



## Area Planning Committee (Central and East)

**Date** Tuesday 15 October 2019  
**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 10 September 2019  
(Pages 3 - 32)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee  
(Central & East Durham)
  - a) DM/19/01281/FPA - Land to the East of A19 and South of Dalton Heights, Seaham (Pages 33 - 48)  
Formation of temporary construction access onto B1285 in association with housing development (DM/15/03487/FPA).
  - b) DM/18/00864/FPA - Biggin Farm, New Brancepeth, Durham  
(Pages 49 - 70)  
Construction of 2No. pig finishing buildings for 2000 pigs and 4No feed silos at Biggin Farm, New Brancepeth. Retention of extension to existing agricultural building at Hill House Farm, New Brancepeth, to house pigs.
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  
7 October 2019

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

Councillor J Clark (Chair)  
Councillor A Laing (Vice-Chair)

Councillors G Bleasdale, D Brown, I Cochrane, K Corrigan,  
B Coult, M Davinson, D Freeman, A Gardner, K Hawley,  
S Iveson, R Manchester, J Robinson, J Shuttleworth and  
P Taylor

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**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 10 September 2019** at **1.00 pm**

**Present:**

**Councillor J Clark (Chair)**

**Members of the Committee:**

Councillors D Brown, I Cochrane, K Corrigan, B Coult, M Davinson, D Freeman, S Iveson, A Laing (Vice-Chair), I McLean (substitute for P Taylor), R Manchester, L Marshall (substitute for J Robinson) and J Shuttleworth

**Also Present:**

Councillors L Brown and L Pounder

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Gardner and K Hawley, J Robinson and P Taylor.

**2 Substitute Members**

Councillor L Marshall substituted for Councillor J Robinson and Councillor I McLean substituted for Councillor P Taylor.

**3 Minutes**

The minutes of the meeting held on 9 July 2019 were confirmed as a correct record by the Committee and signed by the Chair.

**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/19/01711/FPA - Durham Sixth Form Centre, The Sands, Durham**

The Principal Planning Officer, Henry Jones, 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, HJ advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for demolition of sections of enclosure and provision of access in association with use of car park and associated works and was recommended for approval.

The Principal Planning Officer, HJ asked Members to note the adjacent caretaker's lodge that was now used as storage, the proposed point of access on to Freemans Place, and the land opposite the former Sands Car Park, the site for the new Durham County Council headquarters. He added that the land immediately to the side of the application site was formerly used by the Sixth Form as parking, this area now forming part of the headquarters application, the site for a multi-storey car park. It was added that the works on the former tennis courts to create car parking had been undertaken over the summer and represented permitted development, with the partial demolition of the wall with railings, access arrangements and removal of mesh fencing and lighting columns being the matters to be determined. The Principal Planning Officer, HJ explained that the existing footpath would be replaced and temporary timber fencing that had been visible when Members visited the site would also be removed. He noted all trees would be retained and a tree friendly method of construction would be used, and lighting columns would be removed, with some replacement columns to be installed.

The Principal Planning Officer, HJ noted objections had been received from the City of Durham Parish Council, with their reasons as set out within the report and they were represented at Committee. He added that there had been no objections from the Highways Section, the section having noted the impact upon traffic being negligible and the access proposals being acceptable. The Committee were informed that the Environment Agency had no objections, subject to conditions. They had noted the area was a 3a Flood Zone and that the loss of 12m<sup>3</sup> of floodplain needed to be compensated for with alternative floodplain storage. The Principal Planning Officer, HJ explained this was the case and was secured via condition.

He added that there had been no objections from internal consultees, subject to the conditions set out within the report, including: Landscape and Arboriculture; Archaeology; Design and Conservation; Ecology; Contaminated Land; and Air Quality.

Members were informed that in addition, Environmental Health had replied with no objections in terms of the proposed lighting columns. The Principal Planning Officer, HJ advised members that there are references within the Committee Report to a pending application for works to trees on the site and that this had now been determined with no objections raised.

The Committee noted that three letters of representation had been received, including from the City of Durham Trust and the World Heritage Site Coordinator, the Principal Planning Officer, HJ noted a summary of their comments were set out within the report and included issues relating to: the submission of the application in a disconnected manner from the Council headquarters application; loss of sports courts; impact upon wildlife and ecology; and flood risk.

The Principal Planning Officer, HJ explained that in terms of policy as some were considered out-of-date, then Paragraph 11 of the National Planning Policy Framework (NPPF) would be applicable which stated that an application should be granted permission unless there were policies that protected areas or assets and provided a clear reason for refusal, or if any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. He explained that the adverse impact was limited with a section of the non-designated heritage asset, the wall and railing, to be demolished, the majority to be retained. The Principal Planning Officer, HJ noted that the limited impact was not felt to outweigh the benefits of the scheme.

The Chair thanked the Principal Planning Officer, HJ and asked Parish Councillor John Ashby representing the City of Durham Parish Council to speak in objection to the application.

Parish Councillor J Ashby thanked the Committee for the opportunity to speak and Case Officer for his presentation. He explained that the quantum of parking around the new Durham County Council (DCC) headquarters was claimed in that Committee Report to reduce by 81, and that was advanced to offset concerns about traffic levels on Freeman's Reach and Providence Row. He added that the claim was challenged at the time by the Parish Council, asking what was to be done to replace the Sixth Form Centre's car parking spaces. Parish Councillor J Ashby noted it was now clear that the Sixth Form Centre's parking arrangements would result in an overall increase in the quantum of car parking spaces and of vehicular traffic.

Parish Councillor J Ashby noted the Sixth Form Centre's application had itself had a bumpy journey, failing to offer a Planning Statement and its Transport Assessment having failed to include the approved new DCC headquarters and multi-storey car park, an astonishing omission. Parish Councillor J Ashby explained that the Parish Council had to point this out and a revised Assessment had then been produced.

Parish Councillor J Ashby referred to the Environment Agency's response in July that the application should be refused because the submitted Flood Risk Assessment did not adequately assess the flood risks posed by the development. He added that a revised Assessment was necessary; acceptable to the Environment Agency provided that the loss of 12 cubic metres of floodplain was adequately compensated for via an alternative scheme. He noted the Officer's report confirms that a condition to ensure this was therefore necessary in the event of any approval. Parish Councillor J Ashby noted that no alternative scheme was before the Committee today. He added that given the risks involved, it was unfortunate that the Sixth Form Centre has not provided an acceptable alternative scheme to deal with the risk of floods in the whole area.

Parish Councillor J Ashby explained that the submitted drawings showed a proposed footpath from the new car park to the new DCC headquarters. He noted this would be essential, however, needed to link with the footpath that would be required for the adjacent multi-storey car park. He stated that these would necessarily make the narrow road with a very sharp, blind bend even narrower. Parish Councillor J Ashby noted these were serious concerns about safety in this scenario, both for pedestrians and for people in vehicles. He stated that the footpaths would be used by some of the 700 or more employees at the new DCC headquarters, by pupils at the detached part of the Sixth Form Centre adjacent to Ferens Court, and by residents of the four housing estates along The Sands. Parish Councillor J Ashby noted the vehicles on the road would include large buses having dropped off tourist visitors and the buses bringing children from 19 schools that have swimming lessons at Freeman's Quay every week.

Parish Councillor J Ashby concluded by noted that accordingly, the Parish Council considered that consideration of the current application should be deferred so that satisfactory arrangements on flood risk and on pedestrian safety can be provided to resolve the concerns raised.

The Chair thanked Parish Councillor J Ashby and asked the Mr D Southwell, Chair of Governors at the Durham Sixth Form Centre (DSFC) to speak in support of the application.

The Chair of Governors, DSFC noted he was appalled to say the least as regards the comments from the City of Durham Parish Council. He noted the Chair of the City of Durham Parish Council had been invited on to the site and had appear to have no objections to the proposals. He reiterated the comments made by the case officer, with the County Council having no objections to the application.

The Chair of Governors, DSFC noted that health and safety was paramount, and the proposals would guarantee the safety of staff and students. He noted accommodations the DSFC had made in terms of the temporary footpath that had been put in place, compound provided when the nearby Passport Office had been constructed, compound for other works, and providing additional capacity when the Lumiere event had been held. Chair of Governors, DSFC stressed that the application was a positive application and noted that in terms of disassociation from the DCC headquarters, he felt that the only footpath was linked, the rest of the application was within the DSFC. He noted there were plans as regards the former caretaker's cottage and reiterated that the DSFC were proactive and good in bringing positive schemes forward and thanked the DCC officer who he felt had been excellent in their work in relation to the application. He concluded by reiterating he felt he application was positive and an asset to the City, in contrast with a lack of activity from others within the City.

The Chair thanked the Chair of Governors, DSFC and asked the Principal Planning Officer, HJ if he would respond to issues raised by the speakers.

The Principal Planning Officer, HJ referred to the comments made by Parish Councillor J Ashby in terms of the quantum of parking. He noted he wished to clarify that the headquarters application had not stated a loss of 81 car parking spaces, rather the increase of 81 spaces. He added the total of the spaces at the former Sands Car Park and those spaces utilised by the DSFC had totalled 256 spaces and the provision of surface parking and the multi-storey would be 337 spaces, an increase of 81. He added that where the HQ report discussed reductions vehicular movements this was due to the due to the loss of over 1,000 car parking spaces at the current County Hall site. The Principal Planning Officer, HJ noted that as the application constituted a "minor" application a Planning Statement was not required, and the transport assessment had been updated to include the DCC headquarters. He reiterated that a condition within the report referred to the scheme in terms of flood risk. He concluded by noting that in terms of pedestrian safety, there had been no objections raised from the Highways Section, with standard footpath widths of around 1.8m.

The Chair thanked the Principal Planning Officer, HJ and asked the Committee for their comments and questions.

Councillor A Laing thanked the speakers for their comments on the application and reminded all that decisions must be based upon relevant planning grounds. She noted that upon listening carefully to the Officer and speakers she felt the key aspects included the impact upon the conservation area, with no objections from the Design and Conservation or Landscape sections she felt therefore there was no harm to the conservation area. She added another aspect was in terms of highway safety, in the context of the area and the DCC headquarters development, that being already approved. Councillor A Laing noted the response from the Highways Section was that the impact would be “negligible”, and the access proposed was safe in terms of pedestrians and vehicles. She added that in respect of air quality issues, Officers had noted negligible impact and that in terms of flood risk, the Environment Agency had set out their position, no objection subject to the replacement of the 12m<sup>3</sup> floodplain that would be lost. As this was set out as a condition, Councillor A Laing noted she supported the application and proposed that it be approved as per the recommendation and conditions set out within the report.

Councillor M Davinson noted that within the conditions there was no specific reference to a Construction Management Plan (CMP) and asked if this was something that would be needed for this application and if so for how long. He also asked if there was an indicative plan as regards the replacement 12m<sup>3</sup> floodplain or if this was something that would require an extra condition or be agreed under delegated authority at a later stage. The Principal Planning Officer, HJ noted that as a “minor” application, and given much of the works had been completed over the summer holiday period under permitted development rights, it was not felt necessary by Officers for a CMP. He added that the only works to be carried out would be in terms of the creation of the access and removal of fencing and lighting columns, not sufficient to warrant a CMP. The Principal Planning Officer, HJ noted that Condition Five of the recommendations set out that prior to completion of the vehicular access the scheme of compensatory floodplain storage must be submitted and there was no need to add or amend the conditions.

Councillor D Freeman noted he wished that the current situation in respect of the displacement of parking for the Sixth Form had not been reached. He conceded that as the parking was being displaced there was a need for parking to be provided and the area to be utilised had been unused for several years. He added the Officer had noted the trees would be retained and that flood storage was conditioned and therefore he reluctantly supported the application and would second that it be approved as per the report.



## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report.

### **b DM/19/01295/FPA - 55a The Avenue, Seaham**

The Planning Officer, Lisa Morina 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 Planning Officer, LM advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from greengrocers (use Class A1) to mixed use as a sandwich shop/hot food takeaway (sui generis) and was recommended for approval.

The Planning Officer, LM noted there was a mix of shops and residential properties within the terrace and she explained that the application was retrospective following an enforcement complaint, the business having offered sandwiches and hot-food, with hot-food element now outweighing the sandwich provision. It was explained that the food offered included hot and cold sandwiches, hog roasts, curries, not the usual A5 use. She explained that there would be no external alterations to the property, other than signage which had been dealt with via a separate advertisement consent. The Planning Officer, LM noted that the hours of operation were up to 3.00pm at the latest, not a late-night A5 type of use, and added there were very limited internal alterations to the property.

The Planning Officer, LM noted no objections from the Durham Constabulary, the Highways Section or Environmental Health to the application. She explained that three letters of objection had been received, two from one neighbour and one from the Local Divisional Members raising issues including: traffic; smells; quality of life; several takeaways already operating in the area; and a recent application for A5 use nearby having been refused.

Members were asked to note that as Local Plan policies were considered out-of-date then Paragraph 11 of the NPPF applied and on balance Officers felt that the adverse impact of the application did not outweigh the benefits and therefore recommended the application be approved, subject to the conditions set out within the report. The Planning Officer, LM noted the conditions included reference to opening hours and for the flat to be only occupied by persons associated with the business.

The Chair thanked the Planning Officer, LM and noted as there were no registered speakers, she would ask the Committee for their comments and questions.

Councillor A Laing moved that the application be approved. Councillor B Coult noted she had attended the site visit that morning and based upon the visit and the Officer's presentation she would second that the application be approved.

Councillor D Freeman noted the objection raised by Local Members and asked as regards the refusal of an application for a hot food takeaway nearby, he speculated that refusal would have been on amenity issues and asked if so, why the application before the Committee was recommended for approval. The Planning Officer, LM explained the previous application referred to had been for A5 use, including night-time hours of operation, with this application only operating up until 3.00pm and therefore would not have similar impacts to that previous application.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report.

### **c DM/19/01457/FPA - 37 Whindyke, Blackhall Colliery**

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, AD advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the erection of 1.9m high boundary wall to South West and South East of site (Part Retrospective) and was recommended for refusal.

The Principal Planning Officer, AD referred Members to photographs of the site and noted the wall was partially built at a prominent location, on a junction/entrance to the estate. He explained the area contained semi-detached and detached properties, with the wall having come to the attention of the Local Planning Authority via a complaint and visit by Enforcement Officers. Members were asked to note that the wall varied in height from 1.9 metres to one metre, and the lower sections did not require permission as they were allowed under permitted development rights.

The Principal Planning Officer, AD noted that the applicant was asked to regularise the position and apply for permission and had ceased works once they had been made aware.

The Principal Planning Officer, AD noted the 1.9-metre-high section was relatively high, and Members were asked to note the design with pillars at intervals.

He explained there had been no objections from the Highways Section, the wall having replaced a fence of similar height, the views of the highway having not been impacted upon. In respect of public representations, the Principal Planning Officer, AD noted there had now been five representations in support, three at the time of the report being published, and a survey of the area which stated 22 of 37 properties on the estate supported the application. He added that one representation in objection had noted the height of the wall was out of keeping with the area and was not the same height as the previous existing fence.

The Principal Planning Officer, AD explained that the Local Plan was generally supportive of such applications, subject to the impact on residents and amenity. He explained that in this case Officers felt that the wall was not appropriate in terms of scale or design, being stark with no inclusion of railings or fencing to break up the extent of brickwork. He added that it was not felt the wall impacted upon residential amenity, however, Officers considered that the development was an incongruous addition which adversely affects the character and appearance of the area. The Principal Planning Officer, AD concluded by reiterating the recommendation was for refusal, with appropriate enforcement action to be taken should Members be minded to refuse the application.

The Chair thanked the Principal Planning Officer, AD and asked Local Member Councillor L Pounder to speak in support of the application.

Councillor L Pounder thanked the Committee for the opportunity to speak and noted the applicant had been unable to attend the meeting to speak as they were on holiday. She noted the applicant was a perfectionist and had carried out renovation and extension work to their property to a very high standard over the last 18 months at some expense. Councillor L Pounder noted that the applicant had not been aware he had needed permission for the wall, adding this was fairly new legislation he was not aware of. She added that herself and fellow Divisional Member, Councillor R Crute had asked that the matter be heard by Committee as they and many residents felt the application represented a visual and safety improvement.

Councillor L Pounder noted that there had been no objections from the Highways Section and only one letter of objection. She added there had been numerous letters of support and the “petition” style letter with support from nearby residents.

Councillor L Pounder noted that Section 10 of the NPPF noted that Local Authorities should approach application in a creative and proactive way, and she felt that the application was a positive one. She added that paragraph 32 of the Officer’s report stated the wall was “...in such a prominent location is an incongruous addition within the streetscene which is visually obtrusive...” and noted the applicant had explained there would be planting that would help make the appearance more attractive over time.

Councillor L Pounder noted that if you were to ask local residents they would be overwhelmingly in support of the application, the height being approximately that of the previous fencing. She added there were several different types of boundary treatment within the area and the wall itself would not impact upon any other properties. Councillor L Pounder concluded by urging the Committee to support the application.

