



## **Area Planning Committee (Central and East)**

**Date** Tuesday 12 January 2021  
**Time** 9.30 am  
**Venue** Remote Meeting - held via Microsoft Teams

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### **Business**

#### **Part A**

#### **Items which are open to the Public and Press**

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 8 December 2020 (Pages 3 - 20)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
  - a) DM/14/03327/FPA - Fernhill, Newcastle Road, Crossgate Moor, Durham, DH1 4JZ (Pages 21 - 38)  
Erection of four detached dwellings with attached garages, demolition of the stable block, conservatory extension on Fernhill and erection of a car port / covered area for parking a horse box.
6. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

**Helen Lynch**

Head of Legal and Democratic Services

County Hall  
Durham  
18 December 2020

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

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

Councillors 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

**DURHAM COUNTY COUNCIL**

**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held remotely via **Microsoft Teams** on **Tuesday 8 December 2020** at **9.30 am**

**Present:**

**Councillor J Clark (Chair)**

**Members of the Committee:**

Councillors D Brown, K Corrigan, M Davinson, D Freeman, S Iveson, R Manchester, J Shuttleworth, P Taylor, L Pounder (substitute for A Laing) and I Jewell (substitute for J Robinson)

**Also Present:**

Councillor B Kellett

**1 Apologies for Absence**

Apologies for absence were received from Councillors I Cochrane, B Coult, K Hawley, A Laing and J Robinson.

**2 Substitute Members**

Councillor L Pounder substituted for Councillor A Laing and Councillor I Jewell substituted for Councillor J Robinson.

**3 Minutes**

The minutes of the meeting held on 14 November 2020 were confirmed as a correct record by the Committee and would be signed by the Chair.

#### **4 Declarations of Interest**

Councillor D Freeman noted in respect of Item 5b - DM/20/01961/FPA - William Robson House, Claypath, Durham, he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not been party to their submission in objection to the application.

#### **5 Applications to be determined by the Area Planning Committee (Central and East)**

##### **a DM/20/01685/VOC - Glenmoor Farm, High Street, Low Pittington, Durham, DH6 1BE**

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 application was for the variation of condition 2 of planning approval DM/16/03207/FPA to allow a change of materials from render to stone with glazed section above entrance doors and increase of roof line by 300mm and was recommended for approval subject to conditions.

The Planning Officer referred the Committee to site plan and aerial photograph of the site and noted that the site was directly adjacent to, and outside, of the settlement boundary for Low Pittington. It was added the site was not within a Conservation Area or the Green Belt. She explained that the site had previously contained agricultural buildings for the housing of poultry, constructed of brick with metal sheet roofs. It was added that to the south of the site there was The Byre and Glenmoor Farm, both of which were residential dwellings, neither controlled nor owned by the Applicant. It was noted since the original approval for the scheme, a further conversion had been approved to the west of the site.

The Committee were informed as regards the planning history of the site, as set out within the report, and that the scheme had been approved under application DM/16/03207/FPA, for the erection of two dormer bungalows with attached double garages and associated landscaping. The Planning Officer noted the application being considered by Committee proposed variations to the 2016 scheme, including the increase of height to the buildings by 300mm, a change of material from render to stone, and also the regularisation of land levels across the site. She noted the application had been referred to Committee on the request of Local Member, Councillor B Kellett in respect of impact on residential amenity.

The Planning Officer referred Members to photographs of the site, including the previous structures on the site and a view of the boundary wall of the site and adjacent Glenmoor Farm. Members were also provided with proposed elevations, with the proposed increase in height of 300mm highlighted. She explained there were no objections from internal or statutory consultees, with 18 letters of objection having been received. Members were referred to the previous planning history at the site, and the Planning Officer noted that the principle of residential development had been approved previously. The Planning Officer noted the changes were considered acceptable in terms of visual amenity and while some separation distances were lacking, it was felt that an improvement had been made from the previously approved scheme. She added there had been no objections in respect of highway safety.

The Planning Officer noted that the issue of land levels, while not set out in the description, was discussed within the report and within the site history section of the report, at paragraph 10, it was to be noted that the refusal in 1997 was also dismissed upon appeal. She noted that paragraph 70 of the report referred to the usable height space being created internally, and the change of height for the application was 300mm.

The Planning Officer noted that it was considered that the impact of the application in terms of visual amenity, residential amenity and highway safety was acceptable. She added it was felt the application was acceptable in terms of the requirements of the National Planning Policy Framework (NPPF) and policies within the County Durham Plan (CDP). She noted that the objections and concerns had been taken into account and were not felt to be of sufficient weight to justify refusal of the application given the previously consent that was in place and the fallback position that occurred. She noted it was considered that Officers had attempted to work with the Applicants to achieve a better outcome for the development.

The Chair thanked the Planning Officer and asked Local Member, Councillor B Kellett to speak in relation to the application.

Councillor B Kellett thanked the Chair noted he had lived in the area for 43 years and he knew the area and the farm better than anyone on the Committee. He explained that he had known the old farmer that had owned the property previously very well and had visited the farm on many occasions and was very familiar with the "poultry houses" that had occupied the site previously. Councillor B Kellett noted that a local resident had asked him to attend his property to have a look at the application site from his property. He added that upon visiting he was shocked by the changes that bore no relation to the original development plan. He noted that if the issue had been simply the change of around 12 inches in height there would have been no problems at all, however, he felt it was not.

Councillor B Kellett explained that in relation to development at the site, over the years, bit by bit it had been increased in height. He noted the slope to the north of the site which had been built up with soil, lifting the height by around three feet, therefore the building was already three feet higher than on the original plans. He explained that there was an additional wall on top and therefore it was not 300mm and was around six feet, or around two metres, and that those houses now overlooked the two properties immediately in front of them and therefore those properties suffered a loss of amenity.

Councillor B Kellett recalled, while a Member of the former City of Durham Council, an application on a nearby site for two bungalows that was refused and, as mentioned by the Planning Officer, were dismissed at appeal. He noted that 20 years later, they had planning permission, with the bungalows being built being much larger than those that were refused. He explained that the application that was approved in 2016 was for two dormer bungalows, with rooms in the roof, and the current request to raise the roof height as a result of the incorrect development of the site meant the development was more in keeping with a two-storey property and did not fit in with the surroundings. He noted that he felt Members needed a site visit to be able to appreciate the magnitude of the buildings noting they were huge and out of context with everything else in the area. He added that the adjacent Glenmoor Farm had won national awards for its conversion in terms of architectural and planning and was featured in publications.

Councillor B Kellett noted a further complication was permission for the construction of a further dwelling, not by the Applicant, whereby the recommended facing distance for the two dwellings to the property with permission was only 9.7 metres, with the recommended Council standard being 21 metres. He added that was compounded as the properties would be overlooked and that the proposed mitigation was for obscure glazing. He asked how long that would remain if there was a change of owner at that property, as it was not a bathroom, and noted he felt it was the potential beginnings of a neighbourhood dispute.

Councillor B Kellett reminded the Committee they were being asked to approve an application for an increase in height of two dormer bungalows by 30 centimetres together with the application for a change in building materials. He added that the application had exposed the fact that the buildings under construction bore no resemblance to anything which original planning had been granted. He noted the buildings far exceed the size in floor and height of what was permitted. He explained that the current application was, quite candidly, trying to legitimise what had happened by a backdoor method, it already haven taken place and been lifted up. He noted when he attended the site recently, he had noticed immediately that it was not at the correct level it had been lifted, having visited the "hen crees" that had been on site on many occasions as previously mentioned.

Councillor B Kellett noted it was for Committee to determine and he would ask for an adjournment and that the Applicant resubmit a retrospective planning application for something which was actually being built.

The Area Planning Team Leader - Central and East, Sarah Eldridge noted a video had been submitted by residents, and Councillor B Kellett thanked her and noted he could provide some narrative to accompany the footage. He explained as regards the video images, with views of the award winning Glenmoor Farm, showing the site in the past, and the current view, noting the wall and window heights. He pointed out the wedge shape in how the land had been lifted in comparison to the site in the past.

