



## Area Planning Committee (Central and East)

**Date** Tuesday 9 October 2018  
**Time** 1.00 pm  
**Venue** Council Chamber - County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 11 September 2018 (Pages 3 - 16)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) DM/18/00080/FPA - Land North of St. Ives Place, Murton  
(Pages 17 - 34)  
24 no. bungalows, 4 no. dormer bungalows and 22 no. two storey houses (50 dwellings).
  - b) DM/18/01745/OUT - Land and Buildings West of Hallfield Drive, Hall Walk, Easington Village (Pages 35 - 48)  
Residential development (outline, all matters reserved).
  - c) DM/18/02035/FPA - The Gate House, Dalton-le-Dale, Seaham  
(Pages 49 - 64)  
Partial change of use of existing stable/barn to 10 dog kennels and construction of freestanding storage building.
  - d) DM/18/01943/FPA - New College Durham, New College Road, Framwellgate Moor, Durham, DH1 5ES (Pages 65 - 80)  
Three storey extension to existing building and associated landscape works.
  - e) DM/18/01875/FPA - Greenhill's Farm Cottage, Wheatley Hill, DH6 3QS (Pages 81 - 92)  
Erection of a hangar building for storage of micro-light aircraft.
  - f) DM/18/02224/FPA - Part of Vacant Warehouse, McIntyre Way, Durham City Retail Park (Pages 93 - 104)  
Insertion of a 1672sq.m mezzanine floor.

6. 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  
1 October 2018

To: **The Members of the Area Planning Committee (Central and East)**

Councillor P Taylor (Chairman)  
Councillor A Laing (Vice-Chairman)

Councillors G Bleasdale, D Brown, J Clark, I Cochrane, K Corrigan, M Davinson, D Freeman, A Gardner, K Hawley, S Iveson, P Jopling, R Manchester, J Robinson and O Temple

**DURHAM COUNTY COUNCIL**  
**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber - County Hall, Durham** on **Tuesday 11 September 2018** at **1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors G Bleasdale, J Clark, I Cochrane, M Davinson, D Freeman, E Huntington (substitute for K Corrigan), P Jopling, R Manchester, L Pounder (substitute for A Laing) and O Temple

**Also Present:**

Councillors L Brown and J Turnbull

**1 Apologies for Absence**

Apologies for absence were received from Councillors D Brown, K Corrigan, A Gardner, K Hawley, A Laing and J Robinson.

**2 Substitute Members**

Councillor E Huntington substituted for Councillor K Corrigan and Councillor L Pounder substituted for Councillor A Laing.

**3 Minutes**

The minutes of the meeting held on 10 July 2018 were confirmed as a correct record by the committee and signed by the Chairman.

**4 Declarations of Interest**

There were no declarations of interest submitted.

**5 Applications to be determined by the Area Planning Committee (Central & East Durham)**

**a DM/18/01671/FPA - 11 Prospect Terrace, Nevilles Cross, Durham**

The Principal Planning Officer, Alan Dobie, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Principal Planning Officer advised that Members of the Committee had travelled past the site and were familiar with the location and setting. The application was for two storey, single storey rear extensions and internal alterations to provide 2no. additional bedrooms to an existing C4 (small HMO) and was recommended for approval, subject to conditions set out within the report.

The Principal Planning Officer noted the proposals would increase the number of beds to 5, and referred Members to site photographs showing a number of extensions to properties in the area. Members were shown existing and proposed layouts and elevations. It was noted that there were no objections from the internal consultees. The Principal Planning Officer noted there had been objections received from the Parish Council, Local Member and the City of Durham Trust with reasons including room sizes, parking and increase “studentification”.

The Committee noted that there was not a change of use required as the property was already C4 use, house of multiple occupation, potentially up to 6 bed. It was reiterated that there had been no objections raised by the Highways Section, with there being parking available at a nearby layby, and with Officers noting they could not sustain a refusal based upon parking.

The Chairman thanked the Principal Planning Officer and asked Councillor L Brown, a Local Member, to speak in relation to the application.

Councillor L Brown explained that the application had been brought before the Committee because of the cumulative impact it would have on the area. She added that the size of one of the bedrooms, although troubling from both a practical and a mental health perspective, did not carry planning weight and was a crusade for another time. She noted that the problems with the application lay with the parking difficulties on Neville’s Cross Bank.

Councillor L Brown noted Members had passed the site and hoped they realised that there was no car parking at all to the front of the property despite the claims of Paragraph 36 of the Committee Report. She added that what Members may not know was that there was no parking to the rear either, with all the gardens and the access road to the rear having been sold off privately about five years ago, several to non-residents. She explained that the garden to the rear of this property was one that was sold to a neighbour. Councillor L Brown noted that the back street was required for access at all times and was single track.

Councillor L Brown explained that Neville's Cross Bank was just outside the Durham City Controlled Parking Zone (CPZ) and there were 22 long term parking spaces for approximately 43 dwellings, together with a café that had 3 short term spaces outside and relied on passing trade. It was noted that 5 of those residences were licensed HMOs and there was one more that would become licensable in October. Councillor L Brown added that there was also extant permission for one dwelling at the end of the street. She explained that being outside the CPZ, yet within walking distance of town, many commuters parked at this location and walked into town and added that within 100m of the property there was Duresme Court a Purpose Built Student Accommodation (PBSA) with 280 bedrooms and 34 parking spaces which would be coming online at the end of the month. She reiterated that there was a small café which relied on passing trade for its business and that further pressure would be put on parking spaces when parking restrictions were put in place outside the school. Councillor L Brown noted that Highways Development Management had asked "No parking details were submitted with this application. Due to the increase in number of bedrooms, does the applicant intend to provide any off street parking?" She added that Paragraph 32 of the Committee Report stated that Highways had made no objection to the application. She continued, stating that she felt the fact of the matter was Highways had asked a question which had not been answered by Officers or the Applicant. Councillor L Brown noted she would like to have seen a report from Highways rather than an unanswered question.

She continued by explaining she did not feel that the legislation within City of Durham Saved Policy H9 had been met in this application and stating she felt that quite obviously adequate parking, as set out in Policy T10, was not already in place for the reasons she had given previously, nor had it been provided for in the development plans. She added that Policy T1 also came into play as any further pressure on parking would significantly affect neighbouring residents' amenity. Councillor L Brown noted she should also like to draw attention to the National Planning Policy Framework (NPPF) Part 9 which dealt with sustainable transport adding that, amongst other things, it states that safe and suitable access to the site be achieved for all users.

Councillor L Brown noted she had two final points which she felt must be implemented should the Committee be minded to approve the application, firstly, she had been impressed by the detailed report submitted by Mr P Clark the Principal Public Protection Officer. She explained she would like it conditioned that his recommendations should be followed exactly. Councillor L Brown noted that secondly, given the non-existent parking and very poor access to the site, she would like a Construction Management Plan (CMP) to be submitted and agreed before any development starts with, noting it should have an 8.00am start, due to the residential nature of the area.

The Chairman thanked Councillor L Brown and asked the Principal Planning Officer to respond to the points raised.

The Principal Planning Officer noted that room size was not something that could be controlled by planning and added that the Highways Section had noted that while the parking layby stopped prior to the front of the application property, it was likely that this would be the parking area that would be used by the property, if required, and that a refusal on highways ground was not sustainable. The Principal Planning Officer added that expectations on a HMO and issues in terms of the licensing regime were dealt with elsewhere under separate legislation and could be included as an “informative”, though not as a formal condition. He added that a CMP as suggested could be included, as the Committee felt appropriate.

The Principal Highway Development Management Engineer, David Smith noted that the Terrace did not include in-curtilage parking and that it was not likely that there would be an additional 2 cars associated with the additional 2 beds, with it being in an accessible location for students, within walking distance to the city centre and with public transport links. He added that it was felt unlikely that an objection in terms of parking would be sustainable. The Principal Highway DM Engineer noted that in driving past the site there was capacity within the parking layby and added that the cumulative impact was not severe, with Civil Parking Officers being able to ticket vehicles should they be causing an obstruction. He added that Neville’s Cross School was sufficiently far enough away to not affect the application.

The Chairman thanked the Officers and asked Members of the Committee for their comments and questions.

Councillor M Davinson thanked Councillor L Brown for mentioning the need for a CMP, and agreed that such a CMP should include a start time of 8.00am, mirroring the second application on the Committee agenda. It should also deal with site traffic given the restricted nature of the back street.

Councillor O Temple noted that the layby in question stopped a way short of the application property and added that it was at night that there would likely be an issue in terms of parking, with that being when there would be a loss of amenity. He added that with there being no parking to the rear, he would ask if a new 5 bed HMO were to be proposed would this have no objections in terms of parking. Councillor O Temple added that if the answer was no then he felt the same should apply to the application. He concluded by asking how it was known that the University were “actively” encouraging students not to bring a car to Durham. The Chairman noted this application was not for a new 5 bed HMO so the question about parking for such a proposal was not for the Committee to consider.

The Principal Highway DM Engineer noted a lot of terraced streets did not have parking, and that there was consideration on balance in terms of the demand on the street, with 2 additional beds not constituting much additional impact. He added that even considering an evening peak in terms of parking demand and capacity issues, there was not considered to be significant highways impact. The Principal Planning Officer noted use of the word “actively” as described in relation to the University and encouraging students not to bring cars to Durham, and explained that this was part of the Applicant’s Statement, and had not come from Planning Officers.

He added that while he believed that this was something the University did do he was uncertain as regards how the University would monitor or police this, especially for those students living “off-campus”.

Councillor J Clark noted she agreed in terms of the CMP as proposed by Councillor M Davinson and proposed that, subject to an additional condition in relation to this, the application be approved. Councillor M Davinson seconded the proposal.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions detailed in the Officer’s report and with an additional condition requiring a Construction Management Plan controlling site traffic and working hours, with a start time of 8.00am.

### **b DM/18/01043/FPA - Garden Villa, Newcastle Road, Durham**

The Senior Planning Officer, Paul Hopper, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer, PH advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for demolition of existing residential dwelling and construction of four residential dwellings and was recommended for approval, subject to conditions set out within the report.

The Senior Planning Officer, PH noted that Councillor L Brown, a Local Member, had requested the application be considered by Committee on the basis of issues relating to access and highway safety. He added that the application site was south of Durham Johnston School and there was an existing dwelling at the south-east of the site. It was noted that there was a paddock alongside the application site that had permission for 3 dwellings. Members were referred to photographs, plans and elevations and noted the proposed access from the A167 and egress via the back of Newcastle Terrace, a proposed one-way system. The Senior Planning Officer, PH noted that the Highways Section had noted no objections to the proposed one-way system and proposed improvement works. Members noted there were no objections from statutory or internal consultees.

The Senior Planning Officer, PH noted objections had been raised by the Local Member, and 9 letters of objection had been received at the time of reporting the matter at Committee. He summarised the objections, as set out in full within the report, including on issues relating to: parking; the suitability of the access, impact upon the A167, use of the one-way system to create a “rat-run”; loss of residential amenity; separation distances not being met in relation to the properties yet to be built, those with permission on the paddock adjacent the application site.

The Senior Planning Officer, PH noted that the principle of development was acceptable, being in a sustainable location and with an acceptable level of development. In terms of residential amenity, the Officer noted that while some of the separation distances to the proposed properties was less than stated within Saved Policy Q8, it was noted that these were in cases where windows were not directly facing one another and view would be limited as a result.

The Senior Planning Officer, PH noted that the development would not be prominent from the A167 and scale and layout would not detract from the scale and form of the area. He added that while the proposed access was narrow, a one-way system would be in operation, controlled by a Traffic Regulation Order (TRO) which was conditioned, as were the resurfacing and street lighting as set out within the application. Members noted that there were 2 additional conditions proposed by the Council's Archaeologist in terms of site investigations and that subject to those, and those set out within the report, the recommendation was for approval.

The Chairman thanked the Senior Planning Officer, PH and asked Councillor L Brown, a Local Member, to speak in relation to the application.

Councillor L Brown noted that she felt, once again, there was an application which failed to convince on its highways policy. She noted Members would have seen from their site visit that Garden Villa was originally at the end of an un-adopted cul-de-sac which was now fenced off. She added that the brownfield site closest the road had an application approved for 3 houses with access from a new road to the north of the footbridge. She noted that access to the application site was to be provided south of the footbridge by way of a one-way system over land which was not owned by the applicant through the un-adopted rear of Neville Street/Newcastle Road.

Councillor L Brown noted that, as with the previous application, Redhills Lane was just outside the Durham City CPZ. She added this brought with it the problems of commuter parking plus, due to its proximity to the station, potential of long-term parking by rail passengers. She explained that Redhills Lane, and the surrounding streets, were also used for parking by Durham Johnston School staff and students as their car park was too small. Councillor L Brown added that the block of flats further up the lane, Archers Court, had only one parking bay per flat and no visitor parking, thus compounding the problem. She noted that in addition plans to bring in further parking restrictions because of the problem of double parking were well under way. She added that it was also a rat-run out of Durham with almost continuous traffic in the early evening, hence the speed bumps. Councillor L Brown asked, once parking was constricted on this un-adopted road, where are residents of Neville Terrace and Newcastle Road supposed to leave their cars without causing an obstruction or committing a parking offence. She added they also had a very real fear that the one-way street will be used by motorists to avoid the lights and some of the congestion around this area as has happened on the western side of the A167.

Councillor L Brown noted that Saved Policy T1 stated that permission would not be granted for a development that significantly affects occupants of nearby properties.

She stated that surely the removal of parking facilities due to this development is a significant effect. She added that there was also the inconvenience to the present residents of a new roundabout route along the A167 in order to unload at the back of the houses.

Councillor L Brown referred to Paragraphs 64 and 66 of the Committee Report, where it was noted that the application breaches not only Policy T1 but also Policies Q8 and H13 regarding separation distances and residents' amenity.

She also noted that when the rear road is tarmacked no reference was given to any type of surface drainage for a road that currently had an impermeable cover. She added that she felt this surely was in breach of saved policy U8A which asks for satisfactory disposal of surface water. Councillor L Brown noted that given that the gardens of Newcastle Road slope down from this road there was a very real possibility of flooding after heavy rain. She added that she would therefore ask that should the application be approved, Condition 14 be extended to cover surface water from the newly resurfaced access and egress road. She noted this would also be in accordance with Part 14 of the revised NPPF guidelines.

Councillor L Brown noted Condition 5 had no mention of appropriate one way signage and added she would like this to be mentioned in a revised condition, as Durham County Council should not be paying for it.

Councillor L Brown noted at if the project was given permission she could foresee that the upkeep of the road becoming a bone of contention. She noted that while not a planning matter she would expect this road to be brought up to adoptable standards and would be lobbying for it to be adopted by the Council as it would then become a through-route.

The Chairman thanked Councillor L Brown and asked Mrs A Deighton to speak in objection to the application.

Mrs A Deighton noted that she and her husband owned the adjacent site with permission for 3 dwellings, adding that they would also be occupying one of the dwellings. She added that they did not object to development of the application site, rather they objected to the loss of residential amenity that would be a consequence of the separation distances not meeting the requirements of policies within the City of Durham Local Plan. She referred the Committee to slides she had prepared by her architect, showing the application development in context with the development of 3 dwellings already with permission. She explained the 3d models within the slides had been generated to scale. Mrs A Deighton noted how the application would be overbearing, protruding 2m in front of a bay window of the development with permission and block views and sunlight. She noted a 10m shortfall in terms of minimum separation distance between a side window and a gable end.

Mrs A Deighton noted that while not face-to-face as such, the configuration of the sites meant that there was minimal offset and there would be a high level of intrusion, noting floor to ceiling glazed doors on both bedroom and lounge of the proposed property already benefiting from permission.

She added that a separation of only 13m from an application property to the garden amenity space of a proposed property on the adjacent site meant there would be an unacceptable loss of privacy and sense of overbearing.

Mrs A Deighton added that there was also issues in terms of the impact of the access and parking, setting a precedent and asked that the Committee refuse the application in light of the issues highlighted.

The Chairman thanked Mrs A Deighton and asked Mrs C Zambon to speak in objection to the application.

Mrs C Zambon noted that she had great concerns as regards the proposals for the rear lane. She added that one-way access from the A167 was not the whole story and that there would be access at the rear lane, currently a cul-de-sac. She contended that connection of the rear lane to the A167 would change the character of the rear lane and have significant impact upon the surrounding area.

Mrs C Zambon noted that, at approximately 4.7m to 4.8m wide, the rear lane would not be wide enough to support a pavement and also this width would be further reduced in terms of the cars that are parked along the rear lane, to around 3.3m. She noted that this was contrary to Saved Policy T1 in terms of safety, including issues in terms of refuse vehicles and being unable to negotiate a sharp right-angled turn. Mrs C Zambon asked who would enforce in terms of the proposed one-way system. She added that the report referred to benefits in terms of housing and the economy, however, she noted that the Council could demonstrate that it had a 5 year housing supply and therefore it was not required and the impact upon the economy would not be significant. She concluded by noting that the impact on existing residents of the proposed one-way system would be significant.

The Chairman thanked Mrs C Zambon and asked Mr M Hawthorne, the applicant to speak in support of his application.

Mr M Hawthorne noted the application represented a small, unique, bespoke development with experts from the Council's Planning, Archaeology, Highways and other departments all agreeing that the proposals were acceptable. He noted that parking provision was being met on-site and there would be signage denoting "residents only" in terms of the access. In respect of refuse collection, he noted this would not differ from existing arrangements, with bins to be taken to the end of the street for operatives to collect, empty and leave for collection, aided by the proposed new tarmac surface.

Mr M Hawthorne noted that the homes were for families, not student properties or bed-sits, and Durham was in need of more family homes. He noted the support of the planning team in terms of the application, and while he accepted the properties may not be to everyone's taste, they were family homes. He noted his family's connection to the City and noted that the application site was in a highly sustainable location. He added that there would be a significant contribution in terms of Council Tax from the proposed properties and the proposals helped meet the objective of "seeing families thrive" and therefore asked Members to support the Officer's recommendation for approval.

The Chairman thanked Mr M Hawthorne and asked the Senior Planning Officer, PH to address the points raised by the speakers.

The Senior Planning Officer, PH noted in reference to the drainage of the rear lane subsequent to the proposed tarmacking, Condition 5 within the report would include disposal of surface water.

He added that the Applicant had made reference to signage in relation to “residents only” and he also noted that a TRO would be in place. The Senior Planning Officer, PH explained that a physical construction, for example “crocodile teeth” could be used to ensure that the one-way system was not passable in the reverse direction. In relation to the separation distances, the Officer’s reasoning was set out within the report, noting not directly facing windows. The Senior Planning Officer, PH noted that in terms of ongoing maintenance, the land was unregistered and therefore this situation would not change and that in terms of economic benefits, there would be construction jobs and it would be for the Committee to decide on the weight to attach to those jobs.

The Chairman thanked the Senior Planning Officer, PH and asked Members of the Committee for their comments and questions.

