



Area Planning Committee (North)

Date **Thursday 30 March 2023**
Time **9.30 am**
Venue **Council Chamber, County Hall, Durham**

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 26 January 2023 (Pages 3 - 10)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)

- a) DM/22/00969/FPA - Site of Former Olivers Garden Centre, Chester Moor, DH2 3RQ (Pages 11 - 28)

Construction of a new building to be used as a customer display area in association with a previously approved builders merchants premises; the repositioning of a previously consented storage shed (LPA ref: DM/19/03858/FPA); and the siting of 2.4m and 3m high storage palettes and three rows of material storage racks within the site

- b) DM/23/00378/FPA - Land North of Fenton Well Lane, Great Lumley (Pages 29 - 44)

Erection of a single-story dwelling including associated access and landscaping works.

- c) DM/22/00479/FPA - Stream Valley Farm, Burnhope, DH7 0DS (Pages 45 - 64)

Retrospective consent for change of use from agricultural to a mixed use comprising of agricultural and equestrian for commercial purposes, erection of menage and flood lighting and infill extension between existing and proposed building.

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
22 March 2023

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

Councillor M McGaun (Chair)
Councillor W Stelling (Vice-Chair)

Councillors G Binney, J Blakey, L Brown, I Cochrane, K Earley,
J Griffiths, D Haney, P Jopling, C Marshall, E Peeke, J Purvis,
K Shaw, A Watson, S Wilson and C Hunt

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DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (NORTH)

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 26 January 2023 at 9.30 am**

Present:

Councillor M McGaun (Chair)

Members of the Committee:

Councillors G Binney, L Brown, K Earley, J Griffiths, D Haney, P Jopling, C Marshall, E Peeke, J Purvis, K Shaw, A Watson and S Wilson

Also Present:

Councillors B Bainbridge and B Moist

1 Apologies

Apologies for absence were received from J Blakey and I Cochrane.

2 Substitute Members

There were no substitute members.

3 Minutes

The minutes of the meeting held on 22 December 2022 were confirmed as a correct record and signed by the chair.

4 Declarations of Interest

There were no declarations of interest.

Before commencing with Agenda Item 5a, C Cuskin, Senior Lawyer Regulatory and Enforcement confirmed that members of the public who wished to record the meeting were permitted to do so, providing that they did not disturb the conduct of the meeting, remained seated as far as possible, and ensured that their device was on silent. She explained that any subsequent defamatory use of the footage was potentially actionable.

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

a DM/22/03015/FPA - Riverside Sports Complex, Riverside, Chester-le-Street, DH3 3QR

The Committee considered a report of the Senior Planning Officer which sought permission for the removal of existing floodlighting system and replacement with new LED units mounted on 6 No. 18m high masts and 2 No. 12m high masts (for copy see file of minutes).

S Henderson, Senior Planning Officer provided a detailed presentation of the application which included a site location plan, aerial photographs, photographs of the site, and proposed plan. He advised that there was an amendment to the report regarding the description of the 12m columns, stating that one of the columns that was given planning permission in 1993 had been removed and the proposal included the re-instatement of this column. A site visit had taken place the previous day.

Councillor B Bainbridge addressed the Committee as Local Member for the Chester-le-Street East division and confirmed her objection to the application. Considering the close proximity of the residential estate, The Parks, she asked for clarification on whether there would be any changes to the lux level or lighting infringement on residential homes. She acknowledged the planning history of the application site but stated that it had no relevance to the assessment. Councillor Bainbridge stressed the importance of the objections received from residents and asked if the visual impact had been considered and if the colour of the masts were in keeping with the backdrop and noted the issues relating to car parking. She referred to the schedule of operating hours and floodlight usage and requested a specific condition to ensure the floodlights were strictly monitored in accordance with the hours stated. Councillor Bainbridge asked for further information regarding how the floodlights would be switched off, whether it would be automatic or manual, and emphasised that to protect residential amenity of existing and future residents, the lights must be switched off by no later than 10pm.

