



Area Planning Committee (South and West)

Date Thursday 23 September 2021
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. The Minutes of the Meeting held on 22 June 2021 (Pages 3 - 18)
5. Applications to be determined
 - a) DM/21/01252/FPA - Land Adjacent to Spar Local, Unit, Jubilee Road, Shildon, DL4 2AL (Pages 19 - 34)
Two shop units (Class E) and one hot food takeaway (sui generis) (opening hours for takeaway 9.00 - 22.00 Sunday - Thursday 9.00- 23.00 Friday and Saturday).
 - b) DM/20/02379/FPA - Land To The South West Of High Terrace, Roddymoor, DL15 9RA (Pages 35 - 54)
Construction of residential dwelling and associated commercial dog kennels.
 - c) DM/20/03776/FPA - Barnard Castle School, Newgate, Barnard Castle, DL12 8UN (Pages 55 - 82)
Construction of a new Sports Pavilion, including access to the south and associated reconfiguration of adjacent sports pitches (amended plans and supporting information received 23.6.21)
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
15 September 2021

To: **The Members of the Area Planning Committee (South and West)**

Councillor G Richardson (Chair)
Councillor A Savory (Vice-Chair)

Councillors E Adam, J Atkinson, V Andrews, D Boyes, J Cairns,
L Brown, M McKeon, D Oliver, S Quinn, M Stead, A Sterling,
P Taylor and S Zair

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DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in County Hall, Durham - County Hall, Durham on **Tuesday 22 June 2021 at 9.30 am**

Present:

Councillor G Richardson (Chair)

Members of the Committee:

Councillors A Savory (Vice-Chair), E Adam, J Atkinson, V Andrews, J Cairns, L Brown, M McKeon, D Oliver, S Quinn, M Stead, A Sterling, P Taylor and A Reed (substitute for S Zair)

Also Present:

Councillor Brian Avery

1 Apologies

Apologies for absence were received from Councillors D Boyes and S Zair.

2 Substitute Members

Councillor A Reed was present as substitute for Councillor S Zair.

3 Declarations of Interest

Councillor A Reed declared a prejudicial interest in item no. 5b) as Local Member and objector to the proposal and confirmed that she would speak on the item and withdraw from the rest of the debate and deliberations.

4 Minutes

The minutes of the meeting held on 22 April 2021 were agreed as a correct record and signed by the Chair.

a **DM/21/00198/FPA - Land East of Home Farm, Sedgefield, TS21 2EJ**

The Committee considered a report of the Planning Officer with regards to the retention and use of existing outbuildings and land for the non-

commercial breeding and keeping of dogs at Land East of Home Farm, Sedgefield (for copy see file of minutes).

The South and West Planning Team Leader gave a detailed presentation which included site location plans, aerial photographs and photographs of the site.

Councillor D Brown, Local Member and Member of Sedgefield Town Council, addressed the Committee in objection to the proposal. He referred to the 43 objections that had been raised and confirmed that 27 of them were from people in the local area.

This was a retrospective application that had received a number of complaints over a considerable amount of time, the first had been received in 2019. At this time he had contacted the Applicant who was also Member of Sedgefield Town Council, who had assured him that he was following the correct procedures and after informing the complainant, he considered the matter closed. Councillor Brown had found out some time later that he had been misinformed which had in turn led him to misinform local residents.

Councillor Brown advised that had a site visit been undertaken, Members would have seen that the photographs were not an accurate representation of the premises. The most frequent complaints were noise from dogs barking and the generator, the burning of animal waste, drainage from contaminated waste and the suitability of exercise for the animals and cited grounds for refusal relating to the following;

- NPPF 15
- CDP Policies 10, 19, 35, 39
- Sedgefield Local Plan G 1b, E1

In response to a question from Councillor L Brown, the Planning Team Leader confirmed that the nearest residential property was 90m from the premises with a road in between, that was embanked. He also confirmed that the generator was used for the provision of electric on site.

Councillor Adam referred to the report from the Environmental Health Officer which advised that the development was unlikely to cause a statutory nuisance, which was contradictory to the noise reports. With regards to the condition to restrict the hours the generator could operate to daytime only, Councillor Adam was concerned whether this would affect the welfare of the animals and lead them to become more distressed and more likely to make noise. The Planning Team Leader advised that a noise assessment had been requested by the Environmental Health Officer and in conclusion had found the level of noise below what was expected. The generator was diesel

powered and had been mitigated with a condition to create housing in order to minimise the projection of noise.

Councillor McKeon confirmed that she sympathised with those who had complained about the noise as there was a similar site in Coxhoe. From experience she advised that some weeks could be noisier than others and suggested that dogs barking was something that could not be controlled, regardless of monitoring. She was disappointed when retrospective applications were put to the Committee as she felt that it removed the ability for residents' concerns to be properly considered.

Councillor Atkinson agreed with her comments on retrospective planning applications and was also disappointed that the Applicant had misled a Local Councillor. He sympathised with residents with regards to the noise and burning of animal waste and was not convinced the premises was suitable for animals.

Councillor Cairns asked for confirmation of the number of occasions the premises had been visited since 2019 and asked whether conditions would be monitored. The Planning Team Leader advised that the first visit had been made by Planning Enforcement and there had been several visits since. The Applicant was advised to put forward a planning application and he advised that no noise complaints had been put forward until the application had been submitted, the only complaints prior to this had been with regards to the outbuildings. In addition, when planning officers had visited the site they had observed no issue with dogs barking and neither had environmental health officers.

The Planning Team Leader advised that he was unable to comment on the condition of the animals, but there were conditions attached and enforcement action would be taken if further complaints were found to be in breach of them.

The Chair advised that it was difficult to accurately measure noise from animals on a particular day as there could be changes, even due to the direction of the wind.

A motion to refuse the application by Councillor Cairns, seconded by Councillor McKeon, on the grounds of noise, the incorrect disposal of waste and the retrospective nature of the application.

The Solicitor addressed the Committee to advised that the retrospective nature of the application was not a legitimate reason for refusal and there were conditions to mitigate waste disposal. The Planning Team Leader advised that the Applicant had obtained a contract to have waste stored in a sealed bin to be disposed of.

On the issue of noise, the Solicitor advised that although there was no exact measure for dogs barking, a full report had concluded that it would not have an unacceptable impact on amenity and he advised that it would be difficult to sustain those grounds on appeal.

Councillor Cairns queried the timeline of the conditions and the Planning Team Leader advised that they would begin immediately with one condition for an acoustic screen having a three month installation period.

The Solicitor reiterated that the retrospective nature of the application and the disposal of waste were not legitimate reasons to refuse the application and it would be difficult to defend the decision to refuse the application on the grounds of noise alone, based on the mitigation in the conditions attached.

Councillor Stead asked for clarification on where the contaminated water was going to and asked whether a condition for the installation of electricity and mains water could be added. The Planning Team Leader advised that he was unaware of the washing facilities but with regards to the disposal of contaminated water, the premises had formerly been stables and like many others in the County, there was no mains water connection or foul water drainage. Water would be led into a soakaway and then into the ground into an area with no flood risk and no nearby watercourse. Furthermore, the ammonia concentrate would be low, hence there was no reports of water pollution.

The Planning Team Leader advised that with regards to the conditions of the animals, the RSPCA had investigated and confirmed that there was no requirement for the Applicant to have a licence as they raced dogs for a hobby. With regards to the accusation of neglect, these dogs had to be in good shape to race which was in the owners best interest if they were going to be successful. Finally, to insist on mains water and electric was outside of the planning remit.

Councillor Atkinson summed up the reasons for refusal as not being substantial enough to refuse the application.

Following advice from the Solicitor, Councillor McKeon commented that should the application go to appeal and be upheld, the Committee would have missed an opportunity to strengthen conditions.

Councillor L Brown asked the Planning Team Leader whether he believed the application to be contrary to Policy 31 of the CDP and the Planning Team Leader advised that following the assessment of the Environmental Health Officer, there would be no unacceptable noise impact with the conditions

attached. Councillor L Brown therefore moved the recommendation to approve the application as per the report.

Councillor Quinn suggested that this application was a clever use of a site that could otherwise be vacant and although the retrospective nature of the application was not acceptable, it was not a planning consideration. She seconded the recommendation to approve the application.

Councillor Sterling acknowledged that there had been no complaints received with regards to noise prior to the application being submitted and asked for the context of the 46 letters of objection. The Planning Team Leader advised that there was a mix of complaints about noise and other matters but he highlighted that there was a dual carriageway in between the site and residential properties and confirmed that it was not an otherwise tranquil area.

The Solicitor clarified the motion to refuse the application and it was lost.

Resolved

That the application be APPROVED subject to the conditions outlined in the report.

b DM/21/01319/FPA - 8, 9 And 10 Newgate Centre, Bishop Auckland, DL14 7JQ

The Committee considered a report of the Planning Officer with regards to external alterations including amendment to fenestrations and new plant to facilitate change to a job centre at 8, 9 and 10 Newgate Centre, Bishop Auckland (for copy see file of minutes).

The Planning Officer gave a detailed presentation which included site location plans, aerial photographs and photographs of the site.

With regards to paragraph 74 of the report the Planning Officer advised that there were 9400 clients per month to the job centre and not 940 as stated in the report. Since publication of the report an additional 15 letters of objection had been received and a second petition with over 600 signatures had also been received, which the Planning Officer read out to Members. The main objections were in relation to the closure of the access to the Newgate Centre and loss of footfall for businesses.

Councillor Reed, Local Member, objected to the application on the basis that to close the pedestrian link at the north end leading to Finkle Street would have a detrimental effect on businesses and services within the Newgate Centre and at Fore Bondgate. The Centre had been built in the 1980's as a

shopping centre with three pedestrian links that could also be used in the event of a fire. They were used to provide a connection point to and from the bus station, the shops at Fore Bondgate, the car park that included disabled parking bays, the town centre shops and market place.

The DWP had occupied office space in Vinovium House in a retail unit opposite the Town Hall, also a retail unit at the top Newgate Street and were now seeking to move to a shopping centre. This move would require traders to move out of refurbished retail units for DWP to make alterations to the building to extend the floor space and would close a vital pedestrian access.

Councillor Reed had safety concerns with regard to the new footpath proposed as it would be across the entrance and exit of a busy multistorey car park and roads from the bus station and Finkle Street.

Councillor Reed referred to a positive aspect in the report of increased footfall due to staff and clients at the job centre, however the 9400 clients per month or 60 clients per hour, were visiting for the sole purpose of discussing employment. She also referred to a recent report by the BBC which had confirmed that Civil Servants did not want to be forced to return to an office environment and suggested that the Government were looking at guidance for flexible and home working and which could result in a reduction in the footfall predicted.

Councillor Reed questioned the decision to close an essential, well used pedestrian link that provided direct access to shops and disabled parking bays. If the DWP were to be situated in the Newgate Centre the public could view the shopping centre as an office environment rather than a retail centre. Councillor Reed withdrew from the meeting.

The Chair asked for clarification on whether a right of way had been established through the access due to the period of time which had passed and the Planning Officer advised that this was a private building with no right to pass and repass. The Solicitor added that the adopted highway was up to the door of the northern access and the pedestrian rights were by permission only, with doors being locked every evening and opened again the following day. The Principal DM Engineer confirmed that there was no ability to claim a right of way under Section 31 of the Highways Act.

Bishop Auckland Town Councillor L Chappell, advised that on two separate occasions she had undertaken a head count of people entering the north entrance. The first of which on 22 May 2021, 294 people used the entrance in one hour, and on 28 May 2021 269 people used it in one hour.

In closing this well used entrance there was no doubt that it would have an adverse effect on businesses in the shopping centre and Fore Bondgate.

She advised that the closure of the entrance did not support NPPF Parts 7 or 16 and was contrary to the Durham County Plan, Policy 9.

Councillor Chappell referred to the comments by Acting Programme Manager for Bishop Auckland Town Centre Regeneration in which concerns were raised regarding the closure of the entrance, undermining the Council's proposals in the masterplan. She also echoed the comments regarding paragraph 37 of the report which stated the closure of the pedestrian link between Fore Bondgate and the Newgate Centre was likely to have a hugely detrimental impact on footfall to the area.

Councillor Chappell advised that there had always been an intention to have retail on the ground floor with office space above and if this application was approved there would be more office space than retail.

Referring to the 60 metres detour that shoppers would have to make if the entrance was closed, Councillor Chappell advised that there were over 10 short stay car parking spaces and 6 disabled parking bays outside the entrance and questioned their use should the access be closed. This was an entrance that had been used by the public for over 30 years without interruption and she queried whether the land could be deemed as a public as a right of way. There were sufficient policies in her opinion, that could overturn the decision and sufficient office space available to avoid removing three retail units and closing an entrance.

Finally Councillor Chappell advised that by closing the entrance there would be one less fire escape in the shopping centre and suggested that the Fire Authority should have been consulted on the matter.

Ms W Preston spoke on behalf of businesses of Fore Bondgate and in objection to the application on the basis that it would reduce footfall and she highlighted that some businesses had been missed and the site notice was illegible, deeming the consultation insufficient. This application conflicted with the local masterplan and she believed that a site visit should have been undertaken.

Ms L Knight advised that following her successful mobile business she opened a premises in 2019 in Fore Bondgate, one of the oldest streets in Bishop Auckland. There were a variety of retail spaces offering a variety of services, shoppers could spend all day shopping there. It had an 80% occupancy rate, compared to 50% in the Newgate Centre and Ms Knight considered that the closure of the entrance from Newgate Centre would have a detrimental effect on the flow of traffic into the street, further isolating

business and having a financial impact, at a time when business needed to recover from the impact of COVID-19.

With regards to disabled access, Ms Knight reiterated safety issues with the new footway which was over two lanes and a taxi rank. The future of Fore Bondgate coincided with the masterplan for Bishop Auckland, of which but in her opinion, businesses might not survive should this proposal be approved.

Ms C Pegg addressed the Committee on behalf of the Applicant and advised that the DWP had an urgent need to relocate from Vinovium House as the existing premises were no longer fit-for-purpose. Services were spread across multiple floors and the building was in a poor condition with significant investment required. DWP leased the building and therefore such a high level of investment would not be a good use of public money.

The COVID-19 pandemic had created a significant increase in demand for DWP services and a site search was undertaken to relocate both the job centre and medical assessment centre. The site search had identified units 8, 9 and 10 as the only suitable site in the town centre. The site had met size requirements, was easily accessible by public transport, and was spread across 2 floors, offering much improved accessibility for disabled staff and clients. The fit-out would provide a modern expected environment for staff and customers. The two current tenants in Units 8 and 9 would relocate to vacant units elsewhere within the Newgate shopping centre and were supportive of this.

Ms Pegg referred to the proposed air conditioning plant and advised that a noise assessment had concluded no adverse impact on the nearest residential properties and DWP had agreed to the proposed condition restricting hours of use to daytime only. This proposal included a new entrance on the George Street elevation to provide separate access to the medical centre and alterations were required to the Finkle Street elevation to remove the existing shopping centre entrance, provide a new staff entrance to the unit and slightly enlarge the service yard area. A new fire escape would also be created.

These works resulted in the removal of public access to the shopping centre from Finkle Street, however although the project team had explored alternative ground floor layout options, it was not possible to retain a public thoroughfare whilst meeting the space requirements. The loss of this link was balanced against and mitigated by a range of factors.

With regards to the link to Fore Bondgate, Ms Pegg advised that the principal concern raised in relation to the loss of the public entrance was the impact however the shopping centre manager had advised that the predominant flow of pedestrians through the shopping centre was east-west and vice

versa, which would remain unimpacted by this proposal. The detour route between the Fore Bondgate link and the George Street access to the shopping centre was only 60m, and the landlord had agreed to the proposed planning condition to improve this connection through new dropped crossings and the relocation of a street lamp to ensure disabled access.

Ms Pegg advised that during discussions with Councillor A Jackson, the landlord had agreed to provide new signage to promote access to and from Fore Bondgate which would be conditioned to any planning consent. The proposed occupation of 3 units by DWP represented a significant financial investment to the landlord and DWP's occupation and the relocation of the existing tenants meant that the ground floor would be 100% let. The asset manager of the shopping centre had confirmed that this would allow wider objectives to be realised, including investment in a new cinema and making land available for the relocated bus station.

The relocation of the job centre into the heart of Bishop Auckland would be of significant benefit to the town centre, local shops and businesses through the associated footfall generation with approximately 9400 clients visiting the job centre every month. The economic benefits would have a significant positive impact on the town centre and assist towards ensuring Bishop Auckland's long term vitality and viability, in accordance with local planning policies.

In summary, Ms Pegg advised that the closure of the Finkle Street public access was acceptable when balanced against the continued availability of and upgrades to the alternative route to Fore Bondgate. The significant economic benefits of the proposal from the footfall generated by the job centre and the financial investment into the shopping centre were also considered to weigh significantly in favour of granting permission.

The Planning Officer responded to some of the concerns raised by speakers and advised that the publicity met the minimum required standard, local businesses were informed immediately adjacent to the building and there were site notices on both Finchale Street and George Street.

There was a lot of work going on within Bishop Auckland to ensure the masterplan could move forward with its implementation and Fore Bondgate was one of the oldest streets, recognised in the masterplan which was trying to ensure its enhancement and link it as a tourist destination for Bishop Auckland.

Councillor Savory referred to the high number of objections and it was her opinion that Members should support local businesses following the COVID-19 pandemic. She believed that other premises could be sought by HMRC and she agreed that the proposal would make it more difficult for shoppers and bus users.

Councillor McKeon advised that as a bus user, the network in the north east was not fit for purpose and having visited Fore Bondgate, agreed that the stopping up of the footpath would make access more difficult for consumers and bus users. The application was in her opinion, contrary to the NPPF Sections 1 and 2 as it did not support local businesses. The access predated the DWP and she believed the Council should support pedestrians.

Councillor L Brown was disappointed that the Committee were no longer going on site visits as she had recently visited Bishop Auckland to look at the alternative route proposed and she concluded that it would have an unacceptable impact on public safety according to NPPF 9.

Councillor Sterling stated that as a business owner she sympathised with those that would be affected on Fore Bondgate. It had already been challenging prior to COVID-19 but was now awful. She referred to the Planning Officer's presentation and asked her to confirm the source of the information which had predicted a decrease of 25% in profits for businesses on Fore Bondgate. She also wondered how the entrance could be kept open if the DWP relocated to this premises and finally, she noted the absence of a public right of way and asked if there was a process that could stop the landlord from closing the door.