Councillor O Temple asked if Members were to approve the application, would it be possible to condition a physical impediment to using the one-way system in reverse, along the lines of the “crocodile teeth” as mentioned. The Solicitor – Planning and Development, Neil Carter, referred to the Highways Section representative asking how they envisaged the TRO regime. The Principal Highway DM Engineer noted that physical engineering could include such “teeth” and that if on private land then it would be for the owner to install and maintain. He added that the TRO would take out a right turn on to the A167. The Solicitor – Planning and Development noted that in respect of Councillor O Temple’s suggestion it may be possible to amend Condition 5 to ask for more information and details, however, it would not be possible to insist upon its implementation because that would depend upon the detail of the scheme which Highways found acceptable that the relevant time and in any event the report and Officer stating that the application as submitted being acceptable to the Highways Authority. Councillor O Temple noted he felt this was unsatisfactory, however, upon receiving the advice he felt that including such an amendment asking for details was better than no amendment at all. The Solicitor – Planning and Development noted this could be included within the second part after “...shall include but not be limited to, the installation of street lighting...” to include “physical measures to prevent two-way access”.

Councillor P Jopling proposed the application be approved, subject to the amendment suggested by Councillor O Temple and the two additional archaeology conditions as referred to by the Senior Planning Officer, PH. Councillor R Manchester seconded the proposal.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions detailed in the Officer's report, and amended Condition 5 as proposed and with the additional conditions relating to Archaeology as referred to by the Officer.

### **c DM/18/01731/FPA - Ingleside, Whinney Hill, Durham**

The Senior Planning Officer, PH, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was part change of use from C3 (dwellinghouse) to C1 (holiday let) retaining the existing C3 use across the remainder of the property and was recommended for approval, subject to conditions set out within the report.

The Senior Planning Officer, PH referred Members to the proposed floorplans and noted that there had been no objections from statutory or internal consultees. He added that objections had been received from the Whinney Hill Residents' Group in terms of loss of a family home, impact upon the area being able to attract family buyers back into the area. The Senior Planning Officer, PH noted there was to be no bed and breakfast facility, with rooms let on a short-term basis for visitors/lecturer/tourists, not students. He added there was a condition in relation to no single period greater than 3 weeks in a 6 month period and for a list of guests' permanent addresses to be retained.

Members noted the property was within the City of Durham Conservation Area (CA), however, as there were no proposals to alter the external elevations, there was no impact upon the CA.

The Chairman thanked the Senior Planning Officer, PH and asked the Committee for their comments and questions.

Councillor D Freeman noted he was a Local Member in respect of the application and had asked for the application to be considered by the Committee and noted the views of local residents. He noted some scepticism in terms of the application, noting the whole property was advertised for rent recently. He added that the Article 4 Direction in respect of student housing should stop the property becoming an HMO, and he was happy in respect of Condition 3 relating to C1 use and the periods of let, however, questioned the offer of 4 beds and no cooking facilities. He agreed that it would be sad to lose a family house in the area, and asked if there was anything stopping the applicant applying for parking permits.

The Principal Highway DM Engineer noted that the application had sufficient parking on-site and that this would be for the applicant to manage, residents could apply for visitor permits, for parking elsewhere on-street.

Councillor M Davinson noted the concerns in terms of potential HMO use, however, he felt that Condition 3 satisfied those concerns and proposed the application be approved. Councillor J Clark seconded the proposal.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions detailed in the Officer's report.

### **d DM/18/00833/OUT - Deerness Villa, Sleetburn Lane, Langley Moor**

The Senior Planning Officer, PH, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer, PH advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was an outline application for the demolition of an existing bungalow and associated outbuildings and the construction of 9 dwellings with all matters excluding access reserved for future consideration. It was noted the outline application was recommended for approval, subject to a Section 106 Legal Agreement and conditions set out within the report.

The Senior Planning Officer, PH referred Members to the existing layout and buildings across the site and noted the woodland bounding the site and a public right of way (PROW) along the north side of the site. Members noted an indicative layout of 9 properties, reiterating that the application was outline, with all matters reserved excluding access. The Senior Planning Officer, PH noted that there would be improvements to the access, in terms of widening and to footpaths. He noted no objections from statutory or internal consultees and added that Condition 5 as set out in the report was missing a few final words "...radii is complete".

Members noted there had been 6 letters of objection from nearby residents, with issues including: suitability of the access; loss of residential amenity, loss of privacy; that the precedent of development could impact further on the area; impact upon the PROW; land ownership; impact upon a nearby Listed Building; groundworks, drainage and ecology.

The Senior Planning Officer, PH noted there were no policies that prohibited the development and therefore it was down to a planning balance, as set out in the NPPF. He added that Planners felt that the scheme could be integrated into the area, and the site was sustainable, within walking distance to shops and with bus stops nearby. He noted in terms of impact on residential amenity, the scale and layout would be subject to a future application, as would issues such as landscaping and any impact on the Listed Building opposite the site.

It was noted that Highways had no objections and that the proposals in terms of access arrangements were acceptable, and there would be a S106 contribution of £15,000 towards upgrading Footpaths 91 and 92 to the north and west of the site, with the Council's PROW Team having no objections to the proposal in relation to those footpaths. Members were informed that Ecology, Drainage and Contaminated Land Officers were satisfied subject to conditions as set out in the report.

The Chairman thanked the Senior Planning Officer, PH and noted Local Member, Councillor J Turnbull was in attendance to speak in relation to the application.

Councillor J Turnbull noted that there had been concerns in terms of vehicles parking at the adjacent garage, restricting the view at the access to and from the site, on a very tight corner. He added that there was concerns in terms of drainage, with the area being where natural springs from Brandon ran through and could potentially be dangerous in winter. He added the retention of the PROW was important.

The Chairman thanked Councillor J Turnbull and asked Mr A Moss to speak on behalf of a local resident in objection to the application.

Mr A Moss noted he was a Planning Consultant and his client lived to the west of the site and objected to the application. He explained that his client did not object to residential development at the site, rather the main issue was of overdevelopment of the site which would then impact upon amenity and highway safety. He noted the application was in outline, excluding access arrangements and that if approval were given for 9 dwellings in principle, this was agreeing to the impact of 9 dwellings in terms of amenity. Mr A Moss contended that therefore it must be proven at this stage, not the reserved matters stage, that there would be good amenity and not a detriment to those dwellings of neighbouring properties. He added that as the plans were indicative, it was not possible to fully assess the impact to his clients' property. He noted the report stated that minimum separation distances could be achieved for the dwellings within the scheme, however, it did not mention separation distances to adjacent properties. Mr A Moss noted a change in levels between his clients' property and the application site and this would have an impact upon privacy. He noted that 4-5 bed properties would be larger than the existing bungalow and cited a recent appeal decision in relation to an application at Bowburn which had been refused by Committee in relation to separation distances, and the decision had been upheld upon appeal. Mr A Moss concluded by asking the Committee to refuse the application for the reasons stated, citing the separation distances between plots 8 and 9 to his clients' property meant the application was contrary to Policy Q8.

The Chairman thanked Mr A Moss and asked the Senior Planning Officer, PH to comment on the points raised.

The Senior Planning Officer, PH noted that it was not felt that the application represented "overdevelopment", the density being around 17 dwellings per hectare, a low density. He reiterated that the position of the units would not be determined until the reserved matters stage.

The Chairman thanked the Senior Planning Officer, PH and asked Members for their comments and questions.

Councillor J Clark noted she agreed with the speaker in relation to needing further information in terms of the position of the 9 dwellings and wondered in therefore it would be beneficial to defer the application pending such information. The Solicitor – Planning and Development noted that the application was an outline application, with details in relation to site layout to be subject to further consideration in the future.

He added that the Committee were considering the principle of whether 9 dwellings could be accommodated on the site, and although Members must be satisfied that the site is capable of accommodating an acceptable layout, the final layout would be considered at the reserved matters stage.

Councillor M Davinson asked if there could be a comparison in terms of density of the application approved at Item 5b for Members' information. He added there would be the opportunity to consider the layout at the reserved matters stage and also noted that the signage in relation to the bend in the main road would benefit from being renewed.

Councillor O Temple noted from his experience that a density of 17 properties per hectare was generous, with the county average in the region of 22 and the national average being around 43. He noted too the details would be for the reserved matters stage, however, noted the access could benefit from a widened splay and relocation of a pole. He moved that the application be approved. The Senior Planning Officer, PH noted the application Councillor M Davinson referred to had a density of around 28 units per hectare. Councillor J Clark noted on the information given that she no longer proposed deferment of the application, noting issues could be revisited and addressed at the reserved matters stage. Councillor M Davinson seconded Councillor O Temple's proposal for approval.

## **RESOLVED**

That the application be **APPROVED** subject to completion of a Section 106 Legal Agreement and the conditions detailed in the Officer's report.

### **e DM/18/01995/FPA - Durham Sixth Form Centre, The Sands, Durham**

The Senior Planning Officer, Barry Gavillet, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for a multi-media teaching block (amendments to previously approved scheme) and was recommended for approval, subject to conditions set out within the report.

The Senior Planning Officer, BG noted the original application had been approved by Committee at its meeting in January 2018, with the application being considered retaining the same footprint as that approved. He added that the proposal was now for 3 storeys, increased from 2, with an updated design with amended elevations to reflect this. It was noted that while the application site was within the CA, Officers from Design and Conservation had offered no objections. Members noted that the proposal would impact upon car parking at the site, displacing some of the provision, however, there would be an increase in provision of 2 spaces overall, now 34. It was added there were no objections from statutory or internal consultees and there had been no objections raised by local residents. The Senior Planning Officer, BG noted the recommendation was for approval, and that the scheme as approved at the January meeting could be taken forward should Members not be minded to approve this application.

The Chairman thanked the Senior Planning Officer, BG and noted the Chairman of the Durham Sixth Form Centre Governing Body, Mr D Southwell was in attendance to speak in support of the application.

Mr D Southwell thanked the Chairman and asked Members to recall his attendance and comments made at the January meeting. He reiterated that the school was outstanding, attracting students not only from Durham but also from further afield. It was explained that if this application was approved there was the opportunity to remove some temporary buildings and replace them with this proposed scheme. Mr D Southwell noted that the school was “bursting at the seams” with students and the proposal would be of great benefit and therefore asked that the Committee consider the application positively and approve as recommended by Officers.

Councillor D Freeman noted that the application represented a great scheme, not out of scale or keeping with the area, with no impact upon residents and therefore he moved that the application be approved. He was seconded by Councillor G Bleasdale.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions detailed in the Officer’s report.

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/18/00080/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	24 no. bungalows, 4 no. dormer bungalows and 22 no. two storey houses (50 dwellings)
<b>NAME OF APPLICANT:</b>	County Durham Housing Group
<b>ADDRESS:</b>	Land North Of St Ives Place, Murton
<b>ELECTORAL DIVISION:</b>	Murton
<b>CASE OFFICER:</b>	Barry Gavillet, Senior Planning Officer, <a href="mailto:barry.gavillet@durham.gov.uk">barry.gavillet@durham.gov.uk</a> 03000 261958

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### Site:

1. This application site is located within the settlement boundary of Murton within the Murton Electoral Division to the northern part of the village. Residential properties surround the site to the east, south and west. To the north are open fields with some sporadic buildings. An existing hedge runs along the northern boundary. The site is currently informal open space and were previously residential sites which were cleared more than 20 years ago.
2. Murton Village incorporates local facilities with Dalton Park Shopping Park Outlet Centre located approximately 1km from the site. Public Bus routes with connections to Sunderland and Durham are located close by with the A19 roughly 1.5km from the application site. Seaham Railway Station is located around 5km from the site with good links to surrounding urban areas.

#### Proposal:

3. This application proposes a residential development of 50 residential units along with associated infrastructure, constructed from a traditional facing brick and render with tiled roofs to match in with the existing area.
4. 24 two-bedroomed bungalows are proposed along with 22 three bedroomed two-storey houses and 4 three bedroomed dormer bungalows.
5. Front gardens will be enclosed by a combination of powder coated railings and dwarf walls with rear gardens enclosed by close boarded timber fences. All plots are provided with rear garden access down the side of each house, or at the rear of gardens to central terrace plots. All dwellings would have 2 parking spaces with an additional 5 visitor parking spaces being provided

6. 28 of the units (56%) would be 'Specialist Housing for Rent' for older, vulnerable and disabled people with the remaining 22 units being rent to Buy at no more than 80% of market rent.
7. This application is being reported to committee as it is classed as a major application.

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## **PLANNING HISTORY**

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8. None relevant

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

9. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. 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.
10. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. *Part 2* - 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 of a low carbon future.
12. *Part 5* - To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
13. *Part 8* - 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. *Part 9* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

15. *Part 12* - 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. *Part 14* - Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and *associated* infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
17. *Part 15* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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

##### District of Easington Local Plan

18. *Policy 1* - Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
19. *Policy 3* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
20. *Policy 14* - seeks to protect Special Areas of Conservation from development which would give rise to an adverse impact, either directly or indirectly
21. *Policy 18* - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
22. *Policy 35* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
23. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
24. *Policy 37* - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

25. *Policy 66* - Developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site.
26. *Policy 67* - Housing development will be approved on previously developed land within settlement boundaries of established towns or villages provided the proposal is of appropriate scale and character and does not conflict with other policies in the plan.
27. *Policy 92* - seeks to protect amenity open space from development except where the development of a small part enables enhancement of the remainder or equivalent alternative provision is made.

## **RELEVANT EMERGING POLICY:**

### The County Durham Plan

28. 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>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

29. None

### **INTERNAL CONSULTEE RESPONSES:**

30. Highways officers have confirmed that no highway objections are raised subject to the amended plans received.
31. Spatial Policy offers no objection to the proposal.
32. Drainage and Coastal Protection offer no objection to this proposal subject to a condition approving the Surface Water Drainage Strategy.
33. Education officers confirm that school places are insufficient therefore, a contribution is required.
34. Pollution Control do not object subject to a contaminated land condition.
35. Tree officers have stated from a visual amenity and environmental impact, it would be preferable if some groups could be retained or that space was allocated in the scheme for post development planting to maintain the local urban forest given the amount of trees proposed to be lost.

36. Landscape officers have commented that suggested amendments from the pre-application have been responded to in the current scheme. Private open space has been maximised and the sacrifice of existing trees is accepted given their modest amenity value. Subsequently no objections are raised subject to a detailed landscaping scheme.
37. Ecology officers do not object subject to compliance with the submitted ecology report and appropriate mitigation given that the proposal is in close proximity to EU protected sites on the coast and that given the hedge is to be retained there would be no loss of biodiversity.

#### **PUBLIC RESPONSES:**

38. Northumbrian Water have no objections subject to a condition requiring details of foul and surface water drainage.
39. Three letters of concern have been received by nearby residents. The concerns include
- Increase in traffic and parking issues
  - Loss of open space that is used for recreational purposes
  - The quiet country feel will be lost
  - Extra noise, construction will last for months
  - Local Schools and doctors will be put under increased pressure they are already oversubscribed
  - There are already too many homes in the area
  - Roads and Footpaths are in need of repair/improving already and will be made worse by the development
  - Layout of the proposal
  - Assurances regarding the care of the colony of Pygmy Shrews located nearby is required
  - Rat Problems will need to be dealt with
  - Residents were assured that development would not occur here given asbestos was buried there.
  - Housing should not be constructed on this land

#### **APPLICANTS STATEMENT:**

40. The application provides 50 new dwellings of affordable tenure on previously developed land at Truro Avenue in Murton. The site is well located with good access to shops and amenities including Dalton Park Shopping Centre which is approximately 1 mile from the site; the site is also in close proximity to the A19 providing excellent transport links to the wider region.
41. 22 of the units will be three bedroom five person 'Rent to Buy' properties; which provide residents with the opportunity to rent a new home at a reduced rate to help them save for a deposit that would enable them to purchase the property.
42. 24 of the units will be 2 bedroom 3 person bungalows and the remaining 4 units will be 3 bedroom five person dormer bungalows all to be let as traditional affordable rented properties based on priority need. All bungalows proposed on the development are to be wheelchair user adaptable suitable to both elderly and disabled residents; the three bedroom dormer bungalows are unique and will meet the specific needs of clients who cannot currently access suitable properties, such as families with disabled members.

43. The site layouts have been carefully designed and each new house and bungalow will have 2 allocated parking spaces which is more than the council's parking standards and will help to minimise on street parking. An area of open space has been retained at the north-east of the site to maintain the visual amenity of the area and although some tree removal is required to accommodate the new development the existing hedgerow is being retained in full along the northern boundary to ensure there is no loss of biodiversity under NPPF. Financial contributions relating to loss of open space and ecology under the Habitats Regulation Assessment have also been agreed to minimise any impact from the new development and these will be secured through a Section 106 Agreement.
44. Demand for affordable housing in Murton is strong, including existing bungalows and three bed-properties owned by County Durham Housing Group (CDHG) in the area; and the proposed 50 new dwellings at Truro Avenue are anticipated to be highly sought after.
45. The Strategic Housing Market Assessment (SHMA) 2016 indicates a net shortfall of 148 older persons' homes per year, driven by the aging population where there is expected to be a 46% increase in the number of people over 65 (compared to 2015), reaching 152,000 by 2037. There are just 22 two-bed bungalows owned by CDHG in the area and the provision of a further 24 through this development will more than double this number and help to meet the high demand for this type of accommodation. All bungalows being proposed would also be built to wheelchair user adaptable standards which would not only help to meet this demonstrated need but would provide sustainable accommodation in the long term.
46. The SHMA (2016) also indicates that 25% of people interested in affordable housing in County Durham are interested in intermediate tenures like Rent to Buy. As 22 of these new homes are aimed at those residents who ultimately aspire to purchase their own home, it is also important to consider private sector demand where 31.8% of those households moving in the county would like to move to a 3 bedroom house and 40.8% expect to move to a 3 bedroom house, further strengthening the case for additional 3 bed properties. The proposed new homes under this scheme will help meet this demonstrated demand and will provide high quality new dwellings in the area. They will also be an excellent opportunity for under 35's (who are unable to save for a sufficient deposit to purchase their own home) to rent a new property at an affordable level, saving for a deposit alongside rental payments, and then enabling them to buy after five years if they wish to do so.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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47. 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, the impact upon surrounding occupiers and character and appearance of the area, highways issues, section 106 contributions and objections received.

