An appeal against the refusal of permission for the above development was received on 9th July 2018. The application was refused under delegated powers for the following reason:

'The proposal would result in the creation of a separate single dwelling in an unsustainable location that would not contribute to the three roles of sustainability: environmental, economic or social. As a result, in terms of Paragraph 14 of the NPPF it is considered the adverse impacts of the proposal in terms of sustainability, as set out within Paragraphs 7 and 8 of the NPPF, would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole.'

The appeal was dealt with by way of written representations.

The Inspector considered the main issue to be whether the proposal would result in undue reliance on private motor transport.

The Inspector noted that both parties agreed that the site cannot be regarded as isolated given its relationship with existing development including nearby cottages, but recognised that this did not constitute a settlement, and the site was physically separated from Lanchester and Satley, neither of which have services at risk which are required to be supported to remain viable.

The reliance on private motor transport was noted and the Inspector felt that the additional travel to access services would have a negative impact on the environment as a result of additional private vehicle journeys. The Inspector concluded that the proposal would conflict with development plan policies and the rural housing policies as set out within the NPPF. Despite the Council being unable to demonstrate a five year housing land supply, the Inspector felt that the proposed additional one unit would make little difference to the overall supply of housing and that there would be very modest social and economic benefits.

The appeal was dismissed.

A separate application for an award of costs against the Council was also submitted alongside the above appeal with the appellant contending the Council failed to properly consider the determination of a High Court judgement relating to the definition of an 'isolated home' when assessing the proposal.

The Inspector considered the Council had proper regard to the High Court judgement and accordingly that the Council had not behaved unreasonably or caused unnecessary or wasted expense to the appellant.

The application for an award of costs was refused.

Report prepared by Nick Graham, Planning Officer.

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