The Planning Officer advised that the decrease in profits referred to had been from a statement made in a late representation from objectors. With regards to the closure of the existing access, she advised that DWP could occupy the space now and use the entrance as a staff entrance – it was not something that the Planning Authority would have control over, in fact it had been taped off when she had visited the site, due to COVID-19. She further confirmed that the DWP had been consulted on an alternative layout but they wanted an open office layout therefore splitting the use was not fit for purpose. In response to Councillor Sterling's comments that she was disappointed that an assessment on the impact on local businesses had not been carried out, the Planning Officer advised that the Regeneration Team had been consulted but no response was received.

Councillor Quinn confirmed that Bishop Auckland was a neighbouring division and due to the strong objections from local people, she wanted to formally object to the proposal. Although the works would enhance the building, she was concerned that if the DWP moved out it would be difficult to find a large enough business to take on such a large floor space. In her opinion, there were many other large buildings in Bishop Auckland that were in need of alterations and she suggested that the Applicant should look at alternative premises.

Councillor McKeon seconded the proposal to reject the application as looking at the layout again she could see why it was not possible for the access to be shared with customers from the job centre as they would need privacy. She did wonder why the DWP could not create an access and walkway that went along the side of their premises to keep the entrance to the shopping centre.

With regards to reasons for refusal, Councillor Quinn confirmed that the main impact was that on businesses on Fore Bondgate due to reduced footfall, however the Solicitor advised that the weight afforded to that particular impact was limited as there was nothing stopping the landlord from closing the access, coupled with the fact that the Planning Authority had no powers to prevent them from doing so.

Councillor Quinn replied that if the landlord was to close the entrance off, they would see a reduction in footfall. There had already been a huge impact on the town centre due to the retail park at Tindle Crescent and closing the entrance could lead Bishop Auckland to ruin.

In response to further comments from Councillor McKeon on the impact on local businesses due to the closure, the Solicitor advised that the current pattern of closure on an evening could be deviated from by the landlord, or closed permanently and reiterated that this reduced the weight that could be afforded as it was not something that could be controlled through the planning system.

Councillor McKeon maintained the objection on the basis of highway safety and loss of trade to local businesses.

The Principal DM Engineer advised that the application did not include the closure of the access, although it was incidental to the application. The access could be closed at any time and the applicants could occupy the building without any external changes and close the access with immediate effect. He advised that this was the fundamental aspect of whether an objection to the application would be successful and he did not believe that the alternative route proposed would be enough to convince a planning inspector that it there would be an unacceptable impact on highway safety.

Councillor Cairns advised that from experience the Newgate Centre would struggle with their customers and she advised the Agent that there were other options for the relocation of DWP. Bishop Auckland town centre was important to people who were struggling to understand how their town was going to exist.

Responding to the argument that the landlord could close the entrance at any time, Councillor Adam suggested that this would not happen as the owner would be aware of the impact this would have on businesses.

With regards to the retail sector, which the Council was trying to enhance in town centres, Councillor Adam advised that people should be encouraged to visit and closing the pedestrian access would have the opposite effect and push people away. This would create a real impact on local businesses and the proposed works would impact on people with mobility issues with those parking in disabled bays having to travel an additional 60 metres. In terms of highway safety, the proposed works would make the area more unsafe and it would certainly not enhance the retail sector, contrary to both national framework and the CDP.

Overall, Councillor Adam advised that the proposal would reduce footfall and impact businesses in the Newgate Centre and Fore Bondgate, and this led him towards rejection of the application.

Councillor Brown referred to the internal consultees and a lot of them were lamenting the access. She was very disappointed that regeneration had not responded as they could have responded to the reasons Members were leaning towards for rejection.

Councillor Atkinson advised that this town centre was crucial to Bishop Auckland and the objections put forward demonstrably outweighed the benefits of this application.

In response to Members, the Solicitor summed up the motion for refusal and advised that the application was not for a change of use, the DWP could move into the space immediately as there was no change of use required. The application was limited to external alterations and the installation of new plant, not whether there was an alternative location or a different layout to what was proposed. The Planning Officer had attempted to relocate the access that people were concerned about losing but the Applicant had advised that they were unable to do so. There was legally no restriction on the closure of the access, regardless of the likelihood, this was something that could temper the weight afforded to the retail impact identified.

With regards to the highway safety concerns, he had serious concerns on the sustainability of the reasons put forward by Councillor Quinn based on the advice given by the Principal DM Engineer and therefore he advised Members that this could open the Council up to costs if the Applicant were to appeal the decision.

Councillor Cairns left the meeting.

Councillor Adam queried whether antisocial behaviour would be a material planning consideration and the Solicitor advised that crime and disorder or fear of crime and disorder could be a material planning consideration

however the Planning Officer reminded the Committee that they were not considering a change of use as the use was permitted development.

Councillor Quinn advised that she stood by her decision to refuse the application on impact on the vitality of the retail centre and highway safety, seconded by Councillor McKeon.

Resolved

That the application be REFUSED.

Councillor McKeon left the meeting and did not return.

Councillor Cairns returned to the meeting.

c DM/20/03233/FPA - Land East Of Ornella View, Mickleton, Barnard Castle, DL12 0JY

The Committee considered a report of the Planning Officer with regards to the erection of a 4 bedroom detached dwelling at Land East of Ornella View, Mickleton, Barnard Castle (for copy see file of minutes).

The Planning Officer gave a detailed presentation which included site location plans, aerial photographs and photographs of the site.

Since the report had been published there had been two additional representations, one from Local Member, Councillor Henderson who did not object to the proposal and another objection regarding concerns for the standard of development suggesting that maintenance was required on a number of other properties owned by the Applicant.

Ms M Ferguson addressed the Committee on behalf of the Applicant and advised that the family originated from Mickleton and the proposed house was for them to live in and remain in following retirement. The family were dismayed by the objections from others in the village, but asked if Members would take note of the letters of support from local businesses.

The Councils planning policies supported small scale housing development in villages to make them more sustainable, supporting services, schools and shops. When the Applicant first wanted to apply for planning permission, he consulted with planning officers and submitted some design suggestions and was advised that the proposal would be acceptable in principle. The Applicant took on board the advice and recommendations of Planning and Design and Conservation officers.

Ms Ferguson advised that since submitting the application, the Design and Conservation Officer had taken great care in assessing the proposed development. Particular care had been taken in the assessment of the levels of the site and its surroundings and how they influenced the development, and its impact on the conservation area. None of the consultees had raised any objections to the scheme. The design of the proposed development was intended to reflect the agricultural history of the wider site and it would be built of traditional stone and slate with landscaping as required. The Planning Officer's conclusion was that the design was acceptable, would not be harmful to the conservation area and it complied with policies aimed at conserving historic environments.

Ms Ferguson referred to several objections regarding areas of protected open space in Mickleton, that were in former Teesdale Local Plan however this land was never a protected open space the site did not allow views out of the conservation area. The site was not isolated or in open countryside, it was situated within a village setting with other houses and buildings. A footpath ran from the main road to the west of the site, along Dale View housing estate, through a contractor's yard, and then along the rear of Belle Settle and Ornella View, all of which were clearly visible from it. It then ran along the rear of all the houses to the east of the site before running back onto the main road. A new house would be seen from the footpath, along with all of the other buildings and sites that were seen from it too. The houses to the south were over 50 metres away, so there would be no impact in terms of loss of light or privacy, even taking into consideration the difference in levels.

Councillor Brown noted that there was no mention of a construction plan and due to the fact the site was in a small village, she felt that it should.

Councillor Atkinson moved the recommendation to approve the application, seconded by Councillor Quinn.

Resolved

That the application be APPROVED subject to the conditions outlined in the report.

d DM/21/00500/FPA - Feryemount Nursing Home, North Street, Ferryhill, Co Durham

The Committee considered a report of the Senior Planning Officer with regards to refurbishment and modernisation of existing care facility, comprising 6no. apartments, 10no. resident bedrooms and 6no. staff accommodation rooms at Feryemount Nursing Home, North Street, Ferryhill, (for copy see file of minutes).

The Planning Officer gave a detailed presentation which included site location plans, aerial photographs and photographs of the site.

Local Member, Councillor Avery addressed the Committee in support of the application. He had lived in Ferryhill all of his life and represented the town at various levels in local government for 50 years. Feryemount had been built in 1972 to be the major care home in the town for the Council and had catered for 35 elderly people and 20/25 staff. It had served the community for many years until it closed in 2014 due to changes in care provisions. Since then it had stood empty being constantly vandalised by local youths.

Councillor Avery was delighted when eventually a sale looked possible after many false alarms. He had researched the application and found that similar projects had been very successful in Bishop Auckland and Chester-le-Street. There was obviously a need for these facilities and with the care package outlined by the Applicant he could see no reasons to not support the application.

Pregnant teenagers would have the best accommodation and care from care staff and be registered with local doctors and other facilities in Ferryhill. Any help the Council could give through the Area Action Partnership in Ferryhill would be supported. Councillor Avery was proud that this facility had chosen Ferryhill to locate and it was an ideal opportunity to help children through a very dramatic period in their life and give them a chance to succeed.

Mr C Kipling, spoke as the Agent on behalf of the Applicant and advised that in 2020 his client had instructed representatives to purchase the care home for redevelopment and the Council had advised during discussions that the property had to remain of class C2 use and it would not therefore require a change of use. There had been ongoing dialogue with the Planning Authority throughout the application and no objections had been raised by statutory consultees. He referred to a small number of public comments which mostly related to antisocial behaviour and criminal activity. A statement was released by the Applicant to confirm that residents would be children age 8-17 as well as teenage parents and their children. There would be employment and supplier opportunities for local businesses, as well as during the refurbishment.

The Applicant had advised that they wanted to work with local communities to alleviate any concerns from residents and integrate into the community. Mr Kipling advised that this was not a secure residential unit which would require a change of use and there was no evidence to assume there would be any antisocial behaviour. The home would be for children that required help and support who would be from a variety of backgrounds and it was not right to assume they would be difficult.

Following the Applicant's statement being submitted, only three further representations had been received, two in support and one in objection.

Mr Kipling advised that the application represented continued sustainable development for the refurbishment of an existing vacant building bringing significant investment to the area and was supported by Local Members. The applicant had met with Ferryhill Town Council to reassure them and he asked that the Committee approve the application.

In response to a question from Councillor Adam regarding traffic management and ensuring there was minimal disruption to the town centre during the refurbishment, the Senior Planning Officer advised that condition no. 5 required the submission of a management plan and any complaints about the works would be fully investigated and action taken if necessary.

Councillor Atkinson supported the application as it would bring an old, out of use building back into use and provide accommodation for vulnerable children. He moved the Officer's recommendation to approve and it was seconded by Councillor Quinn who confirmed that it was a fantastic facility to support young people in County Durham. She also suggested that the antisocial behaviour that had been an issue at this location would move on as there would be staff on duty.

Resolved:

That the application be APPROVED subject to the conditions outlined in the report.

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/01252/FPA
FULL APPLICATION DESCRIPTION:	Two shop units (Class E) and one hot food takeaway (sui generis) (opening hours for takeaway 9.00 - 22.00 Sunday - Thursday 9.00- 23.00 Friday and Saturday).
NAME OF APPLICANT:	Manjinder Jagpal
ADDRESS:	Adjacent to Spar Local, Unit, Jubilee Road, Shildon. DL4 2AL
ELECTORAL DIVISION:	Shildon and Dene Valley
CASE OFFICER:	Susan Hyde, Planning Officer, 03000 263961, susan.hyde@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

1. The application site is located in an established residential area some 750 metres to the south east, (915 metres on the road network) of the primary retail area of Shildon Town Centre. The area is characterised by residential estate housing dating back to the 1960's interspersed with areas of open space and playing fields.
2. The application relates to an open area of land on Jubilee Road situated between a single storey Spar local shopping unit to the east and community centre building to the west. At the eastern end of the small supermarket is an existing hot food takeaway (fish and chip shop). and to the north of the site is a communal parking area accessed from Jubilee Road. There is housing on the north side of Jubilee Road and to the south are open playing fields with further residential dwellings beyond.
3. The proposal involves the erection of 3 single storey commercial units of uniform size (approx.178 metres floorspace in total). Two units would be for general retail use falling within Class E of the use class order and the middle unit would form a hot food takeaway falling within a sui generis use. The submitted retail assessment clarifies that the proposed uses are likely to be a bakery, hair salon and hot food takeaway selling Chinese-style food. The proposed units would be linked to each other to form a detached terrace block. Pedestrian access to the recreation ground to the rear would be retained adjacent to the Community Centre. Each unit would have a shop front facing north onto the car park incorporating white aluminium windows and doors with roller shutters. The units would be constructed in red brickwork with pitched brown tiled roofing.
4. The application is being reported to the Planning Committee at the request of Councillor Townsend due to large number of takeaways in Shildon and also Shildon Town Council because of the potential impact on the health of residents, noise, odour and litter and the high number of takeaways already available in Shildon.

PLANNING HISTORY

5. In 2014 planning permission was granted for the change of use from education/training centre to 3 retail units and 1 storage unit (Amended Scheme) (DM/14/02130/FPA).
6. In 2015 planning permission was granted for the variation of condition 4 of Planning Permission DM/14/02130/FPA to allow deliveries between the hours of 08:00 to 18:00 Monday to Saturday only with no deliveries on Sundays/Bank Public Holidays (DM/14/02130/FPA)
7. Planning permission was granted for the Change of use from Retail (A1) to Hot Food Takeaway (A5) DM/15/01504/FPA on unit 3 (which forms the fish and chip shop to the east of the site). Condition 4 limited the hours of operation to 16:00 to 22:00 Sunday to Thursday or 16:00 to 23:00 Friday and Saturday inclusive of bank or public holidays.
8. In 2017 planning permission was granted for the variation of condition 4 of planning permission DM/15/01504/FPA to allow hot food takeaway to open during the hours 11:30 to 14:00 Monday to Saturday; 16:00 to 22:00 Sunday to Thursday and 16:00 to 23:00 Friday and Saturday (Ref DM/17/01129/VOC).

PLANNING POLICY

NATIONAL POLICY

9. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. In accordance with Paragraph 213 of the National Planning Policy Framework, the following elements of the NPPF are considered relevant to this proposal.
10. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
11. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
12. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity,

building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

13. *NPPF Part 7 Ensuring the vitality of town centres* - Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation
14. *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.
15. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 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.
17. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
18. *NPPF Part 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.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; climate change; determining a planning application; effective use of land; enforcement and post permission matters; flood risk; healthy and safe communities; land affected by contamination; land stability; natural environment; noise; town centres; use of planning conditions; and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan (CDP)

20. *Policy 9 – Retail Hierarchy and Town Centre Development.* This policy seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.
21. *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.
22. *Policy 29 Sustainable Design* - requires all development proposals to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
23. *Policy 30 Hot Food Takeaway* – seeks to control the proportion of hot food takeaway within identified centres to under 5% of the units. To promote healthy lifestyles in young people, proposals for A5 uses outside of defined centres but within 400 metres of an entry point of a school or college will not be permitted. Where a proposed A5 use is considered locationally acceptable, consideration will need to be given to the impact on amenity, particularly in relation to noise and odours.
24. *Policy 31 Amenity and Pollution* - 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. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated.

<https://www.durham.gov.uk/cdp>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. *Shildon Town Council* – Raise no objection to the two A1 shop units but object to the third unit for A5 Hot Food Takeaway use which should only be approved on the basis of A1 use.
26. It is considered important that residents of Shildon should be enabled to lead healthier and more active lifestyles and there is a link between obesity and unhealthy food choices. One way to address obesity is to limit access to unhealthy food choices by managing the number of takeaways and their location in Shildon.
27. A further A5 hot food takeaway will create an additional harmful impact on noise, odour and litter and there is a need to protect the amenity of the neighbourhood from increased disturbances. Furthermore, the Town Council does not want to see a cluster of A5 uses in this area along with shutters being down during key retail hours. It is important to maintain active frontages and an additional hot food takeaway will

have a negative impact on the vitality of the area making it less appealing and could lead to further anti-social behaviour.

28. Over 8% of premises within the allocated commercial area are for the purpose of hot food takeaway use and the Town Council want to limit the amount of takeaways in Shildon as a whole.
29. *Highway Authority* – There is a large car park to the front which should be adequate to accommodate the additional usage generated by the new units. No objection on highway grounds subject to a condition that requires the submission and approval of a construction management plan prior to commencing works, in the interests of road safety

INTERNAL CONSULTEE RESPONSES:

30. *Environmental Health (nuisance)* – Satisfied based on further information submitted regarding the kitchen extraction facility for the hot food take away and the positioning of the fan motor within the fabric of the building and attenuators that the application complies with the thresholds stated within the Technical Advice Note. This would indicate that the development will not lead to an adverse impact subject to a condition regarding noise to ensure the rating level of noise emitted from fixed plant/machinery on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB LAeq (15 mins) between 23.00-07.00.
31. *Environmental Health (Contaminated Land)* – No adverse comments given the location and nature of the proposal and following an assessment of historical maps and available information with respect to land contamination.
32. *Spatial Policy* – Requested a supplementary justification and rationale behind the proposal, in terms of why the town centre has not been considered first as a location for the retail units.
33. During the course of the application a 'Retail Statement' (RS) has been submitted on behalf of the applicant. This report states that the 3 units are likely to be occupied by a bakery, hair salon and hot food takeaway (likely to be selling Chinese-style food) respectively, and collectively would comprise just 180 sqm gross floorspace in total. It is recognised that there are a number of vacant units dispersed across Shildon Town Centre, but as the application proposals seek to serve a smaller catchment area focused upon the eastern side of the town where there are no defined local centres it is not considered appropriate for the new shops and hot food takeaway to be directed to locations within/on the edge of the town centre. It goes on to state that these new uses are best provided in locations which are conveniently accessible on foot from this core catchment area, where they can effectively meet some of the day to day needs of local residents. This would enhance the accessibility and availability of local level retail and service facilities on the eastern side of Shildon and would reduce the need for residents to travel elsewhere in the town and beyond, to meet these needs. It is further suggested that the impact on existing hot food takeaways within the town centre would be low.
34. The findings of the RS are broadly accepted by the Spatial Team, and in particular the case that the catchment which the units will serve is localised, and for that reasons, town centre locations have not been considered.