## Principle of the development

48. This application proposes a residential development of 50 dwellings on the sites of former residential developments which have been vacant for some time and are currently informal open space. The sites lie within the built-up area of Murton which is considered a Local Centre which is considered to support local resident's daily needs. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The District of Easington Local Plan (DLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 11 of the NPPF. However, the NPPF advises at Paragraph 213 that to the weight to be afforded to Local Plan policy will depend upon the degree to which the policy is consistent with the NPPF.
49. The DLP was adopted in December 2001 and was intended to cover a five-year period. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. This application proposes a scheme of 50 dwellings within the settlement boundary of Murton as defined in the District of Easington Local Plan and is on a former housing site which is now informal open space. In planning terms, the development of the site for housing would not be in conflict with Saved Policy 3 of the Local Plan. However, policy 3 is considered to be out of date and therefore the application must be considered in the context of paragraph 11 of the NPPF. Whilst weight can still be afforded to this policy, the weight must be accordingly reduced. This will be discussed in more detail later in this report.
50. Saved Policy 35 requires the design and layout of new development to reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials. Schemes should provide adequate open space, appropriate landscape features and screening (where required) and development should have no serious adverse impact on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
51. Saved Policy 36 requires the design and layout of development to provide safe, attractive and convenient footpath and cycleway links between the housing and shopping facilities, schools, public transport facilities, leisure facilities and places of employment where appropriate.
52. Saved policy 66 requires developers to provide adequate provision for children's play space and outdoor recreation open space in relation to new housing developments of 10 or more dwellings
53. Saved policy 67 Housing development will be approved on previously developed land within settlement boundaries of established towns or villages provided the proposal is of appropriate scale and character and does not conflict with other policies in the plan.
54. Subject to matters of access and layout discussed below, the site has scope to accord with the detailed requirements of saved policy 35 related to design, saved policy 36 relating to access and means of travel, the objectives of saved policy 66 relating to the adequate provision of recreational open space and saved policy 67 relating the re-use of previously developed land.

## The NPPF

55. 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; and- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
- i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - ii) specific policies in this Framework indicate development should be restricted.
56. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.
57. The NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 11 of the NPPF is engaged, and an application is to be assessed in this context.
58. However, Paragraph 11 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the DLP are out-of-date where outlined below.

### *Five Year Housing Land Supply*

59. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.
60. In September 2017, the Government published a consultation document entitled *“Planning for the Right Homes in the Right Places”*, which introduced a standard methodology for calculating housing need (OAN). Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).
61. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, a revised draft NPPF was issued for consultation, with paragraph 61 advising that, ‘in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance’.
62. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.

63. On the 13<sup>th</sup> June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
64. Whilst an Inspector has recently expressed reservations over the Council's calculation of supply in the context of appeal APP/X1355/W/17/3180108 – decision issued 10th May 2018, the Council remains of the view that a supply in excess of 5 years can be demonstrated on the evidence.
65. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.
66. Paragraph 11 of the NPPF is engaged because saved Policy 3 is a settlement boundary policy and the evidence which underpins it is out of date. As there are no policies which protect areas or assets of particular importance which would provide a clear reason for refusal, the application must therefore be approved unless any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. It is appropriate to carry out this balancing exercise after consideration of all other planning matters set out in this report.

#### **Impact upon surrounding occupiers and character and appearance of the area**

67. Saved Policy 35 requires the design and layout of new development to reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials. Schemes should provide adequate open space, appropriate landscape features and screening (where required) and development should have no serious adverse impact on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
68. In terms of the street scene it is considered that the scheme is of a good quality. Dwellings would be a mix of two storeys in height and bungalows and all would have their own front and rear garden areas along with an appropriate level of parking spaces, additional visitor spaces would also be provided. The dwellings would be constructed from a mix of brick, render and concrete roof tiles which is considered appropriate in this location being similar to others in the area. Objections have been raised that dwellings should not be located on this area and the quiet feel of the area would be lost however, the proposal is considered a logical extension to the existing residential area and does not encroach on the existing woodland area to the north.
69. Objections have been raised that there are too many homes in the area and the layout of the proposal should be amended in terms of the position of the bungalows. As stated above, the properties are considered to have appropriate garden space and parking areas in curtilage therefore, it is not considered that the proposal is overdevelopment of the site.
70. With regard to the impact on the amenity of existing residents who surround the site and that of those occupying the proposed new properties, the distancing standards as set out in the District of Easington Local Plan are adhered to in all instances. These standards state that a minimum of 21 metres between main elevations facing each other and 13 metres between main elevations and gables should be achieved in order to ensure there are no adverse impacts in terms of overlooking, loss of privacy, loss of light or overshadowing.

71. Objections have been raised that their areas are used for recreational purpose however these areas have always been informally used since the demolition of the previous houses and have no formal classification. In addition to this concern has also been raised regarding noise especially during construction. Whilst there will always be a degree of noise during development, it is considered that this can suitably controlled through conditions requiring a construction method statement to control noise levels and also a condition to restrict construction hours both as agreed with the applicant. Environmental Health also have separate powers in respect of noise if required.
72. Overall, it is considered that the proposals would lead to a good quality housing scheme on what is a previously developed site in a location which is considered to be sustainable. There would be little or no impact on nearby residents given the distances involved. Having regards to part 12 of the NPPF and the most applicable Policies of the District of Easington Local Plan officers raise no objections to the application having regards to the impact upon surrounding residents and character and appearance of the area.
73. In addition to the above, it is acknowledged that the proposals would result in the loss of green space and some trees on the site. Although the site was previously developed, it has greened overtime and has contributed to the street scene.
74. Concerns were initially raised from ecology however amendments were received to retain the hedge along the northern boundary which is considered to be acceptable and therefore, would not result in a loss of biodiversity thereby being in accordance with the NPPF.

## **Highways Issues**

75. Saved Policy 36 requires the design and layout of development to provide safe, attractive and convenient footpath and cycleway links between the housing and shopping facilities, schools, public transport facilities, leisure facilities and places of employment where appropriate. In addition to this, objections were received regarding increase in traffic and parking issues as well as the poor state of roads and footpaths.
76. Highways officers have requested and received a number of amended plans as there were initially concerns regarding footpath arrangements and the location of visitor parking bays. Officers have commented that the revised plans are acceptable. Each property has two allocated parking spaces with 5 visitor spaces being provided which is considered acceptable.
77. In addition to the state of the roads and footpaths in the area, the proposal will require any roads and footpaths within the site area to be finished to an adoptable standard.
78. On the basis of the above, highways officers offer no objections to the proposals and it is therefore considered that with regard to highways issues that the proposals are in accordance with part 9 of the National Planning Policy Framework and saved Policies 36 and 37 of the District of Easington Local Plan.

## Section 106 contributions

79. Saved policy 66 of the District of Easington Local Plan states that developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site. On this basis the applicant has agreed to make a financial contribution of £34,925.00 towards the provision or improvement of offsite recreation in the electoral division in line with the requirements of the Councils Open Space Needs Assessment.
80. Secondly, the Local Planning Authority must also consider impacts on designated wildlife sites in the vicinity of the proposed development.
81. This application site is in close proximity to Durham Coast Site of Special Scientific Interest (SSSI), and Special Area of Conservation (SAC) Natura 2000 site and the Northumbria Coast SSSI, Special Protection Area (SPA) and Ramsar site, all of which are designations of significant importance.
82. Under normal circumstances the applicant would provide a contribution toward the upgrading or provision of footpaths and walkways in the vicinity of the site in order to take pressure from additional visitors away from the coastal designations of significant importance. Given that the applicant is not in control of any suitable land nearby it has not been possible to achieve this. Therefore, the applicant has agreed to provide a financial contribution of £32,949.00 in line with the Councils "Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham" paper to be used toward capital item 3 of the Durham Coastal Management Plan which seeks to protect high tide roosts in order to directly off-set the impacts of the development on the coast, this contribution would also be secured through a S106 Agreement.
83. The Councils Education team have assessed the scheme based on the methodology set out in the Councils adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 50 dwellings would produce 15 pupils of primary school age and 6 pupils of Secondary age.
84. Based on the projected rolls of the schools, taking into account the likely implementation time frame of the development, build rates and other committed development there would not be sufficient space to accommodate pupils generated by the development, whilst maintaining a 5% surplus. Therefore, in order to mitigate the impact of the development a contribution of £98,064 would be required to facilitate the provision of additional teaching accommodation.
85. The adopted Securing Developer Contributions towards Education Provision in County Durham policy states that in circumstances where the viability of a scheme is in question, the developer will be required to demonstrate that this is the case through a site-specific financial evaluation, undertaken to the Council's satisfaction at the earliest possible stage. Where a scheme is agreed to be unviable or marginal, we will review the contributions for the development and the timing or phasing of payments to assist the financial viability of the scheme.
86. County Durham Housing Group have submitted a viability appraisal showing that the development would not be viable if the full education contribution was required. This has been accepted by the Councils valuation officers and a smaller contribution of £22,000 has been agreed with the developer. It should be noted that the viability case put forward has been accepted as an exceptional case.

87. The proposals would deliver 100% affordable housing on site, however the affordable housing evidence base would only require 15% in this location. This would be secured by a section 106 legal agreement.

#### Paragraph 11 balance

#### Benefits

88. The benefits of the scheme are the boost to housing supply which the proposed dwellings would provide, although the weight to be afforded to that boost is limited given the council's most recent position on 5 year housing land supply, the provision of affordable housing including bungalows; some of which are designed for elderly and disabled residents, the sustainable location of the development, the good quality of the scheme, and the positive economic impacts both in terms of the construction phase of the development and in the longer term economic activity of the occupiers. It should be noted that the development will deliver 100% affordable housing, however the Council can only insist on 15% in this location.

#### Adverse impacts

89. No adverse impacts arising from the proposed scheme have been identified.

Applying the titled balance test in paragraph 11, it is not considered that there are any adverse impacts which significantly and demonstrably outweigh the benefits and therefore planning permission ought to be granted.

#### Objections received

90. As noted above, there have been 3 letters of concern received from nearby residents and most of the objections have been considered above.

91. In respect of the remaining objections, regarding rat problems and the care of the Pygmy Shrews located nearby these are not material considerations that can be considered as part of the planning process.

92. Concern was also raised that assurances had been given that development would not occur here given asbestos was buried there. In respect of asbestos, a condition has been added to the proposal as standard practice for housing developments that requires land remediation works if required therefore, this will be controlled as part of the proposal.

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## **CONCLUSION**

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93. The proposals involve the redevelopment of former housing sites which are adjacent to established residential areas and there is considered to be a good range of facilities and services in the town to serve the development. The scheme is considered to be good quality and in a sustainable location with a suitable access and layout. The scheme would provide affordable housing along with bungalows designed for the elderly and disabled. It is compliant with all relevant saved local plan policy and in the context of paragraph 11, there are no adverse impacts that would significantly and demonstrably outweigh the benefits and is therefore recommended for approval.

## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions and subject to the completion of a Section 106 legal agreement to secure the provision of:

- i. £32,949.00 contribution towards capital item 3 of the Durham Coastal Management Plan.
- ii. £34,925.00 contribution towards enhancement or provision of play facilities in the Murton Electoral Division.
- iii, £22,000 contribution towards Education provision in the Murton Electoral Division
- iiii, 15% affordable housing to be provided on site.

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 approved plans and specifications contained within:

Location Plan, Drawing Number 2953-16-001A received 11 January 2018  
Site layout, Drawing Number 2953.16.002J received 4 July 2018  
Floor Plans/Elevations, Drawing Number 2953.16.020A received 11 January 2018  
Floor Plans/Elevations, Drawing Number 2953.16.021A received 11 January 2018  
Floor Plans/Elevations, Drawing Number 2953.16.023A received 11 January 2018  
Floor Plans/Elevations, Drawing Number 2953.16.024A received 11 January 2018  
Floor Plans/Elevations, Drawing Number 2953.16.025A received 11 January 2018  
Streetscene Details, Drawing Number 2963.16.050 received 11 January 2018  
Boundary Treatment Plan, Drawing Number 2963.16.030 received 11 January 2018  
Topographical Survey, Drawing Number 1269200 Rev B Sheet 1 received 11 January 2018  
Topographical Survey, Drawing Number 1269200 Rev B Sheet 2 received 11 January 2018  
Proposed Levels Plan, Drawing Number C-GA-002 P2 received 16 July 2018  
Proposed Drainage Arrangement, Drawing Number C-GA-003 P2 received 16 July 2018  
Proposed Drainage Arrangement, Drawing Number C-GA-004 P2 received 16 July 2018  
Arboricultural Impact Assessment Tree Protection Plan, Drawing Number AIA TPP received 11 January 2018

Reason: To meet the objectives of saved Policies 1, 35 and 36 of the Easington District Local Plan.

3. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The development shall be carried out in accordance with the approved details. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interest of visual amenity and in accordance with saved Policies 1 and 35 of the District of Easington Local Plan. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

4. Prior to the commencement of any part of the development or any works of demolition, hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

A Dust Action Plan including measures to control the emission of dust and dirt during construction

Details of methods and means of noise reduction

Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;

Designation, layout and design of construction access and egress points;

Details for the provision of directional signage (on and off site);

Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;

Details of provision for all site operatives for the loading and unloading of plant, machinery and materials

Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;

Routing agreements for construction traffic.

Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 “Noise and Vibration Control on Construction and Open Sites” during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: In the interests of residential amenity and to accord with policy 1 and 35 of the District of Easington Local Plan. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

5. The development hereby permitted shall not commence until a pre-commencement scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections a, b, c or d are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

#### Pre-Commencement

(a) A Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

(b) A Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

#### Completion

(c) During the implementation of the remedial works and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part a of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part b of the condition. The development shall be completed in accordance with any amended specification of works.

(d) Upon completion of the remedial works, a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 15. *This is required as a pre commencement condition in order to mitigate potential contaminated land risk which needs to be considered before site works commence.*

6. Notwithstanding any details of materials submitted with the application no development shall commence until details of the external walling, roofing materials and hard surfacing have been submitted to and approved in writing by the Local Planning Authority. Thereafter 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 saved Policies 1 and 35 of the Easington District Local Plan and part 12 of the NPPF. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

7. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 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: In the interests of the appearance of the area and to comply with saved Policies 1 and 35 of the Easington District Local Plan and part 5 of the NPPF.

8. The development hereby approved shall be carried out in accordance with the mitigation measures contained within section H of the submitted Preliminary Ecological Appraisal Truro Avenue, Murton report by E3 Ecology Ltd dated August 2017.

Reason: To conserve protected species and their habitat in accordance with saved Policy 18 of the District of Easington Local Plan and part 15 of the NPPF.

9. Development shall be implemented in line with the surface water management scheme in accordance with the following documents Surface Water Drainage Strategy - Revision B- dated 13/07/2018.

Reason: To ensure effective drainage measures and sustainable principles are adhered to, and to safeguard the proposed development from flood risk in accordance with part 14 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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)

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## **BACKGROUND PAPERS**

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Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Statutory, internal and public consultation responses

District of Easington Local Plan



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/18/01745/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Residential development (outline, all matters reserved)
<b>NAME OF APPLICANT:</b>	Miss Lisa Hunter
<b>ADDRESS:</b>	Land And Buildings West Of Hallfield Drive, Hall Walks, Easington Village
<b>ELECTORAL DIVISION:</b>	Easington
<b>CASE OFFICER:</b>	Barry Gavillet, Senior Planning Officer, <a href="mailto:barry.gavillet@durham.gov.uk">barry.gavillet@durham.gov.uk</a> 03000 261958

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### Site:

1. This application site is located directly adjacent to the settlement boundary of Easington within the Easington Electoral Division to the western edge of the village. Residential properties surround the site to the east, south and west. To the north and east there are residential properties, to the south is Easington Village cemetery and the site is bound to the west by the A19 dual carriageway. The site which is previously undeveloped is a pasture surrounded by hedgerow and slopes upwards from north to south. The site is split into two parts, the smaller part being at the southern end of the site with a larger part to the northern end, a large pasture which separates the sites would be retained. The north frontage to the site contains a modern agricultural storage building, shed and polytunnel of no architectural value.
2. Easington Village centre is approximately 600 metres to the east of the site. The village and colliery incorporates local facilities with such as schools, shops, public houses, public transport and healthcare facilities and is a sustainable location for residential development.

#### Proposal:

3. This application seeks outline planning permission with all matters reserved, therefore the applicant only seeks approval of a development in principle, scale, layout, access, landscaping and appearance would all be reserved matters.
4. This application is being reported to committee as the applicant is related to a County Councillor.

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### PLANNING HISTORY

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5. None relevant

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# PLANNING POLICY

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## NATIONAL POLICY

6. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. 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.
7. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
8. *Part 2* - 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 of a low carbon future.
9. *Part 5* - To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
10. *Part 8* - 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.
11. *Part 9* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
12. *Part 12* - 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.
13. *Part 14* - Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and *associated* infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

14. *Part 15* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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

##### District of Easington Local Plan

15. *Policy 1*- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
16. *Policy 3* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
17. *Policy 14* - seeks to protect Special Areas of Conservation from development which would give rise to an adverse impact, either directly or indirectly.
18. *Policy 18* - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
19. *Policy 35* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
20. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
21. *Policy 37* - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

#### **RELEVANT EMERGING POLICY:**

##### The County Durham Plan

22. 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.

## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

23. Easington Parish Council object to this proposal on the grounds of increase traffic and associated problems with regard to access and egress from the site onto the B1285.

### **INTERNAL CONSULTEE RESPONSES:**

24. Highways officers have confirmed that access points can be achieved, and no highway objections are raised subject to further details being submitted at the reserved matters stage.
25. Education officers confirm that sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.
26. Pollution Control do not object subject to a contaminated land condition.
27. Tree officers have no objections.
28. Landscape officers have some concerns regarding development on the northern part of the site and views from the A19.
29. Ecology officers do not object subject to compliance with the submitted ecology report and appropriate mitigation given that the proposal is in close proximity to EU protected sites on the coast and that given the hedge is to be retained there would be no loss of biodiversity.

### **PUBLIC RESPONSES:**

30. Northumbrian Water have no objections subject to a condition requiring details of foul and surface water drainage.
31. 6 letters of concern have been received by nearby residents. The concerns include a lack of school places, impact on ecology, loss of greenbelt land, highway safety concerns and an increase in traffic, that there are already too many houses and a loss of privacy and overshadowing.

### **APPLICANTS STATEMENT:**

32. The proposal is an outline application for residential development in Easington Village, the site has been within the ownership of the applicant's family for a number of years. Whilst there are a handful of objectors its noted that their objections relate to loss of light, privacy, traffic, there is enough houses and that the site is Green Belt.
33. In terms of the sites location whilst it is not within the village settlement boundary it is directly adjacent with the A19 forming a solid boundary separating the village (and this site) from the open countryside, visually the site appears to be within the village. The site is therefore considered to be a natural infill site, it is important to note that the site is not within the Green Belt.

34. There are existing accesses into the site from Hall Walks and Durham Lane, however notwithstanding this access is a reserved matter. Visually any new dwellings would be seen in the context of the village and not as an isolated dwellings. With regard to loss of light and privacy the design and layout of the development are reserved, however separation distances will be complied with and a high standard of design adopted to ensure there would be no significant adverse effects to the neighbouring houses.
35. With regard to the need for more housing and that there is enough in the area, due to the current lack of a 5 year housing land supply the application should be determined on the basis of the presumption in favour of sustainable development. Whilst the Council have recently indicated that they have a 5 year housing supply it is noted in a recent appeal decision (11<sup>th</sup> September 2018) for residential development of up to 66 dwellings at Castlefields, Esh Winning (APP/X1355/W/18/3197684 – decision attached) that the Council have not demonstrated a 5 year housing supply and that the development adjacent the edge of Esh Winning was considered acceptable, this application is a similar proposal.
36. The Inspector notes: *“The appellant has referred to an appeal decision where it was found that the Council could not at that time demonstrate a five year supply of deliverable housing sites. The Council consider that by applying the national ‘standard method’ that there is a housing land supply in excess of 6 years. However, as the supply has not been established in a recently adopted plan or subsequent annual position statement, the Council’s findings in this regard cannot be considered to have been demonstrated in the terms of paragraph 74 of the Framework. This means that the policies which are most important for determining the application are out-of-date in the Framework’s terms. In any event, it is not a matter of dispute between the main parties that the development plan is out of date and that the presumption in favour of development in the Framework applies. Nevertheless the development would be contrary to saved LP Policy E7, albeit that it carries limited weight. The delivery of new housing would be a benefit. Even if the Council are correct in their calculation of a current housing land supply and that there is not a shortfall, there would still be social and economic benefits in delivering new housing...”*
37. The proposal echoes the Governments objectives of encouraging housing growth. The Government further wants to enable more people to build or commission their own home and wants to make this form of housing a mainstream housing option, whilst house types have not confirmed this site has the potential to include self build plots to support the Governments aims.
38. The site forms a natural extension of the village, and would integrate well, providing benefit to the area. There are no objections to the application from consultees. It is respectfully requested that the planning application is approved on basis that there are no significant nor demonstrable impacts to outweigh the benefits of the development in accordance with the National Planning Policy Framework (2018).