The Chair thanked councillor L Pounder and asked the Principal Planning Officer, AD to respond to the points raised.

The Principal Planning Officer, AD noted that in terms of new legislation being relevant in this instance, that was not the case with there being longstanding requirements for an application for boundary treatments of around two metres along the highway. He agreed the application had substantial local support, however, Officers felt this did not overrule the planning principles as set out in the report. He noted that Planning had been proactive, and with the application being part-retrospective, Officers had made suggestions in relation to the design and application.

The Chair thanked the Principal Planning Officer, AD and asked the Committee for their comments and questions.

Councillor J Shuttleworth noted that while the design may not completely fit in, there was no objections from neighbours and the construction and materials appeared to be very good. He moved that the application be approved. Councillor M Davinson agreed with Councillor J Shuttleworth, seconding the application. Councillor A Laing noted she had not been able to attend the site visit, however, was familiar with the site and felt the new wall was an improvement on the old fencing and would support the application.

The Chair asked for reasons for the approval, contrary to the Officer's recommendation. Councillor J Shuttleworth noted that highways were not affected and that he felt the application was visually in keeping, utilising the same brick type as the applicant's property.

The Solicitor – Planning and Development, Clare Cuskin asked if the Member was, in effect, asserting the opposite of the recommendation and saying the application was in keeping with the host property and wider streetscene. Councillor J Shuttleworth noted he was.

## **RESOLVED**

That the application be **APPROVED**.

### **d DM/19/01810/FPA - 22 Blaidwood Drive, Durham**

The Planning Officer, Jennifer Jennings 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 part two storey rear extension and part single storey rear extension, raising of ridge height and loft conversion, increasing from 4 to 6 bedrooms and was recommended for approval.

The Planning Officer, JJ noted the plan and photographs identified the property at the end of a cul-de-sac, within a well-established estate, with a number of large detached properties. Members were asked to note a large private garden at the rear of the property, with mature planting at the west and south sides. It was added that the orientation of the properties within the estate was not regular and the Planning Officer, JJ referred Members to existing and proposed elevations. She added that the design included raising the roof ridge height by 500mm, from that of an extension approved in 1995. It was highlighted within the elevation drawings that velux style windows were proposed on the front elevation, however, these would be within permitted development and did not form part of the application under consideration.

The Planning Officer, JJ noted the rear elevation showed the proposed two storey element, with dormers within the hip roof, and single storey element. It was explained that the rear extension extended three metres and the Officer referred Members to proposed floor plans, noting the connection to the double garage and the adjacent annex.

The Planning Officer, JJ noted there had been no objections from Northumbrian Water or the Highway Section, with objections having been received from the City of Durham Parish Council, Local Member and five local residents.

It was noted that a summary of their concerns was set out within the report and included: the proposals being out of scale; having a negative impact; increased vehicle activity and pressure on parking; and concerns as regards potential use of the property as a house in multiple occupation (HMO). The Planning Officer, JJ added there was a request to have additional conditions relating to the construction plan and prevention of conversion to two properties.

The Planning Officer, JJ noted that overall it was felt the application was not excessive in terms of scale and acceptable in design, with the ridge height not appearing obtrusive or out of character as the detached dwellings in the area were all of differing designs. She added that a condition for details on materials would be attached to any permission granted along with an informative in relation to construction, with hours of operation to be 8.00am to 6.00pm Monday to Friday, 9.00am to 2.00pm Saturday, with no works on Sundays or Bank Holidays.

The Planning Officer, JJ concluded by noting that any potential change to an HMO, albeit sui generis, would require a further application.

The Chair thanked the Planning Officer, JJ and asked Parish Councillor G Holland representing the City of Durham Parish Council to speak in relation to the application.

Parish Councillor G Holland thanked the Chair for the opportunity to speak and reiterated that the proposed development had raised objections from five immediate residents, from the County Councillor and the Planning Committee of the City of Durham Parish Council and therefore merited consideration by Committee. He added that he felt it would have also merited a site visit so that Members could have evaluated for themselves the proposed development and its setting on Blaidwood Drive, with reference to its impact on neighbouring properties.

Parish Councillor G Holland noted that over the years, on Planning Committees, Members had encountered proposed developments of this type that were described by the applicants as their "forever house". He added that this was not a planning issue because sooner or later it becomes their previous house. He noted it was a fairly new property on a small, relatively new estate and it was hard to believe that, according to the applicant, it was already in a state of disrepair and had been for many years. He reiterated that was not a planning issue.

Parish Councillor G Holland noted if the owner wanted to rattle around in a six bedroomed house or convert it, once completed, into an HMO, or if there was an intention to split an apparently single building into two properties, that these were also not planning issues today, they would become a problem tomorrow.

Parish Councillor G Holland explained that what was being questioned was whether the proposed development represented an over-massing of the site to the extent that it overshadowed or in any way interfered with the wellbeing of those who occupy the neighbouring properties. He added that this could not be determined just by looking at a piece of paper or a set of plans. He noted that in such circumstances, context was important, and local neighbour evidence must be weighed in the balance.

Parish Councillor G Holland noted the determination of the application rested on four Saved Local Plan Policies: H10, H13, Q8 and Q9.

He added that the Officer correctly noted that H10 referred to backland development, relevant only if this was actually a development of two properties under the guise of one, and a suspicion that this might be the case or become the case was not enough.

Parish Councillor G Holland noted that Policy H13, however, was an important and relevant policy because it refers to a *'significant adverse effect on the character or appearance of this residential area or the amenities of the residents within it'*. He added that if Members thought that there was an adverse impact on the welfare of those living in this area and that the proposed development represented an over-massing of this site then the Committee should reject the application using H13.

Parish Councillor G Holland explained that he felt Policies Q8 and Q9 had a similar intention and were designed to provide protection and privacy for each dwelling and to minimise the impact of any proposal upon the occupants of existing and adjacent properties. He asked, "Does the application meet the demands of Q8 and Q9 and the well-being of the immediate neighbours?" He noted that if it failed those tests then Members should reject the application.

Parish Councillor G Holland reflected that the NPPF was much pored over and much quoted. He added that yet, because of its inevitable breadth of interpretation, it could mean all things to all men, but it was the gospel that drives all before it. He noted that the officer identified paragraph 11 and Part 12 as key. Parish Councillor G Holland explained that in essence they sustain the integrity of the Saved Local Plan policies and the Committee's determination should therefore rest on those.

Parish Councillor G Holland concluded by noting that the question therefore was whether, on the basis of Members' judgement of this proposed development and its location, the Committee agreed with the Officer's judgement in paragraph 32 that "the principle of development is considered acceptable", adding clearly others did not.

The Chair thanked Parish Councillor G Holland and asked Local Member, Councillor L Brown to speak in relation to the application.

Councillor L Brown thanked the Chair and noted she was in attendance at Committee to object to the application, voicing the concerns of the residents who could not be in attendance. She explained that she was very sorry that no site visit had been scheduled in order to give the Committee some idea of the magnitude of the already extended property. She noted that the previous planning application approved in 1995 referred to the application as a "large extension". Councillor L Brown noted that the application would make a property which was already out of scale with its neighbours even larger.

Councillor L Brown stated that the applicant referred to raising the roof by "only" 500cm, adding that to Committee Members, like herself who were of a certain age, this was 20 inches, nearly two feet. She noted that, together with the planned extensions, surely this represented a breach of saved policies H10 and Q9 both of which state that development would not be allowed if it was not in keeping with the scale of surrounding and adjacent residences.

Councillor L Brown noted a second point, namely that the extension in 1995 was built as an annexe for an aging parent, a granny flat, with one entrance through the utility room. She added that looking at the proposed ground floor plans there appeared to be no access between the main house and the annexe. She noted she had been assured there was one door that she hoped the Planning Officer, JJ would refer to. Councillor L Brown noted that the annexe also had its own kitchen and bathroom when looking at the proposed first floor plans. She added there was practically no barrier to the one property becoming two. Councillor L Brown noted that the applicants sought to assure that they had no plans to move and that the property was their "forever home", however, as a certain member of the House of Commons found last week, plans could change very fast. She noted that as there was no Article 4 Direction in place for this part of Durham City, albeit with one in the pipeline, the extended property also had the potential to become a large HMO.

Councillor L Brown noted that she had e-mailed Planning Officers, asking for conditions to be attached to any approval. She explained that although these had been rejected in the Committee report, the e-mail had not appeared on the Planning Portal.



Accordingly, in the interests of fair play, Councillor L Brown explained she would like to ask the Committee if they could agree two conditions if approval was to be granted: 1. That the annexe never becomes a separate residence; and 2. That a construction plan be submitted to officers.

Councillor L Brown noted that the access road narrows as it approached No.22 and the surface transitioned to block paving, very decorative, however, very susceptible to breakage and subsidence. She added that any part of the second proposed condition must be that the applicants and their chosen construction company make good any damage caused to the road surface.

The Chair thanked Councillor L Brown and asked Mr J Ashby to speak on behalf of local residents, Mr and Mrs Weatherhill who were unable to attend the Committee.

Mr J Ashby thanked the Chair and reiterated he was speaking on behalf of Mr and Mrs Weatherhill, with their objection being on two main issues.

He explained that firstly they noted it was proposed to convert the house from a four to a six-bedroom property, including four bedrooms each with their own dedicated bathroom facility and two further bedrooms sharing a presumed additional bathroom, achieving this by converting the house from a two-storey to a three-storey building. It was added that they felt the huge increase in physical volume of the house would make the house wholly out-of-scale compared with all other properties on the estate, none of which have more than two storeys, substantially clashing with the character of the estate.

Mr J Ashby stated that, secondly, Mr and Mrs Weatherhill felt the amount and type of increased accommodation would, in time, lead to extra occupation with attendant extra activity, particularly extra vehicular activity and extra demands on parking space. He noted they felt this simply could not be supported in the restricted access/communal spaces which have to be shared with neighbouring properties and would cause substantial loss of amenity to neighbours.

Mr J Ashby explained that Mr and Mrs Weatherhill wished to make the Members of the Committee aware of what they believed were significant, substantial errors and shortcomings in the report. He added they felt the report downplayed that the house was in a very prominent position with prominent visibility to the front and east side. It was explained that when the house had previously been extended it was considered material that the extension would overlook the property at 20 Blaidwood Drive and corresponding appropriate planning provision was made for this. It was noted that with the current application however, the report made no mention of the overlooking of that property from velux windows in the proposed new roof.

Mr J Ashby noted Mr and Mrs Weatherhill stated that the proposed veluxes would be in the sloping wall of the new attic rooms, at eye level, and would therefore act as windows that would overlook No.20. He added they asked why had this not been addressed within the Committee Report, and accordingly, what provision could be made to prevent the unwanted overlooking.

Mr J Ashby explained that Mr and Mrs Weatherhill had stated that a number of properties would have views of the side elevation on the east of the proposed; that view of the side elevation having been described by the Parish Council Planning Committee as 'monolithic'. He noted that they added that the Committee Report stated that the effect of this would not be detrimental and that they felt that was plainly not true.

Mr J Ashby noted Mr and Mrs Weatherhill understood the applicant had stated that the house was 'forever'. He added they noted that unfortunately nothing was forever and that the enlarged house would not be a normal family residence with most families not requiring six bedrooms and a number of surplus bathrooms. He explained they noted at some time in the future the house would change hands and, at that time, would attract an increased occupancy of up to 12 adults.

Mr J Ashby noted Mr and Mrs Weatherhill asserted that it was a fact that the site could not accommodate the associated increased activity, including increased vehicular activity and parking that would arise. He explained that they felt the Report was simply wrong and that the plot could not support the vehicular activity that the proposals would, in time, require.

Mr J Ashby explained that Mr and Mrs Weatherhill felt that in addition, the narrow, blind-ending access road would not accommodate the increased vehicular movement. They had also noted that a range of movements needed to be considered: supermarket deliveries; parcel deliveries; refuse collections; as well as occupiers' movements. He noted they felt it was important to recognise that the future loss of amenity would certainly happen and that the Report failed to face up to this fact.

Mr J Ashby noted that in conclusion Mr and Mrs Weatherhill had referred to Paragraph 43 which stated that 'Highways' have raised no objection adding that they questioned whether the Highways Authority had considered the inevitable increase in occupancy of the site in due course and the magnitude of the increased vehicular activity that would inevitably ensue, well above that for which the estate was originally designed.

The Chair thanked Mr J Ashby for speaking on behalf of Mr and Mrs Weatherhill and asked Mr G Thompson, the applicant to speak in support of his application.

Mr G Thompson thanked the Chair and noted while he had a fantastic speech, he would ad-lib in order to address several points raised by the speakers. He added to his thanks to the Chair and the Committee, his thanks to the Planning Services Team, for their advice in terms of compliance and their fair assessment of the application.

Mr G Thompson noted objectors had questioned whether his family were in fact going to live in the property and he noted his daughters would be living with him and his wife, with one attending a local school and the other commuting from the property. He noted it had been his dream to move to a slightly larger home, with his current house being three-storey house with five bedrooms and three bathrooms. He added that the level of objection to the application had been very surprising and while he could not control the comments people would make in terms of the potential for the property to become an HMO, he stressed that it was not true. He reiterated that the property was his family's forever home, having waited ten months for the property and referred to the Officer's comments that in any case an additional application would be required in terms of any HMO permission. Mr G Thompson noted the style of decoration that had been undertaken, with the property having been painted white, not a colour best suited for an HMO, and had been opened-up, not what would be expected if a property for multiple non-related occupants.

Mr G Thompson noted that in terms of views of the property, there were 30-foot tall trees such that the rear of the house could not realistically be seen without coming on to his property. He added that another development nearby has velux windows at a height ten feet higher than his property, the application only seeking an increase in ridge height of only 50cm.

He noted he had looked at properties at Mount Oswald, however, with the property he had purchased there could be bedrooms for his daughters, a four-car drive and he felt the property was sufficiently secluded with a large garden that it would not affect the amenity of immediately neighbouring properties. Mr G Thompson explained that the property was just a nice house and the front of the property would in fact stay the same. He added that the road had not been damaged by 26 tonnes refuse vehicles and accordingly he felt it would therefore be fine. He asked that the Committee agree with their Officer's recommendation and approve the application.

The Chair thanked Mr G Thompson and asked the Planning Officer, JJ to comment on the points raised by the speakers.

The Planning Officer, JJ noted that a full assessment had been made in terms of the scale and massing of the proposals.

She added that from the front elevation the property would continue to appear as a two-storey dwelling, and the 500mm ridge height increase was not felt to have an impact upon the character of the estate. She added the property was relatively secluded with six other properties in the area. In respect of the velux windows, she reiterated that these did not form part of the application, being allowed under permitted development, as are many of these types of windows, common in loft conversions. She noted that as the velux windows lined up with the existing front elevation windows, the same window to blank gable relationship existed and there were no concerns in respect of overlooking No.20.

The Planning Officer, JJ noted that in terms of visibility, most of the proposed additions were at the rear of the property, with No.17 being the main property in that direction. She added that No.17 was around 25 metres away and in terms of the context of the relationship between the neighbouring property and the existing gable end it was not felt that this was a reason for refusal of the application.

*Councillor I Cochrane left the meeting at 2.33pm*

The Planning Officer, JJ reiterated that in terms of HMO use, such use would require a further application.

The Chair thanked the Planning Officer, JJ and asked the Committee for their comments and questions.

Councillor J Shuttleworth noted he understood the fears of the property potentially become an HMO, however, the Officer had explained this would require a further application and the applicant had attended Committee and stated his case, adding he felt most trying to secure an HMO without permission would not likely to have come to address the Committee. Councillor J Shuttleworth moved that the application be approved as per the Officer's report.

Councillor B Coult asked if the floorplan could be displayed on the projector screens and asked for clarification as regards the purple lines on the plan, whether they represented walls or otherwise. The Planning Officer, JJ noted they represented steelwork to support an open plan arrangement.

Councillor M Davinson seconded Councillor J Shuttleworth.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report.

*Councillor I Cochrane entered the meeting at 2.36pm*

**e DM/19/01720/FPA - 77 Whinney Hill, Durham**

The Planning Officer, Leigh Dalby 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 the erection of two-storey side extension to C4 (House in multiple occupation) dwelling and was recommended for approval.

The Planning Officer, LD referred Members to photographs and elevations, and reminded Members the application fell within the City of Durham Conservation Area. He explained the proposed extension would provide an additional two bedrooms and the application would retain the C4 HMO use. The Planning Officer, LD noted that the application had been referred to Committee by the City of Durham Parish Council as they felt it was contrary to the interim policy on student properties.

The Planning Officer, LD noted no objections from statutory or internal consultees, with the Council's Spatial Policy section noting that as the property was an existing C4 use, they felt the additional two bedrooms to create a six-bed C4 HMO was not contrary to the aims and objectives of the interim policy. He added that the Design and Conservation Team had noted the proposals represented a neutral impact upon the character and appearance of the Conservation Area and therefore had no objections to the application.