The Chair thanked Councillor B Kellett and asked Mr Christopher Fish, a Planning Agent representing local residents who were in objection to the application.

Mr C Fish thanked the Chair and Committee and noted he would have several photographs that Planning Officers would make visible on screen for Members to view during his address. He explained that consent for the houses was given by Officers in 2016 following many years of refusals and lost appeals. He added that approval had envisaged the replacement of the small single-storey shed, as shown, with residential properties of a similar scale and form which were intended for a local long-term resident. He explained key attributes of the original scheme had been its low line and character, and the way the houses remained subservient to Glenmoor Farm.

Mr C Fish noted the original approval described the scheme as "The bungalows would be similar in footprint to the existing buildings and the eaves and ridge heights will be kept low so that the proposed dwellings remain subservient to the principal dwellings. The proposed development will be of a scale and massing not dissimilar to that of the development that exists". Mr C Fish noted that it was the view of residents that the original application was substantially deficient in information and its consideration was flawed leading to the significant issues that had arisen. He noted the flawed decision would be examined in the case of any Ombudsman case or potential Judicial Review.

Mr C Fish noted that present construction had continued at great speed, despite not being in accordance with any approved plan and therefore being unauthorised. He added that while the application being considered was for a minor variation, the Developers were seeking authorisation and acceptance for their unauthorised works which had not been considered by the Council or its Officers. He noted the works were very far from the form intended by the approval and added he felt it was pertinent to underline the difference between the expectation of the approved development and the actual construction.

Mr C Fish noted such change should require a full planning application as it raised significant issues not assessed in the original permission. He added that the current development, by commercial Developers, sought to maximise the scale of the buildings and their presence in the landscape and to challenge the established prominence of the buildings which front on to High Street. He noted the buildings were no longer the modest bungalows approved, being very substantial two-storey houses of around 8,000 square feet, or 750 square metres. Mr C Fish explained the footprint and form of the original structures had been completely swallowed by those large properties and the issue of dominating the area had been compounded by the raising of the property at the western end by almost two metres above the original ground level. He noted that if the properties had been completed in accordance with approved plans, the levels of the original buildings and to their scale, they would have remained below the height of the boundary wall to The Byre and Glenmoor Farm. Mr C Fish noted that the first floor bedrooms were now afforded an uninterrupted view into the private rear gardens of those two properties. He explained that the original, award-winning Glenmoor Farm development had sought to sympathetically to its setting and neighbours. He added that, to create light, open living areas, large areas of glazing were included on the rear which would now afford an open view straight into the houses at their elevated first floor bedroom windows in conflict with the Council's policies on privacy and residential amenity.

Mr C Fish noted the scheme also failed to meet the Council's distance standards, as outlined within the Officer's report, which was another deficiency of the original approval, exacerbated by the current development. He noted the standards were guidance and could be applied flexibly, the reduction of facing distances from 21 metres, 68 feet, to 9.5 metres, 31 feet, was stretching flexibility rather too far. He noted the Applicant had noted there had been a cut and fill construction method employed on the site and that had reduced the levels of the buildings. Mr C Fish noted that another significant deficiency of the earlier approval had been the failure by Officers to control site levels on the sloping site. He added that the alleged minimal cut at the east of the site was far outweighed by the fill and the west end, which was now retained by a 1.5 metre high retaining dead wall on top of approximately 0.5 metre of built up ground level. He noted that the Applicant was also proposing to further increase the height of the houses with one brick wall being in excess of five metres, which dominated the surrounding site, severely impacting upon it, and severely compromising the approved development. He added that the full impact, scale and form of the unauthorised raising of levels could not possibly be appreciated in photographs and should not be judged by a single person's interpretation of the issues.

He noted it was therefore strongly suggested that a decision was delayed at least until Members had an opportunity to make individual site visits at which the current structure could be compared to photographs of the previous buildings which they were supposed to, in the words of the previous approval, "more or less replicate".

Mr C Fish noted that it was requested that the current application be refused, however, should Members be minded to approve, it was also noted that residents felt the current conditions were unacceptable as they gave far too much leniency for the continuation of the construction in the early hours of the morning. He noted it was therefore suggested that a construction plan to be submitted within eight weeks was pointless given the speed of building on site and the disturbances from noise, dust and unsociable working hours.

The Chair thanked Mr C Fish and noted that the Applicant, Mr Richard Scorer and his Agent, Mr Joe Ridgeon were in attendance to speak in relation to the application. The Chair noted that they had the same amount of time as afforded to Mr C Fish between them and asked them to speak for up to five minutes in relation to the application.

Mr R Scorer thanked the Committee for allowing him to put his case forward. He explained that he and his son had purchased the parcel of land, with full planning approval for two dormer bungalows on part of the former Glenmoor Farm site, approximately 14 months ago. He added they operated a family building business and had carried out groundworks for over 15 years, including for many national housebuilders. He explained both he and his son had sold their family homes to start building their own homes as it was something that they had always aspired to. He explained that as builders they were aware that render could begin to look very scruffy after only a couple of years and therefore they had wated to use high quality reclaimed materials that fitted into the character of the area and could be something of which they could be proud of. Mr R Scorer explained that all of the brick and stone used so far was reclaimed and had come from nearby sites which meant the homes would be in keeping with the character of the area. He noted he and his son completely agreed with the Planning Officer's views that the use of stone rather than render would last longer and be more sustainable.

Mr R Scorer explained that, upon beginning groundworks and working out site levels with a profile and a laser, it soon became apparent that the top bungalow would need to be sunk into the ground by approximately 1,350mm. He added that garage, stepping down, would be sunk by a further 150mm. He explained there would be a 950mm step down between bungalow floor levels and further reduction in height of the bottom bungalow garage by 300mm. He added that in order to keep the building level low, they had commenced building foundation levels with bricks rather than blocks.

Mr R Scorer noted the original permission noted that works should start at existing ground levels, however, they had gone beyond that by carrying out a cut to the footprint of both buildings to keep them low. He added that his son was six foot seven inches in height and that the original plans had the upstairs rooms right within the eaves of the building. He explained the desire for the addition height was therefore to enable more use of those rooms without having to duck down. He noted that the 300mm increase would not be noticeable if you stood outside of the bungalows and added that they completely agreed with the Planning Officer's view within the Committee report that the increase in height would have a minimal impact upon the wider character of the area.

Mr R Scorer noted that when they had bought the site, they were not aware of any potential issues in relation to separation distances between their new houses and the potential house to be built at the rear of The Byre. He explained that they were as frustrated as the objectors that the Council appeared to have mistakenly overlooked the extant permission from around 1998. He added that they did not want a house that close to their properties, however, they had accepted the proposed build and had agreed with Planners to fit obscure glazing, which they would want in any case if there was to be a house that close to their properties. He noted that with that, the bungalows should be acceptable for themselves, or any future residents, if that other property was ever built.

Mr R Scorer noted that following the objections from neighbours, they had worked with the Council and had provided all information that had been requested, including extra surveys to confirm existing levels and additional plans. He added that they respectfully requested that Members approved the application, subject to the proposed conditions within the Planning Officer's report, which would allow the homes to be completed, with planning delayed so far amounting to around four months. He noted he was happy to answer any questions, with their Agent, Mr Joe Ridgeon in attendance should Members have any technical questions.

The Chair thanked Mr R Scorer and noted that his address to the Committee had elapsed the allocated five minutes. She asked the Planning Officer to respond to the issues raised by the speakers.

The Planning Officer noted that in respect of the obscure glazing, Condition 6 of the report referred to "in perpetuity" and therefore even in the event of the ownership of the property changing, the condition would still apply and any change would be dealt with as a breach of that planning condition. In respect of the requirement for a full planning application in respect of works, it was noted the variation of condition application did seek to look at the variations to the previously approved scheme and it was felt that was an acceptable way by which to deal with the issue.

In terms of the hours of operation, they were the standard hours as applied to the majority of permissions and therefore they were not felt as unreasonable.