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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39. 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 as this is an outline planning application with all matters reserved, the main planning issue in this instance relates to the principle of development, section 106 contributions and objections received.

### **Principle of the development**

40. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The District of Easington Local Plan (DLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 11 of the NPPF. However, the NPPF advises at Paragraph 213 that to the weight to be afforded to Local Plan policy will depend upon the degree to which the policy is consistent with the NPPF.

41. The DLP was adopted in December 2001 and was intended to cover a five-year period. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. This application seeks outline permission for an unspecified number of residential dwellings immediately adjacent to the settlement boundary of Easington as defined in the District of Easington Local Plan and is on a n area of private paddock with several agricultural type buildings to the northern end. In planning terms, the development of the site for housing would strictly be in conflict with Saved Policy 3 of the Local Plan. However, policy 3 is considered to be out of date and therefore the application must be considered in the context of paragraph 11 of the NPPF. Whilst weight can still be afforded to this policy, the weight must be accordingly reduced. This will be discussed in more detail later in this report.

### **The NPPF**

42. 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; and- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area<sup>6</sup>; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

43. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.

44. The NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 11 of the NPPF is engaged, and an application is to be assessed in this context.
45. However, Paragraph 11 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the DLP are out-of-date where outlined below.

#### *Five Year Housing Land Supply*

46. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.
47. In September 2017, the Government published a consultation document entitled “*Planning for the Right Homes in the Right Places*”, which introduced a standard methodology for calculating housing need (OAN). Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).
48. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, a revised draft NPPF was issued for consultation, with paragraph 61 advising that, ‘in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance’.
49. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.
50. On the 13<sup>th</sup> June, the ‘Preferred Options’ of the County Durham Plan (CDP) was presented to the Council’s Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
51. Whilst an Inspector has recently expressed reservations over the Council’s calculation of supply in the context of appeal APP/X1355/W/17/3180108 – decision issued 10th May 2018, the Council remains of the view that a supply in excess of 5 years can be demonstrated on the evidence.
52. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.
53. Paragraph 11 of the NPPF is engaged because saved Policy 3 is a settlement boundary policy and the evidence which underpins it is out of date. As there are no policies that protect areas or asset of particular importance which provide a clear reason for refusal also the application must therefore be, approved unless any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits.

## **Other issues**

54. Although highways issues are a reserved matter, officers have confirmed that a suitable access points can be achieved into both sites the site off Hall Walks to the north and Church Lane to the south.
55. As noted, this is an outline application with all matters reserved. It has been established that access is achievable, it is also considered that matters of scale, appearance, layout and landscaping could be delivered in an acceptable manner at a future date when a reserved matters application is submitted.
56. As previously stated, the number of properties has not been identified as part of the application, rather the application seeks approval of a residential development in principle. However, it is considered that a maximum number of properties should be identified in order to ensure that the future development does not have any adverse impacts on surrounding occupiers or the visual amenity of the area. It is considered that the smaller southern part of the site should not exceed 2 dwellings whilst the larger site to the north could accommodate 7 dwellings. Therefore a condition restricting the number of dwellings to a maximum of 9 is considered necessary and has been accepted by the applicant.

## **Section 106 contributions**

57. The Local Planning Authority must also consider impacts on designated wildlife sites in the vicinity of the proposed development.
58. This application site is in close proximity to Durham Coast Site of Special Scientific Interest (SSSI), and Special Area of Conservation (SAC) Natura 2000 site and the Northumbria Coast SSSI, Special Protection Area (SPA) and Ramsar site, all of which are designations of significant importance.
59. Under normal circumstances the applicant would provide a contribution toward the upgrading or provision of footpaths and walkways in the vicinity of the site in order to take pressure from additional visitors away from the coastal designations of significant importance. Given that the applicant is not in control and any suitable land nearby it has not been possible to achieve this. Therefore, the applicant has agreed to provide a financial contribution of £323.92 in line with the Councils "Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham" paper to be used toward capital item 3 of the Durham Coastal Management Plan which seeks to protect high tide roosts in order to directly off-set the impacts of the development on the coast, this contribution would also be secured through a S106 Agreement.

## **Paragraph 11 balance**

### **Benefits**

60. The benefits of the scheme are the boost to housing supply which the proposed dwellings would provide, although the weight to be afforded to that boost is limited given the council's most recent position on 5 year housing land supply, the potential provision of self-build properties, the sustainable location of the development and the positive economic impacts both in terms of the construction phase of the development and in the longer term economic activity of the occupiers.

## Adverse impacts

61. No adverse impacts arising from the proposed scheme have been identified.

Applying the titled balance test in paragraph 11, it is not considered that there are any adverse impacts which significantly and demonstrably outweigh the benefits and therefore planning permission ought to be granted.

## Objections received

62. As noted above, there have been 6 letters of concern received from nearby residents and most of the objections have been considered above. In terms of a lack of school places, the Councils education team have confirmed that both primary and secondary places in the area are sufficient to accommodate the proposals. Ecology officers have no concerns subject to conditions and highways officers confirm they have no objections subject to further details being assessed at the reserved matters stage. As previously noted, layout, scale and appearance are reserved matters and therefore issues such as privacy and loss of light can be adequately assessed at a later date. Finally it should be noted that the site is not in the designated greenbelt.

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## CONCLUSION

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63. The proposals involve the development of a paddock which is directly adjacent to the settlement boundary and established residential areas and there is considered to be a good range of facilities and services in the village to serve the development. The scheme is considered to be in a sustainable location which has the potential to deliver self-build properties. The scheme can achieve a suitable access and the reserved matters of scale, appearance, layout and landscaping could be delivered in an acceptable manner at a future date. It is acceptable in the context of paragraph 11 as there are no adverse impacts that would significantly and demonstrably outweigh the benefits and is therefore recommended for approval.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions and subject to the completion of a Section 106 legal agreement to secure the provision of:

- i. £323.92 contribution towards capital item 3 of the Durham Coastal Management Plan.
1. Approval of the details of access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before the development is commenced.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

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

Site Location Plan received 21<sup>st</sup> June 2018.

Reason: To define the consent and ensure that a satisfactory form of development is obtained.

4. No development shall commence until a detailed scheme for tree protection has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme and in accordance with BS 5837 2012.

Reason: In the interests of the appearance of the area and to comply with part 7 of the National Planning Policy Framework. *This is required as a pre commencement condition in order to mitigate potential impact on visual amenity which needs to be considered before site works commence.*

5. Development shall not commence until a scheme for the disposal of surface water from the development hereby approved has been submitted and approved in writing by the Local Planning Authority. Thereafter the development shall take place in accordance with the approved details.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site and in accordance with saved Policy 1 of the Easington District Local Plan and part 14 of the NPPF. *This is required as a pre commencement condition in order to mitigate potential flood risk which needs to be considered before site works commence.*

6. Prior to the commencement of any part of the development or any works of demolition, hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

A Dust Action Plan including measures to control the emission of dust and dirt during construction

Details of methods and means of noise reduction

Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;

Designation, layout and design of construction access and egress points;

Details for the provision of directional signage (on and off site);

Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;

Details of provision for all site operatives for the loading and unloading of plant, machinery and materials

Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;

Routing agreements for construction traffic.

Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: In the interests of residential amenity and to accord with policy 1 and 35 of the District of Easington Local Plan. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

7. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 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: In the interests of residential amenity and to accord with policy 1 and 35 of the District of Easington Local Plan. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

8. Before the use commences, the building(s) hereby permitted shall be insulated against noise in accordance with a scheme submitted to and approved in writing by the Local Planning Authority. All works which form part of the scheme shall be completed before any part of the development is occupied.

Reason: In order to prevent noise disturbance in accordance with saved policies 1 and 35 of the District of Easington Local Plan and part 15 of the National Planning Policy Framework. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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)

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## **BACKGROUND PAPERS**

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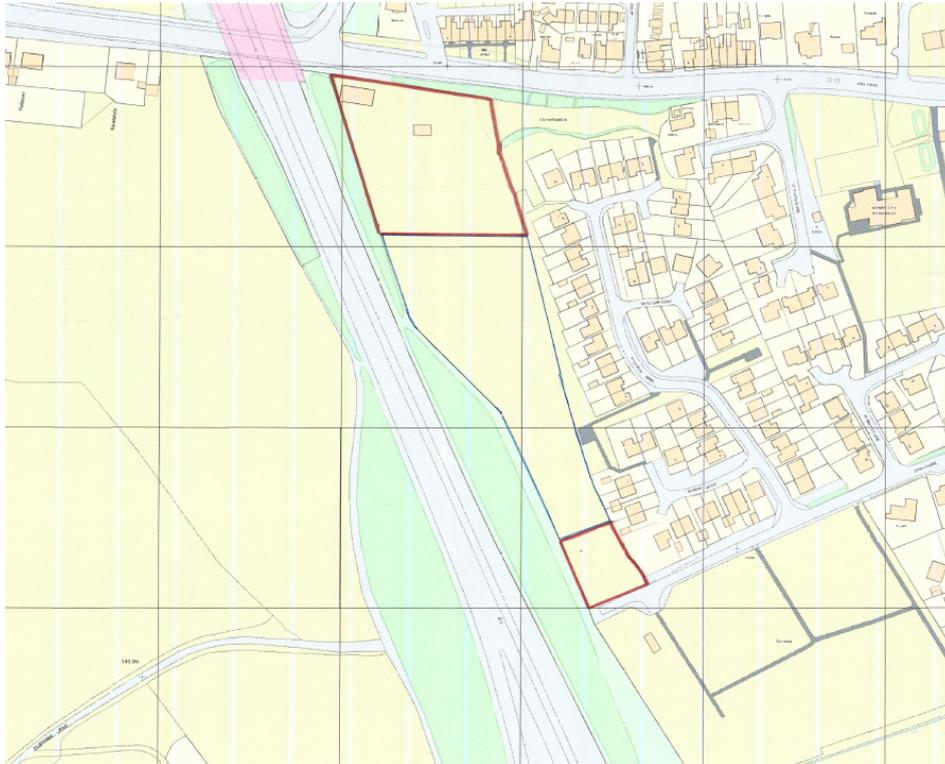
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Statutory, internal and public consultation responses

District of Easington Local Plan



**Planning Services**

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**Residential development (outline, all matters reserved)  
DM/18/01745/OUT**

**Comments**

**Date** October 2018

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/18/02035/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Partial change of use of existing stable/barn to 10 dog kennels and construction of freestanding storage building
<b>NAME OF APPLICANT:</b>	Mr Paul Bedding
<b>ADDRESS:</b>	The Gate House, Dalton-le-Dale, Seaham
<b>ELECTORAL DIVISION:</b>	Murton
<b>CASE OFFICER:</b>	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Paul.hopper@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site comprises an existing stable block and surrounding paddock which covers an overall area of approximately 0.19 hectares and is located to the east of the B1432 between Hawthorn and Dalton-le-Dale.
2. The site is delineated by a mix of iron railings, post and rail fencing and hawthorn hedgerow and is framed by residential properties to the north and south, by open countryside to the east and by Cold Hesleden Industrial Estate to the west. An existing building is located across the eastern part of the site adjacent to its eastern boundary and occupies a linear layout, north to south.
3. Vehicular access is situated to the west and is a shared arrangement with the adjacent residential property at The Gate House which is understood to be occupied by the applicant's immediate family.
4. The site and existing building has historically been occupied as stables although it is understood the building has recently been subdivided with all works internal to provide 10 kennels which are used by the applicant to accommodate racing greyhounds.

### The Proposal

5. Planning permission is sought for the retention of a partial change of use to the existing building on land to the north of The Gate House, Dalton-le-Dale, Seaham to 10 dog kennels and the proposed construction of an associated freestanding storage building. The dog kennel use is in operation and that element of the application is therefore retrospective.
6. Works to partially change the use of the building are now complete and comprise the internal subdivision of the southern half of the building with metal framed kennels and has retained the existing stables across the remainder of the building. Externally the building has remained unaltered with the main pedestrian access being via an external door to the southern elevation. Accordingly the works undertaken did not require planning permission.

7. The proposed storage building would occupy a position approximately 7 metres to the south west of the existing stable block and be 3.6 metres by 3.6 metres with a mono pitched roof to an overall height of 3 metres (2.4 metres to the lower eave height). It would be of prefabricated construction, finished in a mix of concrete/pebbled dash render and corrugated sheeting to the walls with felt sheeting to the roof and be used to as storage in association with the kennel use.
8. Information submitted in support of the application confirms that the kennels would be occupied by the applicant's greyhounds only and would not be offered as kennelling for any third parties. In terms of hours of use the applicant has advised that these would be limited and visits to and from the site would occur daily for the purposes of feeding and exercising the dogs.
9. The application is being reported to planning committee at the request of Cllr Joyce Maitland who considers the change of use would affect the well-being and quality of life of surrounding residents to such a degree that the application should be considered by planning committee.

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## **PLANNING HISTORY**

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10. There is no planning history relevant to the site and determination of this application.

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## **PLANNING POLICY**

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### **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 dependent.
12. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
13. *NPPF Part 6 Building a Strong, Competitive Economy*: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
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 15 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

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

##### **Easington District Local Plan**

17. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
18. Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
19. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
20. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.

#### **EMERGING COUNTY DURHAM PLAN:**

##### The County Durham Plan

23. Paragraph 213 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>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

21. The Highway Authority has no objection to the application after the applicant confirmed that the kennels would be for personal use only and would not be offered for boarding to any third parties.

22. Northumbrian Water Limited has no objection to the application.
23. Dalton-le-Dale Parish Council objects to the application citing concerns that the proposal would have a significant detrimental impact from noise, odour and drainage.

**INTERNAL CONSULTEE RESPONSES:**

24. Environmental Health Section (Noise Action Team) has no objection to the application subject to the inclusion of planning conditions limiting the breed of dog, number of greyhounds kenneled to 20 and a contract and suitable receptacle for the correct disposal and collection of animal waste and that this be in place at all times.
25. Contaminated Land Section has no objections to the application after the applicant completed a Screening Assessment Form (Version 8.2) in Appendix 2 of the YALPAG Guidance 'Development on Land Affected by Contamination'.

**PUBLIC RESPONSES:**

26. The application has been publicised by way of site notice and notification letters to surrounding properties. A total of 4 letters of objection have been received and the reasons for objection summarised as;

- *Impact upon Residential Amenity*

The use of the stables to house in excess of 16 dogs has occurred since September 2017 during which time this has had a significant impact upon residential amenity of adjacent residents, particularly the property to the north west in relation to noise disturbance from dogs barking during the day and night and the burning of waste material.

- *Overlooking and loss of privacy*

The proposal would increase the amount of time the applicant spends within the paddock and this would have an adverse impact upon privacy given the position of a bedroom window at an adjacent property.

- *Parking and Means of Access*

There is insufficient parking included within the proposal to service need and the means of access is substandard given it is serviced from Stockton Road which has a speed limit of 60mph.

- *Drainage and the Storage and Removal of Waste Material*

Arrangements for foul and surface water drainage and the storage and removal of waste are not suitable.

- *Impact on Existing Trees*

The development would damage existing trees and vegetation.

- *The Retrospective Nature of the Application*

The use is partially retrospective (operating since September 2017) and this has resulted in an existing and ongoing adverse impact upon residential amenity from the burning of material, disturbance from noise from barking dogs and the driving of the applicants vehicle into and out of the paddock during the day and night.

- *Animal Welfare Concerns*

The building is not suitable to accommodate greyhounds being in a poor and dilapidated state of repair. The welfare of the dogs is a concern as the barn does not have any natural daylight or means of ventilation and there is insufficient external exercise space to adequate exercise in excess of 6 dogs.

- *Loss of Property Value*  
The development would have a negative impact upon property values for surrounding dwellings.
- *Disruption during the Construction Phase*  
There would be considerable disruption during the construction phase of development should planning permission be granted.
- *Discrepancies within the Application*  
The barn is also used to house horses and a variety of poultry therefore the description of the proposal is incorrect.
- The date stated on the ownership certificates within the application pre dates the application itself which suggests the applicant had no intention of actually applying for planning permission and was hoping that no neighbours would even find out.
- The property was formerly owned by NWL and there are restriction contained within the deeds of other similar properties within the locale that prohibit a number of uses including the keeping of any large amount of animals for commercial purposes. It would be reasonable to assume that such a restriction also applies to the Gatehouse and Paddock.

**APPLICANTS STATEMENT:**

27. Changing the use of the barn to kennels is to allow us as a family to further enjoy our passion of Greyhound racing.

My wife and six year old son both share my enjoyment of the dogs, as well as my wifes parents and uncle who live at the Gatehouse.

The kennels are for our private use and not for commercial or public use, they are subject to the high standards set by the GBGB and as a registered trainer I am a strong believer in achieving or exceeding those standards.

Since July 2018 we have had a voice activated recorder in the kennels monitoring noise throughout the night. We have found no evidence of noise that would constitute statutory nuisance to surrounding premises, we will continue to record so we can act quickly if we find an increasing level of noise. It is a very useful tool with regards to the management of the kennels.

During the application process many allegations have been made against us, all bar one have been found to be untrue and unfairly lodged.

The issue of burning horse manure has now been stopped upon finding it is illegal to do so.

It has been a very distressing time but as we will be eventually be living at the Gatehouse you can rest assured all planning recommendations will be adhered to, so as not to distress surrounding households and potentially losing the dogs.

I would like to thank the committee for your consideration in this matter.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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28. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, residential amenity, design and visual impact, parking, access and highway safety, drainage and land contamination.

### Principle of Development

29. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in this regard and Easington District Local Plan (EDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF does advise at Paragraph 213 that the amount of weight local planning authorities (LPAs) should afford to existing Local Plan policies will depend upon their degree of consistency with the NPPF.
30. In this regard whilst the Easington District Local Plan (EDLP) was adopted in 2001 and intended to cover the period to 2006, the NPPF at Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF.
31. The site is located within the open countryside and as such policy 3 of the EDLP is relevant which states that development outside of the settlement limits will be regarded as development within the countryside and that other than specifically allowed for by other policies within the plan, development in such areas will not be approved. However, as policy 3 includes the application of settlement limits it can be afforded only limited weight as the NPPF takes a more permissive approach to new development containing a presumption in favour of sustainable development.
32. Consequently, the application must be determined in accordance with Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development.
33. For decision taking this means;
- approving development proposals that accord with an up to date 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 planning permission unless;
    - i. the application of policies in the NPPF 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 NPPF taken as a whole.