The Planning Officer, LD explained that the Whinney Hill Community Group had objected to the application, with issues raised including: loss of amenity for residents; failing to preserve or enhance the Conservation Area; detracting from the streetscene; and failing to reflect the character of the area. He noted that there were concerns raised by neighbouring residents in respect of levels of noise and disturbance, anti-social behaviour, refuse, the character of the area and the application being contrary to saved local plan policies and the interim policy on student accommodation.

The Planning Officer, LD noted that in looking at the application Officers referred to the NPPF, Local Plan Policies and the interim policy on student accommodation, with reference to those being set out within the report. He added that in terms of the interim policy, a recent appeal determined by the Planning Inspectorate for an application relating to Hawthorn Terrace within Durham City had been upheld.

He noted that the inspector in that case had noted the interim policy was “at odds with the more permissive approach of saved Policy H9 of the Local Plan” in terms of extension to existing HMOs. Accordingly, Officers felt that it would be very difficult to sustain a refusal reason based on conflict with this element of the interim policy.

The Planning Officer, LD noted that as there were no objections from the Highways Section, and the design was considered acceptable in terms of scale, design, impact upon amenity and neutral impact on the Conservation Area, Officers recommendation was for the application to be approved.

The Chair thanked the Planning Officer, LD and asked Parish Councillor J Ashby, speaking in on behalf of the City of Durham Parish Council, to speak in objection to the application.

Parish Councillor J Ashby thanked the Chair and explained the Parish Council felt the application was a crucial test case of whether the County Council’s planning policies could protect Durham City from overwhelming imbalance in the community.

He noted he first wished to make the point that the Submitted County Durham Plan sought to abandon resistance to extensions to existing HMOs, adding that the Committee were aware that no weight could yet be attached to the policies within the Submitted County Plan. He noted that the matter of abandoning the policy on HMO extensions was highly contentious and must await consideration by an Independent Inspector at the forthcoming Examination in Public. Parish Councillor J Ashby added that any attempt to pre-empt that Inspector’s unfettered examination of the Submitted Plan would be improper.

Accordingly, Parish Councillor J Ashby noted that instead, weight could and must be attached to the Council’s Interim Policy on Student Accommodation, adopted after extensive consultations and discussions, in which HMO extensions that result in additional bed-spaces were not permitted if the 10 percent limit is already exceeded in the locality.

He explained that within 100 metres of 77 Whinney Hill the percentage of student HMO lets was about 70 percent, thus the area was significantly in excess of the limit of 10 percent set by the Interim Policy. Additionally, Parish Councillor J Ashby noted in the case of 77 Whinney Hill, the applicant had previously attempted to gain planning permission to build an adjoining two double-bedroom dwelling and following refusal of that application, and defeat on appeal, he was attempting the same two double-bedrooms scheme but as an extension to his four bedroom C4 property to create a six-bedroom C4 property.

He noted that the proposal was contrary to the Interim Policy and should be refused, adding that saved Policy H9 of the City of Durham Local Plan also carried significant weight and it opposed extensions to existing HMOs on intensification and amenity grounds.

Parish Councillor J Ashby reminded Members that it took 12 years of campaigning by residents for the severe problems of studentification to be recognised and for the Article 4 Direction and a Policy addressing these issues to be adopted by the County Council. He added that with the University set on a 40 percent increase in student numbers in Durham City between 2016/17 and 2026/27 it was not the time to weaken the protections for neighbourhoods envisaged so wisely in the City of Durham Plan and carried forward in the County Council's Interim Policy.

Parish Councillor J Ashby noted that one appeal decision about extensions was referenced in the Officer's report and reminded Members that it was not by "the Inspectorate" but by one Inspector. He added it was not a sound basis for weakening the policy and that each Inspector's decision was on a particular case and generally should not be taken as precedent. He explained that it was essential, in the view of the Parish Council, that the County Planning Authority takes a resolute stance against the ever-creeping additions of yet more student accommodation in neighbourhoods such as Whinney Hill with excessive student accommodation already.

Parish Councillor J Ashby noted in conclusion that the Parish Planning Committee urged that the application be refused as it was contrary to Saved Policy H9 and the Interim Policy on Student Accommodation.

The Chair thanked Parish Councillor J Ashby and asked Mr S Shaw to speak in support of the application.

Mr S Shaw thanked the Chair and Committee for the opportunity to speak and noted that the application was to improve the existing C4 unit, not to create a new unit. He thanked the Planning Officer for his work and reminded Members of the support from the internal consultees "across the board" for the application. He noted the Inspector's decision as mentioned relating to Hawthorn Terrace and reiterated that the application before Members was to enhance the existing C4 use HMO by increasing amenity in terms of bedrooms and bathroom.

Mr S Shaw noted that in terms of the balance of housing within the area, permission had been granted for 70 family homes nearby, with works having started. He noted it was felt that the area could take the kind of enhancement to an existing C4 unit and urged the Committee to approve the application as per the Officer's recommendation.

The Chair thanked Mr S Shaw and asked for any comments from Officers on the points raised.

The Principal Planning Officer, AD noted paragraph 63 of the report set out in some detail the rationale in terms of the interim policy and the Inspector's decision. He added that Officers would look at appeal decisions in order to take on board the views of Inspectors representing the Planning Inspectorate. He noted that the previous application for the site had been refused, Members of the Committee having visited the site. The Principal Planning Officer, AD noted the application for determination was a very much reduced scheme and at this scale, Officers felt that it sat comfortably with the existing property and therefore was recommended for approval.

The Chair thanked the Principal Planning Officer, AD and asked the Committee for their comments and questions.

Councillor J Shuttleworth noted his concerns as regards the application and supported the comments of the Parish Council, noting he could not support the application. Councillor D Freeman noted he felt similarly to Councillor J Shuttleworth and noted that reference to one incident in another part of the City did not necessarily apply equally to all areas within the City and that Planners should not back down in terms of HMOs. He noted that the previous application had been refused under Policy H9 and added that while rear extensions were seen at Whinney Hill, such side extensions were rare and would be extremely visible.

Councillor D Freeman noted he felt the application would have impact upon the amenity of residents within the area. He agreed the development of the former school site nearby for 70 family homes was very good. Councillor D Freeman moved that the application be refused as he felt it was contrary to saved Policy H9.

Councillor M Davinson noted the situation was one faced often by the Committee and asked the Solicitor – Planning and Development for her opinion if Members were minded to refuse the application. The Solicitor – Planning and Development noted Members could afford weight to the saved policy and it was for the committee to decide upon that weight and the impact of the proposed development. She added that in her opinion there would be risk, including costs, should a refusal decision be referred to appeal.

Councillor D Brown noted he felt differently and asked for the photographs and plans to be displayed on the projector screen. He recalled the previous site visit and noted he felt the current proposals for side extension were appropriate and moved the application be approved.



Councillors A Laing and J Shuttleworth seconded Councillors D Brown and D Freeman respectively and upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report.

*Councillor M Davinson left the meeting at 3.02pm*

### **f DM/18/02118/FPA - Land to the North East of Holly Street, 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 advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the construction of apartment block comprising 27 no. one and two-bedroom apartments and was recommended for approval.

The Senior Planning Officer asked Members to note the previous use of the land in the past as a builder's yard, albeit the site had been vacant for a number of years. He explained the location was within close-proximity to the city centre, bus station and East Coast main line, a well-served and sustainable location. Members were referred to photographs of the site and reminded of the site visit, and the Senior Planning Officer referred to the fencing and planting at the site, the nearby terraced properties and the changes in level. The Senior Planning Officer noted the nearby bungalow at the head of John Street and the terrace at Holly Street being elevated compared to the main part of the application site. He noted the windows to habitable rooms at the gable of 10 John Street adjacent to the application site.

The Senior Planning Officer referred Members to a proposed site layout, with 27 one and two-bedroom apartments, with the two-bedroom apartments being en-suite. He highlighted the communal bin and cycle store areas and explained the building would appear in elevation as 2.5 storey from Holly Street and 3.5 storey from John Street. He added that a previous application had been for a purpose-built student accommodation (PBSA) and the current application had been amended in terms of no longer being a PBSA, rather self-contained flats and had seen a number of design changes.

The Senior Planning Officer noted there had been no objections from statutory or internal consultees, however, the City of Durham Parish Council had objected to the application, with a summary of their concerns listed within the report. He added there had been seven objections, including from the nearby Spiritualist Church and one letter of support, again with a summary of their comments contained within the report.

The Senior Planning Officer noted Durham Constabulary Crime and Community had objected to the application in terms of density of development and lack of outdoor amenity space and parking. He added that objection from the Local MP had also been received, noting issues of overbearing, overshadowing and likely occupation by students. It was noted that there had been amendments following the applicant contacting the MP.

The Senior Planning Officer noted that the application was for C3 accommodation, not a PBSA and the Conservation Team considered that the design would enhance the setting within the Durham City Conservation Area. He added Officers felt there would be minimal impact on residential amenity of nearby residents, and the design within the constraints of the site was acceptable. He added the development was within a controlled parking zone and would include two disabled parking bays, with Highways offering no objections as the site was in a sustainable location and had provision for cycle storage.

The Senior Planning Officer noted while the Ecology Section, and School Places Team had offered no objections, commuted sums were suggested in terms of: provision or enhancement of play provision within the Neville's Cross Division; provision of school places within the Neville's Cross Division; and towards biodiversity enhancements in line with Council strategies. He explained that in terms of a commuted sum in relation to affordable housing, a detailed viability statement had been provided and the Spatial Policy Team had noted no objections in relation to the lack of affordable housing provision.

The Senior Planning Officer noted it was a finely balance proposal and noted that Officers felt that the benefits including: positive use of a vacant site; positive impact on the Conservation Area; small contribution to housing stock; sustainable location; improvements to the adjacent footpath outweighed any adverse impact and accordingly the recommendation was for approval subject to the Section 106 Legal Agreements and conditions as detailed within the report.

The Chair thanked the Senior Planning Officer and asked Parish Councillor R Cornwell, representing the City of Durham Parish Council to speak in objection to the application.

Parish Councillor R Cornwell thanked the Chair and noted the City of Durham Parish Council was a statutory consultee and had objected to the application. He reminded Members of the previous application in 2016 for a PBSA on the site, which was refused, and that refusal decision upheld at appeal. He noted the site and area was not suitable for further student accommodation and highlighted the concerns of the Parish Council and residents that the application before the Committee could be student accommodation by stealth.

Parish Councillor R Cornwell noted that the emerging City of Durham Neighbourhood Plan identified the site for mixed use, with accommodation for older people being identified as an area of need. He noted such use would tick a number of boxes both with DCC's Spatial Policy Team and the City of Durham Neighbourhood Plan. Parish Councillor R Cornwell noted NPPF Paragraph 61 referred to the need to provide for a number of different groups, however, he pointed out the similarity of the design to that of a PBSA, suggesting a risk the accommodation would become student housing.

Parish Councillor R Cornwell noted the Parish Council suggested some conditions and amendments to have slightly more two-bedroom apartments and for some disability adaptations. He noted a previous application where condition as regards under 55 years of age for occupation had been made and suggested that a similar provision, albeit for those over the age of 25, could be made to restrict use by undergraduate students. He added that the challenge was to try to live up to the promise of the application and therefore there needed to be a nuanced discussion.

The Chair thanked Parish Councillor R Cornwell and asked Local Member, Councillor L Brown to speak in relation to the application.

Councillor L Brown noted that she and Councillor E Scott, as County Councillors for the area, were very pleased when this application was lodged as they both felt that not only would the flats help redress community balance in Durham City as per paragraph 142 in the Committee Report, but would also provide accommodation in close proximity to shops and public transport. She added that the proposed scheme also had the added benefit of removing a derelict piece of land which had been an eyesore for many years.

Councillor L Brown explained that given those factors, the apartments would be ideal as housing for older people, vulnerable adults and people with disabilities as referenced on p108 of the County Durham Plan pre-submission draft. She noted there was a shortage of that type of accommodation in the city and added that as she had said in her original representation, it would be wonderful if the block of apartments were warden controlled and had community facilities built in, as can be seen in other areas of Durham.

Councillor L Brown noted that she and Councillor E Scott therefore welcomed the application, however, would like to ensure that the eventual residents were not students as they looked to developments like this to make up the shortfall in housing for the full-time residents of Durham. She concluded by noting that it was hoped conditions could be added to the application to ensure the apartments were not for student use.

The Chair thanked Councillor L Brown and asked Ms N Allen, Planning Consultant acting on behalf of the applicant to speak in support of the application.

Ms N Allen thanked the Committee for the opportunity to speak and noted it was important to state the 27 one and two-bed apartments were for market accommodation, specifically developed for C3 use, and would be suitable for a whole range of different people, from young families to older people. She reiterated the Officer's comments as regards the vacant, tight urban site and the commuted sum that would be made in terms of open space provision.

Ms N Allen noted the Officer's report highlighted no objections from the statutory or internal consultees and reiterated that the application before Committee was very different from PBSA application previously considered. She noted that Conservation Officers were happy with the design, enhancing the Conservation Area and pointed out the city centre location, close to transport links and amenities, meant the site was in a highly sustainable location. She added the brownfield site also benefited from being fully serviced and the opportunity for a range of people to occupy the properties offered the potential of social benefits on top of economic benefits of regenerating the vacant site.

Ms N Allen referred to the NPPF tilted balance test and reiterated the significant benefits of the scheme as set out within the report and Officer's presentation. She understood that Members had visited the site and would know the site was currently an eyesore and informed the Committee there had been a number of fly-tipping incidents at the location. She added the retaining wall was in poor condition and the application would help to regenerate the site, vacant for so long the previous Case Officer used to walk past the empty plot on the way to school.

Ms N Allen appreciated the proposal was for a large block, however, the design was sympathetic and was a high quality which would "enhance the Conservation Area". She added the development would improve the footpath as mentioned, and also create a new hammerhead and retaining wall. She noted the huge opportunity to develop the plot, with high build costs due to the constraints of the site and bespoke design, the applicant taking a long-term view in developing the site.

Ms N Allen noted there was not much harm in the proposed development and that was far outweighed by the significant benefits as demonstrated and therefore she asked that the Committee approve the application as per the Officer's report.

The Chair thanked Ms N Allen and asked the Senior Planning Officer to comment on the issues raised by the speakers.

The Senior Planning Officer noted that in respect of the issue raised by the City of Durham Parish Council and Local Members, the apartments were for any end user and that any change of use application for student use in the future would provide an opportunity for a level of control, each application to be considered upon its own merits. In respect of conditioning for age restriction, the Senior Planning Officer noted such conditions would need to be looked on in terms of reasonableness and, in this case, Officers had not thought such conditions would not be reasonable to impose.

The Chair thanked the Senior Planning Officer and asked the Committee for their comments and questions.

Councillor J Shuttleworth noted he had attended the site visit and had seen drainage holes at the site and asked how they would be incorporated within the development. He also noted six objections from local residents and highlighted the proposal suggest around 50-60 people living at the location, none having a vehicle. The Senior Planning Officer noted the Council's Drainage Team and Northumbrian Water Limited were happy with the application and appropriate condition in respect of drainage. He added the site was within a controlled parking area and asked the Highways Officer to elaborate. The Highways Development Manager, John McGargill confirmed the site was within a controlled parking zone and that as a new development, new residents would not be allowed to apply for parking permits. He added that the cost of on-street parking would be prohibitive, however, the application site was within a sustainable location.

Councillor B Coult noted that the site was an eyesore and she moved that the application be approved.

Councillor D Freeman noted he felt a sense of déjà vu, with applications in 2007, 2008, 2009 and with him having sat on all three of the Planning Committees where they were considered. He noted that C3 use was not for student use, however, he had concerns that the one-bed units and lack of parking provision suggested they may become used by students in the longer term. He noted his disappointment in terms of the lack of affordable housing, noting planning was becoming flexible to the point of delivering no affordable units.

Councillor D Freeman asked for the comments of the Solicitor – Planning and Development as regards any condition relating to an age restriction.

The Solicitor – Planning and Development noted the decision as regards conditions was for Members, however, she noted that conditions must be reasonable and acceptable or necessary. She noted that Officers had not identified any reason why such a condition would be necessary and reiterated it was a matter for the Committee.

Councillor A Laing seconded Councillor B Coult.

Councillor D Freeman noted he would be happy to see such an age restriction condition as it would support the aims and needs identified within the CDP and City of Durham Neighbourhood Plan. The Solicitor – Planning and Development noted that it would be a struggle to sustain such a condition if appealed. Councillor A Laing asked what would be possible in terms of such a condition. The Solicitor – Planning and Development noted that any type relating to an age restriction would likely be lost at appeal as they would not be necessary in order to deliver the development. Councillor D Freeman reiterated he felt a condition in terms of restricting to aged 25 years old would be beneficial in order to rule out the majority of students. The Chair asked Councillors B Coult and A Laing as proposer and seconder if they agreed to such a condition being added, they both agreed.