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

Councillor J Shuttleworth noted he had spoken many times at Committee and impressed the importance of taking the views of Local Members into account. He added he felt the works did not seem to resemble what was there on site in the past and that the Committee should consider the application very carefully.

The Area Planning Team Leader - Central and East noted that the 2016 permission was considered a fall back position and works could proceed on that basis. She noted the works as regards that permission had commenced, therefore it could be implemented.

Councillor P Taylor noted some confusion as regards the comments of Planners and the comments from Mr C Fish. He noted one said works were in line with the 2016 permission, the other stating they were not. He asked who was correct. The Chair added a question asking who had raised the ground level, whether it was the Applicant or had it been undertaken prior to his purchase of the parcel.

The Area Planning Team Leader - Central and East noted Mr R Scorer had indicated that it had been apparent to them there was a slope that had required a cut and fill approach and asked if the Agent could confirm. The Chair noted she would allow Mr J Ridgeon to answer. Mr J Ridgeon noted the objectors were looking at the site from the western end of the site, however, the site needed to be considered across the piece. He noted starting at the eastern end there was a 1.5 metre cut into the site to create a level development platform with a step down to create another development platform. He noted Mr C Fish was incorrect in stating it was raised by 1.5 metres, rather it was 66 centimetres as stated at paragraph 67 of the Committee report, as measured on site with Planning Officers having been in attendance. He added that at the western end the development was only single storey and therefore there was the lower height and the single storey garage in terms of clarification.

Councillor P Taylor noted Members were judging the issue on the application and asked if what was being built was in line with what was approved. The Area Planning Team Leader - Central and East noted that it was not, however, the variation of condition application sought to regularise the position and the Committee was being asked as regards variation from that 2016 approval.

Councillor I Jewell noted his concern, with the Committee being tasked with consideration of the variation application, and the issue as regards the approval of the former application was being mentioned. He asked if the Solicitor could provide some advice for Members. The Solicitor – Planning and Development, Neil Carter noted that in terms of the issue of land levels, Members needed to come to a view on the acceptability of the land levels as they existed currently, with the Planning Officer already having explained that there was some variation to the 2016 permission. He noted that one of the aims of the application was to regularise the situation and Members had to decide whether the land levels were acceptable. The Solicitor – Planning and Development noted that the Planning Officer had explained as regards the fallback position and that was relevant in terms of the principle of development. He noted some objectors were of the view that the development did not resemble what existed on site previously, however, the comparison to be made would be to the 2016 permission. He added it was for Members to consider the changes to that permission and whether those changes were acceptable.

The Chair thanked the Solicitor – Planning and Development for clarifying the issue being looked at was the variation application.

Councillor M Davinson noted he would often raise the issue of development right next to other residential properties and an associated Construction Management Plan (CMP) and added that in terms of the application being considered, there were residential properties right next to the development site. He noted he felt the start time for works should be later, by 30 minutes. He asked as regards separation distances, with the objectors noting a discrepancy, and whether that had been within the original plans.

The Planning Officer noted that in terms of the separation distance, the 21 metres was met in terms of existing buildings, however, the issue was with an extant permission to the rear of The Byre whereby, if constructed, the window on the boundary wall would only be 9.7 metres, significantly below the guidance. She reiterated to try and improve the situation from the 2016 permission a condition had been added for obscure glazing in a window on the front elevation of Plot 1.

Councillor M Davinson noted applications were required to be undertaken within three years, the original application being in 2016. The Planning Officer noted the application had formed part of a wider permission, with two properties having been created from the conversion of one former building and therefore the permission remained “live”.

Councillor I Jewell as for clarification in terms of access, with objectors noting it only being suitable for five properties, not six.

The Highway Development Manager, John Mcgargill noted that within the County Council's residential design guide it stipulated that residential developments with more than five properties should be served with an adopted highway. He added that while the development would have more than five, it would not be provided with an adopted highway. He noted it was a mews-type development and added that the design guidance was such to address a number of issues, including provision of public utilities. He explained that public utilities preferred adopted highways so that they could be unencumbered when laying their services. The Highway Development Manager noted the development would need to be served by a private connection from the public utilities and that was quite normal for mews-type developments. He noted street lighting and maintenance for private streets could be an issue in some cases, however, for a mew-type development they were not usually issues. He added that overall, none of the issues would impact upon vehicular safety at the development.

Councillor P Taylor noted he had sympathy for both the Applicant in terms of the lay of the land and the objectors in terms of the works when compared to the original application. However, he noted planning decisions were to be based upon the merits of an application and therefore he asked whether the application before Members was acceptable in terms of the Town and County Planning Act. He noted he was torn as regards the application; however, he reluctantly would move approval of the application, in line with the Officer's recommendation.

Councillor J Shuttleworth asked if the heights referred to were infinitely higher than the original approval was it fair to say the development overpowered the properties around about. The Planning Officer noted the application was for a variation of 300mm to the height of the 2016 permission. Councillor J Shuttleworth asked if the ground height had been made up from what it had been originally. The Area Planning Team Leader - Central and East noted that there had been cut and fill across the whole site and that the east of the site was decrease and the west of the site was increased to give the Developer a level platform to build upon. The Chair noted the images shown had only shown the fill end of the development and had not shown the cut into the slope and that the Planning Officer had clarified the 300mm increase in height being sought within the variation application. Councillor J Shuttleworth noted that it would have been useful if Members had been able to have a site visit, however, looking at the photographs provided the height they were made up to looked as if the new properties were overpowering.

The Area Planning Team Leader - Central and East referred to photographs from the presentation, presented on screen again for Members' information.

She explained that they gave the context in relation to the properties, with the one to the west being single storey and relatively low profile with Velux roof lights. She added that the properties to the south being true two-storey properties and therefore the properties being built were in between, bungalows with dormer windows. The Chair noted the photographs and recalled reference to levels within the presentation of elevations. The Planning Officer shared the slide with the proposed elevations and noted the change in ground level. She referred to the slide showing the 300mm increase from the original scheme. The Chair asked if that was for one of the two bungalows only, the Planning Officer noted was for both properties. The Area Planning Team Leader - Central and East referred to a side elevation and noted the 66 cm referred to by Mr J Ridgeon was a piece of wall below floor level of the garage of the lower property, a dead wall before the floor level of that property.

Councillor J Shuttleworth noted that the video footage implied the ground level was significantly higher than it had been previously and asked if the privacy of those properties around about was compromised in terms of those changes in height as additional height would surely only intrude upon residents next door. The Chair noted that was part of the case made by objectors and it was for Committee to decide on the variation application.

Councillor M Davinson noted he would second Councillor P Taylor in terms of approval, though with an amendment to the start time for work to be 8.00am rather than 7.30am. The Chair asked if he was suggesting the same days of operation, Councillor M Davinson noted he was, noting the tension between increased hours of operation meaning a quicker end to works on site and the disturbance that would mean in terms of the early start times. The Planning Officer noted that was an issue Committee could decide upon. Councillor P Taylor thanked Councillor M Davinson and clarified he would accept a move to an 8.00am start time.

Councillor I Jewell noted it was very difficult in terms of planning and that for approval or refusal there needed to be valid reasons. He noted that he felt he would struggle to be able to provide any reasons for refusal and he also thanked Councillor M Davinson for his comments in relation to the start time for works.

The Chair noted no further comments from the Committee and the Solicitor – Planning and Development noted the vote was for the approval of the application, subject to an amended condition relating to the start time for works being 8.00am.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report and an amendment to condition 5 in respect of site start from 8.00am (rather than 07.30am).

### **b DM/20/01961/FPA - William Robson House, Claypath, Durham, DH1 1SA**

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 application was for the extension and conversion of the multi-level decked car park to form 3no. 2-bed apartments and 4no. 2bed townhouses (Resubmission) and was recommended for approval subject to conditions.