34. Having regard to the above, the Development Plan is considered to be silent and/or out of date with respect to this proposed development. As a result, the acceptability of the development rests on the planning balance of whether any adverse impact of approving the development would significantly and demonstrably outweigh the benefits, there being no NPPF policies at play which protect areas or assets of particular importance and which provide a clear reason for refusal.
35. In this context it is noted that despite its location within the countryside the application site is well connected to existing services at Seaham and that kennels accommodating a greater number of dogs are generally situated in semi-rural locations given the need for external exercise space and a setting free from disruption and disturbance. The building has been used as stable accommodation by the applicant prior to the introduction of the kennels although the applicant has advised that the part of the building affected was in fact previously unused and the applicant notes that the kennels has reintroduced a positive use in this regard.
36. The proposal relates to the retention of 10 existing kennels which are contained within an existing stable building that amounts to approximately 40% of the total footprint. In this regard it is noted that the change of use has not fundamentally undermined the existing use of the stables which been retained across the remainder of the building.
37. Whilst the applicant does not reside in the adjacent residential property at the Gate House, this is presently occupied by his immediate family and the long term intention is understood to be for him and his partner to move into this property. Notwithstanding this, it is noted that at present he currently resides within 250 metres of the site at a property comprising part of the wider waterworks site formerly operated by NWL which is within sight of the development.
38. The applicant has advised that the kennels and storage building are required for private use by him only in order to accommodate his racing greyhounds (from which he derives some financial gain but does not amount to his sole source of income), the number of dogs accommodated is nevertheless notable at 20 in total. However, all dogs housed at the kennels would be owned by the applicant and that the facility would not be used by any third party
39. Notwithstanding that the applicant has confirmed there is no intention to increase the number of dogs in the future, there is some concern that the use of the kennels could intensify post development. As such, the number of dogs accommodated at the site could be secured through planning condition should permission be granted as could a condition to prohibit the use of the site and building for any trade or business. In addition a condition could also be included.

#### Residential Amenity

40. Despite its semi-rural location the application site is framed by 3 residential properties to the north at Laira House, Chapel House and Chapel Lodge, and to the south at Nos. 3 and 4 The Waterworks. At their closest point these properties would be positioned approximately 30 metres from the kennels.

41. Policy 35 of the EDLP relates to the design and layout of new development and requires proposal in this regard to have no serious adverse affect on the amenity of people living and working in the vicinity of the development site and the existing use of the adjacent land or building in the terms of privacy, visual intrusion, noise and other pollutants. This is considered to display a broad level of accordance with the aims of the NPPF at paragraph 180 which states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
42. The impact of the proposal upon residential amenity has been raised in objection to the application by occupiers of those properties to the north and south, particularly with regard to disturbance from noise and odour, noting that in some instances residents are unable to open windows due to the burning of waste material by the applicant and noise generated by dogs. These issues and concerns have also been reported to the Council's Environmental Health Section by residents as statutory nuisance complaints which have been subject to separate investigation in respect of statutory nuisance. The Council's Environmental Health Section has advised that four complaints about barking have been received in this regard in July 2018 from neighbouring residents and that prior to this no noise complaints had been received despite the dogs being in the building. To date two of the complainants are understood to have reported a big improvement in barking issues and one of the other complaints has been closed following lack of evidence submitted. One complaint remains open and is still under investigating, awaiting the submission of evidence in the form of diary sheets and/or noise app recordings from the complainant.
43. Whilst it is understood that at present the applicant houses 16 dogs at the kennels the proposal relates to an increase to 20 dogs in total, housed 2 per kennel. The group kennelling of dogs has the potential to generate notable levels of noise, particularly if the animals become distressed causing the dogs to bark and howl for continuous periods.
44. With regard to waste storage and removal the applicant has acknowledged that animal waste has previously been burnt externally to the front of the building resulting in foul odour being detectable in the immediate locality. This method of waste disposal is clearly disappointing and falls short of best practice requirements with regard to waste management. With this in mind, and at the request of the Council's Environmental Health Section, the applicant has provided additional information detailing proposed mitigation measures aimed at reducing the impact of any noise and odour from the development. These amount to the implementation of an appropriate waste management plan whereby the kennels are cleaned out on a daily basis and all waste is double bagged, placed in a commercial bin before removal from site via weekly collection by the County Council. With regards to noise it is noted that the applicant has implemented a number of measures including the fitting of black out blinds and double glazing to the front of the property and intention to install insulation to the roof. Whilst the application is not accompanied by a noise impact assessment The Council's Environmental Health Section has nevertheless reviewed these measures and is satisfied that there implementation would mitigate any adverse impact in this regard and could be controlled through planning condition.

45. The Council's Environmental Health Section has visited the site on two separate occasions during which dogs were observed feeding and the kennels cleaned. Whilst previous problems relating to odour and noise are acknowledged the Council's Environmental Health Section has no objections to the application subject to the inclusion of planning conditions limiting the use of the kennels to house greyhounds only (noting that as a breed greyhounds generate less noise than some others), that the total number of dogs does not exceed 20 and that a suitable receptacle for the disposal of animal waste be present on site and available for the storage of animal waste at all times and removed weekly, and that there is no burning of material on site. Whilst the conditions stated could be included it is not considered the restriction upon the specific breed of dog kept at the site would meet the appropriate test of necessity or reasonableness.
46. Residents have raised objection to the application citing concerns regarding a loss of privacy from increased use of the paddock with concern specifically raised about the rear bedroom window of an adjacent property to the north which overlooks the paddock. However, it is noted that the relationship between the paddock and this window is an existing and well established arrangement which is not subject to any planning control. The development proposes no built development with close proximity to this window with the freestanding storage building positioned to the southern part of the site. In this context and noting that the nature of use is such that much of the activity at the site would be within the building it is not considered that the development would have any unacceptable impact upon residential amenity due to loss of privacy.
47. In addition, residents also object to the application citing concerns regarding disruption from noise and disturbance during the construction phase of development. However, it is considered that any impact in this regard would be temporary and could be appropriately mitigated through the inclusion of a planning conditions restricting working hours during this period.
48. Therefore, and despite the concerns of local residents, it is considered that subject to the inclusion of planning conditions in this regard the development is considered acceptable in accordance with the aims of policy 35 of the EDLP and paragraph 180 of the NPPF.

#### Design and Visual Impact

49. Policy 35 of the EDLP relates to design and layout of new development to reflect to scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials. This approach is considered to display a broad level of accordance with the aims of the NPPF at paragraph 124 which states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
50. Whilst works to convert the existing barn are internal and would not fundamentally alter its external appearance, the application also includes the erection of a pre-fabricated building positioned to the south east of the existing stable block. Although the external materials proposed are functional in appearance, comprising a mix of concrete panelling with a pebble dash finish to the walls and felt to a mono-pitched roof, it is nevertheless noted that the building would have limited height of 3 metres and be well screened in the wider area by existing buildings and vegetation. In this context it is considered that the building would not have any adverse impact in this regard and would not appear as an incongruent addition in the surrounding locale subject to the inclusion of a planning condition controlling the external materials to those stated in the application.

51. It is noted that residents have raised objection to the application citing concerns regarding the impact upon existing trees and grade II listed building to the south. Whilst these concerns are noted it is considered that the building would be positioned sufficient distance from the nearest boundary vegetation to allow its retention and that sufficient distance from the listed building would be achieved to ensure it would not have any adverse impact in this regard.
52. Subject to the inclusion of planning conditions stated the development is considered to accord with the requirements of policies 1 and 35 of the EDLP and paragraph 124 of the NPPF in that it would not have any unacceptable adverse impact upon the character and appearance of the surrounding locality.

#### Parking, Access, Highway Safety and Public Rights of Way

53. The site is currently served by an existing access to the south onto Stockton Road which has a speed limit of 60mph and is a shared arrangement with the residential property at the Gate House, occupied by the applicants immediate family. The development proposes the retention of this arrangement in order to serve the development.
54. Policy 36 of the EDLP relates to design for access and requires new development to provide safe and adequate access capable of serving the amount and nature or traffic to be granted. This approach is considered to display a broad level of accordance with the aims of paragraph 108 of the NPPF which states that applications for development should ensure that safe and suitable access to the site can be achieved for all users.
55. The suitability of the existing access has been raised as a concern in objection to the proposal by local residents who consider this unsuitable to accommodate the applicant's vehicles and the trips generated by the kennels given that Stockton Road has a speed limit of 60 mph and that insufficient parking is included within the development.
56. The number of vehicle movements generated by the use is limited to between 2 and 4 trips per day noting that the kennels accommodate the applicant's greyhounds only. Whilst the concerns of local residents are noted the Highway Authority offers no objection to the application after the applicant confirmed the kennels would be for his personal use only which could be appropriately controlled through planning condition.
57. In light of the above the development would not have any unacceptable adverse impact in terms of highway safety capable of sustaining refusal of the application in accordance with the aims of policies 1 and 36 of the EDLP and paragraph 108 of the NPPF.

#### Land Contamination and Drainage

58. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
59. The applicant has completed a Screening Assessment Form (Version 8.2) in Appendix 2 of the YALPAG Guidance Development on Land Affected by Contamination. The Council's Contaminated Land Section has reviewed this information and offers no objection to the application which it is considered would not have any unacceptable impact from previous land contamination and as such accords with the aims of paragraph 178 of the NPPF.

60. With regard to drainage it is noted that surrounding residents have raised objection to the application particularly that the scheme does not include any means for the disposal of foul and surface water disposal. However, with regard to surface water the existing stable block benefits from an existing arrangement and the free standing building would drain to soakaway which is considered acceptable given its limited footprint. All animal waste generated by the development would be removed by an appropriate waste handler and there would be no foul water generated. NWL have been consulted and offer no comment or objection to the application in this regard.
61. The development is therefore considered to accord with the requirements of policy 1 of the Easington District Local Plan which requires new development to protect the environment from development that generates pollutants or water, soil or air.

#### Other Matters

62. Objection has been raised to the application by local residents citing the retrospective nature of the submission as a concern. Whilst it is disappointing that some of the works have already been completed and as such are unauthorised, planning legislation and the Council Enforcement Protocol makes provision for the submission of planning applications to seek to regularise breaches of planning control. Consequently the retrospective nature of the application is not sufficient to sustain a refusal.
63. Similarly, residents are also concerned that the date the notice was served by the applicant upon third party land owners notifying them of the application pre dates submission of the application itself. Notwithstanding these concerns it is common practice that notification be served by the applicant in this regard prior to the submission of the planning application.
64. Objection has also been received from residents citing concerns regarding the impact upon property values and animal welfare concerns which it is noted have also been reported to the RSPCA. In response it is noted that the impact of a development upon property values is not a material consideration in determination of this application. With regard to animal welfare it is considered the building and adjacent paddock are sufficient to service the proposed use and that matters relating to specific animal welfare are subject to separate legislative control and as such are not sufficient to sustain refusal of the application in this instance.
65. Residents have also raised concerns that the kennels would be used as a base from which to operate a greyhound racing business and note their involvement in a company which has since been dissolved that was directly engaged in racing greyhounds. However, it would appear that application has been made to dissolve this business and the applicant has confirmed that the site would be used for his personal use as part of an ongoing hobby. A condition could be included which restricted the use in this regard.

#### Planning Balance

66. As the relevant policies of the EDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

### *Benefits*

67. Whilst it is noted that the building has historically been used by the applicant as stables, the development has nevertheless introduced a positive use across part of the existing building which prior to this was in no positive use.

### *Adverse Impacts*

68. Subject to the inclusion of planning conditions to control the precise nature of the use, the number and breed of dogs housed it is considered that the proposal would not have any adverse impact upon the residential amenity of surrounding occupiers.

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## **CONCLUSION**

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69. As the EDLP is silent in relation to the development the presumption in favour of sustainable development is engaged. The development is therefore required to be considered in the context of paragraph 11 of the NPPF, which states that the development be granted planning permission, the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
70. The change of use relates to a relatively small portion of an existing building, which despite its rural location is well served by local services and would introduce a positive use across part the building previously unused. The applicant has confirmed that the kennels are used solely for accommodating the applicants racing greyhounds and this could be controlled through planning condition along with total number of dogs.
71. With regard to the associated freestanding storage building this could be satisfactorily accommodated at the site by reason of scale, mass, design, materials and use without adverse impact upon residential amenity, design and visual appearance, parking, access and highway safety, contaminated land and drainage subject to appropriate planning conditions.
72. Therefore, when considered in the context of paragraph 11 of the NPPF the proposal would accord with aims of policies 1, 3, 35 and 36 of the Easington District Local Plan and Parts 6, 9 12 and 15 of the NPPF and would not have any adverse impacts which would significantly or demonstrably outweigh the benefits.

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## **RECOMMENDATION**

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That the application be APPROVED subject to the following conditions;

1. The development hereby approved 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.*

Drawing No.	Description	Date Received
	Location Plan	3 July 2018
	Proposed Site Plan	3 July 2018
	Proposed Elevations	3 July 2018
	Proposed Floor Plans	3 July 2018

2. Notwithstanding any details of materials submitted with the application the external materials of the freestanding storage building hereby approved shall be finished in a mix of concrete panels and pebbledash render to the walls and felt sheeting to the roof.

*Reason: To protect the character and appearance of the surrounding area in accordance with the requirements of Policy 35 of the Easington District Local Plan as amended by Saved and Expired Policies September 2007.*

3. The use hereby permitted shall be undertaken only by Mr Paul Bedding and are permitted at the premises only for the duration that the building is occupied by Mr Bedding. When the premises cease to be occupied by Mr Bedding the use hereby permitted shall cease and all materials and equipment brought on to the premises in connection with the use shall be removed.

*Reason: To protect the amenity of surrounding residents in accordance with the aims of policies 1 and 35 of the Easington District Local Plan as amended by Saved and Expired Policies September 2007.*

4. Within 2 months of the date of this permission a Kennel Management Plan shall be submitted to and agreed in writing by the local planning authority. The submitted detail shall include but not be restricted to, details of general site management, the breed of dog, access arrangements and maintenance regime for exercising feeding etc. The development shall thereafter be carried out in accordance with the agreed detail.

*Reason: In the interests of residential amenity in accordance with the aims of policies 1 and 35 of the Easington District Local Plan as amended by Saved and Expired Policies September 2007.*

5. The kennels hereby approved shall only be used to accommodate a maximum of 20 greyhounds (2 in each kennel).

*Reason: In the interests of residential amenity in accordance with requirements of policy 35 of the Easington District Local Plan as amended by Saved and Expired Policies September 2007 and paragraph 180.*

6. No trade or business shall be undertaken from the premises and the dogs permitted to be accommodated shall be within the ownership of the owner/occupier of the premises.

*Reason: In the interests of residential amenity in accordance with the requirements of policy 35 of the Easington District*

7. All animal waste generate by the kennels hereby approved shall be double bagged, stored in a suitable waste receptacle at all times whilst awaiting removal from site and be removed via weekly collection by a waste carrier.

*Reason: In the interests of residential amenity in accordance with requirements of policy 35 of the Easington District Local Plan as amended by Saved and Expired Policies September 2007 and paragraph 180.*

8. There shall be no burning of animal waste at the site under any circumstances.

*Reason: In the interests of residential amenity in accordance with requirements of policy 35 of the Easington District Local Plan as amended by Saved and Expired Policies September 2007 and paragraph 180.*

9. No construction/demolition activities, including the use of plant, equipment and deliveries, should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

*Reason: In the interests of residential amenity in accordance with requirements of policy 35 of the Easington District Local Plan as amended by Saved and Expired Policies September 2007.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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.

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## **BACKGROUND PAPERS**

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Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Easington District Local Plan

Statutory, internal and public consultation responses



**Cold Hesledon**



**Planning Services**

Partial change of use of existing stable/barn to 10 dog kennels and construction of freestanding storage building

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**Comments**

**Date** 9 October 2018

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/18/01943/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Three storey extension to existing building and associated landscape works.
<b>NAME OF APPLICANT:</b>	Mr Ian Walton, New College Durham
<b>ADDRESS:</b>	New College Durham, New College Road, Framwellgate Moor, Durham, DH1 5ES
<b>ELECTORAL DIVISION:</b>	Framwellgate and Newton Hall
<b>CASE OFFICER:</b>	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Paul.hopper@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site comprises part of an existing and well established college facility at New College Durham, Famwellgate Moor, Durham. The school offers a wide variety of educational courses and higher education qualifications ranging from construction and engineering workshops, health and beauty salons, sports and performing arts and general teaching and it is understood that the facility is used by both students and the local community.
2. The site is located to the north west of Durham City Centre and is bounded by the A167 and open space to the west and by housing to the north, south and east, the latter being separated from the existing buildings by several sports pitches.
3. In terms of existing buildings the site comprises a large main building of notable footprint which is set to the north of 2 smaller buildings of three storey height set parallel to the A167 to the west. In addition, the site also includes a large college car park between the main entrance to the south and the buildings to the north.
4. With regards to access the site is served by a vehicular access taken from Dryburn Road and it is also noted that a public right of way bisects the site north-south between the buildings and sports pitches.

### The Proposal

5. Full planning permission is sought for the erection of a three storey extension to the existing college building at New College Durham with associated hard and soft landscaping.
6. The proposed extension would be positioned to the northern elevation of the existing technology building which is the largest and most northerly of the three existing buildings already present on site and would mirror the height, width and design of the existing block.

7. Overall the extension would be approximately 32.4 metres long by 46.8 metres wide with a maximum height of 10.5 metres. External surfaces would be finished in a mix of brick and grey and silver composite cladding and include roller shutter doors to the northern elevation and a pedestrian access to the western elevation.
8. The extension would be used to improve and increase the range of educational facilities offered from the site and create approximately 3209sqm of workshop and teaching accommodation spread over 3 floors comprising a mix of carpentry and brick workshops to the ground floor, classrooms (including specialist IT classrooms) and 2 further workshops to the first floor and a conference room to the second floor.
9. The proposal also includes the provision of soft and hard landscaping to the northern and western elevations comprising a hard paved area and path providing pedestrian access to an entrance at ground floor supplemented by an area of grassed to the western elevation, and hard standing external storage area for building materials to the northern elevation which would include areas for the storage of brick and timber.
10. Hours of use would mirror the existing arrangement at the college and be 08:30 to 21:00 Monday to Friday, 08:30 to 13:00 Saturday with no opening Sundays, Bank or Public Holidays.
11. The application is being reported to planning committee as it is major development as defined by the Council's Scheme of Delegation.

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## **PLANNING HISTORY**

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12. There are no previous planning permissions relevant to this application.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

13. 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 dependent.
14. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
15. *NPPF Part 8 Promoting Healthy 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
16. *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.

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 15 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.