The Area Team Leader, Sarah Eldridge asked for clarity in terms of the condition they wished to apply and whether Members' wished the condition to would preclude any family members under the age of 25, or if the condition would stipulate at least one family member being over the age of 25.

Councillor B Coult noted one family member being over 25 years old.

Councillor I McLean noted the situation that could occur where a 21-year-old living in one of the flats could lose their parent or parents in an accident and by virtue of such a condition lose their home as well as their family. He added there could be other scenarios, where a child and siblings are left the property and unable to live in the property. He added he felt it was too proscriptive. The Solicitor – Planning and Development noted Councillor I McLean's interpretation was correct.

Councillor R Manchester noted that he agreed with Councillor I McLean's comments and he was against any condition restricting age. He moved that the application be approved, subject to the original conditions set out within the Officer's report. Councillor I McLean seconded Councillor R Manchester.

The Chair noted that the first vote would be for approval, subject to a condition restricting age to one family member over the age of 25, proposed by Councillor B Coult and seconded by Councillor A Laing. Upon a vote being taken the motion was **LOST**. The Chair noted the proposal by Councillor R Manchester, seconded by Councillor I McLean was for approval, subject to the original conditions as set out in the Officer's report.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions and Section 106 Legal Agreements as set out within the report.

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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|--------------------------------------|---|
| <b>APPLICATION No:</b>               | DM/19/01281/FPA   |
| <b>FULL APPLICATION DESCRIPTION:</b> | Formation of temporary construction access onto B1285 in association with housing development (DM/15/03487/FPA)                       |
| <b>NAME OF APPLICANT:</b>            | Bellway Homes (Durham) Ltd  |
| <b>ADDRESS:</b>                      | Land To The East Of A19 And South Of Dalton Heights<br>Seaham   |
| <b>ELECTORAL DIVISION:</b>           | Murton and Deneside (site crosses both)   |
| <b>CASE OFFICER:</b>                 | Henry Jones<br>Principal Planning Officer<br>03000 263960<br><a href="mailto:henry.jones@durham.gov.uk">henry.jones@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 of an irregular shaped parcel of land extending to approximately 600m<sup>2</sup>. The site comprises principally of land previously forming an agricultural field but upon which a residential development is in the process of being built-out, together with sections of highway, hedgerow and hedgerow stumps from previous hedgerow removal. The site is located just off the B1285 on the southern fringes of Seaham and approximately 60m to the south of the roundabout where the B1285 meets Graham Way and entrance to the Dalton Heights residential estate.

### The Proposal and Background

2. In June 2016 the Council refused planning permission for a residential development of 75 dwellings and associated access and works on land to the south of Dalton Heights and east of the A19 which this pending application site forms a part of. Bellway Homes appealed against the Councils decision and following a Public Inquiry, the Planning Inspectorate allowed the appeal and granted planning permission in September 2017.

3. Under that planning permission the permanent vehicular access to serve the residential development is to be formed from the Dalton Heights Estate to the north connecting to the existing carriageway between nos. 11 and 12. In his decision the Inspector did discuss the impacts of construction traffic passing through the Dalton Heights estate, the width of the carriageway and potential for HGV movements and ultimately concluded the impacts would be acceptable. The Inspector imposed a condition (condition no. 9) requiring the submission and agreement of a construction management strategy.
4. Development is underway on the residential development with the Dalton Heights access point being utilised by construction vehicles.
5. Planning permission is now sought under this proposal for an alternative construction access to serve the development off the B1285 rather than through the Dalton Heights estate. The applicant has explained that the purpose of the application is to seek an alternative construction access in order to complete the residential development so as to avoid the need for construction traffic to be passing properties within the Dalton Heights estate. The access is proposed for a temporary period whilst the housing development is constructed and would be closed with a reinstatement scheme once the development was complete.
6. An access previously used to provide agricultural vehicle access into the site is in situ in the location of the proposed access. The access proposed to serve the residential development, however, would be widened where it would meet the B1285 carriageway and in so doing cross the footpath on the western side of the road. The access is proposed to be constructed with clean stone. To provide the access the application proposes to remove a 15m section of the hedgerow which runs along the field boundary which has largely already taken place on site with some low stumps remaining. A street lighting column is proposed for removal which conflicts with the position of the access. The access is proposed to be managed so that it operates on a left in and left out only basis so as to avoid the more difficult right turn manoeuvres, though no physical impediment to a right turn via, for instance the introduction of any temporary barriers on the B1285 carriageway, is proposed. Warning signs in relation to the temporary access are proposed to be installed.
7. The application is being reported to the Central and East Area Planning Committee following a request from Local Members with concerns expressed in regards to highway safety.

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## **PLANNING HISTORY**

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8. In July 1997 Easington District Council refused a planning application for the development of 80 dwellings and associated works on the application site. The applicant appealed this decision and a public inquiry was held. The Planning Inspectorate dismissed the appeal in May 1998. The applicant had also submitted the application site as a housing allocation for inclusion in the emerging Easington Local Plan. This was also dismissed by the Planning Inspectorate in 1998.
9. In June 2015 planning permission was refused for 134 dwellings, access and associated works. (DM/14/02017/FPA).
10. In June 2016 planning permission was refused for 75 dwellings, access and associated works. At Public Inquiry an appeal was allowed and planning permission granted for the development in September 2017.

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# PLANNING POLICY

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## NATIONAL POLICY

11. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). 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.
12. 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.
13. *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.
14. *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.
15. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. *Developments* should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
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.* Advises that 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.

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

19. 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; design; determining a planning application; natural environment; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

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

The District of Easington Local Plan (December 2001) (ELP)

20. *Policy 1 – General Principles of Development.* This policy permits development that accords with the principles of sustainable development together with any benefits to the community and local economy.
21. *Policy 3 – Protection of the Countryside.* Development outside the “settlement limits” will be regarded as development within the countryside. Other than specifically allowed for by other policies, development in the countryside will not be approved.
22. *Policy 18 – Species and Habitat Protection.* 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.
23. *Policy 35 – Design and Layout of Development.* 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.
24. *Policy 36 – Design for Access and the Means of Travel.* The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
25. *Policy 38 – Designing out Crime.* The design and layout of development will be required to have due regard to personal safety and the security of property, particularly in the hours of darkness.

## **EMERGING PLAN:**

### The County Durham Plan

26. Paragraph 48 of the NPPF states 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre-Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 27 June 2019. A timetable for the Examination in Public (EiP) of the CDP has been devised with the Hearings set to commence in October 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

27. *Highway Authority* – Raise no objections. Amended plans have been received which identify the necessary visibility splays can be achieved. The construction access is proposed to operate on a left turn in and left turn out only basis.

### **INTERNAL CONSULTEE RESPONSES:**

28. *Landscape* – Raise no objections but highlight that in order for the compensatory hedgerow to thrive then it must be ensured that all stone and de-compaction of the ground must be removed. Details of the replacement scheme should also be agreed.
29. *Arboriculture*- Raise no objections provided that the hedgerow is replaced when the use of the access ceases.
30. *Ecology* – Raise no objections. The submitted Hedgerow Assessment report is considered sufficient to inform on the application and no further survey work is necessary. Once use of the construction access has ceased the hedgerow should be gapped up as per the submissions.

### **EXTERNAL CONSULTEE RESPONSES:**

31. None

### **PUBLIC RESPONSES:**

32. The application has been publicised by way of site notice and individual notification letters to neighbouring residents. A total of 37 letters of representation have been received with 27 letters of objection and 10 letters of support. The points raised are summarised below:

## Objection

### Highway Safety/Issues

- Access proposed is dangerous
- Access will cause disruption
- The road is used by a range of users including but not restricted to mothers with prams, horses, motorised scooters, pedestrians, emergency vehicles and not just cars
- Visibility at the access is inadequate
- The B1285 is steep and particularly difficult in winter
- The access has been used already by archaeological contractors
- Residents have highlighted that access via Dalton Heights to implement the housing schemes was unsuitable
- The B1285 has been the subject of accidents and many more near misses with concerns raised that a fatality could occur
- A lighting column is proposed to be removed posing a danger to pedestrians
- Access for the neighbouring farm and Dalton Heights estate would become more difficult
- Turning vehicles would stray into the oncoming traffic lane
- Plans associated with the application do not correctly identify the context of the site including the surroundings and gradients
- Traffic using the B1285 has increased due to growing tourism and Dalton Park
- Within the previously refused planning application for the 134 dwellings significant road signage and marking improvements were necessary which are not proposed for this scheme
- Mud will be an issue on the busy road

### Other Issues

- Concerns with the impact of the overall development upon water levels at the beck in Dalton le Dale
- Concerns upon air quality as a result of the extra heavy traffic utilising the B1285
- Objection that access proposals are contrary to the arrangements approved under the planning permission for housing and not raised as being proposed under that application/appeal
- It is queried whether it can be guaranteed that should the applicant at a later date seek permanent use of the access for residential access purposes that this would be refused
- There is a risk that acceptance of this access would result in future proposals for more housing development
- The application should be determined by the Planning Inspectorate at Inquiry given that was the determination route of the housing development

33. *Cllrs Napier and Maitland (Murton)* – Raise objection on the grounds of highway safety and request that the application be heard at planning committee.

34. *Cllrs Ed and Jennifer Bell (Deneside)* – Raise objection with grave reservations expressed in regards to highway safety.

#### Support

- This alternative access proposal is more suitable than access through the Dalton Heights estate where vehicles will struggle to negotiate the roads and parked vehicles and cause disruption for residents
- The left in and left out proposal should go some way towards mitigating any traffic issues on the B1285
- Residents on Dalton Heights receive disruption due to present arrangements including being blocked on driveways, noise, mud, dust and noisy workmen. Residents are having to confront the site and Council Officers about the amenity issues
- Those who object to this proposal will not live on the affected Dalton Heights estate
- The housing planning permission was never deliverable with access via Dalton Heights
- There is a site entrance to another development nearby on the B1404 and if that access is safe the same should apply to the B1285
- Emergency vehicles on the Dalton Heights Estate could get blocked by the heavy site traffic

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

#### **APPLICANTS STATEMENT:**

35. Bellway Homes are seeking approval for a temporary construction access to mitigate the disturbance and general day-to-day construction impacts that construction traffic attracts in a quiet residential area. It should be noted that the proposal's location has been used as an agricultural access to date.
36. Bellway consider that a large proportion of construction impacts can be easily mitigated through the use of the temporary construction access point, and construction traffic, whilst not significant, can be better diluted and absorbed directly onto the B1285, avoiding the residents of Escallond Drive and Dalton Heights.
37. At present, it is estimated that 5 HGV deliveries, in addition to 5 light vehicles arrive on-site per hour. The vast bulk of these vehicles are delivering quantities of stone and aggregate to construct the main estate roads running through the site. The addition of these movements directly onto the B1285 would have a minimal effect in comparison to those effects experienced on Escallond Drive and Dalton Heights. On average, construction traffic is not anticipated to increase throughout the duration of the construction phase.
38. Bellway are aware of the concerns raised in relation to the proposal and highway safety. Through discussion with the local authority's highway department, the proposal's junction has been designed and widened to provide clear visibility to drivers exiting the site by up to 120 metres down the B1285. This provides a safer form of exit onto the B-road than previously achieved when it existed as an agricultural access. The addition of traffic management, which is still to be agreed with the highways department, will provide a further form of safety to users of the B1285.

39. Further to this, Bellway are committed to maintaining the cleanliness of the public highway. The existing site access through Dalton Heights is permanently manned during site working hours by a wheel wash to prevent the excessive build-up of mud and debris on the highway and Bellway employ a road sweeper daily to compound the effect of the wheel wash. These measures will be employed during use of the temporary construction access and will be agreed with the local planning authority as previously done so for the main construction phase.
40. Ultimately, we have decided to pursue this application in the interests of protecting residential amenity to a greater extent further to feedback received from residents and the fact that Bellway wish to work constructively with neighbouring residents. In light of this, Bellway kindly request that you support this proposal in order to reduce construction impacts on those residents most effected by the development.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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41. 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. The NPPF advises that weight to local plan/development plan policies adopted prior to the publication of the NPPF (in its revised form) should be attributed according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Equally, however, where evidence, which informed a policy, has been superseded by more up-to-date evidence or is otherwise out of date, this can also be a reason to conclude the policy itself is out of date. 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; highway safety and access; visual and landscape impact; and ecology. Other relevant issues are also considered.

### Principle of the Development

42. The application site is located beyond any established settlement boundary as defined within the EDLP, between Seaham and Dalton-le-Dale. As a result, under the provisions of the EDLP the application site is located within the countryside. EDLP Policies 1 and 3 require development to be located within settlement boundaries unless the development constitutes a form of development which is exceptionally permissible within the countryside, examples being agricultural development and forms of tourism and recreational development in the countryside.
43. As the proposed new access and associated works does not constitute a form of development specifically permitted under relevant policies of the EDLP covering the countryside location, there is a degree of conflict with Policies 1 and 3 as a result. However, it should be noted that the access is proposed to serve an ongoing residential development with planning permission and one which itself is located beyond a settlement boundary.



44. Furthermore, EDLP Policies 1 and 3 are both considered to be out-of-date due to a combination of the evidence which informed the settlement boundaries referenced within them being of significant age together with some inconsistency in content when assessed against the NPPF. However, neither policy is wholly inconsistent with the NPPF and both can be attributed weight in the decision-making process.
45. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development and this is detailed at paragraph 11 which states;

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
- ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

46. In this instance, EDLP policies most important for determining the planning application, are considered out-of-date. Accordingly, the acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF. Such an assessment is undertaken in the concluding sections of this report, following consideration and assessment of all the key material planning considerations.

#### Highway Safety and Access

47. Matters surrounding the safety of the proposed access and most appropriate means for construction vehicles to access the housing development site are the primary matters for consideration under the application and this is reflected in the representations received on the application both in opposition to the proposal and in support.
48. Comments in opposition to the development principally conclude that the B1285 is a busy highway both for vehicular and non-vehicular users and that access/egress by large construction vehicles would be unsafe.
49. Comments in support generally conclude that the proposed dedicated access off the B1285 would be preferable to access through the existing residential estate of Dalton Heights where those comments conclude that the movements are problematic and affect residential amenity. These comments are also reflected in a number of separate enforcement complaints that officers have received in relation to construction vehicles travelling through the Dalton Heights estate relating to matters such as safety, mud and dust and nuisance parking and waiting.

50. Consultation and discussions have been held with both the Highways Development Management and Highways Network Coordination arms of the Highway Authority. The conclusions of the Highway Authority are that the proposed access/egress via the B1285 would be acceptable and would be safe. The necessary junction site visibility splay of 2.4m x 120m to the south on the B1285 can be achieved. During the course of the application swept path analysis/vehicular tracking submissions have been made to demonstrate the movement of an articulated lorry accessing and egressing on the B1285. Consideration has also been given to the merits or otherwise of the introduction of barriers/cylinders within the centre of the B1285 so as to provide a physical impediment to right hand turns. The conclusion of officers, however, being that the introduction of such features would be likely to pose more of a highway safety issue than prevent one and would restrict movements for West Farm, with such features thereby not proposed.
51. The position of the modified access would require the removal of a lighting column. So that the light is not lost for the safety of both vehicles and other highway users it is proposed that the lighting column would be replaced and the applicant has held discussions with the Council's lighting design engineers in this regard. In the event of an approval this could be secured by way of a planning condition.
52. It is acknowledged that the access would result in vehicles crossing the footpath on the western side of the B1285 with some disruption to pedestrians as a result. It is acknowledged that the footpath will be used by a variety of users as highlighted within the public representations including potentially, the disabled and parents with young children in pushchairs. The Council acknowledges that in exercising its functions it has a legal duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. This duty applies to all people defined as having protected characteristics under that legislation. The most relevant protected characteristics to be considered in this instance are considered to be related to age, disability and pregnancy/maternity.
53. However, it is considered that there are mitigating factors to be taken into account - warning signs can be installed to help manage this and reduce impact, the proposed access is being applied for the duration of the housing development works and furthermore it should be noted that there has been a dropped kerb and lawful agricultural access in this location previously established.
54. Public concerns raise the potential for mud to be left on the highway by construction vehicles. To aid in reducing the instances and impact of this a construction management plan would be required by way of a planning condition in the event of an approval, measures which can be employed would include, for instance, the use of a road sweeper and ensuring vehicles taking materials to and from the site are sheeted.
55. Overall, the Highway Authority have not raised an objection to the proposals on the grounds that access/egress for construction vehicles would be unsafe or inappropriate. The access would provide an alternative means for construction vehicles to enter the site and thereby ease the burden upon the Dalton Heights estate. Officers consider that the proposal therefore complies with EDLP Policies 1, 35, 36 and 38, these policies are considered either partly (Policy 1) or fully (Policies 35, 36 and 38) consistent with the content of the NPPF and each can be attributed weight in the decision-making process. The development is also considered to comply with relevant advice in Parts 8, 9 and 12 of the NPPF.