The Senior Planning Officer referred Members slides relating to the application site location and photographs of various views of the site. He reminded Councillors that the Committee had visited the site previously in association with a previous application in 2019. He referred the Committee to proposed elevations, which set out the twin ridged, dual pitched design for the roof, to allow for natural light to the first floor bedrooms through north-facing, conservation style roof lighting. Members noted the issues in respect of previous application and the Senior Planning Officer referred to a comparison of the proposed development and the current view from the nearby Blue Coat Court. It was noted the land dropped away on the southern side of the site toward Leazes Bowl and it was explained the proposed floor plans were such that rooms facing the trees to the south of the site were not habitable rooms, and within the recommendation there was a condition for obscure glazing to help protect the trees from requests for excessive pruning or removal.

The Senior Planning Officer noted in terms of statutory consultation responses, the Highways Authority had no objections subject to a CMP, noting the constrained access arrangements. He added that Northumbrian Water Limited had offered no comments in relation to the application. It was noted the City of Durham Parish Council had raised concerns as regards the development becoming Houses in Multiple Occupation (HMOs) or a Purpose Built Student Accommodation (PBSA) and noted ongoing discussions with the Parish Council. He added that the issue had been confused in terms of typographical errors within some of the application's support documents that made reference to student accommodation.

He explained, as set out within the report, clarification had been sought from the Applicant, the application was for C3 residential use and not student use and if there was any change from that it would be subject to planning control. He added the Parish Council also had concerns in terms of, accessibility requirements, waste collection arrangements and highways safety and disruption during the construction phase.

The Senior Planning Officer noted no objections from internal consultees subject to conditions. He explained there had been one letter of objection received from PRISM Planning Consultants, on behalf of all residents of Blue Coat Court, raising concerns as regards the proposed development on residential amenity. It was noted that subsequent to amendments to the scheme and additional information the objections had been withdrawn.

The Senior Planning Officer noted that the planning considerations, the application was considered in relation to CDP Policy 6, and that the site was centrally located and was considered a sustainable site in terms of new residential development. He added that the application site was previously developed site and the proposed development would not result in the loss of any valued assets, there was mix of house types, and the issues in relation to HMOs or PBSA use was as previously mentioned, the application being for C3 residential use, any use as HMOs or PBSA being subject to further planning control. He reminded Members of the changes in terms of the impact of residential amenity when compared to the 2019 application and reiterated that the residents' objections had been withdrawn following amendments made to the scheme. He noted that the application was in accord with policies within the CDP, Neighbourhood Plan and NPPF, including those relation to the Conservation Area and World Heritage Site, and therefore the application was recommended for approval, subject to the conditions as set out within the Committee report.

The Chair thanked the Senior Planning Officer and asked Parish Councillor John Ashby to speak on behalf of the City of Durham Parish Council in relation to the application.

Parish Councillor J Ashby thanked the Chair and Committee for the opportunity to explain that the City of Durham Parish Council had raised a number of concerns about the application. He noted the concerns arose because of the history of applications that had been made, each in turn quite rightly refused and which, on appeal had been dismissed.

He added that, in effect, Council Officers, the Planning Inspectorate and Members had spent a very significant amount of time and effort considering and refusing a string of deeply unsatisfactory proposals, the current application being the fourth and hopefully the last.

Parish Councillor J Ashby noted the Parish Council welcomed genuine C3 developments in the area that provided residential accommodation for year-long occupation. He added that the site was an ideal location for such development, especially suitable for elderly people because of its proximity to the city centre.

He noted that the Applicant's supporting statements were confusing and contradictory. He gave an example, the Transport Statement in support of the application stating 49 dwellings in paragraph 1.1.3 and 74 dwellings in paragraph 5.1.2. He noted that in fact, together with approved and permitted conversions of existing building at William Robson House, the current proposals would add a further seven two-bedroom dwellings making a grand total, if approved, of 44 dwellings. He noted that furthermore, and worse, it continued to say in paragraph 3.2.8 that "*it is anticipated that the apartments could prove attractive to students of Durham University*".

Parish Councillor J Ashby noted that paragraph was the main concern of the Parish Council and noted that if the development was as described in the Transport Statement it would fail the policies of the County Durham Plan (CDP). He noted the Planning Officer dealt with that issue entirely correctly by pointing out that the Applicant would have to apply for planning permission to change from C3 use to C4 or Sui Generis HMOs or indeed a PBSA. He noted the Parish Council would stay alert in that regard.

Parish Councillor J Ashby explained the second concern of the Parish Council was that essential provision to meet accessibility requirements did not appear to be shown and would therefore need to be specified, if approval was to be given. He added that the Planning Officer proposed Condition 4 which met that point admirably.

It was explained that the third concern was in respect of the arrangements for the collection of wheelie bins: the applicant's Design, Access and Heritage Statement stating that "*Provision has been made for internal bin storage. The bins will be moved to Claypath on collection days and collected by private contractors.*" Parish Councillor J Ashby noted Claypath was often obstructed by wheelie bins from apartments and restaurants. He added that the matter must be addressed as 44 domestic wheelie bins would totally block pedestrian movement on Claypath every week. He noted the Planning Officer informed the Committee that a different arrangement was now proposed, secured by proposed Condition 14. He added that once again, the Parish Council would be "on the case".

Parish Councillor J Ashby noted the fourth concern related to the consequences of no car parking provision being made, however, he noted that could not be the basis of a refusal of the application.

He explained the Parish Council suggested that operational conditions would be needed and enforced to manage the entry and exit of construction and building materials lorries. He noted that was covered by proposed Condition 5.

Parish Councillor J Ashby added that, on the basis of its concerns, the Parish Planning Committee had considered that, despite being a much improved design from the previous schemes that had been refused, lost on appeal, or withdrawn, the latest application should be refused on the grounds of being envisaged as student accommodation contrary to Policy 16 of the CDP and also for threatening pedestrian and traffic disruption on Claypath. He noted Planning Officer's report, published eight days ago, addressed the Parish Council's concerns and proposed conditions which made it possible to accept the development.

Parish Councillor J Ashby noted that given the history at the site, and the contradictory information provided by the Applicant, the Developer must comply with the conditions, and enforcement action must be taken against any breach of the residential use such as to become HMOs or PBSA use. He concluded by noting that, on that basis, the County Council had wrestled the application into an acceptable scheme, and the Parish Council expressed its appreciation for that.

The Chair thanked Parish Councillor J Ashby and asked the Committee for their comments and questions.

Councillor M Davinson reiterated the comments he made in relation to the previous application in terms of nearby residential properties being in close proximity to the application site, noting Members had stood alongside those properties when visiting the site previously. He thanked the Senior Planning Officer and Councillor J Ashby for their work, noting it appeared the loose ends in relation to the application appeared to have been dealt with. He moved that the application be approved, subject to the conditions as set within the report with an alteration to the start time for works on site from 7.30am to 8.30am.

Councillor P Taylor noted he would second the proposal made by Councillor M Davinson, adding he really appreciated the work of the Senior Planning Officer in preparing his report, noting that both reports at Committee had been excellent. He added the suite of conditions proposed were firm and well pit and therefore he was content in seconding the approval of the application.

Councillor D Freeman noted he was a Member of the City of Durham Parish Council; however, he was not a member of their Planning Committee and had not been party to their submission in objection to the application.

He explained he initially had similar concerns as expressed by Parish Councillor J Ashby and noted that while some concerns had been addressed by condition, he was cynical and felt the development may end up accommodating students.

He asked as regards the application coming back in terms of a change of use from C3 to C4 use. The Senior Planning Officer noted that if an application for the development was submitted for C4 use it would be assessed against Policy 16 of the CDP which referred to the percentage of student properties within an area and balanced communities and therefore, while not prejudging any such application, a robust judgement would be taken at that stage based upon the CDP and the appeal decisions that had been made. The Chair noted the comments from Councillor D Freeman and the Senior Planning Officer and explained that there was a need for two-bed accommodation and therefore she would take the view that the development offered the opportunity for elderly people, who may then need people to stay with them.

Councillor D Freeman asked if there were any condition that could be attached to prevent occupation by students. The Senior Planning Officer noted such a condition would not meet the appropriateness test in respect of planning conditions. The Solicitor – Planning and Development echoed the Senior Planning Officer, noting that it would not satisfy any of the tests in relation to the imposition of a condition.