35. In light of this, the remaining consideration will be assessing the impact of the hot food takeaway element of the proposal (against Policy 30 of the CDP) and ensuring that this proposal will not cause disturbance to local residents.
36. *Police Architectural Liaison Officer* – No response received.

PUBLIC RESPONSES:

37. The application has been advertised by way of neighbour notification letters to the closest 17 properties and a site notice. No representations have been received (other than the Town Council objection highlighted above and the request for a committee consideration from Councillor Townsend).

APPLICANTS STATEMENT:

38. Mr Jagpal owns Ingleby Barwick Land and Property Developments, which is based in Stockton-on-Tees.
39. They are a successful business and have a large portfolio of properties ranging from takeaways, shop units, offices and domestic properties. Mr Jagpal runs this company efficiently and conscientiously and has broad experience of managing shops and takeaways, the fish & chip shop on Jubilee Road is a good example.
40. Mr Jagpal chooses tenants carefully in order that shops and takeaways are managed correctly.
41. Lichfields Uk were asked to produce a Retail Statement to show that there is capacity for an Indian or Chinese takeaway in this location, the completed survey proved this need.
42. Ingleby Barwick Land and Property Developments have proved that their properties are well maintained and we believe they will manage this proposed development in a diligent manner.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

43. 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 relate to the principle of development, highways, amenity/noise and odour, impact on the street scene, flooding and drainage, ecology and land stability.

The principle of the development:

44. 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.

45. The proposal therefore needs to be assessed for conformity with the CDP unless material considerations dictated otherwise. One such material consideration is the National Planning Policy Framework (NPPF).
46. Part 7 of the NPPF seeks to support the vitality of the town centres to: 'create the conditions in which businesses can invest, expand and adapt.' It goes on to say that 'significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.'
47. The NPPF seeks to support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation and advises Local Planning Authorities to pursue policies to support their viability and vitality (Para 85). Schemes should be located in town centres in the first instance, then in edge of centre locations and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered (para 86). Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale (Para 87). The accompanying Planning Practice Guidance (Paragraph: 011) notes that the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations, and a small convenience store catering for top up goods for nearby residents could potentially fall into this category.
48. Policy 9 (Retail Hierarchy and Town Centre Development) of the CDP seeks to protect and enhance identified retail centres and supports new town centre development across all of the County's centres that will improve choice and bring about regeneration and environmental improvements. With regards to the evening economy, Policy 9 supports proposals that would positively contribute to the evening economy provided that they contribute to the vitality and viability of town centres, promote public safety and accord with all relevant policies in the CDP. It also requires proposals for town centre uses not within a defined centre to provide a sequential assessment.
49. Paragraph 89 of the NPPF advises that retail schemes which are outside of town centres and not in accordance with an up-to-date Local Plan should be accompanied by an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500sqm). Policy 9 of the CDP specifies that proposals for retail in excess of 400 sqm (gross) convenience or comparison floorspace, outside of a defined centre, that could impact on Small Town or Local Centres, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG. In this case the floorspace proposed by this application (178 sqm gross) falls below this threshold, and the impact of the proposal on Shildon town centre does not need to be carried out.
50. Policy 30 (Hot Food Takeaways) of the CDP deals specifically with hot food takeaway uses. Aside from seeking to minimise the detrimental impacts of an over concentration of hot food takeaways within defined centres by imposing a 5% threshold to promote their vitality and viability, the Policy seeks to improve the wellbeing of residents in County Durham. In order to improve healthy lifestyles in

young people, proposals for hot food takeaways outside of defined centres but within 400m of an entry point of an existing school will not be permitted.

51. This proposal seeks to develop three relatively small retail units with a gross floor area of 178 sqm on land situated between an existing building containing a Spar Local and hot food takeaway and Jubilee Fields community centre. Two of the units are proposed to be for retail use (Class E), with the third to be used as a hot food takeaway (Sui Generis) and the proposed operators of the units are likely to be a bakery, a hair stylist and Chinese style hot food takeaway. The area of land is not situated within a defined centre (town, district or local centre) and the proposed siting on Jubilee Road is approximately 915m from the edge of the defined town centre of Shildon following the road network. This distance is more than double the acknowledged 400 metres distance for walking to conveniently access services. It is also relevant that there are no allocated local centres on the eastern side of Shildon.
52. Whilst the application for the two units has provided an indication of the likely end users as the units would remain within Use Class E this would provide the option of a range of services including a café, a professional institution such as a bank, a health service such as a dentist, or an office. Given the limited size of the units it is considered that these uses would serve the local area in Shildon and as such the generic use Class E is considered acceptable
53. Due to the limited floor area, distance from the town, and lack of defined local centres on the eastern side of Shildon it is accepted that the units would be focused upon meeting local need. The submitted Retail Assessment contends that it would not be appropriate for the new shops and hot food takeaway to be directed to locations within/on the edge of the town centre suggesting that these new uses are best provided in locations which are conveniently accessible on foot from this core catchment area, where they can effectively meet some of the day to day needs of local residents. This would also reduce the need for residents to travel to other facilities, elsewhere in the town and beyond, to meet these needs. It is also indicated that the impact on existing hot food takeaways within the town centre would be low.
54. The Spatial Policy team has carefully assessed the Retail Assessment and concurs with the view that the catchment which the units will serve is localised, and for that reason, town centre locations have not been considered. This is considered to accord with part 7 of the NPPF and Policy 9 of the County Durham Plan.
55. With regards to the hot food takeaway element of the application, and aside from seeking to minimise the detrimental impacts of an over concentration of hot food takeaways within defined centres, Policy 30 strives to improve the wellbeing of residents in County Durham. In order to improve healthy lifestyles in young people, the policy requires proposals for hot food takeaways outside of defined centres but within 400 metres of an entry point of an existing school to be refused consent. This proposed site is located some 480m from the nearest school (St. John's Church of England Primary School), with Greenfield Community College (Secondary School) further away. As such the minimum distance is met and this proposal is therefore compliant with this element of Policy 30 of the CDP regarding proximity to schools.
56. Where a proposed hot food takeaway is considered locationally acceptable Policy 30, goes on to state that consideration will need to be given to the impact that the development would have on the amenity of local residents with regard to noise, odour and disturbance. These issues are considered below in the section on residential amenity.

57. Accordingly, the principle of the development is considered acceptable with regard to Part 7 of the NPPF and Part 9 and 30 of the County Durham Plan subject to detailed consideration of the matters raised below.

Impact on the street scene/ Visual impact

58. Part 12 of the NPPF seeks high quality design, with paragraph 30 stating 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning documents' CDP policy 29 (Sustainable Design) seeks to ensure that all development proposals will achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions.
59. The application relates to the development of three retail units on land situated between an existing Spar Local and hot food takeaway building and Jubilee Fields community centre. The proposal infill building would respect the building line on the front elevation of the existing units and the eaves ridge heights would align with the existing single storey elements on these buildings. The depth of the 3 units would also be in keeping with the existing structures as would the general materials and the front elevations that would include shopfronts that provide an appropriate vertical emphasis to the units. The mass scale and design of the proposed building is therefore considered to be in keeping with the existing units and appropriate to its setting.
60. It is noted that Shildon Town Council has raised an objection to the potential for shutters over the hot food takeaway during the daytime. Officers concur that hot food takeaways tend to be open in the afternoon and evening. However, in this case the unit has a small shop front that would be situated adjacent to two general retail units. Although there is reference to the provision of shutter boxes on the submitted elevations no details of these have been provided with the application. These can be made the subject of a condition, requiring a perforated design which would help to provide some view of the shop front when the use is closed.
61. With regard to the associated extraction system for the hot food takeaway it is proposed that this would extend internally through the building and exit the rear slope of the roof on the rear elevation facing the playing fields. The height of the extraction system is shown to be below the ridge level of the building and the appearance of the extraction system is considered visually acceptable within the street scene.
62. The proposed materials are brick with a tiled roof and during the course of the application the facing material has been amended from a buff brick to a red brick to reflect the local building material in the wider area. A condition requires further details of the materials to be submitted.
63. Bin storage is proposed to be internal to the rear of each of the three units with the bins being taken to the front elevation of the units when being collected.
64. In terms of the overall impact of the proposed development on the street scene the units would be viewed as part of the existing group of buildings set back from Jubilee

Road with the car park in the foreground The additional frontage is relatively small with the existing community centre and Spar local having a frontage of over 58 metres and the proposed infill unit being only 12 metres. Access to the playing fields to the south is also retained with surfaced paths being provided adjacent to the community centre.

65. The design, siting, mass and materials of the proposed building is therefore considered acceptable subject to a condition controlling precise details and would comply with Policy 29 of the CDP and Part 12 of the NPPF.

Access and Highway Implications

66. NPPF Part 9 seeks to ensure that development is only prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
67. Policy 21 of the CDP seeks to ensure 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 congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. New developments should provide for appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users.
68. Policy 29 also places great importance on safe sustainable modes of transport, in the following order of priority: those with mobility issues or disabilities, walking, cycling, bus and rail transport, car sharing and alternative fuel vehicles.
69. The existing vehicular access and communal parking arrangements serving the site would not change as a result of the proposed development. The Highway Authority has raised no objection to the application and consider that the access and parking is adequate for the additional units. One condition has been requested relating to the construction phase of the development to ensure that the existing access and parking is not impeded, and that highway safety is maintained.
70. Pedestrian access to the site would remain unaffected through the parking area. The site is also within 100 metres of 2 bus stops located on both sides of Jubilee Road. The site is therefore considered to be a locally sustainable site.
71. The proposal would satisfy the provisions of Part 7 and 9 of the NPPF and policy 21 of the CDP.

Residential Amenity / Amenity of neighbouring uses.

72. Paragraph 127 of the NPPF states that developments should create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users. Para. 180 of the NPPF specifies that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

73. Policy 29 of the CDP seeks to secure high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy 31 also states that where it is considered that the proposal would give rise to unacceptable impact, the application should be refused.
74. Shildon Town Council has raised an objection and considers that given the nature of the use and the hours of operation, the proposal would result in unacceptable disturbance from noise and odour, to the detriment of residential amenity and would also result in an increased risk of antisocial behaviour and crime arising from youths and young people congregating at the unit itself.
75. The main sensitive receptors in this case are the existing residential properties opposite the site on Jubilee Road to the north that would have a principal elevation facing the proposed building at a distance of 37 metres with a car park and road between. The proposed hours of operation of the hot food takeaway are between 9.00am – 11.00 pm. The retail units are proposed to open between the hours of 8.00am – 9pm. As noted there is already an established convenience store and a fish and chip shop to the east of the site. The convenience store is currently advertised as being open from 6am – 10pm every day of the week and the fish and chip shop from 4pm - 10pm every day, with additional lunch time opening, except Sunday when it is closed. It is however noted that planning consent for the existing hot food takeaway allows hours of operation to 16:00 to 22:00 Sunday to Thursday or 16:00 to 23:00 Friday and Saturday inclusive of bank or public holidays. Given the above it is considered reasonable for the proposed hot food takeaway to adopt similar hours to the existing takeaway to reduce night time noise and for the two retail units to have maximum hours to align with the hot food takeaway, with an earlier start time of 8am.
76. The Environmental Health Officer has noted that there is odour relating to the existing hot food takeaway and noise from the existing refrigeration condensing units and extractor fans serving the existing buildings and businesses on site. Therefore, it is reasonable to assume the existing businesses are having an impact on the area from both noise and odour.
77. At the request of the Local Planning Authority the applicant has provided further details of the proposed kitchen extraction system including the positioning of the fan motor and attenuators to be installed within the fabric of the building. Having reviewed these details the EHO has advised that as the equipment is contained within the building this will mitigate against any additional noise in the locality.
78. Whilst further information on odour abatement is still required the EHO considers that this can be conditioned, so that the necessary details are provided based on the specifics of the proposed takeaway.
79. The Town Council has also raised concerns about the noise potentially arising from additional vehicle movements to and from the site. However, it is likely that any increase in this regard would be heard in the context of the existing establishments on the site and Jubilee Road that forms an arterial estate road and route between Spout Lane and Albert Street which is used by a range of vehicles including buses. In addition, the level of use proposed is likely to be comparable to that which would be generated through the permitted use of the site as a hot food takeaway and retail unit – especially if the hours of operations coincide. Consequently, any increase in noise is likely to be limited and not sufficient in this instance to sustain a reason for refusal of the application.

80. As regards to antisocial behaviour, it is accepted that in some cases small parades of shops can become a focal point where groups of young people may congregate. Whilst this can be intimidating, particularly for older residents, there is no evidence to suggest that a takeaway would be any more likely to generate behaviour of this nature than the permitted take away use on site or the retail use. It is noted however that the site benefits from street lighting to its northern boundary and has an open aspect in the wider area that may help to deter such behaviour. (The Police Architectural Liaison Officer was consulted on the application, but no comments were received.) Despite the concerns raised it is not considered that issues of antisocial behaviour and the fear of crime form sufficient material planning grounds to sustain refusal of the application.
81. Subject to the conditions stated relating to hours of operation and the submission and the agreement of extraction equipment it is considered that the proposal would therefore satisfy Policy 29 and 31 of the CDP and Part 15 of the NPPF.

Other Matters

82. With regard to Policies 35 and 36 in the CDP on drainage and water management the application site is not located in a flood risk area and the retail units are proposed to be connected to the mains systems for foul and surface water. Given the limited area of land ownership the applicant is not able, in this case, to undertake sustainable drainage within his land ownership.
83. The application site is not located in an area of high-risk former coal mining and the Environmental Health Officer (Contaminated land) has raised no objection. There are therefore no issues relating to land stability or contamination in accordance with Policy 29 of the CDP and Part 15 of the NPPF.
84. Shildon Town Council has also raised concerns about the hot food takeaway potentially creating litter in the area. It is noted on site that there are litter bins in the vicinity of the retail units and whilst litter can be an issue around food establishments at times there is no certainty that this will arise. This is affected by a number of variables including personal behaviour and the food produced. For instance, should a Chinese style takeaway occupy the unit this is more likely to produce food to be eaten at home rather than consumed on the street. As such it is not considered that litter raises a material concern that would sustain a reason for refusal.

CONCLUSIONS

85. The application is to be determined in accordance with relevant policies set out within the CDP and therefore the application falls to be determined in accordance with Paragraph 11c of the NPPF which requires applications which accord with an up-to-date development plan to be approved without delay.
86. The principle of development has been carefully considered having regard to the location of the site and relevant policy context including the submitted Retail Assessment. This has led to the conclusion that the small-scale retail units (combined floor area below 180m²) would serve a predominantly local area in East Shildon, and would not have a material impact on Shildon town centre.
87. The scale, mass, materials and design of the single storey units are considered satisfactory and in keeping with the existing buildings on site and the wider area. Details of materials and shutters form the subject of planning conditions.

88. A careful assessment of the impact on residential amenity has been undertaken and the hours of operation have been reduced on the proposed hot food takeaway to align with the existing hot food takeaway on site. Further details of the extraction system have also been received during the course of the application to demonstrate that neighbouring occupiers would not be detrimentally affected by noise. With regard to odour a condition is proposed to require full details of the extraction system to be submitted and agreed. No concerns have been raised by the nearest residents with regard to the impact of the development.
89. Adequate vehicular access and parking is available on site, which can be adequately drained, and is not considered to be unstable for construction purposes.
90. The proposals are therefore considered to satisfy the provisions of Parts 2, 4, 6, 7, 8, 9, 11,12, and 15 of the NPPF and in particular Policies 21, 29, 30, 31, 35, 36, of the CDP. The application is recommended for approval subject to the following conditions.

RECOMMENDATION

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

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

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

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

Location plan Drawing no. 20841 – 04 Received on the 9th April 2021

Proposed site plan Drawing no 20841 - 01A Received on the 13th September 2021

Proposed floor plans Drawing no 20841 - 02A Received on the 13th September 2021

Proposed elevations Drawing no 20841 - 03A Received on the 13th September 2021

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

3. Before the development commences a construction management plan shall be submitted to the Local Planning Authority and approved in writing. The details shall clarify how the construction phase of the development shall be managed to ensure that the impact on parking, highway safety and residential amenity is minimised.

Reason: In the interests of residential amenity and road safety in accordance with Policy 29 and 31 of the County Durham Plan and Part 9 and 15 of the NPPF.

4. The use of the hot food takeaway use shall not commence until details of the odour extraction system have been submitted to the Local Planning Authority and approved in writing. The odour extraction system shall then be implemented in accordance with the agreed details. The submitted details shall include the requirement to maintain the odour extraction system, ensure it is in use whenever the hot food takeaway is in operation and switched off at all times the use is closed, and the maintenance of the system. The approved noise attenuation scheme shall then be implemented in

accordance with the approved details including the retention and maintenance of the system.

Reason: In the interests of the amenity of the neighbouring residents and properties in accordance with Policy 29 and 31 of the County Durham Plan and Part 15 of the NPPF.

5. Before the use of the hot food takeaway commences details of noise attenuation of the extraction system shall be submitted to the Local Planning Authority and approved in writing. As detailed in the agents email of the 2nd August 2021 the submitted details shall include the position of the fan motor and attenuators in the proposed extraction system within the roof space of the hot food takeaway. The submitted details shall also include the requirement to maintain noise attenuation, ensure it is in use whenever the hot food takeaway is in operation and the maintenance of the system. The approved noise attenuation scheme shall then be implemented in accordance with the approved details including the retention and maintenance of the system.

Reason: In the interests of the aural amenity of residents and neighbouring properties in accordance with Policy 30 and 31 of the County Durham Plan and Part 15 of the NPPF.

6. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014+A1: 2019. On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.

Reason: In the interests of the amenity of the neighbouring residents and properties in accordance with Policy 29 and 31 of the County Durham Plan and Part 15 of the NPPF.

7. Notwithstanding the submitted details the hours of operation of the hot food takeaway (sui generis use) shall not take place outside the hours of 09.00 to 22:00 Sunday to Thursday and 09:00 to 23:00 Friday and Saturday inclusive of bank or public holidays.

Reason: In the interests of residential amenity in accordance with Policy 31 of the County Durham Plan and Part 15 of the NPPF.

8. Before the development is above damp-proof course level details of the external building materials shall be submitted to the Local Planning Authority and approved in writing. These shall include a red brick for the walling and perforated shutters in front of any shop window. The building shall then be constructed in accordance with the approved details.

Reason: In the interests of visual amenity in accordance with Policy 29 of the County Durham Plan and Part 12 of the NPPF.