## Visual and Landscape Impact;

56. The modified access results in the loss of approximately a 15m length of the hedgerow that runs on the field boundary with the highway. The hedge is a mature, hawthorn dominated hedgerow and does provide an attractive feature. Much of the break in the hedgerow necessary to facilitate the access proposed has already occurred on site.
57. Whilst the loss of a section of the hedgerow is a negative consequence of facilitating the access Landscape and Arboriculture Officers have not raised objections subject to a compensatory replacement scheme being devised. The application proposes to reinstate the hedgerow once use of the access has ceased and this can be secured by planning condition in the event of an approval.
58. As a result, officers raise no objections to the development on the grounds of its visual or landscape impact having regards to EDLP Policies 1 and 35 and Parts 12 and 15 of the NPPF.

## Ecology

59. The application is accompanied by a hedgerow assessment the purpose of which is in part to assess whether the field boundary hedgerow constitutes an Important Hedgerow under the provisions of the Hedgerow Regulations 1997 (which the report concludes that it is not) but also to consider the presence of/use by species including protected species. No evidence of use of the hedge by protected species was recorded in the site survey though bird activity was recorded on site at the time of survey. The hedgerow assessment acknowledges that at the time of the survey the section of the hedgerow to be affected by the development had already been heavily pruned.
60. Ecology have been consulted on the application and raised no objections to the development though in similarity to Landscape and Arboriculture responses request that the hedgerow is reinstated upon cessation of the use of the access.
61. As a result, the development is considered compliant with EDLP Policies 1 and 18 (partly consistent with the NPPF) and Part 15 of the NPPF.

## Other Issues

62. Public objection is raised that the overall housing development could pose a flood risk to Dalton le Dale. However, the housing development has already gained planning permission and flood risk was a matter considered at that time. This application solely relates to the construction access and cannot now revisit those issues.
63. Concerns are raised regarding matters of air quality as a result of heavy traffic utilising the B1285, however, construction traffic would utilise the B1285 irrespective of whether this construction access is utilised or that existing at Dalton Heights.
64. Public queries raise whether it can be guaranteed that should the applicant seek permanent use of the access for residential purposes that this would be refused. There is further concern that the acceptance of the access could lead to additional housing development. The applicant has sought temporary use of the access only for the construction period and in the event of approval this would be controlled via a planning condition. Should the applicant seek a permanent access to serve the housing development then a further planning permission would be required and the decision would be taken on its own merits at that juncture. Similarly, should any proposal be sought to build an additional estate then this would also be required to go through the planning permission process.

65. The representations received consider that the application should be determined by the Planning Inspectorate at Inquiry given that it was under such a process that the housing development gained planning permission. However, it falls for the Local Planning Authority to determine this application. Should the application be refused then the applicant would have the right to submit an appeal to the Planning Inspectorate.
66. Representations also consider that the submitted plans do not correctly identify the context of the site including the surroundings and gradients. However, the plans are considered acceptable for determination processes and officer assessment is informed by site visits not just the plans submitted by the applicant.

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## **CONCLUSION**

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67. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.
68. The NPPF advises that weight to local plan/development plan policies adopted prior to the publication of the NPPF (in its revised form) should be attributed - according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Equally, however, where evidence which has informed the content of the policy is out of date this can also be a reason to conclude the policy is out of date.
69. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development and this is detailed at paragraph 11.
70. In this instance policies within the EDLP most important for determining the application are out-of-date and it is paragraph 11(d) of the NPPF applies which states;  
  
where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:  
  
i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or  
  
ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
71. In respects to limb i, there are no NPPF policies which protect assets of particular importance which apply in this case. Therefore, in regard to limb ii, there is the requirement to consider whether any adverse impacts overall would significantly and demonstrably outweigh the benefits.
72. The key planning consideration is considered to be highway safety and the Highway Authority consider the temporary access arrangements to be safe. Officers therefore consider that the adverse impact resulting from the development principally relates to the loss of the section of hedgerow. A replacement scheme can mitigate the impact.

73. Whilst the access to construct the housing coming through the Dalton Heights estate was established under the planning permission it has clearly caused some amenity and safety concerns for occupiers demonstrated through the letters of support on this application and separately through complaints received. With the proposed access deemed safe, officers consider there is merit in the construction access route avoiding passing through the existing housing estate.
74. Overall, it is considered that the identified adverse impact from the development (loss of section of hedgerow) would not significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.
75. As a result, and having regard to the content of the EDLP, and on the balance of all material planning considerations, including comments raised in the public consultation exercise, it is considered that the proposals are acceptable.

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## **RECOMMENDATION**

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

### **Temporary Permission**

1. This permission is granted for a temporary period only and only for the purposes of construction access to facilitate the development of the adjacent residential development approved under planning application DM/15/03487/FPA. The use of the access must cease once all dwellings approved under that planning permission have been substantially completed.

Upon the cessation of the use of the access the application site must be reinstated in accordance with a scheme which has been approved by the Local Planning Authority. This reinstatement scheme must be submitted to and approved in writing within a period of no later than 6 months from the date of this permission. The scheme to reinstate the land must include a landscaping scheme to compensate for the loss of the hedgerow required to facilitate the access and reinstatement of the land required to develop the access. These details must include the following;

- Confirmation of the removal of all stone/hard surfacing material and de-compacted ground
- a dimensioned cross section showing topsoil profiles
- detailed planting scheme including, species, planting procedures and specification, densities and numbers
- the establishment maintenance regime, including the replacement of vegetation which die, fail to flourish within a period of 5 years from planting and details of the
- Timescales for the implementation and completion of the all works
- Details of the management and maintenance of the landscaping scheme in perpetuity

The reinstatement scheme must be completed in full accordance with the approved details.

*Reason: To define the consent as the proposed access is for a temporary period only for the duration of construction works.*

## Plans

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

Plans:

Site Location Plan 900 Revision B

Layout Plan 901 Revision C

Documents:

Hedgerow Assessment Dalton Heights, County Durham Dated October 2019

*Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies 1, 18, 35, 36 and 38 of the EDLP and Parts 2, 4, 8, 9, 12 and 15 of the NPPF.*

## Construction Management Plan

3. No development on the temporary construction access hereby approved shall take place until a Construction Management Plan, covering the construction management of the development hereby approved together with the residential development approved under planning permission DM/15/03487/FPA has been 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:
  1. A Dust Action Plan including measures to control the emission of dust and dirt during construction
  2. Details of methods and means of noise reduction/suppression.
  3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;
  5. Designation, layout and design of construction access and egress points;
  6. Details for the provision of directional signage (on and off site) including those providing warning of the access including for pedestrians;
  7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
  8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
  9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
  10. Routing agreements for construction traffic.
  11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
  12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
  13. 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: To protect the residential amenity of existing and future residents from the development in accordance with policies 1, 35 and 36 of the EDLP and Part 15 of the NPPF. Required to be pre-commencement as construction management measures must be agreed before development commences.*

### **Lighting Column**

4. The use of the temporary construction access hereby approved must not commence until a functioning replacement lighting column required to replace the one required to be removed to facilitate the access has been erected and installed.

*Reason: In the interests of highway safety having regards to EDLP Policy 1 and 36 and Part 9 of the NPPF.*

### **Working Hours and Deliveries**

5. Construction activities including the use of plant and equipment and site deliveries shall only take place between the hours of 08:00 and 18:00 Monday to Friday, 08:00 to 13:00 on a Saturday with no working on any Sunday or Bank Holiday.

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with policies 1, 35 and 36 of the EDLP and Part 15 of the NPPF.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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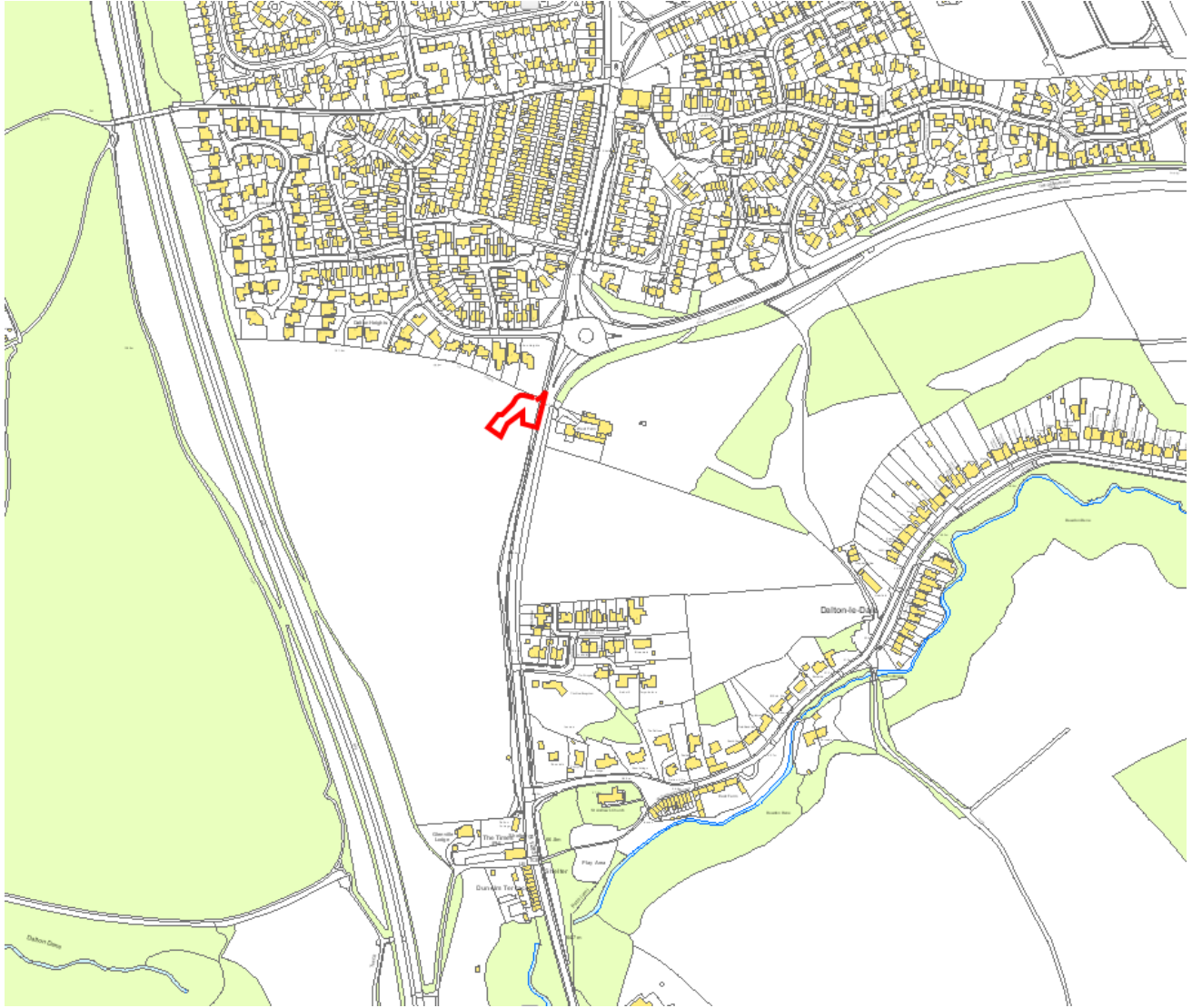
The Local Planning Authority in arriving at its recommendation to support this application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of 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) (CC) 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
- District of Easington Local Plan
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- Statutory, internal and public consultation responses



**Planning Services**

DM/19/01281/FPA

Formation of temporary construction access onto B1285 in association with housing development (DM/15/03487/FPA)

Land To The East Of A19 And South Of Dalton Heights Seaham

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**Comments**

**Date** 15 October 2019

**Scale** Not to Scale



# COMMITTEE REPORT

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## APPLICATION DETAILS

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|                                      |   |
|--------------------------------------|---|
| <b>APPLICATION No:</b>               | DM/18/00864/FPA   |
| <b>FULL APPLICATION DESCRIPTION:</b> | Construction of 2No. pig finishing buildings for 2000 pigs and 4No feed silos at Biggin Farm, New Brancepeth. Retention of extension to existing agricultural building at Hill House Farm, New Brancepeth, to house pigs. |
| <b>NAME OF APPLICANT:</b>            | Mr Tim Bates  |
| <b>ADDRESS:</b>                      | Biggin Farm, New Brancepeth, Durham. DH7 7HQ  |
| <b>ELECTORAL DIVISION:</b>           | Deerness<br>Susan Hyde  |
| <b>CASE OFFICER:</b>                 | Planning Officer<br>03000 263961  |

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is located in open countryside 2 km to the west of New Brancepeth and just over 1 km to the east of Esh Winning and currently the site forms an open field. Biggin Farm, which is in the applicants ownership and which consists of a farmhouse and farm buildings currently used for storage is located 850 metres to the north east of the site. This farm has a land holding of 650 acres. In addition Hill House Farm which consists of a farmhouse and a group of farm buildings, some of which are occupied for the intensive rearing of pigs is located just over 450 metres to the south of the site. The site is currently an agricultural field with mature trees located to the north of the site that form a local nature reserve. To the east of the site is located an area of more recent woodland and within that an allocated historic park and garden, and a further local nature reserve is also located to the east. The site is accessed from an established track that also forms a public right of way that joins the adopted highway to the north of the site.
2. The closest residential properties not relating to farming are located within Esh Wood within the historic park and garden and are located over 700 metres to the east of the application site.

### The Proposal

3. Full planning permission is sought for two agricultural buildings for the intensive keeping of 2000 pigs and 4 feed silos. The 2 buildings are proposed to be 39.35 metres in length by 21.26 metres in depth with a height of 6.7 metres with an associated parking and turning area.
4. The application is before Members at the request of Councillor Bell and Councillor Wilson due to the impact on the local area from vehicular movements, the environmental impacts on the local woodland and river and the impact on residential amenity.

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## PLANNING HISTORY

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5. Planning application DM/17/00919/FPA for the construction of 2no. pig finishing buildings for about 4000 pigs and 5no. feed silos and Retention of extension to existing agricultural building at Hill House Farm to house pigs was withdrawn from planning consideration.
6. A prior notification for permitted development under agricultural permitted development rights for two adjacent buildings that each would measure 26.28 x 14.79m for intensive agricultural use at Hill House Farm was refused in January 2018.
7. A prior notification of development under the agricultural permitted development rights for one additional agricultural building located at Hill House Farm for a building 28.38 m x 14.20 m with a floor area of 402.97m<sup>2</sup> metres square for the intensive rearing of livestock 820 weaner pigs from a weight of 7kg to 30kg was considered to meet the agricultural permitted development rights in January 2019.

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## PLANNING POLICY

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### NATIONAL POLICY

8. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:

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.

9. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
10. 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.
11. 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.
12. NPPF Part 16 Conserving and Enhancing the Historic Environment: Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

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

## **NATIONAL PLANNING PRACTICE GUIDANCE:**

13. 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 relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

<https://www.gov.uk/government/collections/planning-practice-guidance>

## **LOCAL PLAN POLICY:**

14. The following policies of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007 are relevant to consideration of this planning application:

Policy E7 – Development in the Countryside

15. Policy EMP17A – Agricultural and forestry development
16. Policy E10 - Areas of Landscape Value is aimed at protecting the landscape value of the district's designated Areas of Landscape Value.
17. 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.
18. Policy E15 - Provision of New Trees and Hedgerows states that the Council will encourage tree and hedgerow planting.
19. Policy E16 - Protection and Promotion of Nature Conservation is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
20. Policy E18 - Sites of Nature Conservation Importance seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
21. Policy E26 – Historic Parks and Gardens
22. 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.
23. 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.
24. Policy T21 - Safeguarding the Needs of Walkers states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network.
25. Q1 and Q2 - General Principles Designing for People and Accessibility states that the layout and design of all new development should take into account the requirements of all users.

26. Policy R11 - Public Rights of Way states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.
27. 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.
28. Policy U5 – Pollution Prevention states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
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.
31. Policy H13 – Residential Areas – Impact on character and area

**RELEVANT EMERGING POLICY:**

32. 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:**

33. County Highway Officer – The County Highway Officer notes that Broadgate Road being the route to the site from New Brancepeth is adequate for the size and frequency of vehicles to and from the planning application site and there are no current highway controls on this access road for size and number of vehicles. The proposed development included a submitted transport statement that states that during the period when the pigs arrive they do so in 4 or 5 loads over a one week period every 13 weeks. The pigs are noted to leave over a 4 week period at the end of the cycle, a total of 10 loads. Deceased pigs are removed from the site as and when required. Feed will be 1 load per week throughout the batch. The highway officer has assessed that this level of vehicle movement is low when considered against existing traffic flows along Broadgate Road. He notes that whilst Broadgate Road is narrow it is of sufficient width to allow one vehicle to pull off the road to allow another vehicle to pass and is of a similar standard to other country roads.