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

#### **City of Durham Local Plan**

19. Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
20. Policy E15 (Provision of New Trees and Hedgerows) states that the Council will encourage tree and hedgerow planting.
21. Policy H13 (Residential Areas – Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
22. Policy R11 – Public Rights of Way and other Paths. Public access to the countryside will be safeguarded by protecting the existing network of PROW's and other paths from development which would result in their destruction.
23. Policy T1 (Traffic – General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
24. Policy T10 (Parking – General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
25. Policy Q1: General Principles – Designing for People states that the layout and design of all new development should take into account the requirements of users. It will be expected to incorporate the following as appropriate personal safety and crime prevention, the access needs of people with disabilities, the elderly and those with children.
26. Policy Q2: General Principles – Designing for Accessibility states that the layout and design of all new development should take into account the requirements of users. It will be expected to embody the principle of sustainability and to incorporate the following as appropriate.
27. Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.

28. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
29. Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
30. Policy U11 (Development on Contaminated Land) sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

#### **EMERGING COUNTY DURHAM PLAN:**

##### The County Durham Plan

23. Paragraph 213 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>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

31. The Highway Authority has no objection to the application.
32. Northumbrian Water Limited has no objection to the application but notes the presence of NWL equipment within the application site.

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

33. Environmental Health Section (Noise Action Team) has no objection to the application subject to the inclusion of planning conditions requiring the submission and agreement of a noise impact assessment, precise details of lighting and a construction management plan.
34. Landscape Section has no objection to the application but notes the requirement to provide a detailed landscaping scheme to include planting to the eastern and western boundaries.

## **PUBLIC RESPONSES:**

35. The application has been publicised by way of site notice, press notice and notification letters to neighbouring properties to which no representations have been received.

## **APPLICANTS STATEMENT:**

36. The proposals for the extension to the existing technology Block at New College Durham are to assist the college in delivering new STEM focussed subjects and courses. The scheme, following the completion of the advanced manufacturing centre in 2017 will allow the college to align modern, fit for purpose, specialist education programmes with the requirements of industry and business. Ensuring New College Durham students are given the best possible opportunities with tangible skills and knowledge to enter employment on completion of their studies. In addition to the significant education opportunities the proposals will help deliver, the construction of the STEM centre will allow the college to access other means of funding and industry sponsorship.
37. Architecturally, the proposed extension comprises a simple extrusion of the existing technology block, reflecting the same scale and mass, architectural style, and materials of the existing building.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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38. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, design and visual impact, residential amenity, public rights of way and parking, access and highway safety and land contamination.

### Principle of Development

39. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CofDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that weight to be afforded existing Local Plan policies depends upon their degree of consistency with the NPPF.
40. The City of Durham Local Plan (CofDLP) was adopted in 2004 and was intended to cover the period to 2006. The NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF.

41. Whilst, policy C4 of the CofDLP provides a policy framework which supports new development by New College Durham on the Campus at Framwellgate Moor, this policy has expired and as such cannot be afforded weight in determination of this planning application.
42. Consequently, the application must be determined in accordance with Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development.
43. For decision taking this means;
  - approving development proposals that accord with an up to date 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 planning permission unless;
    - i. the application of policies in the NPPF 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 NPPF taken as a whole.
44. Having regard to the above, the Development Plan is considered to be silent and/or out of date with respect to this proposed development. As a result, the acceptability of the development rests on the planning balance of whether any adverse impact of approving the development would significantly and demonstrably outweigh the benefits, there being no NPPF policies at play which protect areas or assets of particular importance and which provide a clear reason for refusal.
45. Whilst the NPPF does not expressly advise on educational facilities, at Part 8 it nevertheless places emphasis in more general terms to plan positively for community facilities and education developments, particularly schools.
46. In this respect it is noted that educational use at the site is well established with the college being extensively redeveloped in 2005 and facility is used by the local community and in this context the importance of the continued success of the college both for the City and for the wider area is acknowledged.
47. The proposed extension would relate well to this existing use and is therefore considered acceptable in principle subject to proper consideration of the proposal upon design and visual impact, residential amenity, land contamination, public rights of way and parking access and highway safety.

#### Design and Visual Impact

48. Policy H13 relates to CofDLP states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. In addition, policies Q1, Q2 and Q3 relate to general principles of design in terms of people and accessibility and policy Q5 provides guidance with particular regard to landscaping, requiring all new development that would have an impact on the visual amenity of the area in which it is located, will be required to incorporate a high standard of landscaping in its overall design and layout.

49. The stated policies are considered to display a broad level of accord with the aims of the NPPF at paragraph 124 which states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
50. The development proposes an extension to the northern elevation of the existing technology building which itself occupies a position to the northern part of the site and would appear as a simple extrusion of the existing architecture, expressed principally as a two storey extension with an inset second floor. In this respect the scale of the extension is considered to match that of the existing building being of similar width and height and utilising the same façade with matching materials and roof light design. However, it is noted that precise detail with regard to the submission and agreement of sample materials could be secured through planning condition to which the applicant has agreed.
51. Hard and soft landscaping is proposed to the western elevation which would comprise block paving and a grassed area respectively. The former would provide pedestrian access to a main entrance at ground floor and the latter compliment areas of existing soft landscaping which frame the current building.
52. A larger area of hardstanding would be positioned to the northern elevation and this would provide a service and storage area for deliveries and would replace an existing service area that would be lost to the extension. Whilst this area would be of functional appearance and enclosed by a 1.8 metre high security fence, material would be stored within designated areas to limited heights, and be screened in the wider views by supplementary planting, the submission and agreement of which could be secured through a planning condition to which the applicant has agreed. The Council's Landscape Section does not raise any objection to the application but notes the importance of ensuring that appropriate landscape is provided.
53. Subject to the inclusion of planning conditions limiting the height of any material stored externally and the submission and agreement of precise landscape detail, implementation and details of the proposed means of enclosure, the development is considered to accord with the requirements of policies H13, Q1, Q2, Q3 and Q5 of the CofDLP and paragraph 124 of the NPPF in that it would not have any unacceptable adverse impact upon the character and appearance of the surrounding locality.

#### Impact upon Residential Amenity

54. The site is situated to the west of Pity Me and as such the nearest residential properties are those approximately 100 metres to the north and west at Bridgemere Drive and Alexandra Close respectively.
55. Policy H13 of the CofDLP states that planning permission will not be granted for new development which have a significant adverse affect on the character or appearance of residential areas or the amenities of residents within them. This is considered to display a broad level of accord with the aims of the NPPF at paragraph 180 which states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

56. The site is currently used for education purposes and the proposed use would extend this. Whilst any increase in noise and disturbance would generally be heard in this context any plant or machinery located to the north or east of the building may cause noise disturbance to residential occupiers, particularly those identified at Bridgemere Drive and Alexandra Close. Similarly, any additional external lighting may also be visible and capable of disturbance as a result. Notwithstanding this the Council's Environmental Health Section offers no objection to the application subject to planning conditions requiring the submission and agreement of a noise impact assessment prior to the operation of any plant, details of external lighting and a construction management plan prior to the commencement of development to which the applicant has agreed.
57. Whilst the proposed extension would be visible in views from those residential properties identified the separation distances are nevertheless considered sufficient to ensure that the development would not have any unacceptable or adverse impact upon the residential amenity of existing occupiers. In this regard, and subject to the inclusion of the conditions identified the development is considered to accord with the requirements of policy H13 of the CofDLP and the aims of paragraph 180 of the NPPF.

#### Parking, Access, Highway Safety and Public Rights of Way

58. Existing access arrangements would remain unaltered by the proposal and the site would continue to be served by the main vehicular access from Dryburn Road to the south. However, it is noted that the reconfiguration of the existing service area is required and that this would result in the loss of 21 No. parking spaces. In addition, it is also noted that Public Right of Way No. 4 lies approximately 17 metres to the east of the extension beyond an internal access road.
59. Policies T1 and R11 relate to access, parking and public rights of way respectively with the policy T1 and T10 stating that the Council will not grant planning permission for the development that would generate traffic which would be detrimental to highway safety and/or have a significant affect on the amenity of occupiers of neighbouring property. With regard to public rights of way policy R11 seeks to safeguard and protect the existing network of public rights of way and other paths from development which would result in their destruction unless a suitable alternative route is provided. This is considered to display a broad level of accord with the aims of paragraph 108 of the NPPF.
60. Whilst in the first instance the loss of 21 existing car parking spaces from the site appears notable, the overall provision within the site is currently 917 spaces and as such the reduction in provision to 896 will not significantly reduce capacity and is unlikely to impact the highway network as a result, and may in fact encourage some trip displacement to more sustainable modes of travel. In this context the Highway Authority has no objection to the application.
61. With regard to the public right of way the extension would be sufficient distance from its route to ensure that there would not be any unacceptable adverse impact although the inclusion of a planning informative is advised reminding the applicant that during the construction phase this route be kept free from obstruction.
62. Subject to the inclusion of an informative as described the proposal would not result in any adverse impact in terms of highway safety or the adjacent public right of way and as such the proposal would accord with the aims of policies T1, T10 and R11 of the CofDLP and paragraph 108 of the NPPF.

## Land Contamination and Drainage

63. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
64. As the proposal represents a change of use to a more sensitive receptor the Council's Environmental Health Section offers no objection subject to the inclusion of a planning condition requiring the submission and agreement of a contaminated land assessment to include intrusive site investigations, remediation and verification where need is identified. Subject to the inclusion of a planning condition in this regard the proposal is considered to accord with the requirements of paragraph 178 of the NPPF.

## Drainage

65. Policy U8A of the CofDLP states that development proposals will only be approved if they include satisfactory arrangement for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
66. The development proposes disposal of foul and surface water to existing mains sewer to which NWL raises no objection. However, it is noted that NWL plant and apparatus does cross the application site, but that NWL will contact the applicant direct in this regard. Therefore, subject to the inclusion of a condition which requires the submission and agreement of precise means of foul and surface water disposal prior to the commencement development.

## Planning Balance

67. As the relevant policies of the EDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

### *Benefits*

68. The proposal would improve and expand the range of educational services offered from the site and to the local community at a site which is well established for educational use, helping to secure its long term future.

### *Adverse Impacts*

69. Whilst the extension would be visible in the wider landscape, subject to the inclusion of planning conditions relating to the submission, agreement and implementation of a landscaping scheme proposal would not have any adverse impact in this regard capable of outweighing the benefits in the context of paragraph 11 of the NPPF.

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## CONCLUSION

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70. As the CofDLP is silent in relation to the development the presumption in favour of sustainable development is engaged. The development is therefore required to be considered in the context of paragraph 11 of the NPPF, which states that the development be granted planning permission, the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
71. In this regard the extension would improve and expand the range of education facilities currently offered from the site and in this regard the proposal is considered to accord with part 8 of the NPPF which places emphasis in more general terms to plan positively for community facilities and education developments, particularly schools.
72. The extension reflects a high standard of design and mirrors the host building in terms of scale, design and external materials and in this regard and would not appear as an incongruent addition. Whilst the mass of the existing building would increase this would not be to an extent that it would appear overly dominant or adverse impact upon residential amenity, parking, access and highway safety, public rights of way, land contamination or drainage.
73. Therefore when considered in the context of paragraph 11 of the NPPF the proposal would accord with aims of policies H13, Q1, Q2, Q3, Q5, T1, T10 and R11 of the City of Durham Local Plan and Parts 8, 9, 12 and 15 of the NPPF and would not have any adverse impacts which would significantly or demonstrably outweigh the benefits.

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## RECOMMENDATION

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That the application be APPROVED subject to the following conditions;

1. The development hereby approved 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.*

Drawing No.	Description	Date Received
DR-A-0001-S2-P1	Location Plan	27 June 2018
DR-A-1002-S2-P1	Proposed Site Plan	27 June 2018
DR-A-3001-S2-P4	General Arrangement Ground Floor Plan	27 June 2018
DR-A-3002-S2-P4	General Arrangement First Floor Plan	27 June 2018
DR-A-3005-S2-P1	Proposed Roof Plan	27 June 2018
DR-A-3108-S2-P1	Proposed Site Plan Detail 1	27 June 2018
DR-A-3109-S2-P1	Proposed Site Plan Detail 2	27 June 2018

DR-A-3601-S2-P4	Proposed Arrangement	General	27 June 2018
DR-A-3601-S2-P4	Proposed Arrangement Elevations	General	27 June 2018
DR-A-3801-S2-P1	Typical Sections		27 June 2018

2. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling and roofing materials and details of garage doors 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: To protect the character and appearance of the surrounding area in accordance with the requirements of Policy H13 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007. This is required as a pre commencement condition in order to mitigate potential impact upon the character and appearance of the surrounding area which needs to be considered before site works commence.*

3. No development shall commence until details of all means of enclosure have been submitted to and agreed in writing by the local planning authority. The development shall thereafter be carried out in accordance with the agreed details.

*Reason: In the interest of visual amenity in accordance with the requirements of policies H13 of the City of Durham Local Plan. This is required as a pre commencement condition in order to mitigate potential impact upon the character and appearance of the surrounding area which needs to be considered before site works commence.*

4. Material stored externally within the service area identified on Drawing No. shall not exceed 3 metres in height.

*Reason: To protect the character and appearance of the surrounding area in accordance with the aims of policy H13 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.*

5. No plant shall be operated until a detailed noise impact assessment and scheme of sound attenuation has been submitted to and approved in writing by the local planning authority. The scheme of attenuation measures shall ensure that the rating level of noise emitted from plant on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014. The development shall be carried out in accordance with the approved scheme of attenuation measures and on written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.

*Reason: In the interests of residential amenity in accordance with requirements of policy H13 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

6. No development shall commence until details of all the external lighting has been submitted to and approved in writing by the local planning authority prior. The detail provided must be sufficient to demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting approved shall be maintained in accordance with the approved details to minimise light spillage and glare outside the designated area.

*Reason: In the interests of residential amenity in accordance with requirements of policy H13 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

7. No development shall commence until such time as a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning. Thereafter the development shall take place in accordance with the approved details.

*Reason: In the interest of the adequate disposal of foul and surface water in accordance Part 14 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact upon flood risk in the surrounding area which needs to be considered before site works commence.*

8. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The development shall thereafter be carried out in accordance with the approved details.

*Reason: To protect existing trees and the character and appearance of the surrounding area in accordance with the aims of policies H13 and Q5 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007. This is required as a pre commencement condition in order to mitigate potential impact upon the character and appearance of the surrounding area which needs to be considered before site works commence.*

9. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

*Reason: To protect existing trees and the character and appearance of the surrounding area in accordance with the aims of policies H13 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.*

10. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority.

The agreed plan shall include as a minimum (but not necessarily be restricted to) the following:

- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 ‘Code of practice for noise and vibration control on construction sites’ 2014.
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council’s accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no noisy working on a Sunday or Bank Holiday.
- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

The management plan shall have regard to BS 5228 “Noise and Vibration Control on Construction and Open Sites” during the planning and implementation of site activities and operations. The approved Construction Management Plan(s) shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

*Reason: To protect the residential amenity of existing and future residents from the development to comply with Part 15 of the National Planning Policy Framework. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

11. The development shall not commence until a scheme to deal with contamination for that phase has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following:

### **Pre-Commencement**

- (a) A Phase 1 Preliminary Risk Assessment (Desk Top Study) is required to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.
- (b) If the Phase 1 identifies the potential for contamination, a Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.

- (c) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

## **Completion**

- (d) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.
- (e) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

*Reason: The site may be contaminated as a result of past or current uses and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 15. This is required as a pre commencement condition in order to mitigate potential impact from previous contamination of the surrounding area which needs to be considered before site works commence.*

12. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

*Reason: In the interests of residential amenity in accordance with requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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.

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## **BACKGROUND PAPERS**

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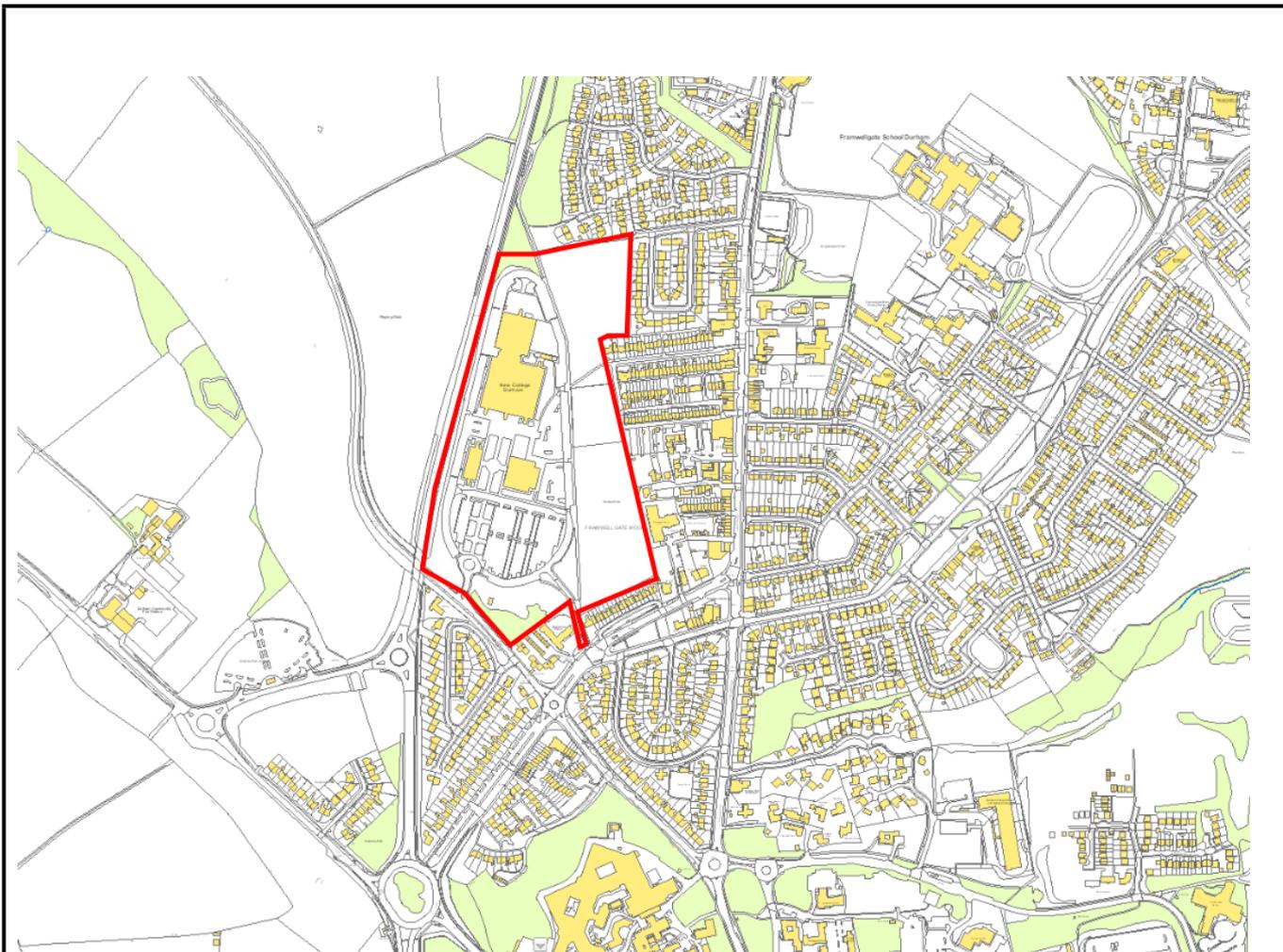
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan 2007

Statutory, internal and public consultation responses



**Planning Services**

Three storey extension to existing building and associated landscape works.