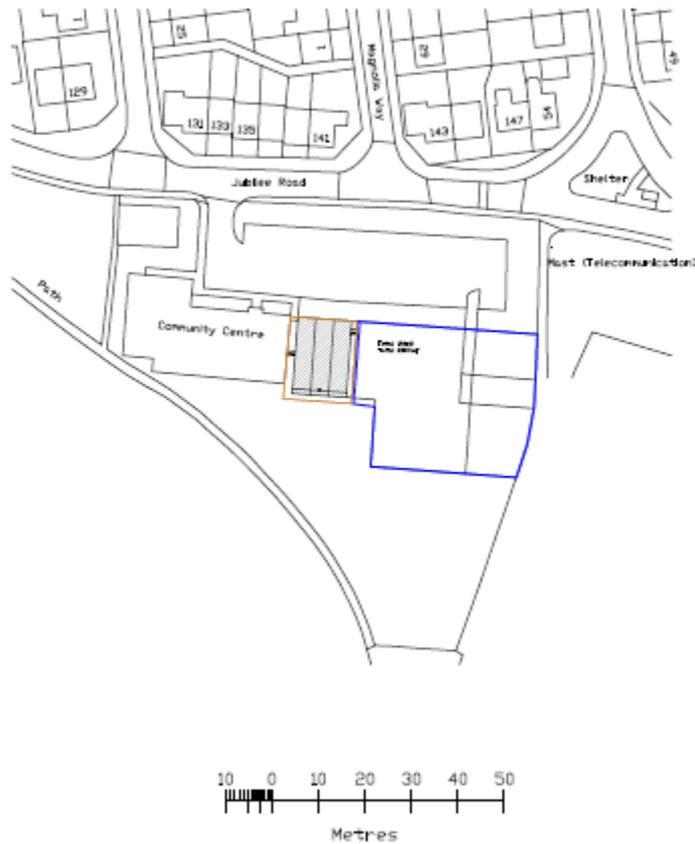
9. Notwithstanding the submitted details, the hours of operation of the 2 Class E units shall not take place outside the hours of 08.00 to 22:00 Sunday to Thursday and 08:00 to 23:00 Friday and Saturday inclusive of bank or public holidays.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Statutory consultation responses
Internal consultation responses
External consultation responses



<p>Planning Services</p>	<p>DM/21/01252/FPA Two shop units (Class E) and one hot food takeaway (sui generis)</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Comments</p>	
	<p>Date September 2021</p>	

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/20/02379/FPA
FULL APPLICATION DESCRIPTION:	Construction of residential dwelling and associated commercial dog kennels
NAME OF APPLICANT:	Mrs Joy Johnson
ADDRESS:	Land To The South West Of High Terrace Roddymoor DL15 9RA
ELECTORAL DIVISION:	Tow Law
CASE OFFICER:	Adam Williamson, Planning Officer, 03000 260826, adam.williamson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to an area of open agricultural land, located approximately 70m to the south west of the residential terrace of High Terrace, Roddymoor. The site measures approximately 1400 sq metres in area and is largely made up of a grassed area, used as grazing land, with a hard surfaced turning head at its eastern end. Mature trees are present to the northern and southern boundaries with additional grazing land beyond. To the east of the site, approximately 38m away is an agricultural building which is under construction.
2. The site is accessed via an unsurfaced track which measures approximately 77m in length, extending from High Terrace. The application site slopes upwards to the west, with the site being higher than the level of the access road.
3. There are a number of Public Rights of Way in the vicinity of the application site, with PROW no. 43 (Crook) passing through the eastern side of the site along the access road. Public Right of Way no. 164 (Crook) passes along the northern boundary and eastern boundary of the site. Public Right of Way no. 44 (Crook) passes approximately 43m to the south of the application site.
4. There are no designated heritage assets within 1 Km of the application site, nor does the site lie within a designated landscape.

Proposal

5. Planning permission is sought for erection of a kennels building and an associated dwelling, for the purposes of the operation of a dog breeding business. Both buildings would be located in the western corner of the site, forming a 'U' shape.

6. It is proposed that the dwelling would consist of a 3-bedroom detached property, measuring 16.5m in length, 7.4m in width and ridge height of 6m. The dwelling would be constructed from larch cladding to the ground floor, with corrugated cement sheeting to the 1st floor and roof. The dwelling is proposed to sit within a large, gravelled area, with sandstone paving around the perimeter of the dwelling. A concrete apron to the kennels is proposed, while a 900mm high post and rail fence would enclose the site.
7. The proposed kennels would adjoin the eastern elevation of the dwelling and would measure 15.5m x 4.6m with a ridge height of 4m. The external walls are proposed to consist of timber cladding with a corrugated cement roof. Internally the building would have 10 no. kennels, with the kennels being open to the southwestern elevation.
8. A small office block is also proposed adjoining the kennel building, which would measure 9.1m x 4.6m and have a mono pitched roof, measuring 4m to the highest point. The external walls are again proposed to consist of in timber cladding with a corrugated cement roof. The building would contain an office, kitchen, lobby and quarantine area.
9. The application has been called to committee at the request of Councillor Manchester, to allow for consideration of the applicant's business case by the Committee.

PLANNING HISTORY

10. At present, the applicant currently operates her dog breeding business from a property in Roddymoor, approximately 200 metres from the applications site operating since 2013. At the time of submitting this application, the applicant has a detached kennel building sited within the detached rear garden to the rear of the property. This kennel building contains 8 kennels with 8 dogs and is understood to have been constructed in 2012. A dog breeding licence issued by the Council's Animal Health department allows up to 10 litters per year, however it is advised that only two litters a year are bred. There have been no complaints to the Councils Planning Enforcement Team, or to the Councils Public Protection Team in respect of the current operation from the applicants dwelling.
11. Given the timeframe from the construction of the kennels, it is considered that these would be immune from enforcement action. Furthermore, based on the current level of operation and level of harm, it is considered that that the activities at the site are likely to be ancillary to the residential use of the dwelling, and have not resulted in a change of use requiring planning permission.

PLANNING POLICY

NATIONAL POLICY

12. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
13. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It

defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

14. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
15. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. *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.
17. *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.
18. *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.
19. *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.
20. *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.
21. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing

development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

22. 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; air quality; climate change; design process and tools; determining a planning application; effective use of land; enforcement and post permission matters; flood risk; healthy and safe communities; land affected by contamination; land stability; natural environment; noise; rural housing; use of planning conditions; and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan (CDP)

23. *Policy 6 (Development on unallocated sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
24. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
25. *Policy 12 (Permanent Rural Workers' Dwellings)* sets out the criteria needed to demonstrate the acceptability of a new permanent agricultural, forestry and other rural workers' dwellings outside the built-up area. These criteria include: details of the nature and demands of the work that demonstrate an essential functional need for a permanent full time worker to live on site; details that the rural business activity has been established for at least three years and is financially sound; the proposed dwelling should not be harmful to the landscape and character of the area; the scale of the dwelling should be commensurate with the functional requirement; the functional need cannot be fulfilled by another existing dwelling in the unit or area. If planning permission is to be granted, it must be subject to an occupancy condition and removal of householder permitted development rights. Further provisions for temporary accommodation and removal of occupancy conditions.

26. *Policy 21 (Delivering sustainable transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
27. *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.
28. *Policy 31 (Amenity and pollution)* sets out 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 they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
29. *Policy 32 (Despoiled, degraded, derelict, contaminated and unstable land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
30. *Policy 35 (Water management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
31. *Policy 36 (Water infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defense infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
32. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

33. *Policy 40 (Trees, woodlands and hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
34. *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.

<https://www.durham.gov.uk/cdp>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

35. *Highways Authority* - Advise that the vehicular access route between the site and the wider highway network is slightly shorter and more legible/direct via the public highway that runs east from the existing site access junction. It also avoids the Chestnut Grove/Oak Gardens etc housing estate and the existing site access junction is angled to facilitate such movements rather than via High Terrace. The bulk of vehicular movements generated by the new dwelling and business are deemed likely to use this route between the site and B6298, ie eastwards from the site access junction. The 170m highway link leading east from the site access junction is subject to a substandard carriageway width. If planning permission is granted then a condition for the provision of a passing place within this link should be attached.
36. *The Coal Authority* - Advise that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures. It is recommended that should planning permission be granted for the proposed development, a conditional approach to secure intrusive ground investigation works should be adopted, in order to ensure the safety and stability of the development site.

INTERNAL CONSULTEE RESPONSES:

37. *Environmental Health Public Protection (Nuisance)* - Advise the development is likely to breach the thresholds within the TANS, Noise TANS section 3.7 pg. 18. This indicates that the development may, without further controls, lead to a significant impact. However, the applicant has specified that provision is to be made for the control of noise emanating from the proposed development, including details management, layout and/or structural measures that will be implemented.
38. Noise associated with the vocalisation of dogs in commercial kennels can give rise to statutory nuisance to nearby sensitive receptors. However, it is considered that subject to conditions to fully agree management plans and structural measures this would mitigate the potential of a statutory nuisance and therefore no objection is raised to the development.
39. *Environmental Health Public Protection (Contaminated Land)* - Following assessment of historical maps and available information with respect to land contamination and the submitted screening assessment form, it is advised that there is no requirement for a contaminated land condition.

40. *Public Rights of Way*- Advise that the proposed access would use Footpath 43 from the North- East, any improvements required for vehicular use and future maintenance for either footpath surface should be well compacted and well drained and should be suitable for pedestrian use. There is no objection to a passing place alongside a footpath, where a footpath is used as the primary access route.
41. *Ecology* - Advise that a Preliminary Ecological Appraisal is required to assess the potential impact on protected species. Depending on the results of the survey mitigation measures may be required, net gains in biodiversity should also be achieved by the development.

PUBLIC RESPONSES:

42. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents. Following this publicity, 7 letters of objections have been received, as summarised below.
- The objections received state that proposal will cause noise disturbance to nearby residents from the number of dogs barking resulting in nuisance to neighbouring residents.
 - Comments have been made that the land was previously used for Coal Mining and as such the land may be unstable.
 - Objections state that the use of the site for kennels will cause an unacceptable impact in terms of smell from animal waste.
 - Comment has also been made that the proposal will devalue nearby properties
43. 12 letters of support have also been received. The comments state that the proposal will provide local jobs, that neighbours foresee no noise issues, and that there is no existing noise nuisance from the applicant breeding dogs in her home.

APPLICANTS STATEMENT:

44. I became involved with Bull terriers in 1994, showing, breeding and then eventually judging, all to the highest Championship standard. In 2001 I made up my first Champion and with him won Best of Breed at Crufts, this catapulted my kennels fame to the fore front of the breed and I have worked hard since to keep it there, further wins over the years include;
45. Twice winner of the Sandawana Trophy for top coloured Bull terrier in the country, Top puppy and Stud dog in the country awards, a dog of my breeding this year won the prestigious Regent Trophy for Bull Terrier of the year which is the highest accolade any Bull Terrier can win from a breeders point of view. I have made up or bred 7 UK Champions, 15 allocated KC stud book numbers for high achieving dogs that didn't quite make champion and numerous foreign champions across the world.
46. I am a qualified Animal Nursing Assistant and worked as a veterinary nurse for 15 years between 1992 & 2007. I was secretary of the local breed club society for several years and currently hold a highly sought after position as a committee member of 'The Bull Terrier Club' which is the mother breed club, overseeing the breed in the UK. I am a Kennel Club Assured Breeder holding the highest level of accolades offered by the scheme. Also a DCC licensed Breeder holding a 5 star rating.
47. In 2012 I found myself with more time to dedicate to my dogs and with an ever increasing demand for my puppies I became registered with HMRC as a sole trader.

48. In 2015 after years of study, judging qualifications and assessments I was awarded the top honour as a international judge to award Challenge Certificates by the Kennel Club, this increased my reputation further and lead to several overseas judging appointments a year, I regularly judge across Europe, Scandinavia and Australia as well as appointments in the UK.
49. After the new dog breeding regulations came into play in October 2018 I applied to become a licensed breeder to keep in line with the law. In July 2019 my application was successful and my breeding license was granted by Durham County Council at a 5 star rating. Under the new law this means I can breed over 2 litters per year, however due to the strict guidance I am limited by space. I feel for my business to reach its full potential I need bigger premises, I simply don't have the space needed indoors to have more than 1 litter of puppies on the premises at a time, to correctly rear my puppies to the high standard I am accustomed to they must be reared in doors. The breed I have must be watched 24/7 for the first 2 to 3 weeks to avoid heavy losses, after this it's important for the puppies socialisation and mental development that they are raised in an indoor environment with 24 hour care at hand. I have 8 kennels in my current outdoor kennel building, they currently house my old retired girl, an old, un rehomeable girl for Bull Terrier welfare, 1 stud dog on loan from America, 1 miniature breeding bitch, 2 standard breeding bitches and 2 male puppies I am hoping make the grade as show/stud dogs. I have 2 six week old puppies and their mother in the house. I am currently full to capacity and only able to breed 2 litters a year without overcrowding both my indoor and outdoor space.
50. I have a huge demand for my puppies, today alone I have 4 puppies enquiries all of which I have passed on to breeders with litters from the stud dog I have here as my waiting list is currently (at my current rate of supply) approximately 2 years long. There is no scope at my current address for expansion and don't want my dogs to become a problem for my neighbours.
51. I propose building a new, a purpose built breeding facility, inline with DEFRA dog breeding regulations with modest living quarters, allowing me to be on site at all times as required by my breeding license (see attached reference link to The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – see Part A, condition 5.9 and 10.4 Higher Standard for A competent person must be on site at all times. Also Part B, condition 2.2 and 2.5 for space restrictions as described below).
52. This would provide me with room to increase numbers sufficiently to keep up with demand and allow me to turn a more reliable profit, whilst keeping my high standards of care and give my dogs the space and quality of life they require. With separate purpose build whelping rooms fitted with incubators, whelping boxes and resting areas for mums, this would allow me to breed more 1 litter at a time.
53. Bitches living together sync so they all come into season at the same time approximately 6 months apart, so twice yearly. Although I can legally have more than 2 litters a year this season timing and issue with space is making very difficult to do so, factor in that the girl I choose to breed doesn't always become pregnant, I often don't even have 2 litters per year if a breeding is unsuccessful, its proving most frustrating as I know given more space I could breed more than 1 bitch at a time, increasing my number of successful pregnancies and not continually letting down potential puppy buyers. It would also allow me to keep stud dogs, at present I loan 1 stud dog at any 1 time to use on my girls, any stud fee's this dog then makes from other breeders using him at stud goes to the owner not myself. I only have space for 1 adult male in my current situation; however it makes much more financial sense to own my own males.

54. I own a site of approximately 6.5 acres on the edge of Roddymoor village, adjacent to High Terrace. I currently can't utilise this space effectively as I must be on site to see to the dogs daily care as part of my license agreement and of course my own peace of mind, my dogs are too vulnerable and valuable to leave unattended. I would like to build my facility on this site with your approval.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

55. 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 relate to the principle of development, locational sustainability, landscape/visual impact, local amenity, highways, ecology, flooding and drainage, ground conditions, and other matters.

Principle of the development

56. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.
57. Policy 6 of the CDP recognises that in addition to the development of specifically allocated sites, there will be situations where future opportunities arise for additional new development over and above that identified in the Plan, this includes for employment and economic generating uses. Policy 6 sets out that the development of sites which are not allocated in the Plan which are either (i) in the built up area; or (ii) outside the built up area but well related to a settlement will be permitted provided the proposal accords with all relevant development plan policies and where specified design criteria are met.
58. The County Durham Plan defines 'the built up area' as land contained within the main body of existing built development of a settlement, or within a settlement boundary defined in a Neighbourhood Plan. Areas falling outside this definition will be regarded as countryside. The site lies outside of Roddymoor and it is not well related to the settlement, and as such it is considered to be situated in the countryside. As such no support for the development can be drawn from CDP Policy 6.
59. The suitability of the principle of development therefore needs to be assessed under County Durham Plan Policy 10, which relates to development in the countryside and advises that development will not be permitted in the countryside unless allowed for by specific policies in the Plan (including Policy 12 relating to rural workers dwellings) or where the proposal comprises an exception related to economic development, infrastructure development or the development of existing buildings. Policy 10 also establishes general development principles for development within the countryside, which is considered in detail in later sections of the report.

60. In this respect the proposed development due to its nature does not satisfy the exception criteria related to infrastructure development or the development of existing buildings. In relation to economic development, Policy 10 permits development necessary to support:-
- a. an existing agricultural or other existing rural land-based enterprise or associated farm diversification scheme, including the provision of new or the extension of existing building(s), structures or hard standings required for the functioning of the enterprise;
 - b. the expansion of an existing business falling beyond the scope of a rural land based enterprise, where it can be clearly demonstrated that it is, or has the prospect of being, financially sound and will remain so;
 - c. the establishment of a new agricultural or other rural land based enterprise which clearly demonstrates an essential and functional need for that specific location and where it can be clearly demonstrated that it has the prospect of being financially sound and will remain so; or
 - d. the undertaking of non-commercial agricultural activity which is located within or directly adjoining the applicant's existing residential curtilage which is of a scale commensurate to the incidental enjoyment of that existing dwelling.
61. The application states that the proposed development is required to facilitate the care of dogs bred at a purpose-built kennel facility, with a dwelling to provide care/supervision. At present the applicant is a licensed breeder and currently breeds 2 litters of Bull Terriers per year, which she does from her property in Roddymoor. However, the applicant states that there is insufficient space to house more than 1 litter at a time. The applicant has 8 kennels at her home, and states that she has demand for her dogs, with a current 2 year waiting list. The proposed scheme seeks the erection of a dwelling and kennel facility to enable the applicant to increase numbers of puppies reared and a 10 bay kennel facility to provide accommodation to provide 24 hour care for dogs on site, with ancillary office/ facilities.
62. In assessing the proposal against the economic development criteria of Policy 10 of the CDP, it is considered that the development could not be considered a diversification scheme related to an existing agricultural or rural land-based enterprise and therefore not supported by Policy 10 criteria a.
63. The proposals also do not represent the expansion of an existing business in this location (recognising that the applicant's business is located within the current dwelling) and is therefore not supported by Policy 10 criteria b.
64. In relation to Policy 10 criteria c, whilst it can be preferable for kennel type uses to be located away from residential areas, it is considered that proposed operations do not consist of a new agricultural or other rural land based enterprise by nature and therefore draw no support from criteria c. The functional need and financial viability of the business are considered further below.
65. The development is located away from the applicants dwelling and therefore draws no support from Policy 10 criteria d.
66. Overall it is considered that in principle the formation of a new commercial kennels enterprise in the countryside is not supported by Policy 10 of the County Durham Plan.