## CONSULTATION RESPONSES:

34. Environmental Health – Noise – The proposed building is located in a rural area a reasonable distance (600-700m) from the nearest sensitive receptor and approximately 700m from the larger conurbation of Esh Winning. The nature of the area is rural with a number of existing farms in the locale and as such local populations are likely accepting of some odour from rural land uses. The use applied for is a finishing unit for pigs and as such has a number of noise and odour issues associated with it. Pig manure is highly odorous and is generally considered a more “unpleasant” smell to equine, bovine and ovine waste. Pigs also can make significant noise at times, especially when not sexed and separated and/or hungry. In addition pig units need constant ventilation and as such there is a requirement for external plant.
35. To support the above development the applicant has provided a noise and odour impact assessment. This has been assessed against the County Councils TANS and the Environmental Health Officer concludes:
36. Odour - that the development will be moderately offensive with the odour levels particularly affecting Hill House Farm. Due to the style of the operation the odour levels will fluctuate particularly with livestock deliveries, collections, cleaning out and slurry emptying and spreading. It is inevitable that actions such as spreading are likely to have the most severe impact, however this is not directly controllable by the planning regime i.e. no permission is needed to spread muck on the surrounding land. It is also further restricted by EA legislation which limits the amount and when spreading can occur.
37. Noise - the noise arising from the development is unlikely to significantly impact on the nearest residential properties the majority of the time, however I do consider potentially some pig vocalisation will be audible. In addition I do also consider that vehicle movements during night-time hours may also lead to an increased impact in the general locale. From the detail provided the noise levels are compliant with the threshold levels stated in the TANS and in terms of the NPPG noise guidance relate to the lowest observed effect level or below.
38. Ecology – note that their main concern lies with the protection of sensitive woodland habitats adjoining the site.
39. They have considered the updated Ammonia Dispersion report by AS Modelling and Data Ltd (27<sup>th</sup> March 2018 version). The report confirms that the annual mean ammonia concentrations and nitrogen deposition rates from the existing and proposed pig rearing units would not exceed the Environment Agency’s Critical Level threshold for the Local Wildlife Site and Ancient Woodland (as sensitive receptors).
40. The ammonia report considers the increases caused by the new and existing pig units but clarity is needed as to whether air quality impacts caused by the spreading of slurry on the adjacent fields are taken into account in this report. He would expect the report to also consider the potential for additional ammonia/nitrogen dispersion from slurry spreading activities and assess the cumulative impacts on the AW/LWS accordingly. He notes that from the EA response that the IPPC permit application covers ammonia emissions from air and slurry management and takes into account sensitive receptors in the permit process however he feels that information should be provided for this planning application to provide confidence that the sensitive woodlands and watercourses adjacent the site are adequately protected.
41. The proposed slurry spreading area abuts several woodlands and it would seem prudent if a 50 metre no- spread buffer could be implemented adjacent the woodlands to further reduce the potential for nutrient run-off from the site. I do appreciate however that slurry NPK values are taken into account in farm fertilizer planning and that the application of slurry would result in a reduction of artificial fertilizer inputs.
42. Archaeology – No objections on archaeology grounds

43. Drainage - From a surface water management and flood risk point of view there is insufficient information to determine if the proposed solution is acceptable. They require full hydraulic calculations for the whole of the drainage system to the outfall, simulating all storm events up to and including the 360 minutes 1 in 100 year plus 30% climate change event.
44. Environment Agency – Raised no objections to the proposed development and notes that this farm has been involved in the IPPC permit application process for the past year. This process is thorough and covers all aspects of risk from ammonia emissions to the air and dirty water/slurry management, taking account of sensitive receptors. The farm will not be allowed to operate without an IPPC intensive farm permit. If granted, the permit will include a number of conditions designed to protect the environment. However we would advise that the Local Authority's Environmental Health team take into account amenity impacts caused by the development when determining the application.
45. Landscape – The proposal would be disassociated from the existing farm and agricultural buildings and as such the modern form and scale of the proposed buildings would be seen as a conspicuous and unsympathetic feature in the landscape and there would be a noticeable change in the quality and character of the panoramic scenic views afforded from the adjacent footpath. These impacts however would be mitigated to some degree by the proposed bund, the successful implementation of the proposed screen planting, and the careful choice of recessive colours and finishes for the buildings, all of which could be secured by condition. These would significantly reduce the overall effect on the character and appearance of the surrounding landscape. The proposed bund, screen planting, colours and finishes for the buildings, should be secured by condition.
46. National Grid - Objection letter. We need to understand any proposed works to the access road, with particular interest of where the road crosses our pipeline. Also, we will need to have more details on planned usage of the road i.e. frequency, types of vehicle (both before and after construction) and maximum loads crossing it.

#### **PUBLIC RESPONSES:**

47. 466 letters of objection have been received from local residents, the Parish Council and contributors. In addition, an identical letter of objection was submitted by a further 753 people, and a further petition signed by 30 people. Details of the objections from the Parish Council and amenity groups are provided below, then a summary of the main objections raised by local residents.
48. Brandon and Byshottles Parish Council – Object as the local road network is not suitable for such large vehicles. In addition, the odours and noise from the farm itself would detrimentally affect the residential amenity of local residents. There is a culvert that may house a long eared bat that may be affected. There are already 2000 pigs at Hill House Farm and the noise and odour reports should include these. Local Councillors have already received complaints from local residents regarding slurry spreading with residents having to re wash clothes due to the smell. The submitted plan of spreading is within 400 metres of local residents' houses.
49. They raise concerns about the impact on the ancient woodland at Ragpath Woods and Esh Woods from the ammonia and slurry spreading– and consider the report underestimates the impact of the ammonia and on the ancient woodland. In addition they raise concerns about the impact of the slurry on the Dearness River from runoff.
50. Concern is also raised about the impact on the public right of way and bridleway from odour with horses having a particularly violent reaction to pig odour.
51. The Parish Council also raise concerns about the welfare of the pigs.

52. Woodland Trust – objects to the proposal on the deterioration and disturbance to Ragpath Wood a woodland trust site and Esh Wood which are both designated as plantations on ancient woodland sites. (Ancient woodland are areas of continuous woodland since 1600AD and an irreplaceable resource that has taken centuries to develop.). Main concern relates to harmful levels of ammonia / nitrogen deposition from slurry spreading up to Ragpath and Esh Wood, and the leaching of nutrients spread uphill from the woodland from ammonia and nitrogen. They consider the proposal is contrary to NPPF para 175c which protects ancient woodland unless public benefit would clearly outweigh the loss and deterioration of habitat.
53. They consider a buffer of 50 metres is required adjacent to the woodland with 30 metres planting as a buffer tree belt. In addition they provide a list of 8 'notable trees' of local importance which would be affected by spreading. They note Natural England's standing advice for buffering such trees includes a buffer of 15 times the diameter of the tree or 5 metres beyond the edge of the canopy.
54. Durham Wildlife Trust – Supports the comments of the woodland trust regarding buffering of woodland habitat with a preferred buffer of 30 metres along the woodland edge that is allowed to naturally develop over time to form additional woodland habitat.
55. Esh Residents Group – Object due to the impact on local wildlife and local woodland, impact on walking and recreational routes from the spreading of slurry and the odour from the pig farm. Concern about the impact on the local road network from extra large vehicles. Concern about the impact on a local rural centre that works with vulnerable people from odour.
56. Durham and District Riding Club – Object as the development will lead to the loss of the bridleways being of use to horse riders. This is from the odour of the pigs affecting horses as they have an incredibly strong sense of smell – with some studies showing it is thousands of times stronger than humans. Many horses become afraid and anxious and can behave erratically when they detect odours from pigs. In addition concerned about slurry spreading which is shown crossing the bridleway. They note the bridleways in this area are some of the best in the north east for their variety and interconnecting to other routes and would be a major loss if the pig farm was granted consent.
57. Brandon Village Residents Association – Raise an objection on behalf of almost 95% of the residents due to the increase in traffic movements, size of HGV's and odour.
58. Cllr Roberta Blackman-Wood – Raises concerns that residents have brought to her attention about the impact on odour and pollution on the local environment and particularly the woodland and river, the impact of additional traffic on the road safety of this rural area, the cruelty of keeping pigs in such an intensive way, the animal husbandry on the site with the number of dead animals and sheep over the past couple of years on the farm. She requests members of the committee listen to the concerns of residents and local groups and refuse the application.
59. Wear Anglers Association – Raise concern about the run off from slurry into the River Deerness affecting its fragile fishing environment.
60. Campaign for the Protection of Rural England – considers that this development would be an unacceptable intrusion into the countryside that would severely impact upon the enjoyment of users of the adjoining public rights of way. It may also detrimentally affect the setting of a Grade II\* listed building. In addition, its sustainability is questioned when one considers the potential impact on other producers.
61. Cornsay Parish Council – Object to the proposed development due to being detrimental to the local countryside and from the impact on the local woodland, odour, pollution from the pig building and from slurry spreading.

## 62. Summary of comments from local residents:

- Concern raised about the impact on the local nature reserve from spreading, ammonia and odour from the proposed pig unit.
- Concerns about the impact of such an isolated building detracting from the views in the countryside both from the public footpaths adjacent the site and the wider views from across the valley including Ushaw College.
- No evidence the mitigation of the landscaping will be effective and screening that takes 15 years to establish leaves an unacceptable industrial style building for 15 years in this countryside location.
- Isolated buildings are not a characteristic feature in this area. They would appear incongruous, dissociated from the existing farm complex and out of keeping with the rural area.
- Odour is an issue now for local residents and peaks of odour will occur when pigs are being delivered, collected, and when the slurry tanks were being emptied which may be 160 times a year.
- Concern about the impact on the Deerness River from the run off from muck spreading.
- The existing road network is narrow, winding, has poor visibility and is not suitable for additional HGV traffic.
- The local environment has been restored by local people over many decades and this proposal will detrimentally affect the enjoyment of local residents in their area and the local wildlife and habitat.
- There are existing problems with muck spreading with residents saying this has happened next to existing houses covering their gardens and local walkers on the public footpath.
- The existing pig farm is detrimentally affecting the historic park and garden on Eshwood Estate from ammonia which is detrimentally affecting the acid loving trees and plants with rhododendrons and azaleas already being affected and their lakes being affected by a filamentous algae from the water being rich in nitrates.
- The ammonia released will affect asthma sufferers.
- There are existing concerns about animal welfare.
- The farm already has an unhygienic odour on a weekly basis.
- Odour in the form of ammonia, toxic bio-aerosols and antibiotic resistant organisms wrapped in a toxic stench affect the health and welfare of neighbouring households.
- Local residents have been keeping odour diaries and can demonstrate odour issues with the existing farm that is detrimentally affecting their lives.
- The proposal for intensive pig rearing is more like an industrial process than a farm.
- Concerned there will be odour which will spread to the local villages on a semi-permanent basis.
- Concerned that walkers and ramblers that use the footpath will be affected by the odour.



- Concern that drainage from the site could lead to additional slurry from the building entering the river.
- Meat production affects global warming and is not wanted.
- The keeping of pigs in intensive rearing units is unfit for human consumption as it contains hepatitis, antibiotics, chemicals and unsafe feed.
- Intensive farming has often been cited as a breeding ground for disease, for example the relatively recent 'swine flu' pandemic that originated in an intensive pig farm.
- The keeping of pigs in an intensive way with a slotted floor and no stimulation is not fit for the local environment or in keeping with the County Councils sustainable community strategy. This type of installation is the opposite of a low carbon economy and contrary to sustainability and climate change commitments.
- All the negatives of this development provide one job only in the local community so there is no local benefit.
- The proposal will lead to a high level of CO2 emission when the County Council has committed to playing its part in tackling climate change.
- The Lionmouth Centre (which employs 11 people) and is a not-for-profit Community Interest Company, that provides a safe, tranquil place for local people with mild to moderate mental health, social and/or learning disabilities to take part in meaningful activities objects as they consider the odour will affect their terrace and facility
- Compassion in farming raise concerns that the proposal involves running a farm using a fully slatted system for the floor of the pig building, or a slurry piping system that cannot deal with required manipulable material required to stimulate pigs. They consider this may well be in multiple breach of EU regulations which are also part of UK law. In addition it would not lead to the pigs receiving any stimulation.

#### **APPLICANTS STATEMENT:**

63. No statement has been submitted by the applicant.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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### The Development Plan

64. 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 the development, the impact on the character and appearance of the surrounding area, ecology and highway safety.

### Principle of Development

65. Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires planning applications to be determined in accordance with the statutory development plan for the area, unless other material considerations indicate otherwise. This requirement is reaffirmed in paragraphs 11 and 12 of NPPF where Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:-

c) approving development proposals that accord with an up to date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
- ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

66. The statutory development plan currently comprises of the saved policies of the City of Durham Local Plan. Paragraph 213 of NPPF confirms that the level of weight that should be attributed to each of these saved policies is affected by the degree of their consistency with NPPF. The policies that are the most important for the determination of the application relate to Policy EMP17A which is permissive of agricultural development in the countryside provided that the development is justified in terms of size and location and appropriate measures are incorporated to mitigate the effects of the development on the countryside. This is considered to be consistent with the NPPF which requires (para 170) the intrinsic character and beauty of the countryside to be recognised and to support sustainable economic growth (Part 6). Policy E7 seeks to restrict development in the countryside – which is defined as areas beyond settlement boundaries to specific categories of development. and is considered to be broadly in accordance with NPPF part 6 which supports a prosperous rural economy, taking a positive approach to allow sustainable growth and expansion of businesses and diversification of agriculture. Policy E16 on the protection and promotion of nature conservation and E20 on Local Nature Reserves is considered to be consistent with Part 15 of the NPPF. Policy H13 on the protection of residential amenity in residential areas is considered to be consistent with Part 15 and paragraph 127 which seeks a high standard of amenity for existing and future users.

67. The relevant local plan policies are therefore considered to be in accordance with the latest NPPF and are considered up to date, and so paragraph 11 is not engaged. The application is therefore assessed against the relevant Local Plan policies and the advice in the NPPF.

#### Agricultural need for the development

68. The land is part of an established agricultural business with Hillside Farm and Biggin Farm being leased long term by the same person and both adjoining farms employing tenants by the landlord. Biggin farm has a land holding of 650 acres used to grow arable crops and for the keeping of sheep. Hillside Farm operates as an existing pig farm with the intensive rearing of 700 pigs in the larger building and 300 pigs in the smaller building. (These existing farm buildings have been used for the keeping of pigs by utilising permitted development rights from the use of existing farm buildings for the keeping of animals.) The agent has clarified that the juvenile pigs are brought onto site at 35kgs and reared to a finishing weight of 110kgs.

69. The applicant has stated that the proposed building for the intensive rearing of pigs is to make the farm economically viable. Policy 17A in the justification notes that new buildings in the landscape can have an impact and that there is often little flexibility in the functional appearance and location requirements of modern agricultural buildings and structures these should be sited as close as practicable to existing groups of buildings. The policy goes on to say that if for operational reasons the buildings must be sited in isolation special attention will need to be given to their siting design and external appearance taking into account the amenity of local residents and views from roads and public rights of way

70. The proposed buildings would be located separately from Biggin Farm and Hill House Farm and appear as an isolated agricultural building. The materials proposed are plastic coated coloured metal sheeting. The total floor area would be 840.5sqm, which is larger than the majority of the farm buildings at the closest farm – Hill House Farm.

71. It is therefore concluded that the proposed building would be designed for agricultural purposes and be reasonably necessary for the purposes of agriculture on the unit, and as such there is no conflict with policy 17A of the Local Plan with regard to the principle of the development.

## Visual Impact

72. The site is located in open countryside, designated in the City of Durham Plan 2004 being beyond the settlement boundaries of New Brancepath to the east and Esh Winning to the north west. Whilst it does not benefit from having a specific landscape designation there is a local nature reserve with ancient woodland located some 700 metres to the north, a local historic park and garden located 250 metres to the east, a separate Local Nature Reserve 1km to the south east and designated areas of high landscape character located 250 metres to the east and 700 metres to the west of the application site. The site lies within an area identified in the County Durham Landscape Strategy (2008) as a *Landscape Improvement Priority Area* with a strategy of 'enhance'.
73. Close, open views of the proposal would be afforded from the footpath that runs north-south adjacent to the proposal (*Brandon & Byshottles* No. 40) and from the footpath (*Brandon & Byshottles* No. 54) that runs east-west approx. 280m to the north. Long distant views out of the AHLV will be afforded from higher vantage points from roads, footpaths and dwellings on the southern slopes of Deerness valley including Langley Park to Bearpark road (C17) and Broadgate Road (U18.23).
74. The landscape character of this area comprises gently rolling or gently undulating pastoral fields, separated by hedgerows, and wooded valleys with roadside stone walls. Isolated farms with the farm buildings grouped round the farmhouse are scattered across this landscape between the settlements of New Brancepath and Esh Winning. On the application site itself the site falls away to the north east which will necessitate cut and fill to accommodate the proposal. Ground levels will be raised to the north and east to create a bund to partially screen the development. In addition the footpath that runs east west (*Brandon & Byshottles* No. 54) gently climbs in height towards Hill House Farm which affords elevated views of the application site
75. The hedgerows that bound the site to three sides are historic hedgerows and they contribute to the landscape character of the area. From the site visit it is noted that the hedgerow to the west is well established and affords screening adjacent to the footpath however the hedgerow to the south is lower in height and with the increase in height of the adjacent footpath is less effective for screening the development. The submitted plans provide adequate assurance that the building is to be set at a sufficient distance away from the historic hedgerows such that they should not be affected by the proposed development.