The Chair noted no further comments from the Committee and the Solicitor – Planning and Development noted the vote was for the approval of the application, subject to an amended condition relating to the start time for works being 8.00am.

Upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report, and variation of condition 17 in respect of site start from 8.00am (rather than 07.30am).

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/14/03327/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of four detached dwellings with attached garages, demolition of the stable block, conservatory extension on Fernhill and erection of a car port / covered area for parking a horse box.
<b>NAME OF APPLICANT:</b>	Wilbury Developments Limited
<b>ADDRESS:</b>	Fernhill Newcastle Road Crossgate Moor Durham DH1 4JZ
<b>ELECTORAL DIVISION:</b>	Neville's Cross
<b>CASE OFFICER:</b>	Barry Gavillet Senior Planning Officer Telephone: 03000 261958 <a href="mailto:barry.gavillet@durham.gov.uk">barry.gavillet@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. Fernhill is a large detached house lying in extensive grounds on the north western edge of the Crossgate Moor area of Durham. To the west is open countryside, to the east the north-south running A167 road lies beyond The Lodge at the entrance to the site, with detached residential properties and Flass Vale further beyond. To the north lie residential properties in Whitesmocks Avenue, separated from the application site by the unsurfaced Club Lane extending in an east-west direction. Immediately to the south is further open countryside, with residential properties in Crossgate Moor Gardens beyond. The site is located within the Durham City Green Belt.
2. The existing building sits in a large area predominantly given over to lawns and substantial structural planting that screens much of the site from public views. It is set on a hill with the main house at the highest point and unequal falls to each side. The greatest change in level is to the north where the slope of the property falls to Club Lane and this difference in height wraps round the contours to the main road. The road rises as it heads south, however even at the highest point of the surrounding land the house still stands clear of its surroundings.
3. Close by to the site there are bus stops with services travelling into the city centre and northbound towards the Arnison Centre and Newcastle. Durham Johnson School is close to the south along with a general retailer and a vets practice.

## The Proposal

4. This application proposes four new five-bedroom houses in addition to the retention of Fernhill as a family dwelling. Three of the four proposed dwellings are modifications of a single house type, designed to accommodate different level changes across the plot within the same layout and basic form whilst the fourth proposed dwelling is an individual house type, to address its unique topography and differing position closer to Fernhill.
5. The style of the proposed dwellings is a contemporary craft based vernacular, utilising traditional building methods with modern lines and using high quality materials and detailing. Pitched roofs form gable features with short parapet stone quoins framing the corners to create a traditional balanced facade. Chimney and bay window features are used to provide asymmetrical details that modify the extents of walling while the garage pavilion has a formal, symmetrical pitched roof.
6. The use of traditional stonework alongside hardwood windows and cladding set in aluminium frames creates a balance between the traditional and contemporary. Slate roofs on the upper levels would be used along with a planted green roof on the lower living pavilion. A soft red handmade brick would be used on the link building to the rear in contrast to the stonework on the main wings and on the front facade.
7. Access to the site is currently from two positions on the eastern boundary. In the south a gated drive gives access from the A167. This is an un-adopted private drive leading past The Lodge cottage to Fernhill. The proposal is to upgrade this access point to provide a new turning head just inside of the site. From this turning head will stem two new private access roads; the first running northwards to three of the proposed dwellings, and the second running westwards to provide access to the fourth proposed dwelling and a new access to Fernhill. These proposed roads would not be adopted.
8. It is proposed to remove some of the trees on site that are considered hazardous or are poor specimens. These would be replaced where possible with indigenous species as part of a landscape masterplan and planting schedule for the whole site.
9. This application is being reported to committee at the request of a County Councillor.

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## **PLANNING HISTORY**

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10. 95/00371/FPA - Erection of three stall stable block erection of 2.1m stone wall and raising of pitched roof over private garage – Approved
11. 03/00009/FPA - Erection of two storey pitched roof extension to side, single storey pitched roof extension to rear and extension of detached garage, to include demolition of existing garage and conservatory – Approved
12. 03/00880/FPA - Change of use and conversion of existing garage to self-contained residential bedsit – Approved
13. 08/00523/FPA - Proposed demolition of existing lodge and erection of replacement together with an additional 12 no. two storey detached dwellings with associated garaging, parking, access and landscaping – Withdrawn

14. 09/00134/FPA - Demolition of existing flat roof extension and erection of replacement single storey pitched roof extension, erection of two storey pitched roof extension to east side elevation, erection of replacement porch to north elevation, removal of chimney and erection of replacement and demolition of existing outbuildings and erection of detached double garage – Withdrawn
15. 09/00693/FPA - Demolition of existing flat roof extension and erection of replacement two storey pitched roof extension to east elevation, erection of single storey pitched roof extension to north elevation – Approved
16. 11/00535/FPA - Erection of 3 no. dwellinghouses – Refused and dismissed at appeal

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

17. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
18. 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.
19. 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.
20. NPPF Part 5 – Delivering a wide choice of high quality homes. The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
21. NPPF Part 6 – Building a strong, competitive economy: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.
22. 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.

23. 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.
24. 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.
25. 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.
26. NPPF Part 13 Protecting Green belt Land - The government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
27. NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
28. NPPF Part 15 - Conserving and enhancing the natural environment - Planning policies and decisions should contribute to and enhance the natural and local environment.

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

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

29. 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; conserving and enhancing the historic environment; design; and use of planning conditions.

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

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

The following policies of the County Durham Plan is considered relevant to the determination of this planning application;

30. Policy 6 Development on unallocated Sites states that the development of sites within the built up area that are not allocated in the plan or in a neighbourhood plan will be permitted provided they accord with all relevant development plan policies and meet specific criteria in relation to existing permitted uses, coalescence of settlements, loss of land with identified value such as in relation to ecology or recreation, is appropriate, is not prejudicial to highway safety, has good access to sustainable modes of transport to relevant services and facilities, does not result in the loss of the settlements last community building, minimises vulnerability and provides resilience to impacts resulting from climate change, maximises the effective of previously developed land and where appropriate reflects priorities for urban regeneration.
31. Policy 15 Addressing Housing Need notes the need to increase the range and quality of housing provision within the County and with regard to meeting the needs of older people and people with disabilities states that 66% of dwellings on sites of 5 dwellings or more must be built to Building Regulations M4(2) (accessible and adoptable dwellings) standard.
32. Policy 20 Green Belt states that development proposals within the Green Belt will be determined in accordance with national planning policy.
33. Policy 21 Delivering Sustainable Transport states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
34. Policy 29 Sustainable Design details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
35. Policy 31 Amenity and Pollution states that new development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and should be integrated effectively with any existing business and community facilities.
36. Policy 32 - Despoiled, Degraded, Derelict, Contaminated and Unstable Land states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
37. Policy 35 Water Management states that all new development should adopt the hierarchy of preference in relation to surface water disposal.
38. Policy 36 Disposal of Foul Water states that all new development should adopt the hierarchy of preference.
39. Policy 39 Landscape states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.

40. Policy 40 Trees, Woodlands and Hedges states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
41. Policy 41 Biodiversity and Geodiversity states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.

In line with Section 70(2) of the Town and Country Planning Act 1990 (as amended), the local planning authority must have regard to a post-examination draft neighbourhood development plan, so far as material to the application, and, para 48 NPPF guidance (i.e. where changes are required less weight to policies). In that regard the following policies of the emerging City of Durham Parish Neighbourhood Plan are considered relevant;

42. Policy S1: Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
43. Policy D6: Building Housing to the Highest Standards seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.
44. Policy T1: Sustainable Transport Accessibility and Design seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.

*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:**

45. The Highway Authority have given careful consideration to safe access and egress from the proposed development. The Highway Authority does not consider that an objection on highway safety grounds could be sustained and as such offers no objection to the application subject to the inclusion of planning conditions.
46. The Drainage Authority note that the Drainage Strategy proposes the site plots to drain to soakaways, which is an acceptable SUDS form of drainage for the development.
47. NWL has confirmed that they have no comments to make.
48. City of Durham Parish Council note that at the time of the inquiry into the County Durham Plan, the Inspector carefully weighed the evidence and concluded that Fernhill should remain in the Green Belt. Consequently, with all uncertainty now removed, the Parish Council think the time is now right to refuse the application.