67. Policy 12 of the CDP specifically relates to the erection of rural workers dwellings, setting out that isolated new houses in the countryside require special justification for planning permission to be granted. One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time rural workers to live at, or in the immediate vicinity of, their place of work. It will often be as convenient and more sustainable for such workers to live in nearby towns or villages, or suitable existing dwellings, so avoiding new and potentially intrusive development in the countryside.
68. However, there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to, the site of their work. Whether this is essential in any particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved.
69. It is therefore essential that all applications for planning permission for new occupational dwellings in the countryside are scrutinised thoroughly with the aim of detecting attempts to abuse (eg through speculative proposals) the concession that the planning system makes for such dwellings. In particular, it will be important to establish whether the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period of time. It will also be important to establish that the needs of the intended enterprise require one or more of the people engaged in it to live nearby.
70. Policy 12 of the County Durham Plan sets out that proposals for new permanent agricultural, forestry and other rural workers dwellings outside the built up area will be permitted provided it can be demonstrated that:
 - a. the nature and demands of the work involved means that there is an essential existing functional need for a permanent full time worker to live at, or very close to, the site of their work in order for the enterprise to function effectively, or the dwelling is required to accommodate a person with majority control of the farm business;
 - b. the rural business activity has been established for at least three years, is currently financially sound as verified by a qualified accountant, and has a clear prospect of remaining so;
 - c. the proposed dwelling is not harmful to the rural landscape and character of the area and is physically well related to the activities required;
 - d. the scale of the dwelling is commensurate with the established functional requirement of the enterprise; and
 - e. the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.
71. There is no definition in planning of what employment constitutes a rural worker, however case law indicates that it is generally a person working in agriculture, fish farming, an equestrian enterprise, or forestry. It is considered that the occupation of a dwelling by a dog breeding kennel owner/worker and a new enterprise would not fall under the criteria of a rural worker set out in Policy 12 of the CDP or Paragraph 80 of the NPPF and as such the erection of a dwelling on the site for a kennel worker fails

the first test of Policy 12 of the County Durham Plan. Nevertheless, for completeness the application will be assessed against the criteria of Policy 12 of the County Durham Plan below.

72. Part a. of Policy 12 of the County Durham Plan states that the nature and demands of the work involved means that there is an essential existing functional need for a permanent full time worker to live at, or very close to, the site of their work in order for the enterprise to function effectively, or the dwelling is required to accommodate a person with majority control of the farm business;
73. Whether or not a worker needs to live on site is a matter of judgement based on factors such as the frequency of out-of-hours problems, the ability of a resident worker to identify and address those problems, the severity of loss if they are not addressed and the potential for notification of problems to a worker living off site (by alarms, for example).
74. At present, the applicant owns and resides in a property approximately 215 metres to the north east of the application site. The applicant states that new litters of puppies require 24/7 care for the 2- 3 weeks after birth and after that it is important for puppies to be raised in an indoor environment for their physical and mental development. The applicant states that she has a large demand for her puppies, and she currently has 8 kennels at her property housing 8 dogs and is only able to breed 2 litters a year without overcrowding both the indoor and outdoor space.
75. Limited evidence has been submitted as to why the care of puppy litters must be provided by persons occupying a dwelling on the site, rather than by a night time worker occupying a staff room in the kennel block, or why the applicant cannot undertake this care given the close proximity of her existing dwelling which is just over 200 metres from the site. It may be the case that a night time worker may not be a suitably qualified animal carer to administer medication if required, but the person could contact the owner who lives close to the application site and could be on site quickly if she was required to be.
76. It is also not clear what percentage of the year 24 hour care is required between litter cycles, or beyond the at risk age of 1-3 weeks, with puppies generally not re-homed around 8 weeks old. It is acknowledged that animal welfare is a key consideration, however insufficient evidence has been submitted to demonstrate that a breeding kennels could not operate effectively with the applicants current living arrangements, or without a permanent presence on the site. As such it is considered that criterion a. of Policy 12 requiring a functional need to be demonstrated has not been met from the information submitted.
77. Part b. of Policy 12 of the County Durham Plan states that the rural business activity has been established for at least three years, is currently financially sound as verified by a qualified accountant, and has a clear prospect of remaining so. The applicant states that she has been breeding Bull Terriers since 2012 and has been a licenced breeder with Durham County Council since July 2019. No financial details from a qualified accountant have been submitted, however the applicant has submitted summaries of past accounts showing a profit of just over £7,000 per annum from the current operation.
78. It is not clear if the dog breeding is the applicant's sole source of income, however a profit of just over £7000 does not meet the level needed for the business to be considered as financially sound. The applicant has provided business projections for the next three years. Year 1 would make a small profit, with larger profits expected in years 2 and 3. The projected profit in year 1 is just above the gross average UK salary

of £26.5k, in years 2 and 3 the gross profit rises to over £68,000. Concerns are raised at this assumed growth rate and whether this realistic and sustainable in the long term particularly as the submitted details also state that it is the intention for the breeding business to employ 3 full time employees. The submitted financial information makes no allowances for the wages of these employees in the proposed outgoings. It is also noted that these figures also do not include any mortgage costs to build the property and kennel block, or utility bills.

79. Given the above, it is considered that insufficient details have been submitted to demonstrate that the business activity has been established for at least three years at a profitable level, is currently financially sound, as verified by a qualified accountant, and has a clear prospect of remaining so, and as such the proposal fails the test of part b. of policy 12 of the County Durham Plan.
80. Part d. of Policy 12 of the County Durham Plan states that the scale of the dwelling must be commensurate with the established functional requirement of the enterprise.
81. The submitted plans show the proposed dwelling to have a floor area of 193 square metres, this representing a relatively large detached dwelling in the countryside. It is considered that the size of the dwelling is excessive for the scale of the operation proposed if indeed a functional need could be demonstrated. Concerns are also raised regarding whether the dwelling proposed could be constructed out of the profits from the business. The size of the dwelling has not been demonstrated as affordable based on the income projections provided given the omitted running and staff costs in the financial information.
82. Part e. of Policy 12 of the County Durham Plan states that the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.
83. As stated previously, the applicant currently resides approximately 215 metres to the north east of the application site. Insufficient evidence has been submitted that the business could not operate with the applicant remaining to occupy the dwelling at High Terrace given its close proximity to the application site, or why the kennels could not be occupied by a night worker to ensure the puppies welfare during key times. As such it considered that the proposal does not satisfy part e. of Policy 12.
84. Overall, it is considered that a commercial dog breeding business is not supported in principle by Policy 10 of the County Durham Plan. Furthermore, it is considered that a functional need for the dwelling has not been demonstrated, nor has it been demonstrated that the enterprise is financially viable and could sustain the proposed property on the site. In this case it is considered that the siting of the dwelling in the location shown has been borne out of personal preferences of the applicant, as the land is already within her ownership. It is not clear if other alternative locations have been discounted in the locality particularly exploring the reuse of existing buildings within the countryside. In principle the development of the site for the proposed use would not conform to the relevant policies of the CDP or the NPPF.

Locational Sustainability

85. Policy 10 part p, states that new development in the countryside should not be solely reliant upon, accessibility by unsustainable modes of transport. Policy 21 of the County Durham Plan requires new development to deliver sustainable transport, including by providing appropriate, well designed, permeable and direct routes for

walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users.

86. Paragraph 103 of the NPPF states that planning should actively manage patterns of growth to support the objectives of sustainable transport, including opportunities to promote public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
87. Roddymoor has a rating of 2.2 in the Council's 2017 Settlement Study, placing the settlement 187th in the county, reflective of the limited availability of services available within the village. The village is however relatively well connected to the surrounding towns and villages by regular bus service. The application site is located away from the main built up area of Roddymoor, which contains the bus stop links at a distance of approximately 360m. The Institution of Highways and Transportation Guidance 'Planning for Public Transport in Developments' states at page 9 that 'the maximum walking distance to a bus stop should not exceed 400m and preferably be no more than 300m.' The nearest bus stop in this case is approximately 363m to the north at Elm Gardens at the top end of this recommended distance.
88. The nearest settlement is the main town of Crook, located which is approximately 1450m to the south east along unsurfaced and unlit public rights of way to its centre. If a person was to use the surfaced, lit public footpath route then this distance would be increased to approximately 2500 metres.
89. Overall, it is considered likely that there would be a dependence on the private motor car to access services and amenities. While recognising the harm associated with this, it is acknowledged that in principle Policy 6 of the CDP would permit very limited development either within or directly adjacent the built up area of Roddymoor. For this reason, it is considered that any reason for refusal based purely on locational sustainability matters could not be sustained.

Landscape and Visual Impacts

90. Policy 10 of the CDP seeks to protect townscape qualities, including important vistas and the intrinsic character and beauty of the wider countryside. Policy 12 of the CDP part c requires that proposed dwellings are not harmful to the rural landscape and character of the area and are well related to the activities required.
91. Policy 39 of the CDP states 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. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Policy 40 of the CDP seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided.
92. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
93. The application site is detached from the main body of Roddymoor which lies to the north east of the application site. The application site lies within a larger paddock area on the opposite (south) side of the road to High Terrace. There is no other residential development on that southern side of the road, indeed the only other development south of high terrace is for agricultural or equestrian uses.

94. Visually, the southern end of High Terrace forms a clear and defined settlement edge to the open countryside which the application site forms a part. Whilst there are agricultural buildings close by, it is a form of development expected and in keeping with the wider rural setting. It is considered that the proposed dwelling, kennels and associated curtilage would be of a completely different character to the surrounding area and would sit distinctly separate from the residential development at High Terrace. The development would essentially appear as a lone development in an agricultural pasture, where the rising topography will mean the dwelling and kennels are easily seen above other land levels in views looking west of Roddymoor Road. The development would introduce significant urbanising elements into what is currently an open field and would therefore appear as an incongruous addition to the settlement, rather than any natural extension or rounding off like other recent housing approvals in the locality. Although the existing hedges and trees provides a degree of screening from the immediate highway of Roddymoor Road, there are still views of the site from the several public rights of way around the application site; from Roddymoor Road and High terrace, where the incongruous and urbanising form of development would be seen. The visibility and incongruous nature of the development would be exacerbated in the use of light-coloured cladding materials.
95. Whilst it is noted that the landscape does not have a statutory designation it is open countryside. The County Landscape Character Appraisal identifies the area as the West Durham Coalfield landscape character area, where the landscape strategy is to enhance the landscape where it has been degraded while conserving what is most distinctive about its character, including its rural identity. For the reasons outlined above it is considered that the proposed development would cause harm to the character and appearance of the countryside and the surrounding landscape. The proposal is therefore contrary to Policies 10, 12, 29, and 39 of the County Durham Plan and Parts 12 and 15 of the NPPF.

Local Amenity

96. Policy 10 of the CDP sets out that new development in the countryside should not impact adversely upon residential or general amenity. Policy of the CDP requires all development to provide high standards of amenity and privacy and minimise the impact of development upon existing adjacent and nearby properties.
97. Policy 31 of the CDP seeks to support proposals only 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. The policy sets out that developments will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result. Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
98. Parts 12 and 15 of the NPPF, require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from unacceptable levels of pollution.

99. The application relates to the introduction of a residential dwelling and commercial kennels, with a capacity for ten breeding animals. The commercial element would be operated by the applicant who intends to live in the proposed dwelling on the site. Currently the applicant operates a commercial dog breeding operation from her current home address at High Terrace, EH Officers advise that there is no history of complaints against that address in relation to noise from those dogs.
100. The development site would see commercial kennels located within 90m of noise sensitive receptors to the north east on High Terrace. EH Officers advise that by their nature dogs bark and such vocalisation can lead to noise disturbance for nearby sensitive receptors. After assessing the application EH officers advise that the development is likely to breach the thresholds within the Technical Advice Note (TANS), Noise TANS section 3.7 pg. 18. This indicates that the development may, without further controls, lead to a significant impact.
101. Due to this, the applicant has provided proposed noise mitigation details, which include indications of the management of the enterprise and layout and/or structural measures that could be implemented if planning permission is granted. This includes the use of acoustic insulation. EH Officers advise that subject to these controls being put in place it is likely that the enterprise could operate without causing an issue to nearby sensitive receptors. However, conditions are recommended to fully detail and secure this mitigation and ensure that the kennels are only occupied by the applicant's dogs and the dwelling occupied by a person connected to the business.
102. EH Officers advise that odour is not considered likely to be an issue for nearby receptors.
103. Overall, subject to conditions, it is considered that the development would not result in a significant reduction in residential amenity and would be compatible with adjacent uses, in accordance with, Policies 10, 29 and 31 of County Durham Plan and Parts 12 and 15 of the NPPF.

Ecology

104. Policy 10 of the CDP states that new development in the countryside should not give rise to unacceptable harm to biodiversity either individually or cumulatively which cannot be adequately mitigated or compensated for. Policies 26, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
105. The Ecology section have advised that a Preliminary Ecological Appraisal is required in support of the application to assess the impact of the development on protected species and their habitats. However, in this instance an Ecology Assessment has not been submitted, so any potential ecological impacts cannot be assessed as part of this application, in conflict with relevant CDP and NPPF policies. Further to this both Policy 41 of the CDP and paragraphs 174 and 175 of the NPPF require new development to deliver net biodiversity gains. In this regard the application fails to demonstrate how the scheme would achieve this.
106. The development would fail to meet the requirements of Policies 10, 26, 41 and 43 of the CDP and the aims of Part 15 of the NPPF in this respect.

Highway Safety

107. Policy 10 of the CDP requires that new development in the countryside should not be prejudicial to highway safety. Policy 21 of the CDP reiterates the requirement of Policy 10 in addition to expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 of the CDP advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Specifically, the NPPF sets out at Paragraph 108 that safe and suitable access should be achieved for all people. In addition, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
108. The dwelling and kennels would be accessed via the existing public bridleway (PROWs 43 and 164 Crook) off Roddymoor Road/ High Terrace. The bulk of vehicular movements generated by the new dwelling and business are deemed likely to use this route between the site and B6298, i.e. eastwards from the site access junction. The approximately 170-metre-long highway link leading east from the site access junction is subject to a substandard carriageway width. The Highways Authority advise that should planning permission be granted the delivery of this passing place should be secured. The Highways Authority raise no objection to the proposal in terms of access or parking provision. The Public Rights of Way Team would have no objections to these works being carried out
109. Overall, subject to conditions, the highway impacts of the proposed development are considered to be acceptable and in accordance with Policies 10, 21 and 29 of the County Durham Plan as well as Part 9 of the NPPF.

Flooding/Drainage

110. Policy 36 of the County Durham Plan seeks to ensure that suitable arrangements are made for the disposal of foul water and sets out a hierarchy for foul water disposal.
111. The submitted application forms state that foul drainage would be disposed of by a Package Treatment Plan. The application form indicates that foul drainage is to be discharged to a non-mains drainage system. In these circumstances the Planning Practice Guidance (PPG) Water supply, wastewater and water quality advises that applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment. In this instance no information has been submitted.
112. The application does not provide a sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development, however this could be controlled by a suitably worded condition to ensure that the scheme would be in compliance with Policy 36 of the County Durham Plan in this respect.

Ground Conditions

113. Policy 32 of the County Durham Plan requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 178 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.

114. The application site falls within the defined Development High Risk Area; within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. This has been raised by objectors to the scheme. The planning application is accompanied by a Coal Mining Risk Assessment (16th May 2021), prepared by GEOL Consultants Ltd). This report considers mining legacy across the application site, recommending that intrusive ground investigations, in the form of rotary boreholes, are undertaken at the site in order to establish ground conditions and the depth of shallow coal seams/workings. The Coal Authority have been consulted and raise no objection subject to conditions requiring this further investigation works are carried and any mitigation secured before development commences.
115. A Phase 1 Desk Study Site Investigation Report has been submitted as part of the application. This report concludes that the site is suitable for the proposed use and there are no risks from land contamination. The Council's Contaminated Land Officer is satisfied with the manner in which the investigations have been carried out and agrees with the conclusions. As such there is no requirement for a contaminated land condition in this instance and an informative is appropriate to advise the applicant to liaise with the Contaminated Land Team if any unexpected contamination is found during construction works. The proposal would therefore accord with Policy 32 of the County Durham Plan and Part 15 of the NPPF in this regard.

Other matters

116. Comment has been made from objectors that the proposal would devalue nearby dwellings. This is not a material planning consideration.

CONCLUSIONS

117. The application seeks the erection of a dog breeding kennels and workers dwelling within the defined countryside. Policy 10 of the CDP sets out that within the countryside development will not be permitted unless it fulfils relevant exception, including development for specific economic purposes. However, given the nature of the proposals it is concluded that the development would not satisfy relevant exception criteria. It is also concluded that a functional need for a dwelling in the countryside has not been proven, or that the enterprise is financially sound, contrary to Policies 10 and 12 of the CDP.
118. In visual terms, the site occupies a countryside location beyond the established built-up area, while the existing topography increases the wider prominence of the site. It is concluded that this would result in the development being highly visible from surrounding settlements, roads and public footpaths contrary to Policies 10, 12, 29, and 39 of the CDP and Parts 12 and 15 of the NPPF.
119. Insufficient details have been submitted to assess the ecological impacts of the development while the proposals do not assess or identify how a net biodiversity would be achieved. As a result, it is concluded that the development would conflict with Policies 10, 26, 41 and 43 of the CDP and the aims of Part 15 of the NPPF.
120. It is considered likely that there would be a dependence on the private motor car to access services and amenities. While recognising the harm associated with this, it is considered that this in itself does not result in policy conflict.

121. It is concluded that the development could achieve a satisfactory means of access and would not likely give rise to amenity impacts to adjacent land uses subject to relevant conditions.
122. The policies of the CDP are considered consistent with the NPPF, which seeks to protect the countryside, prevent isolated new housing and, protect ecological interests. Whilst the development would provide economic benefits through the construction of the facility and potentially future employment opportunities, these benefits are not considered to outweigh the conflict with the CDP. There are no material considerations that indicate otherwise and therefore the application is recommended for refusal.