## Effects on landscape character

76. The Landscape Officer has noted that the proposal would be an isolated agricultural building that due to its industrial scale would be a notable incursion in open countryside, exacerbated by its disassociation from the existing farm and agricultural buildings. The nearest farmstead is approx. 400m to the south east (Hill House Farm). Views of the agricultural buildings will be particularly evident from the adjacent footpath to the south that affords elevated open views over the site.
77. However, the presence of the mature hedgerow bounding the site to the west would serve to soften the proposal in some longer distant views. The proposed mitigation scheme would also help assimilate the proposal into the landscape in time (up to 15 years) and reduce the overall effects on the character of the surrounding landscape.

## Potential visual effects

78. The Landscape Officer has clarified that the most significant visual impacts of the proposal would be experienced by users of the public rights of way in the immediate vicinity, in particular the footpath (*Brandon & Byshottles* No. 40) that passes the site to the west and from the footpath (*Brandon & Byshottles* No. 54) that runs east-west. The proposed buildings would not be seen in association with any other agricultural building (especially when viewed from the south) and in these views, the modern form, materials and scale of the proposed buildings would be seen as a dominant and unsympathetic feature which would adversely affect the landscape and panoramic scenic views afforded from these locations.

79. The proposal would also feature in more distant views from higher vantage points such as Ushaw Farm, the C17 and Broadgate Road largely as a result of its elevated position on the ridge between the Deerness Valley and the Red Burn. However it is noted that the site takes advantage of a shallow dip in the ridge; this along with the mature, albeit gappy hawthorn hedgerows that bound the site will help to soften the appearance of the development and assimilate it into the landscape in these views. Given the distance and the siting it is however noted that the proposed development will cause some harm in the landscape setting until such time that the mitigating measure including the proposed landscaping has the opportunity to become established.
80. The visual and landscape impact in closer views would be more difficult to mitigate. However the proposed bund, screen planting, and the careful choice of recessive colours and finishes for the buildings, all of which could be secured by condition would assist in reducing the impact of the building. The details of the colours of Laurel Green box profile cement roof (BS 12-B-29), Flexstone Green walls and Olive Green (BS 12-B-27) are appropriate colours for the setting. The building will however still be clearly visible from close range views from the public footpath to the south of the site, of a large industrial scale, and a notable incursion into the open countryside isolated from the existing farm buildings at Hill House Farm and Biggin Farm.

#### Effects on landscape designations

81. The proposed development would be visible from some public vantage points within the AHLV. However given the distance and the proposed mitigation measures it will not adversely affect the special character or quality of the AHLV to any significant degree. Given the orientation and location in Red Burn Valley and intervening woodland, the development would not be considered to detract from the enjoyment and setting of the locally designated park and garden Esh Hall from a visual perspective.
82. To conclude, the justification for Policy EMP17A seeks farm buildings to be grouped together, and this is the general advice given to all farmers in relation to farm buildings. The grouping of buildings reduces the impact on the visual amenity of the open countryside and has the added advantage of providing increased security and improved animal husbandry from a farm building that houses livestock being within sight and sound of the farmhouse. Part 1 of Policy EMP17A requires the proposals for agricultural development to be justified in terms of size and location. In this case the building is proposed to be isolated as the applicant stated this improves animal welfare. However officers have continued discussions with the agent during the course of the application and he has indicated that he would consider a siting adjacent to the existing farm buildings at Hill House Farm. In addition officers are not aware of any independent guidance that demonstrates the need for the pig buildings to be located in an isolated location. It is considered that the requirement in EMP17A for a layout that concentrates development in one location is consistent with Part 12 of the NPPF where para 130 states that 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents.
83. On this basis it is concluded that the proposed development would have an adverse impact on the landscape character – particularly when viewed from close quarters from the footpath that runs north-south adjacent to the proposal (*Brandon & Byshottles* No. 40) and from the footpath (*Brandon & Byshottles* No. 54) that runs east-west. Officers also note the strength of objection from local residents which demonstrates that the public rights of way and local nature reserve in Ragpath Wood are well used and enjoyed by local residents and that the current landscape character of the area is valued by residents. It is noted that Part 15 of the NPPF seeks to protect and enhance valued landscapes and recognise the intrinsic character and beauty of the countryside. Paragraph 170 seeks to ensure that planning policies and decisions contribute to and enhance the natural environment.

Whilst landscaping and screening will assist in reducing the impact this will take up to 15 years to establish within this popular recreational area. Part 12 of the NPPF seeks to achieve well designed places with paragraph 124 stating 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'. Para 170 b) recognises the intrinsic character and beauty of the countryside. In this case the isolation of the proposed large farm building from the established group of buildings at Hill House Farm increases the prominence of the building in the landscape, adjacent to the public footpaths, that detrimentally affects the close range views within the open countryside.

84. In contrast the extension onto the existing farm building at Hill House farm is modest in size being 9.40 x 10.20 x 3.60m high and located to the rear of an existing farm building and within a cluster of buildings on the established farm. It is noted the modest size would have allowed the applicant to progress the building under permitted development rights if he had requested a prior notification before development commenced on site. Both long range and close range views of the building are not considered to detract from the visual amenity of the area due to the appropriate siting on the established farm and forming a subordinate extension to the established farm group.

#### Impact on Ecology

85. Policy E16 of the Local plan seeks to protect and enhance the nature conservation assets of the district. This policy states development proposals are appropriate where they: b) As far as possible avoid any unacceptable harm to nature conservation interests as a result of the development, and provide mitigation measures to minimise unacceptable adverse effects on identified nature conservation interests that cannot be avoided. In addition the NPPF in Part 15 Para 175 c) states that 'development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons...'
86. In this case the Local Wildlife Site and Ancient Woodland is the relevant nature conservation asset. It is noted that the Woodland Trust who are the land owners have clarified that there are also designated veteran trees within the site. The County Ecologist has considered the updated Ammonia Dispersion report by AS Modelling and Data Ltd ( 27<sup>th</sup> March 2018 version) that confirms the annual mean ammonia concentrations and nitrogen deposition rates from the existing and proposed pig rearing units would not exceed the Environment Agency's Critical Level threshold. It is, however, noted that the submitted reports have not accounted for an additional building the applicant has erected under permitted development rights at Hill House Farm that also houses pigs that are being intensively reared. As such the modelling data would need to be updated to include the new figures to allow an updated assessment to be made. The submitted data is therefore not considered to be adequate.
87. The County Ecologist also notes that the ammonia report considers the increases caused by the new and existing pig units but clarity is needed as to whether air quality impacts caused by the spreading of slurry on the adjacent fields are taken into account in this report. He would expect the report to also consider the potential for additional ammonia/nitrogen dispersion from slurry spreading activities and assess the cumulative impacts on the AW/LWS accordingly. He notes that from the Environment Agency response that the IPPC permit application covers ammonia emissions from air and slurry management and takes into account sensitive receptors in the permit process however he feels that information should be provided for this planning application to provide confidence that the sensitive woodlands and watercourses adjacent the site are adequately protected. He also notes that as the slurry spreading area abuts several woodlands it would seem prudent if a 50 metre no- spread buffer could be implemented adjacent the woodlands to further reduce the potential for nutrient run-off from the site.
88. It is therefore considered that there is inadequate information submitted with the application to demonstrate that the Local Wildlife Site and Ancient Woodland would be adequately protected which is contrary to Policy E16 of the Local Plan and Part 15 of the NPPF.

## Impacts on Amenity

89. Policy H13 seeks to prevent development that would have an adverse effect on the character and appearance of residential areas or the amenities of residents within them. In addition, Policy EMP17A seeks to ensure appropriate measures are incorporated to mitigate the effect of agricultural development upon the landscape and local communities.
90. In this case the closest dwellings are located in a rural area some 600-700 metres from the proposed agricultural building which is also approximately 700m from the larger conurbation of Esh Winning. The nature of the area is rural with a number of existing farms in the locale and as such local populations are likely accepting of some odour from rural land uses.
91. The use applied for is a finishing unit for pigs and as such has a number of noise and odour issues associated with it for the proposed 2000 pig unit. The Environmental Health Officer has noted that pig manure is highly odorous and is generally considered a more "unpleasant" smell to equine, bovine and ovine waste. Pigs also can make significant noise at times, especially when not sexed and separated and/or hungry. In addition pig units need constant ventilation and as such there is a requirement for external plant which can also have noise implications. To support the development the applicant has provided a noise and odour impact assessment. These assessments have not been updated to take account of the additional building that has been erected at Hill House Farm for the keeping of pigs.

## Odour

92. The Environmental Health Officer has clarified that the odour assessment is carried out to appropriate methodologies compliant with the councils TANS, namely the H4 guidance and IAQM guidance. The assessment is based against the hypothetical odour concentration arising from the use of the proposed buildings and those existing at Hill House Farm. This is then modelled, via dispersion modelling based on wind direction data, to demonstrate the likely mean odour level at sensitive receptors. The expected mean odour concentration is based on the number of animals and building specification such as extraction and flooring type. This is then compared against a threshold value, based on the nature of the odour. In this specific case the threshold value taken is 3.0 ouE /m<sup>3</sup>, which relates to "moderately offensive" odour. Intensive agricultural smells are stated as falling into this group within the above guidance and as such this is considered the relevant threshold. The guidance requires that the mean odour units will be below the aforementioned level 98 percent of the time, therefore allowing for 2% or 7 days/year at which the odour level will be exceeded.
93. The results of the above modelling demonstrate that the above odour concentration level is exceeded at residential properties on Hill House Farm. It is understood, however, that these receptors are associated with the existing pig business and therefore are not considered as a "sensitive receptor". They form part of an established agricultural unit, and occupiers will be expected to tolerate a lesser standard of residential amenity than would be the case in a residential area. The environmental health officer advises that the odour assessment encompasses the proposed pig unit and the existing pig raising unit located on Hill house Farm to produce a cumulative odour level. Considering the proximity of the residential element of Hill house farm to the existing pig unit it is not expected that the "new" unit would appreciably change the odour/noise levels on site. As such even should the "new" element be in separate ownership from Hill House, then it is not expected it will lead to an increased potential of odour/noise impact. The only likely scenario where there may be a potential conflict of uses is should the farm cease to raise pigs and diversify to a less odorous use, this may then lead to greater sensitivities to external odour/noise. However, it would be unreasonable to refuse planning permission on the basis of adverse impacts on established farm dwellings. The odour level at the nearest sensitive receptor is shown to be significantly below the level in the H4 guidance and therefore TANS threshold levels.

## Limitations

94. The Environmental Health Officer has clarified the limitations of the above results and therefore what weight to attach to them. The assessor has advised that due to the threshold being based on a mean, readers should be aware that there will be fluctuations in the odour level. As such there will be times at which odour will be higher or lower than the mean. The assessment also states that “odour emissions from pig houses depend on many factors and are highly variable” (section 3.5). This therefore further indicates the potential variable nature of the odour and why use of the mean does not fully demonstrate this fluctuation. Fluctuations in the odour is considered to be more of an impact and therefore more likely to lead to complaint than a static odour level. This is because people grow used to a low level odour and therefore it is not as noticeable.
95. The hypothetical value used is based on the average odour units emitted from standard use of the building. Therefore it does not, nor is intended to, demonstrate the “peaks” of odour associated with operations at the building. On the previous application the applicant supplied a list of what they believe the potential peak levels to be associated with. This refers to livestock deliveries, collections, cleaning out and slurry emptying and spreading.
96. It would be helpful in terms of assessing the impact of the application for the applicant to provide a quantitative measure of the above as on the previous application. The consultant has also identified that potentially the above actions could be planned to meet specific climatic conditions to avoid times at which dispersal is least likely. Considering the prevailing wind direction (W/SW) is towards the nearest sensitive receptors from both operations, it would be difficult to achieve especially considering the vagaries of running a farming operation, to ensure that this was adhered to. These methods are likely to reduce the “potential” of significant odour arising. However it should be noted that these are likely to be high odour events and as such have the potential of increases in odour levels at sensitive receptors. The impact is difficult to fully quantify as it is based on the climatic conditions on the day and the duration of actions.
97. It is inevitable that actions such as spreading are likely to have the most severe impact, however this is not directly controllable by the planning regime i.e. no permission is needed to spread muck on the surrounding land. It is also further restricted by EA legislation which limits the amount and when spreading can occur.

## Odour management

98. The applicant has not produced an odour management plan on this specific application and one is required to help reduce the level of odour arising from the site.

## Noise

99. A further noise assessment has been provided, based on the measured background noise levels. The noise assessment is considered to be carried out to appropriate methodologies and the monitoring points in terms of the existing ambient noise level are considered appropriate. The assessment demonstrates that the noise level in the locale is as expected very low especially into the night time period. To ensure worst case scenario the applicant's consultant has used the “lower” measured background noise level of the sites selected.
100. The potential noise sources are fully scoped, being noise from transport activities, ventilation fans and the animals. The sources used to provide the “noise levels” are considered reasonable and it is common practice to utilise donor noise and/or guidance levels. Each noise source is considered separately below:

## Transport activities

101. This is stated as taking place between 07.00 and 20.00 hrs. The transport activities include vehicle movement on the lane/site and the act of unloading including forklifts etc. The assessment relates directly to the noise from site and does not consider the potential disturbance from the vehicles attending the farm from the surrounding locale. However this is unlikely to be significant assuming it is restricted to the 07.00-20.00hrs as stated. The assessment demonstrates that the noise level arising is below the existing background noise level and therefore less than that stated in the TANS.

## Ventilation fans

102. Ventilation fans are thermostatically led and therefore only run when a certain temperature is met. In addition the speed and number of fans operating seems to differ depending on the need. The consultant has therefore used the sound pressure data at 7m provided by the manufacturer, along with relevant corrections for the likely on/off periods. The assessment assumes that 50% of the fan runs during the night time period with 100% during the day. The officer is in agreement with the consultant that this is a fairly robust approach and is likely to demonstrate the "worst case" scenario. The calculations provided demonstrates that the noise level is below the threshold level stated in the TANS.

## Animal noise

103. The "typical" pig vocalisation level has been utilised from guidance provided by the EA. The council officers' experience is that levels can be higher than this at times and that a "pig squeal" can be significantly audible, especially when the noise climate in the locale is low. The assessment has identified the "tonal" nature of the noise and has appropriately added a 6dB penalty. To reduce the level of vocalisation the building will also be fitted with auto feeders, this therefore reduces the likelihood of pigs calling due to hunger or when manually feeding. The assessment demonstrates that the noise level arising from the pigs will be less than the background and therefore compliant with the levels stated in the TANS.

104. The Environmental Health Officer considers the above to be true the majority of the time and based on the LAeq level. However from his experience he would advise that during certain climactic conditions should pigs vocalise the peak noise associated with this is likely to be audible at the nearest residential properties, when considered against the very low background. This is unlikely to be loud enough to result in sleep disturbance, however may occasionally lead to the closing of windows.

## Conclusion on odour and noise issues

105. The Environmental Health Officer has concluded that the odour impact assessment is compliant with the relevant guidance – but would need to factor in the new building housing pigs at Hill House Farm. It demonstrates that the threshold level stated in the TANS will not be breached. There are limitations to this method, which has been discussed, however broadly speaking this indicates that, in addition to the potential fluctuations associated with use of the mean, that at times the odour level will be in excess of that used within the modelling. The likelihood, duration and intensity associated with these events are difficult to fully quantify, as it is based on a number of variables however he has concluded that the demonstrable level of odour would not lead to a reason for the refusal of planning permission.

106. The noise assessment is considered suitably robust to demonstrate the potential impact of the development. It contains suitable consideration of the uncertainty attached to the methodology and assumptions made. The Environmental Health Officer considers that the noise arising from the development is unlikely to significantly impact on the nearest residential properties the majority of the time, however some pig vocalisation will be audible. In addition he considers that vehicle movements during night-time hours may also lead to an increased impact in the general locale however the hours of operation could be controlled through the addition of a planning condition. From the detail provided the noise levels are compliant with the threshold levels stated in the TANS and in terms of the NPPG noise guidance relate to the lowest observed effect level or below.



107. In addition he outlines that a management plan would be required to ensure the odour and noise is minimised and if planning permission was granted this could be conditioned accordingly.

108. Noise and odour have therefore been carefully considered as part of the application process and whilst it is acknowledged that there are some implications in the locality the Environmental Health Officer has assessed that it is not at a level that would lead to a justifiable reason for refusal.