## **INTERNAL CONSULTEE RESPONSES:**

49. Design and Conservation officers state that the development at present is clearly at conflict with existing policies of the Development Plan by reason of inappropriate development in the Green Belt. In terms of the assets within the site (non designated house and lodge) there is no objection to part to the site being developed as the grounds are extensive and there is still an opportunity to provide suitable breathable space around the building and an appropriate setting. The site would seem to provide sufficient space for 4 large detached houses and there is no objection to this in terms of spatial orientation and location, and there should be sufficient space left for an appropriate setting. The design of the large executive homes, conservatory and carport would seem to be acceptable, the design and details would seem to be of high quality, an Arts and Crafts approach with a contemporary twist. Further details, of window and door designs, profiles and materials are required of all proposals.
50. DCC Environment, Health and Consumer Protection (Nuisance Action Team) offers no objection to the application subject to the inclusion of a planning condition which requires the submission and agreement of a construction management plan.
51. DCC Contaminated Land Section have assessed the available information and historical maps with respect to land contamination and have no adverse comments to make. Therefore there is no requirement for a contaminated land condition.
52. DCC Ecology has no objections to the proposals subject to a condition ensuring the contents of the submitted ecology surveys as these related to the general habitat compensation around the site and the bat survey report which details specific bat roost installation in the new dwellings and bat and bird boxes around the site.
53. DCC Archaeology has no objections to the application subject to a condition requiring further investigative work being carried out.
54. The Councils Spatial Policy team conclude that the proposal which seeks to develop 4 new dwellings within the Green Belt should be assessed against policies 20 and 39 of the CDP, with the NPPF (notably para's 143 - 147) a significant material consideration. The proposal is likely to be inappropriate in the Green Belt as it will reduce openness.
55. Landscape officers have commented that the grounds of Fernhill, like those of Friarside and Flass Vale Hall, contribute to the AHLV in this area through a combination of their open, largely undeveloped, character and their mature vegetation. The proposals would broadly conserve and enhance the contribution made by the site's vegetation to the AHLV but would erode its open character to a degree. The harm would be localised, but noticeable from public vantage points in the immediate vicinity including Club Lane.

## **PUBLIC RESPONSES:**

56. The Coal Authority have no objections to the proposals.
57. The MP for the City of Durham has noted that despite the apparent willingness by the local authority to remove this parcel of land from the Green Belt through the County Plan process, the Planning Inspector chose not to accept this policy and requested a modification to the Plan which left Fernhill remaining in the Green Belt. The MP asks that all of the circumstances surrounding this land are considered when a determination is reached.

58. The application has been advertised by way of a press notice, site notice and letters to individual residents in the surrounding area. 16 letters of support have been received as a result of the consultation process. The letters state that the proposals would provide much needed executive housing in a sustainable location which in turn would contribute to the local economy. It is also stated that the site makes no contribution to the Green Belt and was designated as such in error. 9 letters of objection have also been received as part of the consultation process. Objectors state that the proposals would lead to a loss of privacy and light, particularly to residents of Whitesmocks. It is also noted that the proposals may lead to a loss of wildlife and trees, an increase in traffic which may be dangerous, a harmful landscape impact, flood risk, that there has been a previous refusal and that the site should remain in the Green Belt.

#### **APPLICANT'S STATEMENT:**

59. The site was purchased in 1994. The land was not within the designated Green Belt. In 1995 the applicant started to develop the land and successfully applied for and obtained planning permission to build stables on the land and convert one of the outhouses into a cottage, which is now rented privately. The requisite planning permissions were obtained and no reference was made to Fernhill being in the Green Belt. This changed in 2004 when the site was erroneously added to the Green Belt. It was land to the south of Fernhill (a Persimmon Homes site) that was considered during the City of Durham Local Plan Inquiry.
60. Since then, the development of this site has a long history of support from the Council, including acknowledgement in 2010 that there was "no rationale or justification as to why" the site was included in the Green Belt in 2004. In 2016 Officers of DCC signed a Statement of Common Ground that stated that the land exhibited none of the five purposes of Green Belt and should be removed from the Green Belt. In 2019 Officers of DCC signed a further Statement of Common Ground which repeated the opinion held for the previous 10 years, that the site fulfilled none of the Green Belt purposes.
61. Limited infilling of previously developed land, which includes garden land in the open countryside outside of settlement boundaries, is acceptable where it would not have a greater impact on the openness of the Green Belt than the existing development. A fundamental principle of the scheme layout is to minimise the impact of the built form when seen locally and from key strategic points within Durham City. Each dwelling is split over three floors and would be cut into the existing topography, gradually stepping down to meet the lower garden level. A fourth dwelling is also proposed on the site of the existing stable block which is to be demolished. The new dwellings are located and designed to reduce the requirement for level changes and therefore protect the topographic form and landscape character of the site. This ensures that the development will not impact on the five purposes of the Green Belt, which is the key consideration in the determination of this application:
1. **To Check the Unrestricted Sprawl of Large Built-up Areas** – The properties at Whitesmocks Avenue, dwellings at Beechways and Long Garth all project further westwards into the countryside than Fernhill, with these dwellings being located directly to the north. Indeed, Beechways and Long Garth project out a further 30m and 60m respectively. The proposed development would therefore not represent unrestricted sprawl.

2. **To Prevent Neighbouring Towns from Merging** – The site has no role in preventing neighbouring towns from merging into one another.
3. **To Assist in Safeguarding the Countryside from Encroachment** – The character of the area is markedly different and has been for a considerable period of time to that of the countryside beyond. This change in character and use clearly separates this site from any encroachment into the countryside which would be a marked difference. The defensible boundaries that contain the site will safeguard the countryside from encroachment.
4. **To Preserve the Setting and Special Character of Historic Towns** – The proposed new dwellings would not prejudice or undermine the special character or setting of Durham City. No harm could be attributed to the setting of the City if the site was developed. Some of the key features contributing to the character of Durham City are the fingers of countryside that penetrate to the heart of the City. In this area the adjacent Flass Vale is one such feature. The development of a low density housing scheme in the grounds of Fernhill would not undermine this feature as the open agricultural land to the south would ensure that the open link between Flass Vale and the countryside beyond is retained.
5. **To Assist in Urban Regeneration by Encouraging the Recycling of Derelict and Other Urban Land** – The site comprises a residential curtilage and is identified in the Council's Landscape Character Assessment as being 'urban' land. The site therefore contributes to urban regeneration by focussing development within the urban area.

The development will also result in significant benefits, which should be taken into account, including:

1. **Executive housing** – Housing of this type only represents 1% of all stock across the County. However, there is a disparity between the desires of high earning households and their ability to move to suitable stock within the County, which logically could lead to a loss of high earning households whose income and spending needs to be captured. The provision of executive homes will support the economic growth aspirations for the City through attracting businesses leaders and highly skilled workers who may wish to operate their business from the Aykley Heads Strategic Employment Site, where 6,000 jobs are proposed, or take-up other business opportunities or high level jobs within the City.
  2. **Economic Benefits** – The proposals will have important economic benefits including the creation of jobs during the construction phase, the generation of £54,000 net additional expenditure per year from the new households, a new Homes Bonus payment to Durham County Council over the 6 year period of almost £70,000 and an increase in Council Tax revenues of almost £12,500 per year.
62. This proposal remedies past errors and delivers much needed Executive Housing for Durham City. The site does not contribute to a Green Belt function in terms of its openness as it has an urban character associated with residential dwellings and associated activities. The development will therefore not impact on the openness of the Green Belt and will result in significant benefits.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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63. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the design and layout of the development, landscape, highways issues, ecology and public responses.