RECOMMENDATION

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

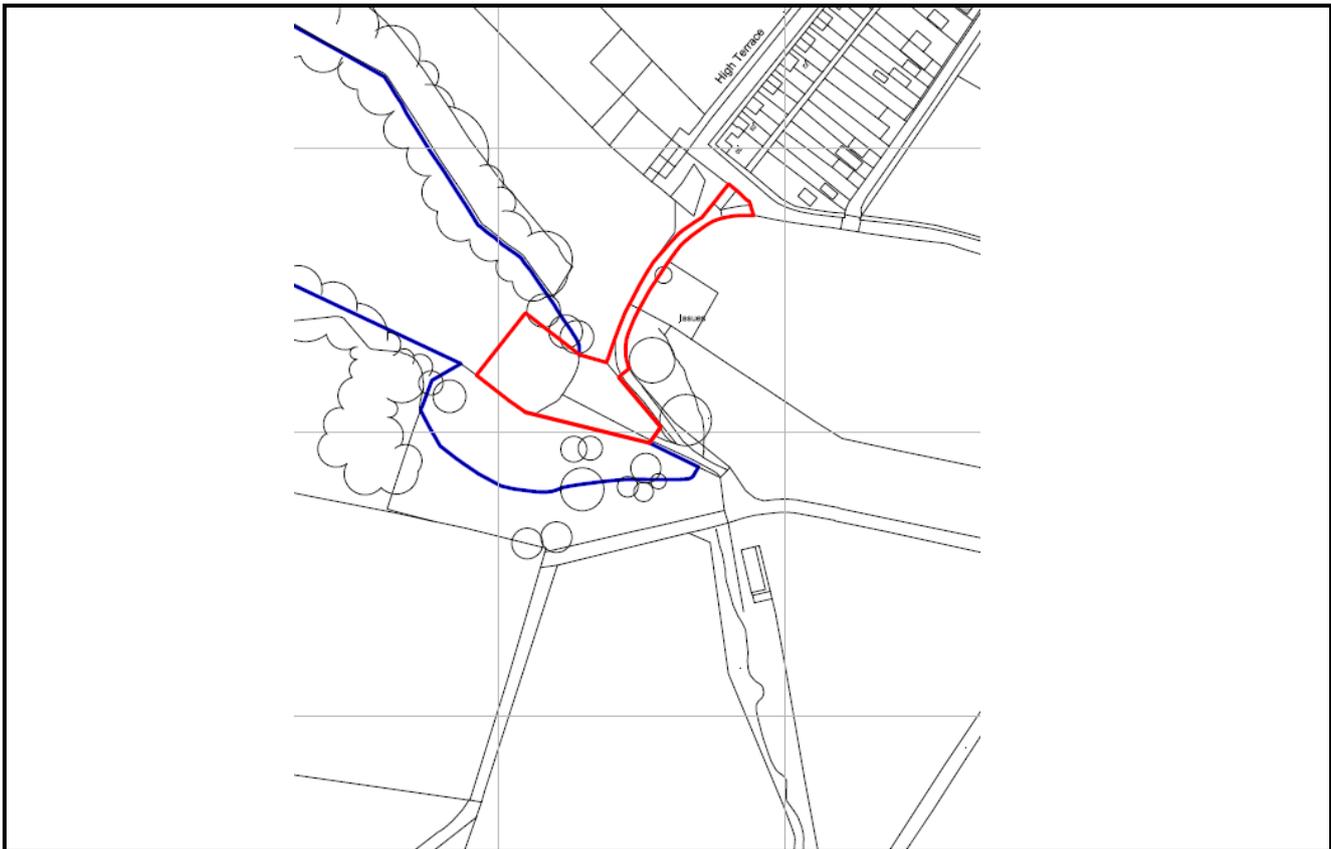
1. In the opinion of the Local Planning Authority, it has not been demonstrated that there is an essential need for a full-time rural worker to live permanently on the site, and that the enterprise is financially viable and could sustain the proposed dwelling, contrary to Policy 12 of the County Durham Plan and NPPF Paragraph 80.
2. The development by reason of its siting in a detached position from the main body of the settlement of Roddymoor would cause harm to the character and appearance of the countryside and the surrounding landscape; without meeting relevant exception tests for development in the countryside, contrary to Policies 10, 12, 29 and 39 of the County Durham Plan and Parts 12 and 15 of the NPPF.
3. The application does not demonstrate that it would not negatively impact on protected species or their habitats, or that the scheme would result in a net gain to biodiversity, in conflict with Policies 10 and 41 of the County Durham Plan and Part 15 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Statutory consultation responses
Internal consultation responses
External consultation responses
National Space Standards
Planning Practice Guidance Note for Noise



<p>Planning Services</p>	<p>Construction of residential dwelling and associated commercial dog kennels at Land To The South West Of High Terrace Roddymoor DL15 9RA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Comments</p>	
	<p>Date 26th August 2021</p>	

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/20/03776/FPA
FULL APPLICATION DESCRIPTION:	Construction of a new Sports Pavilion, including access to the south and associated reconfiguration of adjacent sports pitches (amended plans and supporting information received 23.6.21)
NAME OF APPLICANT:	Mrs Suzanne Metcalf, Barnard Castle School
ADDRESS:	Barnard Castle School, Newgate, Barnard Castle, DL12 8UN
ELECTORAL DIVISION:	Barnard Castle East
CASE OFFICER:	Amy Williamson, Senior Planning Officer, 03000 261391, amy.williamson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to an area of playing fields situated to the north and east of Barnard Castle School measuring in total 8.2ha in area. The School is an independent day and boarding school for children between 4 and 18 years old and is situated to the eastern side of Barnard Castle along Westwick Road adjacent to Bowes Museum.
2. There is an extensive range of existing sports pitches at the School, with sport being a key focus for pupils. Existing pitches accommodate football, rugby, rounders, cricket, with multi use pitches for netball, hockey and tennis. At present playing fields are on sloping ground, which is elevated to the north with levels dropping across the site to the south.
3. The main school buildings comprise a range of three storey stone buildings dating to the late 19th century and are grade II listed. A grade II* listed chapel is located to the east of the main range. The main school buildings and chapel are located within the Barnard Castle Conservation Area. Other late 20th century school buildings are located east of the main range and south of the playing fields.
4. A recent housing development known as 'Five Acres' is situated to the northern side of the playing fields off Green Lane, other older housing is located to the west of this towards the town centre.
5. A public byway Marwood 27, which is a continuation of Green Lane, runs along the northern boundary of the playing fields. A further public byway Barnard Castle 13,

known as Mount Eff Lane, runs along the southern site boundary past the school buildings. Public Footpath Marwood 30 runs from west to east across the northern part of the playing fields beneath one of the football pitches.

6. Playing fields to the east side of the site are demarked by historic hedging running north to south down the site. A series of mature trees are centrally located within the site to the west of an existing rounders pitch.

Proposal

7. Planning permission is sought for erection of a new sports pavilion to the eastern side of the site, to the north of the existing multi use hockey and tennis pitch, together with reconfiguration and reprofiling of sports pitches to the north and east of the site to accommodate the pavilion.
8. The pavilion would have accommodation over two floors, featuring changing and WC facilities on the ground floor and a function room and external viewing area on the first floor. It would be of contemporary design with a circular form. The lower floor would be sunk into the ground with grass covered mounding around a significant portion of the ground floor. The first floor would be enclosed by glazing, with access out on to the external viewing area.
9. A new footpath and service access serving the pavilion would be formed running southwards towards the existing school buildings, this would include a servicing and turning area to the northern side of the pavilion. A paved area would be formed to the south western frontage of the building.
10. The existing playing fields would be reconfigured to create 7 no. grass pitches for football and rugby, together with other pitches for hockey, tennis, rounders and cricket, surrounding the pavilion. This could involve cut and fill works to form a level surface to the pitches, which are currently sloping.
11. The pavilion and reconfigured pitches would be available for community use by local sports clubs in the evenings during the week, on Sundays and during school holidays. The pavilion would also be available for some occasional use to be hired out for third party events.
12. It would be necessary to remove a group of trees to the south east side of one of the new playing pitches to the north west of the site, together with 1 no. tree to the south of the site adjacent to the proposed footpath and service access.
13. Amended plans have been submitted removing a secondary access initially proposed onto public byway no. 27 Marwood to the north of the site and making minor amendments to the position and levels of the reconfigured pitches following removal of the access track.
14. The application has been called to committee at the request of Councillor Rowlandson to allow the loss of playing fields and amenity impacts on surrounding residential properties to be considered.

PLANNING HISTORY

15. Previous planning permissions and listed building consents at the site relate to alterations and additions to the school buildings. Consent has also been granted for tree works at the School.

PLANNING POLICY

NATIONAL POLICY

16. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
17. *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.
18. *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.
19. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
20. *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.
21. *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.
22. *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.
23. *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.

24. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.
25. *NPPF Part 16 Conserving and enhancing the historic environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

26. 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 climate change; design process and tools; determining a planning application; flood risk; healthy and safe communities; historic environment; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; use of planning conditions; and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan (CDP)

27. Policy 6 (Development on unallocated sites) states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
28. Policy 10 (Development in the Countryside) states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The

policy further sets out 9 General Design Principles for all development in the Countryside.

29. Policy 21 (Delivering sustainable transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
30. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
31. 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.
32. Policy 31 (Amenity and pollution) sets out 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 they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
33. Policy 32 (Despoiled, degraded, derelict, contaminated and unstable land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
34. Policy 35 (Water management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
35. Policy 36 (Water infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defense infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.

36. Policy 38 (North Pennines Area of Outstanding Natural Beauty (AONB)) sets out that the AONB will be conserved and enhanced. In making decisions on development great weight will be given to conserving landscape and scenic beauty. Development in or affecting the AONB will only be permitted where it is not, individually or cumulatively, harmful to its special qualities or statutory purposes.
37. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts
38. Policy 40 (Trees, woodlands and hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
39. 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.
40. Policy 43 (Protected Species and Nationally and Locally Protected Sites) development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
41. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

<https://www.durham.gov.uk/cdp>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

42. *Barnard Castle Town Council* - Support the application
43. *Highways Authority* – Following removal of the emergency and service vehicle access on to Green Lane to the north, no objections are raised.

44. *Northumbrian Water* – No objections
45. *Sport England* – Following the submission of the proposed details of community use, have withdrawn an initial objection subject to a condition to agree and implement a community use agreement which is considered to outweigh the conflict with the Playing Fields Policy.

INTERNAL CONSULTEE RESPONSES:

46. *Archaeology* – No objections
47. *Design and Conservation* – Support the application, advise that the proposal is imaginative, bold and well-considered, it will add to the consistent architectural evolution of Barnard Castle School and would not harm the setting of designated heritage assets.
48. *Ecology* – No objections
49. *Environmental Health Contaminated Land* – No objections
50. *Environmental Health Nuisance* – No objections note that a noise assessment has been provided as part of the application and recommend a condition to ensure glazing and ventilation is implemented in accordance with the specifications in the noise assessment to mitigate impacts on adjacent residential properties. Following submission of details of external lighting confirm this is also acceptable, subject to a condition requiring lighting to be switched off when not in use and advise that hours of use of the sports pitches should be restricted to 8am – 9pm on all days.
51. *Landscape* – No objections
52. *Public Rights of Way* – No objections following the removal of a secondary access onto public byway Marwood 27 to the north of the site.
53. *Tree Officer* – Notes that the development involves the loss of trees but does not consider this will result in a significant loss of local amenity.

PUBLIC RESPONSES:

54. A site notice was posted and the application was advertised in the Teesdale Mercury following its initial submission, 13 no. letters of objection were received from local residents raising the following points:
 - The submitted plans and supporting information do not show recently constructed dwellings on the Five Acres Estate to the north west of the playing fields
 - The Alps cross country course as show on the submitted plans adjacent to the Five Acres Estate has not been reinstated by the School following the carrying out of the housing development and is in an untidy condition.
 - The application does not demonstrate that replacement tree planting would be provided.
 - The emergency and service access proposed on to the Green Lane Byway is unacceptable and will pose a safety risk to pedestrians who frequently use this route. Use of the byway by vehicles would adversely affect its condition and surfacing. It would also increase air pollution to local residents from increased traffic and vibration from heavy vehicle use could damage properties.

- The proposed works could result in noise and dust pollution to local residents during construction works.
 - Reconfigured pitch football 1 could impact on the public right of way crossing the school field, this should remain open and accessible at all times.
 - The school already holds outdoor events where music and public address systems are used, the development is likely to increase the frequency of such events, the application states the facilities would be available for use 7 days a week from early morning till 10.45pm, and would cause additional noise and disturbance to local residents. Residents state they have experienced significant noise pollution from music being played at intense volume all night and associated sleep deprivation, which is damaging to health.
 - Local residents are also likely to experience excessive noise from frequent use of the pavilion, which would also affect local wildlife.
 - The pavilion would not be used for the viewing of sports and would be used for external non supporting events for up to 200 people.
 - The noise assessment was carried out during atypical activity periods during covid lockdown periods and is not truly representative, it also assumes residents would be indoors with windows closed and not using outdoor spaces, which is unlikely to be the case for significant periods.
 - The upper floor of the pavilion would be used as an entertainment facility, which is not appropriate within a conservation area and adjacent to a listed building.
 - The proposals will generate light pollution at night, exacerbating excessive artificial light from the existing all weather pitch, to the detriment of bats and owls, the conservation area and adjacent listed buildings. In particular the glazed design of the pavilion would cause light pollution.
 - Management of the school playing fields should include better habitat management, use of composting and allowing grass to grow to a longer length.
 - The application places great emphasis on safeguarding, however most breaches are internal to institutions or through known or family associates.
 - The development is in conflict with para. 97 part C of the NPPF which does not permit building on playing fields. It is noted that Sport England have objected to the application.
 - The development would add to the built up environment and expand the boundaries of Barnard Castle, which is not in the strategic plan.
 - There is no consideration for parking associated with the pavilion in the application.
 - The proposal involves felling of ancient trees used by rare birds, the loss of habitat would not be replaced by planting of new saplings.
 - There has been no publicity of the planning application and residents have not been afforded the opportunity to consider and comment on the proposals.
55. Green Lane Primary School also initially objected to the application advising that use of Green Lane as an access for construction vehicles and serving the development would pose a safety risk to children and parents at the Primary School, in particular during dropping off and collection times.
56. Following the submission of amended plans removing the proposed emergency and service access on to Green Lane to the north, those who had commented on the application originally were notified in writing of the amended plans, 5 no. further letters of objection were received by local residents raising the following points:
- Concerns regarding the level of publicity and consultation exercise are raised.
 - Residents query the location of site notices posted and advise these did not stay up for very long. Most residents only became aware of the proposals following an article in the Teesdale Mercury.
 - Removal of the access onto the Green Lane byway is welcomed

- The amended plans do not address resident's previous concerns and will still result in adverse impacts of habitat harm, noise and light pollution to the detriment of residential amenity, construction beyond the built up area of Barnard Castle and impacts on the protected environment of the conservation area and listed buildings.
 - Barnard Castle already has successful community football, rugby and cricket clubs who host events at their own premises supporting their revenues and the local economy. It is not considered that there is a business case as to why the pavilion would drive up the number of sporting events school teams host and bring in more money to the local economy as stated in the revised development master plan. If this were a standard commercial development the Local Planning Authority would ask for a business case to be demonstrated.
 - The facilities are indicated as being open until nearly 11pm, children and adults do not play outdoor sports at that time of night. The pavilion would be used as a function room for late and loud entertainment events for financial gain by the school. Use of the pavilion for social events would result in noise impacts to surrounding residents.
 - Would a drinks and music licence, in particular for late opening hours, be sought for the pavilion?
 - Noise monitoring within the Five Acres estate was carried out on 2 March 2021 by attaching a device to a lamp post, when only the children of key workers attended school and does not represent a valid measurement of noise usually experienced. Further noise monitoring should be undertaken when sports facilities or school social events are taking place.
 - The application indicates the facilities would be Covid safe. The noise assessment is based on windows being closed within the pavilion which could accommodate up to 200 people, has a covid risk assessment been undertaken?
 - Who will manage private events at the pavilion, where would guests park and enter/exit the site?
57. Barnard Castle Cricket Club have submitted 2 no. letters of support for the proposals. They state that on some occasions they play junior matches on the school pitches as they are only able to hold one fixture at a time on their own premises and due to flourishing of the junior section of the Club on some occasions they have more than one match at a time. The proposed development will offer a much needed resource to support the local community and the Club look forward to holding additional training, friendly and competitive matches at Barnard Castle School in the future. Present spectating facilities at the school are poor. The pavilion will benefit players, parents and spectators who could use the changing rooms, improved facilities and viewing platform. The Club hope the application is successful and the wider community of Barnard Castle would greatly benefit.
58. The development would result in greater availability of many sports locally, played on better, state of the art pitches with modern changing rooms. Sport Englands comments are noted, but it is considered by the Club that given the site this will only improve the experience of playing and watching sport

APPLICANTS STATEMENT:

59. The proposed development of the new pavilion and changing rooms provide the school with much needed sports support facilities to support the sport use at the school and to further link the school's presence into the local community, with the access to the new building.
60. The school is a major part of the local economy in Barnard Castle and the investment in facilities is part of the school drive to attract, maintain and move forward as one of the North's leading independent schools.

61. The building has been designed as an architectural statement, set in the sports fields, allowing full 360 degree viewing of Rugby, Cricket, Football, and Hockey pitches. The building is a modern glass pavilion set on a landscape mound. The mound provides grass and concrete terracing to enjoy the spectacle of sport all year round.
62. The mound hides the function of changing rooms, toilets, plant and storage facilities. The overall impact is to give an impression of an elegant, modern single storey glass structure that views all the facilities.
63. The existing school is set in grand listed buildings within an estate of landscaping and sport. The new proposal respects and acknowledges the original stone buildings - it's positioned away in the fields and contrasts with its lightness and modernity.
64. The existing sports facilities in the main buildings will be relocated to the new building and allows the school to update and improve the original school buildings as part of its masterplan to improve educational facilities for students.

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

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

PLANNING CONSIDERATIONS AND ASSESSMENT

65. 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 relate to the principle of development, loss of playing fields, landscape/visual impact, impacts on heritage assets, residential amenity, highway safety, ecology, drainage and other matters.