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**Comments**

**Date** 9 October 2018

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/18/01875/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of a hangar building for storage of micro-light aircraft.
<b>NAME OF APPLICANT:</b>	Mr and Mrs Horn, East Durham Micro-Lights,
<b>ADDRESS:</b>	Greenhill's Farm Cottage, Wheatley Hill, DH6 3QS
<b>ELECTORAL DIVISION:</b>	Trimdon and Thornley
<b>CASE OFFICER:</b>	Lisa Morina (Planning Officer) Tel: 03000 264877 Email: lisa.morina@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is a parcel of land associated with Greenhills Farm on the outskirts of Wheatley Hill. The site is made up primarily of open grassed land. A change of use of the land was approved in 2015 to allow the use of the land as a micro light centre with a new centre and clubhouse building and associated car parking. The use had previously been carried out on a temporary basis. This consent has been implemented with the club house currently under construction.
2. There are five residential properties located directly to the west of the site. To the immediate north beyond the B1279 and to the south and west of Greenhill's Farm the predominant land use consists mainly of open fields either for arable agricultural or grazing purposes. To the east of Greenhill's Farm separated by the B1280 Salters Lane is the municipal household waste recycling centre and Thornley Crossing industrial estate. A pond is also located to the east of the site.

#### The Proposal

3. Planning permission is sought for the construction of a hangar building for the storage of micro-light aircraft. The building is located to the north east of the site adjacent to the proposed car parking area.
4. The building is proposed at 24m x 48.5m with a height of 3.646m to the eaves and overall height of 5.228m. The building has been designed at this size to accommodate a maximum of 12 micro light aircraft which are fixed wing types. These have a wing span of 12.0 metres from wing tip to wing tip and measure 7.0 metres in length from nose to tail. Internal space within the building is also required to allow the aircraft to be manoeuvred in and out of the building.
5. At least 50% of these spaces are required to accommodate the overspill from the existing hangar building and there is a waiting list of new members for the other spaces.

6. There is no external lighting proposed and there is to be no increased level of flights, which are currently restricted to 40 in any one day.
7. The application is being reported to the planning committee as it is a major development.

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## **PLANNING HISTORY**

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8. DM/15/01088/FPA - Change of use of land for the use of micro light centre and erection of new centre and clubhouse building with associated car parking. Approved 2015.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

9. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. 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.
10. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
11. 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.
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 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.
14. 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.

15. NPPF Part 15 Conserving and Enhancing the Natural Environment - 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.

### **Emerging County Durham Plan**

16. 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.

### **LOCAL PLAN POLICY:**

#### **District of Easington Local Plan**

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

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

19. Policy 18 - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.

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

21. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.

22. Policy 37 - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

23. Highway Authority has no objection to the proposal.

### **INTERNAL CONSULTEE RESPONSES:**

24. Environmental Health Officers have raised no objection to the application.

25. The Ecology Section raises no concern given the information which has been submitted however asks for the recommendations of the submitted report to be conditioned.

26. The Landscape Section raised concerns over the impact the proposal may have however feel that subject to an appropriate landscaping scheme and relocation of the building the proposal would be acceptable.

### **PUBLIC RESPONSES:**

27. The application has been publicised by way of site notice and notification letters to neighbouring properties. One letter has been received offering support for the proposal and the current business which is carried out.

### **APPLICANTS STATEMENT:**

28. A micro-light flying club has operated from the Greenhill's Farm site for over a decade. Originally the club was operated on an occasional basis limited to 28 days flying per annum under permitted development rights.

29. In 2015 it was decided the micro-light club had sufficient capacity in terms of its membership to be developed as a business by the club owners. In May 2015 an application for a change of use of land for the use as micro-light centre and erection of a clubhouse building with associated car parking was submitted to the Council. This application was approved by the Council on 9 July 2015 to allow flying throughout the year subject to conditions limiting the cumulative number of take-offs and landings to 40 per day and a restriction on flying between 7.00pm and 8.00am daily.

30. The micro-lights owned and used by the club have previously been stored in an adjacent former agricultural building currently leased to the micro-light club and located to the west of the small residential development of The Crossings. Due to increasing interest and demand from existing and new club members the existing storage building is already over capacity in terms of the storage space available to house the number of micro-lights owned by the club and its membership such that it has been necessary to elevate some of the micro-light aircraft above ground level.

31. To be able to manage the expected expansion in membership of the club and the increased number of micro-lights owned by the club and individual members it is essential to ensure there is safe adequate storage space available to meet existing and forecast future demand. This application is seeking permission for the development of a new hanger building to supplement the existing space offered by the leased agricultural building to allow the micro-light aircraft to be stored safely and provide sufficient manoeuvring space internally to move aircraft in and out of the buildings. The proposed new hanger is of sufficient size to accommodate the existing overflow numbers of micro-lights whilst at the same providing additional space to attract future new members and develop the expansion of the business.

32. This is an exciting new business and the only micro-light flying club in County Durham the nearest other similar clubs and flying facilities being located in Northumberland and North Yorkshire respectively. The proposed new hanger is essential to the continued growth of this business to accommodate existing and future demand by existing and future members of the club and Members are respectfully requested to support this application as presented in the officer's report and recommendation.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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33. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, impact on residential amenity, highway safety, ecology and landscape and visual impact.]

34. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in this regard. The District of Easington Local Plan remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that to the weight to be afforded to existing Local Plan policies will depend upon their degree of consistency with the NPPF.

### Principle of Development

35. Policy 3 of the local plan states that development outside defined settlement limits will be regarded as development within the countryside. The policy further states that development will not be approved in the countryside unless specifically allowed by other policies. The NPPF is less stringent in restricting development within settlement boundaries. Part 6 of the NPPF aims to support a prosperous rural economy and states that proposals should support sustainable rural leisure developments that benefit businesses in rural areas, communities and visitors, and which respect the character of the countryside. Accordingly, less weight can be afforded to policy 3 due to its lack of consistency with the NPPF. Also, as the policies most important for determining this application are out of date, paragraph 11 of the NPPF is engaged.

36. 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 an up to date 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 polices in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development or

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

There are no policies which protect areas or assets of particular importance which provide a clear reason for refusal and accordingly, the acceptability of the development rests on the planning balance of whether any adverse impact of approving the development would significantly and demonstrably outweigh the benefits.

- 37. The proposal is for the addition of a hangar building to accommodate and help an existing micro light centre to grow. As stated above in the applicants statement the existing hangar building has been outgrown and there is a waiting list for people to store their aircraft. The proposed new hanger is considered essential to the continued growth of the business which is promoted in paragraph 6 of the NPPF which is considered to be a benefit however, as stated above paragraph 11 is engaged therefore, the balancing exercise must be considered to consider whether the principle of the development is considered acceptable.

#### Impact on residential amenity

- 38. The proposed building is to be constructed to the north eastern part of the site away from the nearby neighbours who are located to the west of the site. As stated above, the building will be used to house micro light aircrafts and the applicant has confirmed that there will be no additional flights proposed from that which was conditioned under the previous approval. Given this, the proposal is not considered to have a detrimental impact on the residents of The Crossings who are located some 70m away from the proposed building given there is no intensification of the use proposed.
- 39. Given the proposed distance between the neighbours and the hangar building as well as the orientation of the building in relation to the habitable room windows of the neighbours and the current boundary treatment in place, the proposal would only be visible from first floor windows that overlook this site at an angle. It is considered therefore, that the visual impact of the building on the neighbouring properties would not be significant.
- 40. Given the above, it is not considered that the proposals would have an adverse impact on residential amenity in terms of noise and visual amenity impacts. The proposal is therefore considered to be in accordance with policy 1 and 35 of the local plan.

#### Highway Issues

- 41. The existing access is to be utilised for the proposed site. The County Highways Officer has been consulted on the application and no objections have been raised to the access, as it has good visibility in both directions.
- 42. It is considered that the proposals would not have an adverse impact on highway safety and the proposals would therefore be in accordance with policy 36 of the local plan.

## Ecology issues

43. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2017 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
44. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
45. An Ecological Assessment has been submitted with the application. The assessment concludes that no protected species are present in the area. The assessment does however state that the pond adjacent to the site has excellent habitat for Great Crested Newts and therefore mitigation is proposed during construction phase of the development. The County Ecologist has not raised any objections to the submitted information. A condition is recommended for the mitigation measures to be adhered to.
46. Given the above, it is considered that the proposed development would not adversely impact on protected species or their habitats and there is therefore no need to consider the derogation tests. The granting of planning permission would not constitute a breach of the Conservation of Habitats and Species Regulations 2017. Subject to the proposed mitigation detailed it is considered that the proposals would be in accordance with part 15 of the NPPF and policy 18 of the Local Plan.

## Impact on visual amenity and landscape

47. The proposed hangar would have a footprint of 24m x 48.5m with a height of 5.228m at its highest point. It is proposed that the structure be constructed from powder coated metal cladding sheets in a leaf green colour with granite grey doors. The proposed building has been sited close to the northern boundary away from the previously approved clubhouse however, would still appear as part of the cluster of buildings within this area given it is located within the curtilage of the site. Given its agricultural feel in the design of the building it is considered that the building can be appropriately located in this area. Whilst it was originally considered by the landscape team that the proposal should be located further into the site away from the boundary, it is felt that the relocated position could be accommodated given further discussions with the agent and that the 2m difference in position between the amended scheme and the landscape officer is negligible given the size of the structure. The site is surrounded by some hedging to the north and east, however, it is considered that given the size of the structure additional screening in the form of a landscaping scheme should be submitted to help mitigate the overall impact the proposal will have on the amenity of the area given its rural location.
48. Overall it is considered that the proposed development would have an acceptable visual impact within the surrounding area and would not adversely impact on the character of the countryside. The proposal is considered to be in accordance with policy 35 of the local plan.

## Planning Balance

49. The acceptability of the application should be considered under the planning balance test contained within Paragraph 11 of the NPPF.

## Benefits

50. The proposal would allow the expansion of an existing business allowing it to grow and prosper. The proposed new hanger is essential to the continued growth of this business to accommodate existing and future demand by existing and future members of the club. In accordance with part 6 of the NPPF which supports businesses in a rural location.

## Adverse Impacts

51. Whilst the proposal would have some adverse impact on the visual amenity of the area given the size of the structure and the rural location, it is considered that the negative impacts can be mitigated against through the submission of an appropriate landscaping scheme therefore, the adverse impacts are limited.
52. Given the above, it is accepted that there would be some adverse impact as a result of the development, primarily centring around the impact on the amenity of the area. However, as identified in the planning assessment, the impacts would not significantly and demonstrably outweigh the benefits associated with supporting a business to grow within the area and therefore, the principle of the development is considered acceptable. Accordingly, planning permission should be granted.

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## **CONCLUSION**

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53. The proposal is considered to be an acceptable form of development within the open countryside allowing an existing business to continue to operate thereby being in accordance with policy 3 of the local plan and part 6 of the NPPF. However, the application must also be judged against paragraph 11 of the NPPF. The benefits of the proposal are considered to outweigh the negatives as detailed above.
54. Whilst some concern has been raised over the impact of the proposal given its size, it is considered that this can be mitigated against through the submission of an appropriate landscaping scheme.
55. The proposal is not considered to provide an intensification of the use of the site given there is to be no increase in the amount of daily flights.

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## **RECOMMENDATION**

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That the application be APPROVED subject to the following conditions;

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

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 in strict accordance with the following approved plans:

Plan	Drawing No.	Date Received
Existing site layout plan	3163/01	21/06/18
Location plan		21/06/18
Proposed plans, elevations section and roof plan	3163/02B	10/09/18
Proposed site layout plan	3163/03A	10/09/18

Reason: To define the consent and ensure that a satisfactory form of development is obtained and to meet the objectives of saved Policies 1, 3, 35, 36 and 37 of the District of Easington Local Plan.

3. The development hereby approved shall be carried out in full accordance with all ecological mitigation measures, advice and recommendations within the Preliminary Ecological Assessment prepared by Hartlepool Borough Council dated December 2014.

Reason: To conserve protected species and their habitat in accordance with the objectives of part 11 of the NPPF.

4. The cumulative number of take offs and landings by aircraft on this site shall not exceed 40 in any one day.

Reason: In the interests of preserving the amenity of residents in accordance with Policy 35 of the District of Easington Local Plan.

5. No flights shall take place between the hours of 7:00pm and 8:00am the following day.

Reason: In the interests of preserving the amenity of residents in accordance with Policy 35 of the District of Easington Local Plan.

6. Within 1 month of the date of commencement of the works, a landscaping scheme shall be submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The development shall be carried out in accordance with the approved details.

All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

Reason: To protect the character and appearance of the surrounding area in accordance aims of policies 1, 3 and 35 of the District of Easington Local Plan. This is required as a pre commencement condition in order to mitigate potential impact upon the character and appearance of the surrounding area which needs to be considered before site works commence.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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.

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## **BACKGROUND PAPERS**

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Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

District of Easington Local Plan

Statutory, internal and public consultation responses



 <p><b>Planning Services</b></p>	<p>Erection of a hangar building for storage of micro-light aircraft at Greenhills Farm Cottage, Wheatley Hill</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p><b>Comments</b></p>	
	<p><b>Date</b> October 2018</p>	

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/18/02224/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Insertion of a 1,672 sq.m mezzanine floor
<b>NAME OF APPLICANT:</b>	Aviva Investors Limited
<b>ADDRESS:</b>	Unit 1, McIntyre Way, Durham City Retail Park, Gilesgate Moor, Durham
<b>ELECTORAL DIVISION:</b>	Belmont
<b>CASE OFFICER:</b>	Colin Harding, Senior Planning Officer, 03000 263945, <a href="mailto:colin.harding@durham.gov.uk">colin.harding@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site:

1. The application site comprises the existing B&Q retail warehouse at Durham City Retail Park. At present, only part of the unit is occupied by B&Q, with the remainder currently unoccupied. To the north of the site lies residential housing, and Bannatyne Health Club and Spa, to the east lies Just Car Clinic, with the A1(M) beyond, to the south lie other units on the retail park, Currys PC World, Argos and Sports Direct, amongst others. To the west is car parking, with car dealerships beyond.
2. There are no Public Rights of Way in the vicinity, and The Scrambles Local Wildlife Site lies approximately 1km to the east of the site, Durham City Centre Conservation Area lies 1km to the west of the site, and an Area of High Landscape Value lies 300m to the south east.

#### The Proposal:

3. Planning permission is sought for the erection of a 1,672 sq.m mezzanine floor within the vacant part of the existing retail unit, at its eastern end. No external alterations are proposed as part of this application.
4. The proposed mezzanine floor would be associated with an as yet unnamed national homewares and furniture goods retailer.
5. This application is being reported to Central and East Planning Committee as it constitutes a major retail development proposal involving the creation of more than 1000 sq.m of additional floor space.

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## PLANNING HISTORY

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6. The retail park was originally approved on appeal, following the refusal of application 4/02/00526. Since then, there have been a number of planning applications and applications for advertisement consent;
7. DM/17/03290/FPA – Insertion of mezzanine floorspace – Approved 09.01.2018
8. DM/17/03286/FPA - External alterations and car park works – Approved 31.01.2018
9. DM/16/01505/FPA - External alterations to existing vacant retail unit including provision of new service yard gates and fence; new escape stair case; new roller shutter and reconfigured entrance lobby – Approved 20.07.2016
10. DM/16/01506/FPA - Erection of a 1114 sqm Mezzanine Floor – Approved 20.07.2016
11. DM/15/01652/FPA - Proposed external substation, Re painting of existing cladding, re-painting of the curtain wall mullions and alterations to the service yard canopy design - Approved 24/07/2015
12. DM/15/01132/AD - 2No Internally Illuminated Signs, 3No Non-Illuminated Panel Signs and 2No Banner Signs - Approved 22/05/2015
13. DM/14/02769/FPA - External alterations to the existing retail unit and site, including removal of builders yard roof, ground works to builders yard, erection of new lighting columns, trolley shelters, bollards, service yard gates and new fire exit doors on the building's northern elevation – Approved 24/10/2014 – This application comprised the external changes that would allow Morrisons to operate a foodstore.
14. DM/14/01588/COL - Application for a Lawful Development Certificate for proposed A1 Use – Approved 04.08.2014 – This application confirmed that the unit can operate as a general A1 retail unit, with no restrictions on goods sold.
15. CE/13/01118/FPA - External alterations including new canopies to front, sides and rear elevations – Approved 13/07/2014
16. 4/10/00957/AD - Erection and display of 10 no. signs comprising non-illuminated and internally illuminated fascia and individual letter signs to north and east elevations of existing building (amended plan). – Approved 17/02/2011
17. 4/04/01333/FPA - Installation of external air conditioning equipment within a secure cage – Approved 25/01/2005
18. 4/04/01156/AD - Erection and display of illuminated and non-illuminated fascia and freestanding site signs – Approved 01/12/04
19. 4/04/01154/FPA - Erection of greenhouse and open canopy within garden centre area – Approved 01/12/2004

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## PLANNING POLICY

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### NATIONAL POLICY

20. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. 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.
21. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
22. *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.
23. *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.
24. *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.
25. *NPPF Part 7 - Ensuring the Vitality of Town Centres.* Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
26. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.

<https://www.gov.uk/guidance/national-planning-policy-framework>

27. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; determining an application; ensuring the vitality of town centres; use of planning conditions
- <https://www.gov.uk/government/collections/planning-practice-guidance>

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

##### City of Durham Local Plan (2004) (CDLP)

28. *Policy S1A (Retail Hierarchy)* - seeks to protect and promote the vitality and viability of all centres within the local retail hierarchy.
29. *Policy S8 (Retail Warehousing Outlets)* – states that new retail warehouse development will be permitted on designated sites, providing, amongst other things, that there is demonstrable need, a sequential test has been carried out, and the vitality and viability of existing centres would not be adversely affected.
30. *Policy S9B (Major Out of Centre Proposals)* – states that where an identified need for large-scale retail cannot be met through existing allocations, preference should be given to sites within the city centre, followed by district centres at Sherburn Road/Dragon Lane and the Arnison Centre, and then local shopping areas within the built up area of Durham City. Where such development cannot be accommodated in these locations, it will only be acceptable elsewhere if; it satisfies a demonstrable need and conforms to the sequential approach, does not adversely affect the viability and viability of any existing centre within and outside of the district, would not give rise to serious access problem, would not result in a substantial increase in car usage, and it can be shown that the site is accessible by a choice of means of travels.
31. *Policy EMP8 (General Industrial Sites)* - This policy designates general industrial sites, and identifies the site of Durham City Retail Park as being suitable for B1, B2 and B8 development.
32. *Policy T1 (Transport – General)* – states that developments that would generate traffic which would be detrimental to highway safety or amenity of adjoining occupiers will be resisted.
33. *Policy T10 – Parking – General Provision.* States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
34. *Policy CC1 (Vitality and Viability)* – states that the Council will seek to protect and enhance the vitality and viability of the city centre by promoting a mix of uses, and sustaining the city centre shopping centre in accordance with other retail policies.
35. *Policy U8a - Disposal of Foul and Surface Water.* Requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.