### Principle of the Development

64. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise with the NPPF representing a material planning consideration in this regard. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up to date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.
65. This proposal seeks to develop land at Fernhill for 4 detached dwellings. The site is within the Green Belt and regarded as an area of high landscape value. It is therefore a sensitive location for development.
66. A previous planning application (4/11/00535/FPA) to develop three houses at the site was refused in September 2011, and a subsequent appeal (APP/X1355/A/11/2162513) dismissed in January 2012. Refusal and dismissal reasons centred around Green Belt implications, including the adverse effect on openness.
67. Consideration to remove the Fernhill site from the Green Belt took place through the plan making process, and the evolution and development of the County Durham Plan (CDP). The version of the CDP which was submitted for examination contained a Policy relating to 'non-strategic Green Belt amendments' which earmarked Fernhill for removal from the Green Belt (it was Policy 21 within the submission version). The Examination in Public (EiP) of the CDP commenced in November 2019 and the programmed hearing sessions closed on 6<sup>th</sup> February 2020. The Inspector issued his post hearing advice on 20<sup>th</sup> February 2020, and an amended CDP was prepared to take account of the specific instructions from the Inspector, and also to take account of all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. This updated Plan was subject to consultation (26<sup>th</sup> May until 21<sup>st</sup> July 2020), with all comments sent to the Inspector to inform his final report, which was issued on 17<sup>th</sup> September 2020. The report confirmed that the CDP was sound and could progress to adoption.
68. The report dealt with the proposed removal of Fernhill from the Green Belt within paragraphs 334 to 337, and these are set out below:

69. 334. *Fernhill is a detached house standing within a large garden surrounded by mature vegetation. It is separate from the main built up area of Durham city which is largely on the other side of the A167, and is bordered by an historic green lane to the north and open countryside to the west and south. The site is mainly open, and appears as part of the attractive rural area forming the setting of the historic city in this particular location.*
70. 335. *Neither of the above two sites are required to meet identified development needs, and I am not persuaded that there are exceptional circumstances to justify the removal of either of them from the Green Belt.*
71. 336. *I concluded earlier in this report that there are exceptional circumstances to justify removing land at the former police skid pan at Aykley Heads from the Green Belt and that it is suitable for residential development. The allocation of the site and its exclusion from the Green Belt are clearly shown on the Policies Map, and development requirements are set out in policy 4. Policy 21 therefore serves no material purpose with regard to the site.*
72. 337. *In light of the above I conclude that policy 21 and paragraphs 5.198 to 5.201 inclusive be deleted from the Plan [MM102 and MM103]. The Policies Map should be amended to retain Fernhill and the former Lumley Boys School site in the Green Belt.*
73. The finalised CDP was subsequently adopted by the Council on 21<sup>st</sup> October 2020 and is the development plan which covers the whole of County Durham. Within the CDP, Fernhill remains within the Green Belt.
74. This proposal will be assessed against the relevant local planning policies from the CDP, as well as national planning policy. As the application site remains within the Green Belt, Policy 20 (Green Belt) of the CDP is applicable. This states that development proposals within the Green Belt will be determined in accordance with national planning policy. The supporting text confirms that there is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated.
75. The NPPF (2019) should therefore be used to assess this proposal. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 134 that the Green Belt serves five purposes. Paragraph 143 of the NPPF under proposals affecting the Green Belt states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
76. Paragraph 145 of the NPPF advises that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a. buildings for agriculture and forestry;
  - b. the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

- c. the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d. the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - e. limited infilling in villages;
  - f. limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and 43
  - g. limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
    - not have a greater impact on the openness of the Green Belt than the existing development; or
    - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
77. The starting point for determination of this application in terms of the principle of development is that the construction of new buildings in the Green Belt should be considered as inappropriate development. However, it is necessary to consider whether any of the exceptions set out above and in paragraph 145 of the NPPF are applicable to the proposed development.
78. In this regard, whilst the definition of previously-developed land is clearly set out within Annex 2 (Glossary) of the NPPF, the applicant has made a submission citing case law which they consider to be relevant and which supports their assertion that the Fernhill site is previously-developed land rather than a greenfield site and that the proposed development falls within the exceptions to inappropriate development set out in paragraph 145 of the NPPF..
- 74 The case concerned is *Dartford Borough Council v Secretary of State for Communities and Local Government* [2017]. This case concerned the definition in the Glossary to the NPPF of “Previously Developed Land” and in particular the exclusion of “*land in built-up areas such as private residential gardens, parks, recreation grounds and allotments*”. Dartford BC challenged a decision of one of the Secretary of State’s Inspectors which had held that the site of the proposed development in that case, which was in the countryside rather than a built-up area, was previously developed land since it was within the curtilage of an existing dwelling and not caught by the above-quoted exclusion. Dartford BC’s case was that to treat residential gardens in built-up areas as excluded by PDL but not to treat residential gardens in the countryside as PDL, was illogical. The Secretary of State submitted that Dartford BC’s interpretation defied the clear wording of the NPPF Glossary. The Court of Appeal (Lewison LJ giving the lead judgment) agreed with the Secretary of State.
79. The applicant’s submission is that as the Fernhill site is not within the settlement limits of Durham City, it can be determined that the application site is not within a built-up area. They assert that the proposal site is existing private residential garden space for Fernhill, and therefore, the proposal site is considered previously developed land and should be assessed as to whether the proposed development would have an impact on openness in the Green Belt.
80. In addition to the above the Inspector’s CDP report concluded that Fernhill “*is separate from the main built up area of Durham city which is largely on the other side of the A167*”, and that “*The site is mainly open, and appears as part of the attractive rural area forming the setting of the historic city in this particular location*”. Therefore, it is agreed that the proposal site is considered previously developed land and should be assessed as to whether it meets the criteria in sub-paragraph (g) of paragraph 145 of the NPPF.

81. Sub-paragraph (g) of para 145 of the NPPF provides that development on previously developed land would not be considered to be inappropriate development where it can be demonstrated that the development would **either** (a) not have a greater impact on the openness of the Green Belt than the existing development or (b) not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority. Having considered the provisions of paragraph 145(g) of the NPPF, the proposal is not considered to meet any of the criteria set out within this exception. The proposed development of 4 detached executive style dwellings would have a greater impact on the openness of the Green Belt than the existing development (which is largely undeveloped garden land) and would not contribute towards meeting an identified affordable housing need. It is therefore considered that the proposed development is inappropriate development.
82. Officers have also considered whether there are any very special circumstances which would justify approving the proposed development which is inappropriate. It is not considered that the benefits of executive housing and economic benefits put forward by the applicant outweigh the harm to the AHLV and Green Belt and do not constitute very special circumstances. Therefore the principle of the development cannot be accepted.
83. It was established under the adoption of the CDP that the Council can demonstrate in excess of 5 years housing land supply (6.33 years). In accordance with paragraph 74 of the NPPF, a five-year supply of deliverable housing sites, with the appropriate buffer can be demonstrated and therefore delivery of four houses in this location is not considered a significant benefit.

## Landscape

84. The site lies in an area formerly identified in the City of Durham Local Plan as Area of High Landscape Value and currently identified in the County Durham Plan as an Area of Higher Landscape Value (AHLV).
85. Policy 39 of the CDP states that *development affecting Areas of Higher Landscape Value defined on Map H, will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm.*
86. The AHLV in this area covers open countryside to the west of the site and the wooded common of Flass Vale to the east. The open leafy grounds of a three large properties, Fernhill, Friarside and Flass Vale Hall, form a transition between the two.
87. As noted by Inspector Ward, in his 2012 decision letter, the proposed dwellings would be substantial split level houses occupying a substantial footprint. Views of the dwellings from distance would be limited by the nature of the topography and surrounding development. Existing and proposed landscaping along the boundaries would provide some screening and filter views into the site. However, given their scale, height and relatively elevated position, they would be prominent features at close range from Club Lane and particularly in the case of plot 1, the A167. They would also be clearly visible from houses along the A167 and the rear of houses on Whitesmocks Avenue. The visibility of the dwellings would be increased during winter months when tree cover is less. Given the topography, views of the open countryside beyond the site would be largely unaffected. However, the proposed development would substantially alter the open nature of the site itself.