The Senior Planning Officer confirmed that there would be a marginal increase in the lux level and confirmed that this was to enhance lighting on the site. He advised that the light impact assessment had been scrutinised and deemed acceptable. He clarified that planning permission existed for the lighting columns at the proposed height and confirmed that visually, the columns were galvanised but agreed that an additional condition to control the colour of the columns may need to be considered. With regards to the schedule of operating hours, he confirmed that this was conditioned as detailed in the report and advised that the applicant would be able to provide further information regarding the mechanism for switching off the floodlights.

Councillor B Moist addressed the Committee as Local Member for the Chester-le-Street South division and confirmed his objection to the application. He advised that himself and five Local Members in the Chester-le-Street area were opposed to the application and was perplexed that the applicant could apply for works on an area of land that he did not own. Councillor Moist stressed that the application had not been made by the Council, and in his opinion, the application was designed for a specific outcome for the applicant, rather than for the residents of Chester-le-Street and highlighted that to get the application approved by the end of March 2023 was vital for the applicant. He noted that the application site was an area of high landscape value and that the new floodlights would not conserve or enhance the area and would not provide any community benefits. He felt that the impact of the light pollution was not clear when visiting the site the previous day due to high sunshine and that visibility would only be clear on a night, he felt that more consideration needed to be given to the residents that would be affected by light pollution. He referred to the planning history of the application and stated that this was not relevant to the current application. He stated that there were no references in the report that explained the costs or maintenance of the floodlights and believed that the proposal was not sustainable. He advised that the application site was currently a shared space, and that approval of the application would restrict use of access to the sports pitch and the area surrounding it and therefore the residents of Chester-le-Street would lose a recreational area and it would no longer be a community asset. He believed the existing floodlights were adequate, and although new floodlights would increase participation, they would affect the number of people who could use the area. With regards to the protected species assessment, he pointed out that there were otters on the site. He questioned why the application had been submitted and confirmed that it breached Policies 2, 4, 8 and 16 of the National Planning Policy Framework (NPPF) and Policies 6, 31, 39 and 41 of the County Durham Plan (CDP) and respectfully asked the Committee to refuse the application on that basis.

The Senior Planning Officer clarified that the application was only to enhance the current lighting of the sports facility. In terms of sustainability, he explained that the new LED technology required significantly less power, and the low UV output would have a positive impact on ecology due to the new lighting being less attractive to insects.

Councillor Jopling highlighted that, where the applicant lived, who owned the land, and how the proposal was to be funded, was not relevant to the application.

The Senior Lawyer stressed that several statements regarding the identity of the applicant had been made and these were not material to the application.

She confirmed that the Committee had a statutory duty to determine the application in accordance with the development plan.

Councillor Moist explained that he understood but felt it was important to highlight this information. He asked for clarity on whether the application should be recommended for approval when it conflicted with several policies of the NPPF and the CDP. The Senior Planning Officer confirmed that all aspects of the NPPF and the CDP had been considered and on balance they believed the principle of the development was acceptable in accordance with the policies.

Mr A Brown from the Riverside Residents' Association addressed the Committee in objection to the application. He stated that the application should not be used as a standalone project for floodlights. He confirmed that he had previously spoken with the leader of the Council and Cabinet regarding plans for the Riverside area. He noted the main reason the application had been submitted was to attempt accreditation from the Football Association (FA) by March 2023, despite a consultation that was underway regarding outdoor sporting facilities in Chester-le-Street. He stated that it was ironic that the application mirrored phase two of the Council's plan for the Riverside which was submitted in March 2022 and subsequently withdrawn. He advised that the proposal would be part funded by the Council and the Council would be responsible for management and ongoing maintenance costs which suggested that the applicant was not facing financial risk. He explained that if the application was approved, major issues relating to increased traffic, and noise from the tannoy would be experienced by residents and he noted that these issues had not been referenced in the application. He questioned the applicant's ability to adhere to condition 4 and 5 when he was not the landowner or the operator. He pointed out that a letter had recently been received by the Area Action Partnership (AAP) from the ladies' football team that suggested they could not gain use of the facilities. He referred to the application that was submitted by the Council in March 2022 and felt aggrieved that the application was attempted to be steam rolled through to comply with the timescales of the FA. The application was subsequently withdrawn and a consultation on outdoor sporting facilities was launched to gain the views of residents, and at that time, the leader of the Council had assured that a stronger management team would be established to manage usage of the facilities. Mr Brown confirmed that this had not happened and felt very let down by the Leader of the Council, and stated that should the application be approved, it would result in the loss of a highly valued community asset.