Principle of development

66. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.
67. Policy 6 of the CDP recognises that in addition to the development of specifically allocated sites, there will be situation where future opportunities arise for additional new development over and above that identified, this includes for employment and economic generating uses. Policy 6 sets out the that the development of sites which are not allocated in the Plan which are either (i) in the built up area; or (ii) outside the built up area but well related to a settlement will be permitted provided the proposal accords with all relevant development plan policies and where specified design criteria are met.
68. The County Durham Plan defines 'the built up area' as land contained within the main body of existing built development of a settlement or is within a settlement boundary defined in a Neighbourhood Plan. Areas falling outside this definition will be regarded as countryside.

69. The proposed pavilion and surrounding pitches intended to be reconfigured are not considered to be located within the built up area of Barnard Castle. Furthermore given their detached position they are also not considered to be well related to the built up area, as such the scheme is not afforded support under Policy 6 of the CDP. For planning policy purposes the site is considered to lie within the countryside, although recognising the connected use to the wider Barnard Castle School site.
70. CDP Policy 10 relates to development in the countryside and advises that development will not be permitted unless allowed for by specific policies in the Plan or where the proposal compromises an exception related to economic development, infrastructure development or the development of existing buildings. Part f of policy 10 supports the provision of new, or the enhancement of, existing community facilities in the countryside. Policy 10 also establishes general development principles for development within the countryside, which is considered in detail in later sections of the report.
71. In assessing the application in the above policy context, it is considered that the proposed development would enhance existing pitches at the school to create level, well drained surfaces for sports to be played. The pavilion is a new facility, providing changing facilities and areas for spectating, which would also enhance the existing sporting offer at the school. Both the pitches and pavilion would be available for community use. As such the proposals are considered to accord with policy 10 part f of the County Durham Plan and are considered acceptable in principle subject to a detailed analysis of the development as set out below

Loss of Playing Fields

72. Policy 26 of the County Durham Plan states that development proposals will not be permitted that would result in the loss of open space or harm to green infrastructure assets unless the benefits of the development clearly outweigh that loss or harm and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements.
73. Para. 99 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
 - a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
74. The School playing fields are currently designated as playing pitches in the Council's Open Spaces Needs Assessment (OSNA) 2018. At present there are 5 no. full sized grass pitches for football and rugby located on the school playing fields, together with an all weather pitch (MUGA) used for hockey and tennis, 2 no. cricket pitches and 2 rounders pitches. Out of the 5 no. existing full sized grass pitches only 2 no. of these are compliant in terms of size and gradient with Sport England's specification for pitches for these sports.
75. As part of the proposed development, the playing pitches would be reconfigured to create 6 no. full sized pitches for football and rugby, these would be fully compliant with Sport England's specification for pitches for these sports. Additionally 1 no.

smaller junior rugby pitch would also be provided. The 2 no. existing cricket pitches would be retained and improved both in terms of gradient and size. The all weather pitch and an existing rounders pitch to the south east corner of the site would be retained as existing. As such overall there would be an increase of 1 no. full size and 1 no. smaller junior pitch as a result of the proposals, which would be adequately sized and with a suitable gradient.

76. The development masterplan states that the existing all weather pitch and netball courts would be upgraded, together with provision of a spectator area for the tennis courts and potentially a synthetic running track. However, these features would be subject to future planning applications and are not a relevant consideration as part of the current application.
77. Notwithstanding the above, the proposed pavilion and its access is located on an area designated as a playing field and does require the surrounding playing fields to be reconfigured to enable its construction.
78. Sport England are a statutory consultee on any development on playing fields. They have published a document titled Playing Fields Policy and Guidance, March 2018, which is used to assess developments affecting playing fields. Section 6 of the Playing Fields Policy states that 'Sport England will oppose the granting of planning permission for any development which would lead to the loss of, or would prejudice the use of All or any part of a playing field; or Land which has been used as a playing field and remains undeveloped; or Land allocated for use as a playing field, unless, in the judgement of Sport England, the development as a whole meets with one of more of five specific exceptions.'
79. Out of the five exceptions there is only one which is relevant in this case. Exception 2, set out in section 6.2 of the Playing Fields Policy states that exception will be made where 'the proposed development is for ancillary facilities supporting the principal use of the site as a playing field, and does not affect the quantity or quality of playing pitches or otherwise adversely affect their use.' The proposed development would provide ancillary facilities (changing rooms, viewing areas etc) which would support the principal use of the site as a playing field. However, it is Sport England's view that given the need for reconfiguration of the existing playing pitches to accommodate the development, the proposals do not meet exception 2. Objections were initially raised on this basis.
80. As set out above, the reconfiguration would allow an increase in the number of demarked playing pitches on the site and would improve their gradients and design to comply with Sport England's specifications for grass football and rugby pitches. The position of the proposed pavilion would require a reduction in size of an existing pitch on which it would be located, however this is mitigated for by provision of 2 no. new full size pitches on an area currently not demarked as a playing pitch to the north west.
81. The applicant has confirmed that use of the facilities and wider playing field for training would be available for community use by a range of local sports clubs between 6pm and 9pm on week nights, on Sundays and during the school holidays when not being used by the school itself. A condition would be attached to secure the community use of the facilities as part of a community use agreement, where precise details of hours of community use and pricing would be agreed.
82. Following confirmation of the school's commitment to a community use agreement condition and further information being provided about how this would work, Sport England, whilst still acknowledging the conflict with the Playing Fields Policy, have withdrawn their objection to the application.

83. Barnard Castle Cricket Club have written 2 no. letters of support, acknowledging they currently use the School's pitches for training and matches on some occasions and that they look forward to holding additional training and matches at the School in the future.
84. Having regard to Policy 26 of the CDP, whilst the proposed pavilion and access to the south would result in loss of part of the existing playing fields, it is considered that this would be outweighed by the increased number and improved specification of reconfigured pitches, improved changing and spectating facilities and community use. These new facilities (pitches and infrastructure) are collectively are considered to be of greater value than the current part rounders/rugby pitch that would be lost, which in itself does not meet Sport England standards. However, there would be a minor conflict with the approach of CDP Policy 26 as the pitch is formally laid out and is in use, it is not therefore considered surplus to requirements.
85. In relation to Para. 99 of the NPPF the loss of the sports pitch would be replaced by better provision in terms of quality, by securing the delivery of sports pitches that conform to relevant Sport England specifications and increased community use. However, there would be a technical loss of quantity to facilitate the access and pavilion building and therefore a minor conflict with this approach.
86. A condition is appropriate to agree timescales for construction of the reconfigured pitches and pavilion and for implementation of the scheme in accordance with the agreed timescales, to ensure the pavilion and reconfigured pitches are constructed together within an appropriate timescale and overall that the development is delivered as a whole.
87. Overall whilst recognising the minor policy conflicts of the approaches of Policy 26 of the CDP and NPPF Para.99 in terms of not being surplus to requirements and a loss of quantity of land. It is considered that when viewed collectively this conflict would be outweighed by the increased number and improved specification of reconfigured pitches, improved changing and spectating facilities and increased community use.

Landscape and Visual Impacts

88. Policy 10 requires that new development in the countryside by virtue of its siting, scale, design and operation must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated.
89. Policy 29 states that all development proposals will be required to achieve well designed buildings and places and should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
90. Policy 39 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.
91. Policy 40 states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, woodland and hedges of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals should retain trees, woodland and hedging as part of the scheme where possible and where lost provide suitable replacement planting.

92. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside and optimise the potential use of the site
93. The proposed pavilion has been carefully planned and designed to assimilate within the surrounding landscape. The first floor is a round glazed structure with a louvred metal panelled flat roof. The lower part of the building would be surrounded by grassed mounding to appear almost subterranean. There would be an entrance on the ground floor level, partly concealed by the over hanging external terrace above and with stone retaining walls to either side. The grass mounds would contain two sets of steps leading up to the external terrace. A rear compound to the northern side of the building enclosed by timber fencing would contain bins and condenser units associated with the air conditioning system. A circular feature would be located on the flat roof of the building which would accommodate a lift within the building and would also provide access on to the roof.
94. Although a contemporary design, the building would relate well to the character of the surrounding landscape. It would be most visible from public rights of way to the north and south of the school and that which directly crosses the playing fields. Although slightly detached from the school buildings, it would clearly read as part of the school site being situated within the playing fields and immediately adjacent to the existing enclosed all weather pitch. The Landscape Officer raises no objections to the application.
95. Conditions are appropriate to agree precise details of external finishes, surfacing and landscaping proposals for the development to ensure it is constructed to a high quality in keeping with the character of the surroundings.
96. Upon completion the reconfigured pitches would have a grassed surface as per the existing playing fields. Cut and Fill works are proposed to create level surfaces to some of the pitches, however these are not to a significant extent and land would be gently graded down between the pitches without the need for any retaining structures. This would ensure an overall natural appearance to the completed grassed playing fields.
97. Precise surfacing details for the new vehicle access and footpath have not been provided in the application and these details could be agreed by condition. The agent has indicated a plastic grass grid system is being considered, which would reduce the visual impacts of the proposed access.
98. It would be necessary to remove a group of trees to the south east side of the pitch to the north eastern boundary of the site to accommodate this reconfigured pitch, together with 1 no. tree to the south of the site adjacent to the proposed footpath and service access. These are not protected by TPOs and are not located within the boundary of the Conservation Area. None of the existing historic hedgerows would be removed. In accordance with Policy 40 of the CDP, replacement tree planting will be required to mitigate for the loss of these trees, which would be secured as part of the landscaping condition. The Tree Officer raises no objections to the application, noting that loss of the trees will not have a significant loss of local amenity. Retained trees would be protected during construction works as set out in the Arboricultural Impact Assessment, Tree Protection Plan and Method Statement, a condition requiring compliance with the specified tree protection measures is considered appropriate.

99. Overall it is not considered the development would result in any adverse visual or landscape impacts and would accord with Policies 10, 29, 39 and 40 of the County Durham Plan and Parts 12 and 15 of the NPPF.

Impacts on Heritage Assets

100. Policy 44 of the CDP sets out development will be expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate. The policy permits flexibility in decision-making where harm is found to the heritage assets, with a public benefit test referenced similar to that within the NPPF.
101. NPPF parts 12 and 16 advocate the importance of achieving good design in new developments, which show sensitivity to heritage assets and the historic environment.
102. Given the location of a small area to the south west corner of the application site boundary being located within a conservation area regard is to be given to S. 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, which requires special attention to be paid to the desirability of preserving or enhancing the character or appearance of the conservation area. Furthermore it is noted the main school buildings to the south west of the playing fields are grade II listed and the chapel adjacent to these is grade II* listed. As such S.66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the Local Planning Authority to have special regard to the desirability of preserving the buildings and their setting or any features of special architectural or historic interest.
103. The proposed pavilion would be situated around 220m to the north east of the grade II* listed chapel and around 250m from the grade II listed main school buildings to the west of the chapel. The school has evolved over the years with various new additions being added in closer proximity to the listed buildings than the pavilion.
104. The school have had previous pre-application discussions with the Design and Conservation Officer over the form and impact of this proposed development and proposals have evolved in response to comments provided. Whilst the application site is generally located outside the boundary of the Barnard Castle Conservation Area it will undoubtedly impact on the localised setting within the wider school context, with external public impacts being more limited. The primary impacts will relate to a built incursion in the playing field setting; however, this impact has been mitigated by design, landscaping and quality of detail of the proposed development. The heritage assets potentially affected are identified in the heritage statement with the primary concern relating to the setting of the grade II* listed chapel. Whilst the proposal may feature in views to and from the listed assets within the school and slightly beyond, it is not considered this would be harmful to their setting and significance. The proposal is imaginative, bold and well-considered and would add to the architectural evolution of Barnard Castle School. The Design and Conservation Officer supports the application.
105. Only a small element of an existing footpath intended to be widened to accommodate vehicle access to the pavilion is situated within the conservation area boundary. The works in this area are of a minimal nature and would not adversely affect the character and appearance of the conservation area.

106. The Archaeologist does not consider an archaeology condition or further archaeological works necessary in relation to the proposals.
107. Overall it is not considered the development would have a harmful adverse impact on the setting of adjacent listed buildings or the character and appearance Barnard Castle Conservation Area, in accordance with Policy 44 of the County Durham Plan, Parts 12 and 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Residential Amenity

108. Policy 10 part r of the CDP requires that new development in the countryside not to impact adversely upon residential or general amenity. Policy 29 part e of the CDP requires all development to provide high standards of amenity and privacy and minimize the impact of development upon existing adjacent and nearby properties.
109. Policy 31 of the CDP seeks to support proposals only 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. The policy sets out that developments will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result. Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
110. Parts 12 and 15 of the NPPF, require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from unacceptable levels of pollution.
111. The proposed pavilion is located 330m to the south east of the closest dwelling on the Five Acres Estate located to the north of the site. A reconfigured playing pitch is proposed to be located around 35m to the south east of the same closest dwelling. Whilst this would be a new formal demarked pitch, the same area is currently utilised as existing playing fields which are not demarked but could be used for informal sports and other school activities. Although part of these current proposals planning permission would not in itself be generally required for the laying out of a formal sports pitch within an existing school site.
112. Use of the pavilion would primarily be by the School, associated with sports and other School events. There would be some limited private hire by third parties, which the school envisage would typically be for conference type events and not parties etc. The agent advises it is not intended to seek a permanent alcohol or entertainment licence for the pavilion, if such licences are required for occasional events they would be sought on a temporary basis.
113. The Council's Environmental Health Nuisance Team raise no objections to the application. They note that a noise assessment has been provided as part of the application and are satisfied with the methodology used to conduct this, the findings of the assessment and mitigation proposed. A condition to ensure glazing and

ventilation is implemented in accordance with the specifications in the noise assessment is recommended and considered appropriate.

114. Local residents have raised some concerns that the noise monitoring carried out as part of the noise assessment was undertaken during a lockdown period when only key workers children were attending school and is not representative of usual levels of background noise. Whilst background noise levels may have been slightly lower than usual at the time of the monitoring, this establishes the worst case scenario of background noise that mitigation was based on. The potentially lower levels of background noise are likely to mean that mitigation is enhanced upon what many ordinarily be required if higher background noise levels were recorded. Proposed mitigation and use of acoustic glazing as set out in the noise assessment is considered acceptable to adequately mitigate noise from the development.
115. Residents have also queried whether the noise assessment is based on them being indoors with windows shut at all times. To clarify, as set out in para. 6.9 of the noise assessment, the calculations for mitigation and acoustic glazing are based on habitable windows of the closest dwellings having their windows open. The assessment demonstrates that appropriate noise levels (NR30) can be achieved with windows being open in the closest dwellings.
116. Whilst residents may hear noise from sports activities whilst using outdoor spaces at their properties, this would resemble the current situation at the school where playing fields are used for sports activities on an unrestricted basis. If approved, the current application would restrict opening hours, as detailed below, to more sociable hours, to the benefit of adjacent residents. As set out in the noise assessment noise from the pavilion itself would be contained by use of acoustic glazing and would not be experienced to excessive levels at the closest residential properties.
117. The original application for stated hours of use for the reconfigured pitches and pavilion from 7am – 22.45pm Monday to Friday and 8am – 22.45pm Saturdays and Sundays. It was considered that these hours were excessive and could result in adverse noise and disturbance early in the morning and late into the evening to local residents. Following discussions with the agent, revised hours of use of the pitches to 8am – 9pm on any day and for the pavilion from 8am – 10pm on any day have been agreed and a condition is appropriate to control use of the facilities to these specified hours. The revised hours are considered more suitable given the proximity of residential properties and would ensure there is no noise and disturbance early in the morning or late in the evening.
118. It is noted that residents have commented that the school holds outdoor events where music is played and a public address system is used. Other than sporting activities, such other outdoor events take place on a very limited basis a few times a year. These are directly associated with the School. Whilst hours of use of the pitches for sporting activities would be controlled by condition, it would not be within the scope of this application to control other occasional events that take place on the remainder of the playing fields.
119. Details of external lighting have been provided and are considered acceptable by the Environmental Health Nuisance Team. Proposed external lighting would be a series of lighting columns and low level bollards illuminating the vicinity of the pavilion and the vehicle and pedestrian accesses leading back to the main school. These are ground focused and would not result in any significant light spillage beyond the area they are intended to illuminate. A condition requiring the lighting to be switched off when the pitches and pavilion are not in use is considered appropriate to prevent any unnecessary illumination of the site.

120. The upper floor of the pavilion containing the function room is surrounded by glass walling, this in itself could be prominent during hours of darkness. The agent has advised that it is intended to install blinds within the function room to prevent this from occurring. A condition to agree means of reducing the prominence of the glass structure during hours of darkness is appropriate, together with a requirement for the measures implemented to be retained in perpetuity.
121. The proposed plans indicate a recycling/bin storage and condenser compound to the rear (north eastern) side of the pavilion. The condensers would be associated with an air condition system, if this is required. A condition to agree precise specification of external plant, including noise levels, is considered appropriate, to ensure this is not detrimental to residential amenity.
122. Similarly the application does not include details of how the pavilion would be powered. The agent advises this would be finalised at the building regulations stage, but renewable sources of energy are likely to be incorporated. A condition to agree means of supplying energy to the building is considered appropriate, in the interests of sustainability, the appearance of the building and to ensure any features incorporated are not detrimental to the amenity of local residents.
123. Given the proximity of the site to adjacent dwellings, local residents may experience some noise and disturbance from construction activities associated with the development. A condition to agree a construction management plan and control construction working hours is considered appropriate to minimise impacts to local residents during the construction phase.
124. Whilst the comments of local residents are noted, overall it is considered that by use of appropriate conditions to control the specification of the pavilion, management of it and the reconfigured pitches and the construction phase, amenity impacts of the development would be minimised to a level that would not adversely impact on the closest residents. The development is considered acceptable in terms of residential amenity, in accordance with Policies 10, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.

Highway Safety

125. Policy 10 of the CDP requires that new development in the countryside should not be prejudicial to highway safety.
126. Policy 21 states that the transport implications of development should be addressed as part of any planning application and that all development shall deliver sustainable transport. This includes providing well designed routes for walking and cycling, ensuring vehicular traffic generated by new development can be safely accommodated on the highway network and appropriate car parking provision.
127. Part 9 of the NPPF requires new development to provide safe and suitable access to the site for all users and that significant impacts from development on the transport network or on highways safety should be mitigated to an acceptable degree. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
128. The application originally included an emergency and service vehicle access along Byway no. 27 Marwood, the continuation of Green Lane, to the north of the site. This is a popular public right of way used as a walking route for local residents. The byway

is a roughly surfaced track, not currently understood to be used as a vehicle access beyond the extent of the public highway to the west. The adopted highway on Green Lane provides access to Green Lane Primary School and leads into a wider residential area.