88. The grounds of Fernhill, like those of Friarside and Flass Vale Hall, contribute to the AHLV in this area through a combination of their open, largely undeveloped, character and their mature vegetation. The proposals would broadly conserve and enhance the contribution made by the site's vegetation to the AHLV but would erode its open character to a degree. The harm would be localised, but noticeable from public vantage points in the immediate vicinity including Club Lane.
89. Policy 39 (Landscape) of the CDP seeks to protect the character, quality or distinctiveness of the landscape and expects new development to incorporate appropriate measure to mitigate adverse landscape and visual effect. The policy makes clear that development affecting Areas of Higher Landscape Value (as in this case) will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. It is not considered that there have been any benefits highlighted that would clearly outweigh the harm and therefore it is considered contrary to the aims of Policy 39 of the CDP.
90. In summary, this proposal which seeks to develop 4 new dwellings within the Green Belt and AHLV has been assessed against policies 20 and 39 of the CDP, with the NPPF (notably para's 143 - 147) a significant material consideration. The proposal is considered to be inappropriate in the Green Belt and very special circumstances have not been proven and would harm the AHLV, therefore the principle of the development is not accepted.

#### Design and layout of the development

91. Criteria a) of policy 6 of the CDP states that development will only be supported if it is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land. In addition, policy 31 of the CDP is also relevant and states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. This is considered to display a broad level of accord with the aims of the NPPF at paragraphs 127 and 180 which require new development to function well and add to the quality of the overall area and prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution respectively.
92. This application provides details of 4 large linear executive styles 5 bedroom homes with attached garages, the new proposed house to the west of Fernhill would result in the demolition of the stable block and removal of the ménage. The application also includes a conservatory extension to Fernhill, the erection of a car port and covered area for parking a horsebox.
93. The design of the large executive homes would seem to be acceptable, the design and details would seem to be of high quality, an Arts and Crafts approach with a contemporary twist, that picks up distinctive references from Fernhill itself and the Lodge building and some of the adjacent properties in the North End Area i.e. steep pitches, chimneys, overhanging eaves, vertical window proportions, projecting bays, oriels, recessed openings etc. The footprint of the units is long and linear with broken up spaces, and the size and height of the dwellings is successfully designed with an interesting interlinked roofscape, taking on board different level changes.

94. The site would seem to provide sufficient space for 4 large detached houses and there is no objection to this in terms of spatial orientation linear in form and location running north to south, and there should be sufficient space for gardens to the houses and space left for an appropriate setting to the original house. The impact on Fernhill, the Lodge and Club Lane would be minimal.
95. A large number of trees, shrubs and hedges are retained on the boundaries of the site and within the site. In addition a 3m wide strip of under planting would be provided under the existing trees successfully around the site. The remaining garden to Fernhill would retain some of the existing trees and have a belt of planting wrapping round the site, to successfully provide the right setting and screen Fernhill from the new housing. Beech hedging between the new housing would also provide effective screens.
96. The scheme includes a proposal for a new conservatory on the north side of the house, overlooking the extensive grounds. The location of the extension is at the side, set away from the main frontage to some extent. The flat roof design with the central atrium and intricate glazing bars and frame and strong plinth, is acceptable in design and would provide a sympathetic addition, fitting in with Fernhills distinctive character. A few more details are required, concerning the profile of the glazing bars, the materials
97. The demolition of the relatively new wooden stable block is acceptable; the building is a relatively modern construction of no architectural character and has a temporary appearance. It is fairly poorly related from the original house, and fairly isolated. There is no objection to its demolition.
98. The new car port is situated close to Fernhill providing an attractive sense of enclosure and creating a courtyard near the front of the building and the extensive driveway and turning area. It is important that the trees are retained and that the impact on the existing group of trees would be minimal.
99. With regards to separation distances it is considered that the minimum requirements stated in the Council's Residential Design Supplementary Planning Document would be achieved, and that residential amenity for future occupiers would be sufficient. Overall it is considered that the design and layout of the proposals are of high quality and are in accordance with policy 31 of the CPD, part 12 of the NPPF and policy D6 of the Durham City Neighbourhood Plan.

#### Highways issues

100. The Highway Authority have given careful consideration to safe access and egress from the proposed development. An access exists for two residential units, the proposal is to increase by a further 4 units resulting in a total of six residential units served from a private access and driveway. It is noted that the visibility to the north (left) for vehicles egressing is restricted below highway standards by trees in the highway verge. The visibility splay for a 40mph carriageway could not be achieved, hence safe stopping distance would be reduced. However at this location the carriageway carries a wide centre hatching between the opposing lanes. It is therefore considered that an overtaking vehicle would remain within the hatched area and therefore highways officers conclude that the risk of collision between an overtaking and emerging vehicle could in this circumstance be negligible and would therefore accept the access would be suitable for an increase in vehicular movements.

101. Turning to the infrastructure providing access to the development. Presently the development is gated with a single width dropped kerb access through the verge. It will be necessary to form an access and road to an adoptable standard to permit two vehicles to pass when entering/ leaving the A167 and a service vehicle to turn and egress in a forward direction. It will therefore be necessary to construct an access to an adoptable standard with an access road and turning area leading to the private drive accesses. An amended road marking scheme would also be necessary indicating a protected right turn lane within the hatched central area.
102. Highway Authority does not consider that an objection on highway safety grounds could be sustained and as such offers no objection to the application subject to the inclusion of planning conditions.
103. On the basis of the above it is considered that the proposals are acceptable from a highways point of view and are in accordance with policies 6 and 31 of the CDP, part 9 of the NPPF and policy T1 of the Durham City Neighbourhood Plan.

## Ecology

104. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. In particular paragraph 175 requires the planning system to achieve measurable net gains for biodiversity. Policy 41 displays a broad level of accord with approach stating that new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks.
105. A range of biodiversity mitigation options are proposed in the submitted ecology surveys, providing the measures are implemented in the final design of the site and dwellings, the biodiversity loss can be minimised and compensated for. The mitigation relates to the general habitat compensation around the site and details specific bat roost installation in the new dwellings and bat and bird boxes around the site (among other measures such as lighting constraints).
106. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policy 41 of the CDP and paragraph 175 of the NPPF.

## Public responses

107. With regard to the consultation responses from the public it is acknowledged the proposals represent a high quality development of executive housing. However, it is considered that the impact of the housing on the openness of the green belt outweighs these benefits. Whether the site should or should not be in the green belt is not considered a relevant issue with regard to the determination of this application, the fact remains that the site is in the green belt and that proposals must be assessed in this context.
108. As discussed above, it is not considered that the proposals would lead to any significant loss of amenity to nearby residents that would warrant refusal of planning permission. With regard to ecology, flooding and highways concerns, the appropriate specialist officers dealing with these issues raise no objections.

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## **CONCLUSION**

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109. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
110. In summary, this proposal which seeks to develop 4 new dwellings within the Green Belt and AHLV has been assessed against policies 20 and 39 of the CDP, with the NPPF (notably para's 143 - 147) a significant material consideration. The proposal is considered to be inappropriate development in the Green Belt as it will reduce openness and very special circumstances have not been proven, therefore the principle of the development is not accepted.
111. It is therefore considered that the Durham City Green Belt and the national importance of the protection of the openness of designated green belt far outweighs the need for four executive houses. Furthermore, whilst it is a recognised planning principle that all proposals must be assessed on their individual merits, no special justification has been put forward that would allow this development to not be inappropriate and as such is recommended for refusal.

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## **RECOMMENDATION**

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

1. It is considered that the proposal would harm the openness of the Durham City Green Belt and constitutes inappropriate development without very special circumstances to indicate otherwise, contrary to policies 20 and 39 of the County Durham Plan and parts 13 and 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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Submitted application form, plans, supporting documents and subsequent information provided by the applicant  
The National Planning Policy Framework (2018)  
National Planning Practice Guidance Notes  
County Durham Plan  
Statutory, internal and public consultation responses



**Planning Services**

DM/14/03327/FPA

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Erection of four detached dwellings with attached garages, demolition of the stable block, conservatory extension on Fernhill and erection of a car port / covered area for parking a horse box.

**Date** November 2020

**Scale** NTS