L Pendleton, the Applicant addressed the Committee stating that he was the Chairman of the charity for Chester-le-Street United. He advised that he was a local person himself and cared deeply about the Chester-le-Street area and advised that the football club was part of the Community. He wanted the

opportunity to dispel statements about him that were inaccurate and asked that the application be considered on its merit of replacing the existing floodlights. He confirmed that he was a Deputy Headteacher at a school and clarified that the charity was not a profit organisation.

The Senior Planning Officer accepted that various things outside of the planning process were taking place, but that the Committee could only consider the application in front of them which was the replacement of the floodlights.

Councillor Wilson acknowledged the background to the application and understood the concerns but noted that at present, it was only speculation. In terms of condition 5 listed in the report regarding the operation of the floodlights, he asked whether this condition would improve the restrictions. The Senior Planning Officer explained that the new floodlights would provide greater control and that condition 5 would ensure that they were only operated during the times described in the report. He explained the negatives of the floodlights being controlled by a timed system, noting there could be occasions when the sports pitch was not in use, but the floodlights remained on.

Councillor Earley recalled the original planning application for the site and stated that a planning brief would have been helpful at that time to inform residents on future developments for the whole site. He stated the Committee should not be looking at applications in isolation and that in future, a planning brief describing all planned developments for the site would help to minimise the harm to residents. He confirmed that he supported the officer's recommendation to approve the application.

Councillor Jopling asked the applicant if he could provide information regarding the usage of the sports pitch and advise who would benefit from the approval of the new floodlights. The applicant confirmed that the football club would utilise 15% of the overall usage and that the new floodlights would benefit the athletics club, Park View School, and disability groups who also used the facilities.

Councillor Jopling thanked the Senior Planning Officer for his detailed presentation commenting that he expanded on all the relevant objections which was extremely helpful. Considering the objections, she felt the application was finely balanced but believed that the floodlights would enhance the facilities and therefore the positives outweighed the negatives. Councillor Jopling confirmed that there were no planning grounds to refuse the application and therefore supported the officer's recommendation to approve the application.

Councillor Brown asked how close the nearest 18m column was to residential housing and if any complaints regarding the current floodlights had been received from residents in the last 27 years. She sympathised with the concerns expressed by residents but felt that their grievances had the potential to be resolved by mediation and suggested that the applicant met with residents to address their concerns. Councillor Brown believed that the application complied with Policy 29 and 31 of the CDP and supported the officer's recommendation to approve the application.

The Senior Planning Officer advised that the closest 18m column was 36m – 52m to the nearest house rear elevation. The closest 12m column was 30m to the nearest house. He further advised that Environment Health had not made the Planning Officers aware of any complaints regarding the current floodlights.

Councillor Marshall highlighted that the Council had submitted an application regarding changes to the floodlights in 2022, and the application was subsequently withdrawn when a consultation regarding outdoor sporting facilities in Chester-le-Street was launched. He stated that he should have declared an interest in this item as he had met with the applicant in his previous role, however he confirmed that they had not discussed this application. He questioned why the applicant had submitted the planning application rather than the Council.