129. Local residents and the Primary School raised concerns that use of Green Lane and the byway as a vehicle access to the site would impact upon pedestrian safety of users of the public right of way and children and parents attending the Primary School. These concerns were shared by the Highways Authority. As the track is currently roughly surfaced and primarily used for pedestrian use, it was also considered that the track was likely to be subject to damage should it be used regularly by surface vehicles.
130. The above concerns were put to the applicant, who has provided amended plans removing the proposed northern emergency and service vehicle access. An existing footpath to the southern side of the playing fields would be widened from 2.8m to 4.5m, this would turn northwards to the western side of the historic hedgerow, leading to the building through an existing gap in the hedge and a turning and parking area wrapping around the western and northern side of the proposed pavilion. Parking in the vicinity of the pavilion would be limited and would only be used for deliveries. All other visitors would park in the schools existing large car park to the southern side of the main school buildings and would access the pavilion via a new footpath running to the east side of the historic hedgerow.
131. Following these amendments to the proposal, the Highway Authority now raise no objections to the application. Local residents who have responded to the reconsultation exercise welcome the removal of the northern access originally proposed.
132. The development is considered acceptable in terms of highway safety, in accordance with Policies 10 and 21 of the County Durham Plan and Part 9 of the NPPF.

Ecology

133. Policy 10 part I states that new development in the countryside should not give rise to unacceptably harm to biodiversity either individually or cumulatively which cannot be adequately mitigated or compensated for.
134. Policy 41 of the CDP states that proposals 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. Proposals for 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.
135. Policy 43 of the CDP states that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.

136. Part 15 of the NPPF seeks to ensure that proposals show regard to the protection and enhancement of internationally and nationally important sites and species; contributing and enhancing the natural and local environment by ensuring there is no net loss of biodiversity.
137. The existing site comprises well maintained grass playing fields, which are of little biodiversity value. None of the existing historic hedging would be affected by the proposals.
138. It would be necessary to remove a group of trees to the south east side of a repositioned pitch to the north west of the site, together with 1 no. tree to the south of the site adjacent to the proposed footpath and service access. The Council's Ecologist raises no objections to these works or the application as a whole, advising that the application is unlikely to have any impact on protected species or their habitats. An informative is considered appropriate to remind the applicant of legal obligations relating to bats to ensure relevant protected species legislation in relation to bats is adhered to when felling works are undertaken.
139. Replacement planting would be secured by a landscaping condition, which would mitigate for the loss of the existing trees and enhance biodiversity on the site.
140. A local resident has suggested that to improve biodiversity on the site the grass should be allowed to be grown to a longer length and for composting to take place. This is not commensurate with use of the site as pitches for playing sports and would not be appropriate in this location.
141. Light would be carefully managed on the site, with conditions to secure provision of blinds within the pavilion, to ensure external lighting is in accordance with the submitted lighting strategy and is switched off when the pitches and pavilion are not in use. This will ensure the site is not excessively illuminated to the detriment of local wildlife.
142. Overall it is not considered the development would have an impact on protected species or biodiversity, in accordance with Policies 41 and 43 of the County Durham Plan and Part 15 of the NPPF.

Drainage

143. Policy 35 of the CDP states that all development proposals will be required to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. Policy 36 relates to disposal of foul water and requires that a hierarchy of drainage options must be considered and discounted for foul water in new developments, in order of connection to public sewer, package treatment plant and septic tank.
144. These policies are consistent with Part 14 of the NPPF which states that inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk and where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
145. The application includes a Flood Risk Assessment and Drainage Strategy. The application site is located within Flood Zone 1 (lowest risk of flooding). The Drainage Strategy identifies that due to impermeable ground conditions and no suitable route to an existing water course being identified, surface water run off from the pavilion would

discharge to the existing surface water sewer. Foul drainage would also connect to the existing foul drainage network. The Flood Risk Assessment does not consider the proposed development is at risk of flooding and would not increase the risk of flooding elsewhere. Northumbrian Water raise no objections to the application.

146. The proposals are considered acceptable in terms of flood risk and drainage, in accordance with Policies 35 and 36 of the County Durham Plan and Part 14 of the NPPF.

Other Matters

Objections have been raised regarding the level of public consultation on the application. However, the publicity outlined above is in line with requirements set out in relevant legislation whilst contributors have been notified of amended plans.

147. The Contaminated Land Officer has been consulted on the application and due to the previously undeveloped nature of the site does not consider there is a need for a contaminated land condition, site investigations and remediation in this instance. The proposal would accord with Policy 32 of the County Durham Plan in this regard.
148. In terms of issues raised about safeguarding, existing changing rooms are located in the same buildings used by children boarding at the School, as such it has not been possible for these changing rooms to be used by community sports clubs for safeguarding reasons. The proposed pavilion would provide detached changing facilities away from buildings used by boarders, addressing safeguarding issues and enhancing the facilities available for sports on the site for use by third parties.

CONCLUSIONS

149. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In light of the recent adoption of the CDP, the Council has an up to date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 c).
150. The proposed development would provide improved sporting facilities at the school, to the benefit of pupils and the wider community, through a community use agreement. This is in accordance with Part f of Policy 10 of the CDP which supports the provision of new, or the enhancement of, existing community facilities in the countryside.
151. Sport England consider that given the need for reconfiguration of the existing playing pitches to accommodate the development, the proposals do not meet the exception tests of their Playing Fields Policy. The proposal is also considered to result in a minor conflict with Policy 26 of the County Durham Plan as the loss of a small area of the playing fields is not considered surplus to requirements. The proposal would also result in a minor conflict with Para.99 of the NPPF reducing the quantum of open space provided. However, following the applicant's commitment to a community use agreement condition, Sport England have withdrawn this objection and on balance it is considered that the conflict with the Playing Fields Policy, Policy 26 of the County Durham Plan and Para 99 of the NPPF, is mitigated by the increased number and improved specification of reconfigured pitches, together with the pavilion itself which

would provide improved changing and spectating facilities and securing community use of the facilities.

152. The development would not have a negative impact on the setting of adjacent listed buildings or the Barnard Castle Conservation Area, in accordance with Policy 44 of the County Durham Plan, Parts 12 and 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Similarly no adverse visual or landscape impacts are identified and the proposals would accord with Policies 10, 29, 39 and 40 of the County Durham Plan and Parts 12 and 15 of the NPPF.
153. Whilst the concerns of local residents about potential amenity impacts are noted, by use of appropriate conditions to control the specification of the pavilion, management of it and the reconfigured pitches and the construction phase, amenity impacts of the development would be minimised to a level that would not adversely impact on the closest residents. The development is considered acceptable in terms of residential amenity, in accordance with Policies 10, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.
154. No adverse impacts are identified in terms of highway safety, drainage and ecological issues, with the development complying with relevant policies from the County Durham Plan and NPPF in these regards.
155. The proposal has generated some public interest. All of the objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not considered sufficient to justify refusal of this application in light of the benefits of the scheme, and the ability to impose conditions to control detailed construction, design and operational matters. There are no material considerations which indicate otherwise and therefore the application is recommended for approval.

RECOMMENDATION

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

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

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

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

External Lighting Drawing Rev 2 received on 27 August 2021

Site Sections Proposed: Cut and Fill – 18187-1603 Rev P05 received on 23 June 2021

Existing and Proposed Site Sections – 18187-1604 Rev P04 received on 23 June 2021

Proposed Site Plan – 18187-1601 Rev P05 received on 23 June 2021

Location Plan – 18187-1000 Rev P04 received on 23 June 2021

Arboricultural Method Statement Tree Protection Plan (AMS TPP) received on 29 March 2021

Arboricultural Impact Assessment Tree Protection Plan Layout 1 of 2 West (AIA TPP) received on 29 March 2021

Arboricultural Impact Assessment Tree Protection Plan Layout 2 of 2 East (AIA TPP) received on 29 March 2021

Level 00 Proposed Plan – 18187-2000 Rev P05 received on 22 December 2020

Level 01 Proposed Plan – 18187-2001 Rev P05 received on 22 December 2020
Roof Plan – 18187-2002 Rev P04 received on 22 December 2020
Elevations Proposed – 18187-2100 Rev P04 received on 22 December 2020
3D Views – 18187-2250 Rev P05 received on 22 December 2020
Flood Risk Assessment and Drainage Strategy (Billinghurst George and Partners)
received on 22 December 2020

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 10, 21, 26, 29, 31, 32, 35, 36, 38, 39, 40, 41, 43, 44 of the County Durham Plan and Parts 2, 4, 6, 8, 9, 12, 14, 15, 16 of the National Planning Policy Framework.

3. Prior to the commencement of any construction works to the pavilion or reconfigured pitches, details of precise timescales for construction of all of the reconfigured pitches and pavilion shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in complete accordance with the approved timescales.

Reason: To ensure the reconfigured pitches are delivered as proposed within an appropriate timescale to provide mitigation for the reduction in the quantum of open space available, in accordance with policy 26 of the County Durham Plan and Part 8 of the NPPF.

4. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 2. Details of methods and means of noise reduction/suppression.
 3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
 4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
 5. Designation, layout and design of construction access and egress points.
 6. Details for the provision of directional signage (on and off site).
 7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
 8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
 9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
 10. Routing agreements for construction traffic.

11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

5. Notwithstanding any details of materials submitted with the application, prior to the commencement of any development above foundation level to the pavilion, details of the make, colour and texture of all walling and roofing materials shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of the appearance of the area and to comply with Policies 29, 39 and 44 of the County Durham Plan and Parts 12, 15 and 16 of the National Planning Policy Framework.

6. Prior to their installation, precise details of specification and appearance of all new hard surfacing materials, including those to the service access and footpath, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 44 of the County Durham Plan and Parts 12, 15 and 44 of the National Planning Policy Framework.

7. Prior to first use of the pavilion hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include accurate plan based details of the following:
 Details of soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Seeded or turf areas, habitat creation areas and details etc.

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

A plan for the long term management of all soft landscaping and planting

The approved landscaping works shall be carried out and maintained in accordance with the approved details and in the first available planting season following substantial completion of the approved pavilion.

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

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 44 of the County Durham Plan and Parts 12, 15 and 44 of the National Planning Policy Framework.

8. Prior to the installation of any sources of heat or power to the pavilion hereby approved, precise details of the location and specification of any renewable heat and power sources shall be submitted to and approved in writing by the Local Planning Authority. The approved renewable heat and power sources shall thereafter be installed in complete accordance with the approved details prior to first use of the pavilion and maintained appropriately for the life time of the development.

Reason: In the interests of the appearance of the site and residential amenity, in accordance with Policies 10, 29, 31 and 44 of the County Durham Plan and Parts 12, 15 and 16 of the NPPF.

9. Prior to its installation full details of all external plant, ventilation and extraction equipment shall be submitted to and approved in writing by the Local planning authority. The approved equipment shall be installed in complete accordance with the approved details prior to first use of the pavilion and maintained appropriately in perpetuity.

Reason: In the interests of the appearance of the site and residential amenity, in accordance with policies 10, 29, 31 and 44 of the County Durham Plan and Parts 12, 15 and 16 of the NPPF.

10. Prior to the first use of the pavilion hereby approved a scheme for the provision of blinds on all glazing at first floor level that will close during the hours of darkness shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details. The blinds shall be operated and retained in good working order in perpetuity.

Reason: In the interests of the appearance of the site and residential amenity, in accordance with policies 10, 29, 31 and 44 of the County Durham Plan and Parts 12, 15 and 16 of the NPPF.

11. Use of the development shall not commence until a community use agreement prepared in consultation with Sport England has been submitted to and approved in writing by the Local Planning Authority, and a copy of the completed approved agreement has been provided to the Local Planning Authority. The agreement shall apply to Cricket, Rugby, Hockey and Football pitches (as well as unmarked playing field for training purposes) and include details of pricing policy, hours of use, access by non-school users, management responsibilities and a mechanism for review. The development shall not be used otherwise than in strict compliance with the approved agreement.

Reason: To secure well managed safe community access to the sports facilities, to ensure sufficient benefit to the development of sport, in accordance with policy 26 of the County Durham Plan and Part 8 of the NPPF.

12. The reconfigured sports pitches shall not be used outside the hours 8am to 9pm on any day. The pavilion hereby approved shall not be used outside the hours 8am to 10pm on any day.

Reason: To ensure the development does not generate excess noise and disturbance to the detriment of residential amenity, in accordance with policies 10, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.

13. The development hereby approved shall be undertaken in complete accordance with the Noise Impact Assessment (Apex Acoustics, 8889.1 Rev A, March 2021).

Reason: In the interest of residential amenity, in accordance with Policies 10, 29 and 31 of County Durham Plan and Parts 12 and 15 of the NPPF.

14. The development hereby approved shall be implemented in complete accordance with the Arboricultural Method Statement Tree Protection Plan (AMS TPP), Arboricultural Impact Assessment Tree Protection Plan Layout 1 of 2 West (AIA TPP) and Arboricultural Impact Assessment Tree Protection Plan Layout 2 of 2 East (AIA TPP) received on 29 March 2021.

No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2012. Protective fencing shall remain in place for the duration of all construction works on the site.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Protection Plan.

Reason: To ensure that adequate tree protection is in place prior to the commencement of any construction works and that there are no resulting adverse impacts on mature trees or historic hedgerows to be retained within the site, to preserve the visual amenity of the surrounding area, in accordance with policies 10, 29 and 40 of the County Durham Plan and Parts 12 and 15 of the NPPF.

15. The development hereby approved shall be undertaken in complete accordance with the external lighting scheme detailed on the External Lighting Drawing Rev 2 received on 27 August 2021.

Reason: In the interest of residential amenity, in accordance with Policies 10, 29 and 31 of County Durham Plan and Parts 12 and 15 of the NPPF.

16. All external lighting as shown on the External Lighting Drawing Rev 2 received on 27 August 2021 shall be switched off at all times when the pavilion and sports pitches are not in use.

Reason: In the interest of residential amenity, in accordance with Policies 10, 29 and 31 of County Durham Plan and Parts 12 and 15 of the NPPF.

17. In undertaking the development that is hereby approved:

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

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

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

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

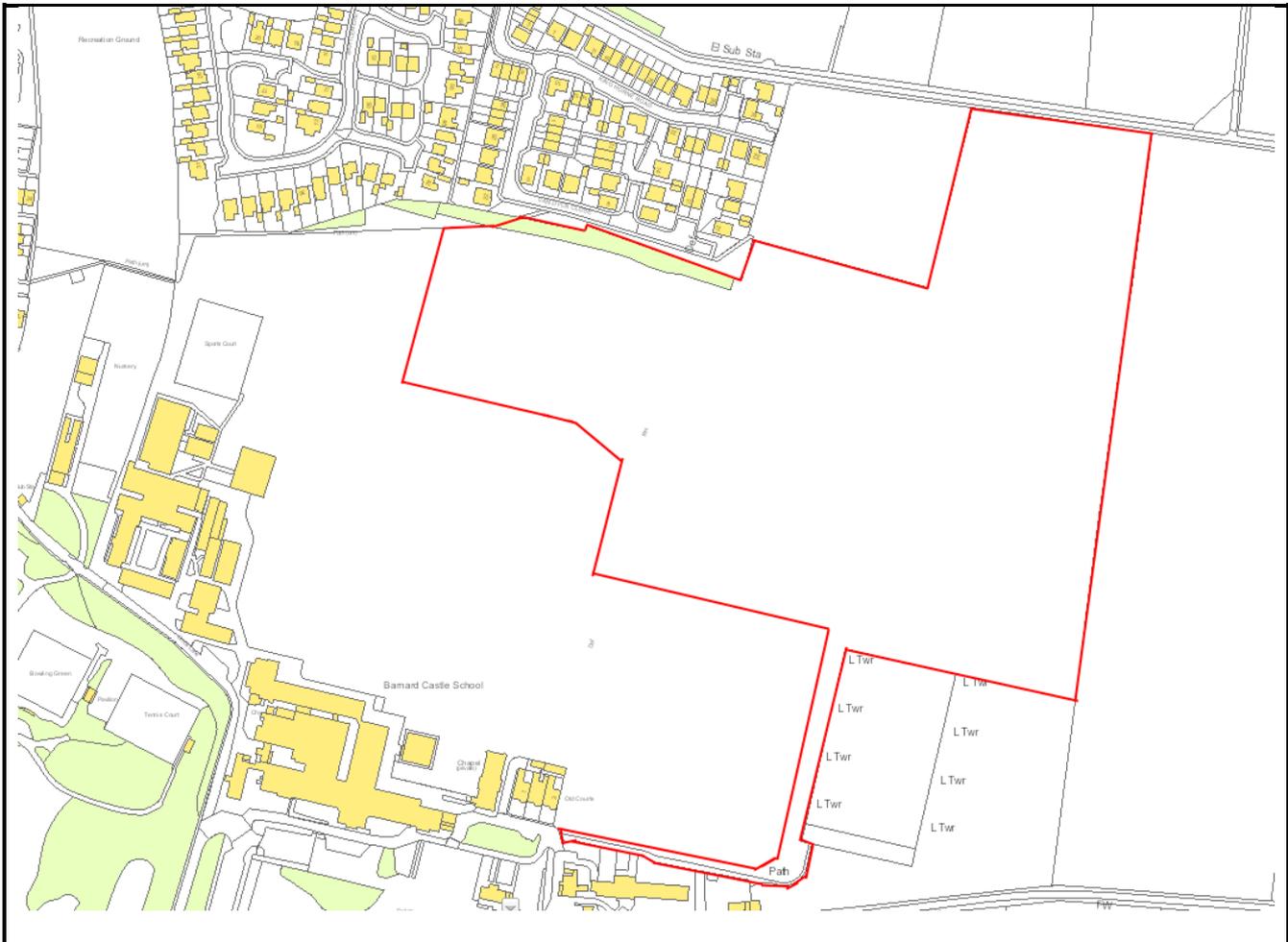
Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Statutory consultation responses
Internal consultation responses
External consultation responses



<p>Planning Services</p>	<p>Construction of a new Sports Pavilion, including access to the south and associated reconfiguration of adjacent sports pitches (amended plans and supporting information received 23.6.21)</p>	
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	<p>Date 23 September 2021</p>	