#### Impact on Highway Safety

109. Policy T1 of the Local Plan states that the Council will not grant planning permission for development that would generate traffic that would be detrimental to highway safety or have a significant effect on the amenity of occupiers of neighbouring property.

110. The County Highway Officer has carefully assessed this application and noted that there is no restriction to the size of vehicles which can currently travel along Broadgate Road (also known as Broadgate Lane); Broadgate Road being the route to the site from New Brancepeth. There are signs currently either end of Broadgate Road positioned to advise motorists of the unsuitability of some sections along Broadgate Road for use by HGVs (a sign at the New Brancepeth end, another at the B6302 crossroads end). The section of Broadgate Road from New Brancepeth up to the entrance to Biggin Farm was not the reason for the placement of these signs. They were introduced to advise drivers of large vehicles of the narrow twisty nature of Broadgate Road from Hareholme House to the B6302 crossroads (over Ford Bridge). The signs are not enforceable, they are advisory. It is therefore the case that anyone (including the applicant) can drive along the full length of Broadgate Road in any size vehicle allowable on UK roads if they so choose (and as often as they wish). Along with Broadgate Road, there is no restriction to the size or movement of vehicles which can travel along the main road linking New Brancepeth and Brandon Village. Anyone can currently drive along this road in any size vehicle allowable on UK roads (as many times as they want) without the need for permission from the Highway Authority. It also formed part of the official diversion, to be used by the largest type vehicles, as part of the temporary traffic management in place during the recent works to the nearby Deerness Bridge.

111. The Highway Authority has no control over the movement of vehicles along Broadgate Road associated with the existing pig farm operation, nor does it have any control over other vehicle movements associated with other activities on the farm. As stated above they can travel freely along it without restriction. There are many rural roads in Co Durham without a weight restriction which are similar in width to Broadgate Road. Motorists on such roads are expected to drive with due care and attention and expect to encounter other vehicles (of all sizes) and other road users (pedestrians, cyclists, horse riders). It would not be uncommon on such roads for a vehicle to stop and allow others to pass. Accident data is passed to Durham County Council from the Police for accidents resulting in personal injury. In the event of a road traffic accident resulting in personal injury, if informed, the Police are required to record it via the Stats 19 system. The only personal injury accident record passed to Durham County Council in the last 5 years for the section of Broadgate Road from New Brancepeth to the entrance to Biggin Farm happened on the 6<sup>th</sup> May, 2017 just after midnight, when a drink driver lost control of their vehicle near Woodbine Terrace and collided with a tree.

112. The highway officer notes the evidence provided in the submission by the applicant of the use of articulated vehicles from the farm, as well as other large vehicles. He also notes that Durham County Council's Access and Rights of Way Team have not raised objection to the Public Rights of Way through the farm being shared between farm vehicles and other users. In terms of the number of additional vehicle movements associated with the 2,000 pigs, he notes within the submitted transport statement it is said that during the period when they arrive they do so in 4 or 5 loads during one week every 13 weeks. The pigs are noted to leave over a 4 week period at the end of the cycle, a total of 10 loads. Deceased pigs are removed from the site as and when required. Feed will be 1 load per week throughout the batch. This level of vehicle movement is assessed by the Highway Officer to be low when considered against existing traffic flows along Broadgate Road.

He also notes that residents say HGVs currently access the site several times a day (evidence of their routine movement to and from the farm). However, to assist in the circumstances when two vehicles meet and one of them is required to stop, given the size of some of the vehicles associated with the farm, he would request that reasonable improvements to the existing network are done to assist with this (at the applicant's expense); that is to widen the existing carriageway over an appropriate short length to create one or more passing places where practicable. In addition, where there are signs of damage to the surface at the entrance to the farm, and to the verge opposite, these are made good (at the applicant's expense). He would also recommend that the applicant looks to improve the entrance to Biggin Farm in terms of visibility when egressing.

113. The highway officer has clarified that the improvements identified above are improvements that officers could negotiate to improve the existing highway. However if they were not provided it would not lead to a reason for refusal. In summary it is the view of Highways Development Management that there is insufficient grounds upon which to sustain a highway objection to the additional vehicle movements associated with the proposed 2,000 pig development and the extension to the existing building at Hill house Farm.

#### Impact on Drainage

114. Policy U8A require development proposals to only be approved if they provide satisfactory arrangements for the disposal of foul and surface water drainage.

115. The County Drainage Officer has confirmed that from a surface water management and flood risk point of view there is insufficient information to determine if the proposed solution is acceptable. Full hydraulic calculations for the whole of the drainage system to the outfall, simulating all storm events up to and including the 360 minute 1 in 100 year plus 30% climate change event are required to be submitted.

116. As such there is insufficient information to demonstrate that there is adequate drainage for this building.

#### Public Rights of Way

117. Policy R11 seeks to protect public rights of way in the countryside. The rights of way adjacent to the site are not proposed to be altered by the proposed development and as such the proposal complies with this policy.

#### Other Matters

118. National Grid have raised concerns about the additional information being required regarding the number and size of vehicles crossing their pipeline. This information has not yet been supplied and so this objection remains outstanding. However it is noted on the withdrawn planning application that the National Grid withdrew its objection following the receipt of additional information and it is expected that this would be the case here. As such if consent was being granted this matter could be covered by planning condition.

#### Comments on the objectors comments:

119. The majority of the local residents and community bodies objections are addressed in the above report above. The additional matters raised are provided below with the residents comments grouped together when they relate to a similar theme. Officer response is provided in italics below the summary of the concerns.

120. Concern about the impact on the Deerness River from the run off from muck spreading. In addition the existing problems with muck spreading with residents saying this has happened next to existing houses covering their gardens and local walkers on the public footpath.  
*The spreading of manure can occur without requiring planning consent – and is controlled through the agreement from the Environment Agency. If planning permission was supported for the buildings then this could be subject to a management plan for the spreading of pig slurry.*

121. The existing pig farm is detrimentally affecting the historic park and garden on Eshwood Estate from ammonia which is detrimentally affecting the acid loving trees and plants with rhododendrons and azaleas already being affected and their lakes being affected by a filamentous algae from the water being rich in nitrates.

*Permitted development rights exist for the existing farms to alter their working practices and it is noted that Hill House Farm is now used for the intensive keeping of pigs within the existing agricultural permitted development rights.*

122. The ammonia released will affect asthma sufferers: The farm already has an unhygienic odour on a weekly basis: Odour in the form of ammonia, toxic bio-aerosols and antibiotic resistant organisms wrapped in a toxic stench affect the health and welfare of neighbouring households: Concerned there will be odour which will spread to the local villages on a semi-permanent basis. The Lionmouth Centre (which employs 11 people) and is a not-for-profit Community Interest Company, that provides a safe, tranquil place for local people with mild to moderate mental health, social and/or learning disabilities to take part in meaningful activities objects as they consider the odour will affect their terrace and facility: The Lionmouth Centre (which employs 11 people) and is a not-for-profit Community Interest Company, that provides a safe, tranquil place for local people with mild to moderate mental health, social and/or learning disabilities to take part in meaningful activities objects as they consider the odour will affect their terrace and facility.

*The Environmental Health Officer has considered the submitted odour reports regarding the development and their report is summarised above. The odour report and Environmental Health's assessment demonstrates that odour rates will fluctuate and will depend on wind direction with "peaks" of odour associated with operations at the building. He notes that fluctuations in the odour is considered to have more of an impact and therefore more likely to lead to complaint than a static odour level. As explained above the Environmental Health Officer acknowledges that the proposed building will have an impact but using the data available, he does not expect it to be detrimental 98% of the time – leading to a likely 7 days a year when odour levels will be exceeded. As discussed above officers are aware that a further building has been erected at Hill House Farm for the intensive rearing of pigs under permitted development rights and that the odour assessment has not considered the cumulative effect of all buildings within the farm unit which forms a reason for refusal.*

123. Local residents have been keeping odour diaries and can demonstrate odour issues with the existing farm that is detrimentally affecting their lives.

*Officers are aware that local residents have been in touch with Environmental Health Officers about odour from the existing farm and whether that causes a statutory nuisance. The odour assessment by the Environmental Health Officer is comprehensive with regard to impact on local residents and is discussed above.*

124. There are existing concerns about animal welfare: The proposal for intensive pig rearing is more like an industrial process than a farm: Meat production affects global warming and is not wanted: Intensive farming has often been cited as a breeding ground for disease, for example the relatively recent 'swine flu' pandemic that originated in an intensive pig farm: The keeping of pigs in an intensive way with a slotted floor and no stimulation is not fit for the local environment or in keeping with the County Councils sustainable community strategy. This type of installation is the opposite of a low carbon economy and contrary to sustainability and climate change commitments: The keeping of pigs in an intensive way with a slotted floor and no stimulation is not fit for the local environment or in keeping with the County Councils sustainable community strategy. This type of installation is the opposite of a low carbon economy and contrary to sustainability and climate change commitments: Compassion in farming raise concerns that the proposal involves running a farm using a fully slatted system for the floor of the pig building, or a slurry piping system that cannot deal with required manipulable material required to stimulate pigs. They consider this may well be in multiple breach of EU regulations which are also part of UK law. In addition it would not lead to the pigs receiving any stimulation.

*This application is limited to being considered against planning legislation which places the use within the building within an agricultural use class. The concerns expressed about the animal welfare and animal husbandry of the animals covers concerns beyond the land use planning controls. In addition other legislation is in place with regard to animal welfare.*

125. Concerned that walkers and ramblers that use the footpath will be affected by the odour and the development will detract from the tranquil ambience of the countryside.

*The footpath is located adjacent to the proposed pig farm buildings and the odour assessment demonstrates that there will be concentrations of odour at intermittent times detectable on the footpath. However the use of a footpath is such that people will only spend a limited amount of time passing the proposed site and this would not be considered as such an issue that would lead to a reason for refusal on planning grounds. It is also noted that Hill House farm and Biggin Farm are in private ownership and have an established use as a farm. Many farming activities introduce odour, like muck spreading and noise from machinery and vehicles that form part of the established use of the farming activity.*

126. Concern that drainage from the site could lead to additional slurry from the building entering the river.

*The County Drainage Officer also agrees that insufficient information has been submitted regarding the drainage of the site and this forms a reason for refusal.*

127. All the negatives of this development provide one job only in the local community so there is no local benefit.

*It is noted that the proposed building involves little additional local employment.*

128. The development is not sustainable and leads to high emissions from the proposed building particularly from CO<sub>2</sub> when the Council has made a commitment to reduce climate change emissions.

*The keeping of animal's forms part of the definition of agriculture and is a use appropriate for the countryside. Whilst it is acknowledged that the building will lead to a high level of emissions given the appropriate nature of the business officers do not consider this would form a reason for refusal.*

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## **CONCLUSION**

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129. This application has been fully assessed and considered in relation to the relevant policies including E7, E10, E14, E15, E16, E18, E26, T1, T10, R11, U8A, and H13 of the City of Durham Local Plan and criteria detailed in the NPPF. In reaching a recommendation on this application, supporting information submitted with the application has been fully considered along with comments received from consultees and local residents.

130. The application is submitted for an agricultural building for an intensive agricultural use on an isolated site away from the existing farm buildings at Hill House Farm or Biggin Farm. Officers conclude that there is no adequate justification for the siting of the building and that due to its scale it will detract from the close-range views from a public footpath adjacent to the application site contrary to Policy EMP17A, E7 and E10 of the City of Durham Local Plan and Part 12 of the NPPF.

131. In addition, the applicant has not provided adequate information that is up to date to demonstrate that the local nature reserve will not be detrimentally affected, and no adequate drainage details have been submitted. For these reasons officers consider that inadequate information has been provided on critical issues, and the proposal is therefore contrary to Policies E16, EMP17A, and U8A of the City of Durham Local Plan 2004 and Part 15 of the NPPF.

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## **RECOMMENDATION**

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That the application be refused for the following reason:

1. The proposed building by reason of its scale, design and location on an isolated site away from the existing farm buildings at Hill House Farm and Biggin Farm would result in an unacceptable encroachment into the countryside, detracting in particular from the close-range views from public rights of way adjacent to the application site contrary to Policy EMP17A, E7 and E10 of the City of Durham Local Plan and Part 12 and Part 15 of the NPPF
2. Insufficient information has been submitted to demonstrate that there would not be adverse impacts on local nature interests as the submitted assessments have not taken into consideration the cumulative impact of all buildings housing pigs at Hill House Farm or adequately addressed the impact of muck spreading. This is contrary to Policy E16 of the City of Durham Local Plan, and Part 15 of the NPPF.
3. Insufficient information has been submitted to demonstrate that the building will provide adequate surface water drainage contrary to Policy U8A of the City of Durham Local Plan 2004 and Part 15 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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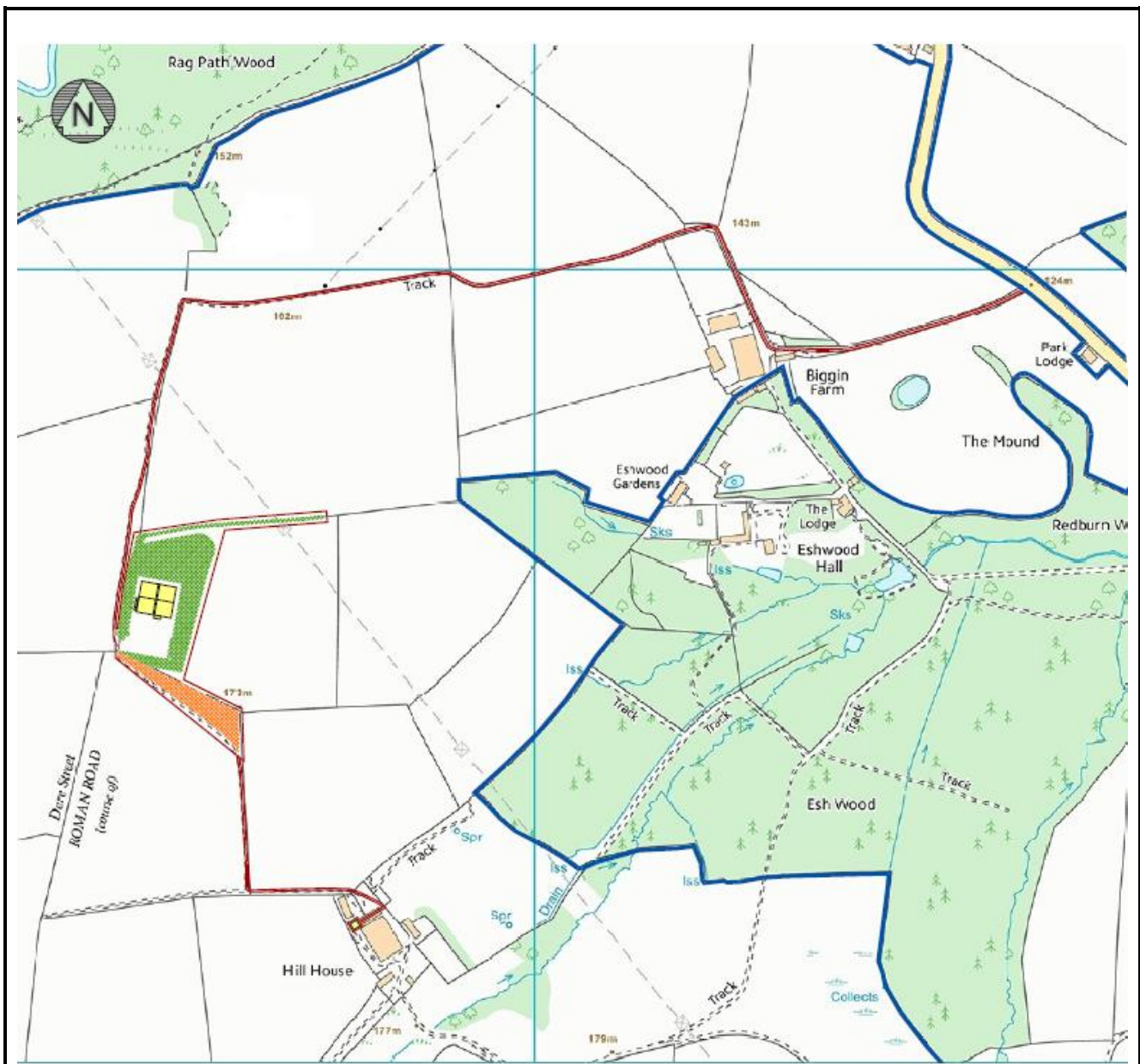
133.The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. Unfortunately, a positive outcome was not achieved on this application. (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 and supporting documentation  
District of Easington Local Plan 2001  
National Planning Policy Framework  
Internal consultee responses  
Public responses  
Responses from statutory and other consultees  
National Planning Policy Guidance



**Planning Services**

**Biggin Farm,  
New Brancepeth,  
Durham. DH7 7HQ**

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**Date  
August 2019**