## RELEVANT EMERGING POLICY:

The County Durham Plan (CDP)

36. 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.durham.gov.uk/article/3266/What-s-in-place-to-support-planning-and-development-decision-making-at-the-moment- \(Durham City Local Plan\)\*](http://www.durham.gov.uk/article/3266/What-s-in-place-to-support-planning-and-development-decision-making-at-the-moment- (Durham City Local Plan))

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

37. *Highway Authority* – No objection raised - It is accepted that the increase in floor space by introduction of a mezzanine floor will allow the retailer to stock and display large and bulky items that typically require large display areas. Whilst the aim is to attract more footfall there is no clear evidence of vehicle trip rates increasing. It is likely that trips would link to neighbouring retail outlets in the retail park and not be generated as primary trips.

### INTERNAL CONSULTEE RESPONSES:

38. *Spatial Policy* – Given the Certificate of Lawfulness that the unit is subject to, the LPA is not in a position to impose restrictions on the goods that can be sold within the existing floorspace. The application proposes a mezzanine on the store that will be occupied by the retailer. The applicants have provided a review of the sequential assessment submitted on the previous approval for a smaller mezzanine in 2016. This again concludes that there are no other sequentially preferable sites. These conclusions are agreed, the application has therefore passed the sequential test.

### PUBLIC RESPONSES:

39. The application has been advertised by means of press and site notices. No letters of representation have been received.

### APPLICANTS STATEMENT:

40. The proposed development is progressed to allow the currently vacant space to be occupied and brought back into active economic use. Planning permission for a similar mezzanine application was granted by the Council in January 2018, to allow part of the vacant floorspace to be occupied by Go Outdoors.
41. However, due to the acquisition of Go Outdoors by JD Sports, a review of the estate portfolio was undertaken, and interest in this vacant unit fell away.
42. As the Council will be aware, Unit 1 has been vacant for a number of years, following the downsize of the B&Q store, and Morrisons' withdrawal from the scheme. A number of applications have been approved since 2014 to allow the vacant building to be re-occupied and brought back into active economic use.

43. The proposed mezzanine application follows the requirements of an identified furniture and predominantly bulky goods retailer, and will provide the appropriate unit layout and floorspace, and in accordance with the operator requirements.

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

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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44. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, and its impact upon highway safety.

### Background

45. This retail unit has been unoccupied since 2015, when B&Q downsized their store at Durham City Retail Park. At that time it was expected that Morrison's would occupy the vacant space, however this never materialised.
46. In 2016, planning permission was granted for external alterations to allow the unit to be sub-divided to allow occupation by two unnamed retailers, as well as the installation of a 1,114sq.m mezzanine. Again, the prospective occupiers ultimately decided not to take on the unit.
47. Members may recall that a similar planning application (17/03290/FPA) for the insertion of a 1,394sq.m mezzanine floorspace was approved by this committee in January 2018. At that time, it was expected that the unit would be occupied by Go Outdoors, an outdoor and camping equipment retailer. However, since the acquisition of Go Outdoors by JD Sports, a review of the new stores pipeline resulted in Go Outdoors also withdrawing their interest in this particular unit.
48. At present, discussions are ongoing between the applicant and an as yet unnamed new prospective occupier, however no firm agreement is in place. However, the applicant has been able to confirm that the prospective occupier is a national homewares and furniture retailer.

### Principle of Development

49. Within the CDLP, this site benefits from dual allocation, with Policy EMP8 allocating the site for employment purposes, whilst CDLP Policy S8 allocates it for Retail Warehouse use. Policy EMP8 is considered to be NPPF compliant, so weight can continue to be afforded to it, whilst Policy S8 is not fully up to date. The policy was based upon an identified need for retail warehouse development contained within evidence which informed the CDLP prior to its adoption. More up to date evidence based work no longer identifies such a need. The NPPF does not explicitly reference bulky goods, nor does it require an assessment of need, however the requirement of Policy S8 for a sequential assessment to be carried out is NPPF compliant. Consequently, only a degree of weight can continue to be afforded to this policy.

50. Durham City Retail Park was originally developed in line with Policy S8, in that occupiers were restricted to bulky goods. However, following an application relating to Unit 9 of the Retail Park in 2002, it was accepted that the condition attached to the original planning permission for Retail Park, which sought to restrict goods to be sold did not adequately serve this purpose, and that a restriction on goods did not apply to the Retail Park.
51. In 2014, the applicant submitted an application for a Certificate of Lawfulness in relation to this particular unit, and it was confirmed that there is no restriction on the goods to be sold. Therefore, the use of the unit by food or comparison goods retailer does not fall within the remit of this application. The subdivision, in itself is not considered to be development, and therefore does not require planning permission.
52. In 2017, planning permission was granted for the provision of an additional 1,394sq.m of A1 retail floorspace in the form of a mezzanine floor. This application seeks permission for a larger mezzanine floor of 1,672sq.m in area, an increase of 278sq.m. Overall, in terms of gross floor space, the unit would total 3,586sq.m split between ground floor (1,914sq.m) and mezzanine (1,672sq.m), as opposed to the 3,381sq.m previously approved, an overall gross increase of 205sq.m. Additionally, the applicant has advised that a void area will be proposed in the rear part of the ground floor of the unit, which would not be used for sales or storage. This area would amount to 334sq.m, meaning that the overall usable floorspace of the unit would only amount to 3,252sq.m, which would actually amount to a 129sq.m reduction in retail floorspace from the configuration previously approved. Although the applicant has advised that they would accept a planning condition restricting the use of this area, the Local Planning Authority, before imposing such a condition, should be certain that the condition is necessary in order to make the development acceptable.
53. In this context, the matter of principle centres around whether the provision of an additional 1,672sq.m of A1 retail floorspace in this location, is acceptable, and whether it would unreasonably impact upon Durham City Centre, or other defined Local Centres.
54. CDLP Policies S1A and S9B advocate a retail hierarchy approach to locating new major retail development, and requires, where out of centre retail proposals are forthcoming, that they be subject to a sequential test. This is consistent with the NPPF, which at Paragraph 86 states that a sequential test to planning applications for main town centre uses should be applied where they are not in accordance with an up-to-date Local Plan. It goes onto state that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered. It also states that when considering out of centre proposals, preference should be given to accessible sites that are well connected to the town centre. Policy S9B requires an identified need to be established which is not reflected in the NPPF and thereby the policy is not fully consistent with the NPPF.
55. In addition to this, the NPPF also states that when assessing applications for retail, leisure and office development outside of town centres, an impact assessment should be required. LPAs should require an impact assessment if the development is over a proportionate, locally set threshold. Where there is not a locally set threshold, the NPPF gives a default threshold of 2,500sqm. As there is currently no locally set threshold, the NPPF threshold applies in this instance, and therefore there is no requirement for an impact test to be carried out as the additional floorspace is only 1,672sq.m. However, an update to the sequential assessment submitted in late 2017 has been carried out.

56. Planning Practice Guidance (PPG) confirms that it is for the applicant to demonstrate compliance with the sequential test and the application of the test should be proportionate and appropriate for the given proposal. It goes on to state that in determining whether a proposal complies with the sequential test, the following considerations should be taken into account:
- With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre.
  - Is there any scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
  - If there are no suitable sequentially preferable locations, the sequential test is passed.
57. Two alternative potential development sites were identified that are within, or close to a defined a centre. They comprised Unit C (former Homebase) at Arnison Retail Park, and Prince Bishop's Shopping Centre in Durham City. For the purposes of the sequential assessment, the gross floor space of the existing unit, and the proposed mezzanine floor are considered to comprise the required unit size. This amounts to 3,252sq.m. It is further considered that it would not be reasonable to expect the applicant to disaggregate the business for the purposes of the sequential assessment.
58. Unit C at the Arnison Centre is now no longer available following refurbishment by New Look, and can therefore be discounted. However, Unit 1 is available, but would only provide 285sq.m which would only amount to around 8% of the floorspace required, and is therefore unsuitable. With regards to the Prince Bishop's Shopping Centre in the city centre, the conclusions of the sequential assessment that the units are heavily constrained in terms of size, and with extremely limited opportunity for extension, and therefore are not suitable, are accepted.
59. The review of the sequential test has identified that units within The Gates Shopping Centre, are, or will shortly becoming available. The largest of these is c.550sq.m which would only represent around 15% of the required floorspace, and would prevent the applicant from implementing its established business model which required significant display areas for homewares and furniture goods. Again, these findings are considered to be acceptable.
60. Having regards to the above, it is considered that the sequential test has been passed, and this element of CDLP Policy S9B has been met. Additionally, as there are no sequentially preferable sites available, the vitality and viability of the city would, it is considered, be maintained, in accordance with Policy CC1 and Part 7 of NPPF.
61. It is considered that in the strictest terms that the proposal would be contrary to CDLP Policy S8 in that it would not constitute a retail warehouse. CDLP Policy S8 is not fully up to date. Furthermore, given that it has been previously accepted that there is no current restriction on the range of goods that can be sold at present from the application site, it is considered that it would be unreasonable to resist this proposal on this basis, particularly as the submitted sequential assessment has demonstrated that there are no suitable sequentially preferable sites available.

62. However, as the most relevant local plan policies are out of date, the application is subject to the provisions contained with Paragraph 11 of the NPPF. This states that in situations where relevant policies are out of date, that permission should be granted unless either policies in the NPPF provide a clear reason for refusing the development, or where the adverse impacts of granting permission would significantly and demonstrably outweigh the benefits of doing so. This test will be applied following the consideration of all relevant matters.

#### Vehicular Access and Highway Impact

63. Durham City Retail Park is considered to be in a sustainable location, with good pedestrian, cycle and public transport access, in accordance with the requirements of Policy S9B in this respect.
64. The Highway Authority acknowledges that the additional proposed floorspace is intended to increase footfall, however, there is no clear evidence that vehicle trips would increase as a result. It is considered likely that trips would link to neighbouring retail outlets and would not be generated as primary trips.
65. CDLP Policy T1 states that planning permission will not be granted for development generating traffic that would be significantly detrimental to highway safety. This is considered to be only partially NPPF compliant, with paragraph 32 stating that development should only be prevented or refused on transport grounds where residual cumulative impacts are severe. Consequently only reduced weight can be afforded to Policy T1.
66. Though an applicable Policy, T10 is considered inconsistent with the content of the NPPF as the NPPF is considered to permit a more flexible approach to parking standards and furthermore the parking standards which have informed Policy T10 are out of date. As a result the Policy is attributed very limited weight in the decision making process.
67. Whilst the Highway Authority consider that there would be an increase in footfall, it does not necessarily follow that trip generation would increase. As a result any impacts are considered unlikely to constitute a severe impact, for the purposes of Paragraph 109 of the NPPF, and consequently the proposal is considered to be acceptable in this respect.

#### Other Issues

68. With regards to other issues, the potential impacts of the development are considered to be minimal, with the proposed works being entirely internal to the existing building. Any external alterations would be subject to a separate application.
69. The site is located within Flood Risk Zone 1, which is the lowest level of risk. Additionally, the proposed floorspace is at mezzanine level, so flood risk would not be increased at the site, or elsewhere, and therefore the application would be in accordance with CDLP Policy U8A and Part 14 of the NPPF.

#### Planning Balance

70. Although Durham City Retail Park through CDLP Policies EMP8, S8 and S9B, was originally envisaged as an employment and retail warehousing site, the way the Retail Park has developed has led to it become a more general retail outlet, with it being accepted that there are no restrictions on the type of goods to be sold.

71. In this context, it is considered that weight to apportioned to Policies EMP8 and S8 is diminished, although a sequential assessment in accordance with Policy S9B to ensure that there are no sequential preferable suitable sites available, is still necessary. The sequential assessment has been carried out, and its conclusion that there are no available preferable sites is considered to be reasonable and thereby in accordance with Policy S9B. As identified, there would be a degree of conflict with CDLP Policy S8 in that the proposal is not restricted to being a retail warehouse.
72. However, as those policies most relevant to the determination of the application cannot be considered to be up-to-date, the application should be considered in the context of Paragraph 11d of the NPPF. No policies within the NPPF which protect areas or assets of particular importance provide a clear reason for refusing the application in this case and therefore planning permission should be granted unless any adverse impacts of a proposed development significantly and demonstrably outweigh the benefits.

#### *Benefits*

73. The development would result in the re-occupation of an empty retail unit that has been unoccupied for several years, and would result in retail employment opportunities, as well as contributing to local economic wellbeing. It would also bring a currently empty unit back into active use, to the benefit of the character of the area.

#### *Adverse Impacts*

74. There may be a minor increase in parking demand, but not such that it would be considered to be a severe impact.

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## **CONCLUSION**

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75. The NPPF sets out that there are three dimensions to sustainable development, the economic, social and environmental roles and these roles should not be taken in isolation because they are mutually dependant.
76. The development would provide for job creation once operational. The development would therefore contribute to the economic and social dimensions of sustainable development.
77. In relation to the environmental effects, the re-occupation of the unit would address the overall condition of the empty unit, and enhance the character and appearance of the area, by being brought back into active use.
78. In the planning balance the scheme is considered to represent sustainable development with no applicable policies that protect areas or assets of particular importance providing a clear reason for refusing the application whilst any adverse impacts arising from the development would not significantly and demonstrably outweigh the benefits.

79. The applicant has advised, that with the inclusion of a void area at ground floor level, that the overall retail floorspace of the retail unit that would be delivered through this particular development would actually represent a reduction over previously approved configurations. Whilst the extant scheme represents a strong fallback position, it is considered that the applicant's argument should only be afforded limited weight if the proposed ground floor void is secured by means of planning condition. However, given the inability of any sequentially preferable units to accommodate the overall floorspace requirements of the preprospective retailer, and the successful assessment of the proposal overall against CDLP and NPPF policy, it is considered that a planning condition restricting the use of the ground floor void would not be necessary to make the development acceptable, and as a result would fail to be in accordance with advice contained within NPPG which states that planing conditions should only be applied where they are necessary.

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## **RECOMMENDATION**

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

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

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 in strict accordance with the following approved plans:

SITE LOCATION PLAN 14751-120 Rev C  
BLOCK PLAN 14754-121 Rev D  
PROPOSED SITE PLAN 14754-123 Rev C  
PROPOSED GENERAL ARRANGEMENT PLAN 14754-125 Rev D  
PROPOSED SECTIONS 14754-127 Rev C  
PROPOSED ELEVATIONS 14754-129

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to City of Durham Local Plan Policies S8 and S9B, as well as Parts 2 and 4 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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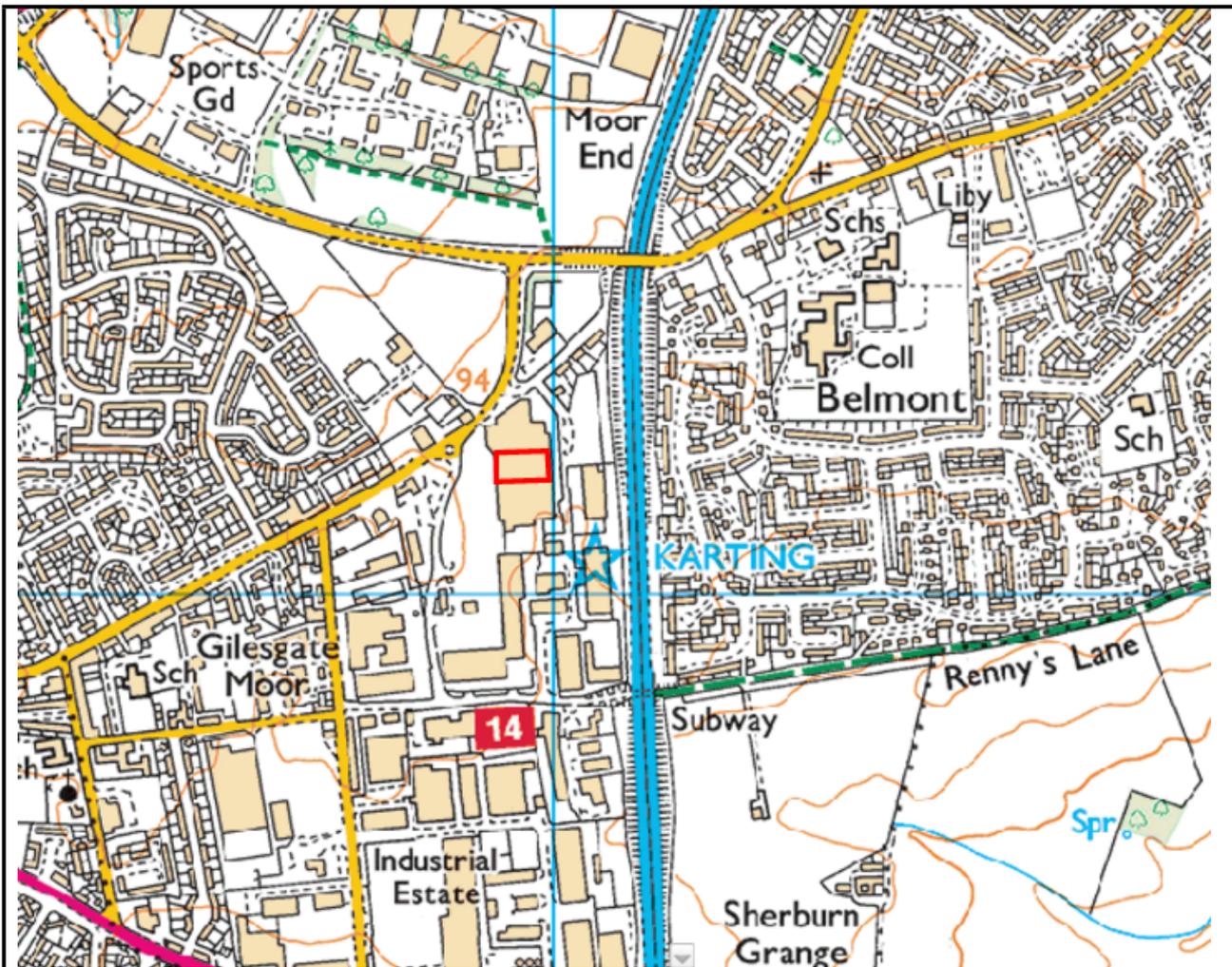
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering 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.)*

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## **BACKGROUND PAPERS**

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- Submitted application forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2018)
- National Planning Practice Guidance
- City of Durham Local Plan
- Statutory, internal and public consultation responses



**Planning Services**

DM/18/02224/FPA  
 Insertion of a 1,672 sq.m mezzanine floor at Part of Vacant Warehouse, Unit 1, McIntyre Way, Durham City Retail Park, Gilesgate Moor, Durham

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**Comments**

**Date**  
 October 2018

**Scale**  
 Not to scale