The applicant explained that as a user of the site, he began discussions with the Council regarding the floodlights in February 2019. He was informed at that time that the Council would submit the application to replace the floodlights, but afterwards was given several reasons why the Council were no longer able to do so. He confirmed that his football club, Chester-le-Street United, would contribute a significant amount of money towards the new floodlights and confirmed that the football club was open and transparent. The applicant confirmed that he wanted to enhance the existing facilities at the Riverside Sports Complex and wanted to work with the Council in doing so.

Councillor Marshall felt it was wrong for the Committee to consider the application in isolation and before the results of the consultation on outdoor sporting facilities in Chester-le-Street were known. In his opinion, Chester-le-Street United had been encouraged to submit the application.

Councillor McGaun, the Chair, reminded Councillor Marshall that political views must not be expressed at a meeting of an Area Planning Committee.

Whilst Councillor Marshall disagreed with the management of the application, he noted that there were no planning grounds to refuse the application.

Councillor Watson disagreed that the application was in isolation and noted that the application was only to enhance the floodlights and was something that the whole community would benefit from. He confirmed that he supported the officer's recommendation to approve the application but requested an additional condition to control the colour of the columns.

The Chair noted that conditions regarding noise and light had been raised by Members but confirmed that these issues had been addressed in the report. Further to the additional condition suggested by Councillor Watson regarding the colour of the columns, the Chair asked Councillor Watson if the colour of the columns was to remain neutral and not be favourable to a specific football team. Councillor Watson agreed.

Councillor Earley **moved** the application to be approved in line with the officer's recommendation, this was **seconded** by Councillor Jopling.

The Senior Lawyer confirmed that the colour of the columns would be agreed as an additional condition to the application and advised that this would require an authority delegated, and details of the colour would need to be submitted to the Council, Chair and Vice Chair at a later date and the colour agreed.

The Senior Lawyer further advised that the Committee were required by law to determine the application in accordance with the development plan and that no political consideration should be considered when making a decision.

Resolved

That the application be **APPROVED** subject to the conditions listed in the report and an additional condition regarding the colour of the columns.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/22/00969/FPA

FULL APPLICATION DESCRIPTION: Construction of a new building to be used as a customer display area in association with a previously approved builders merchants premises; the repositioning of a previously consented storage shed (LPA ref: DM/19/03858/FPA); and the siting of 2.4m and 3m high storage palettes and three rows of material storage racks within the site

NAME OF APPLICANT: Mr David Anderson (Joseph Parr Ltd)

ADDRESS: Site Of Former Olivers Garden Centre
Holmhill Lane
Chester Moor
DH2 3RQ

ELECTORAL DIVISION: Chester-le-Street South

CASE OFFICER: Scott Henderson
Senior Planning Officer
Telephone: 03000 256286
scott.henderson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The site was formerly Oliver's Garden Centre, approved for that use (sui generis) in 1985 and operated as such until around five years ago. The site has subsequently been subject to unauthorised uses including caravan storage and storage of vehicles from nearby car sales garages, all of which have been enforced and removed.
2. The application site is a roughly triangular area of land bounded by the main east coast railway line (ECML) to the east, the A167 dual carriageway to the north and Holmhill Lane to the west and south. The site has been cleared of all buildings and structures. The site is surrounded by security fencing of different types on all boundaries and is secure. There is a single point of access from Holmhill Lane, with double gates recessed into the site to allow large vehicles to sit off the public highway while waiting for the gates to be opened. The former Garden Centre's sealed parking area and compact hard-surface overflow parking areas are evident at the front (Holmhill Lane) of the site.

3. The boundary to the east of the site with the ECML is formed of a retaining wall with a palisade fence above. The railway line is at a higher level. To the north of the site mature planting is evident on the embankment outside the site as the A167 dual carriageway dips below the railway under a viaduct, which is listed, north of the road where the woodland valley (that forms part of The Hermitage's grounds) is included in a 'Parks and Gardens of Local Interest' designation. South west of the site, across Holmhill Lane is a small grassed paddock on rising land that separates the nearest dwelling, Chester Moor Farm, from that highway. Chester Moor Farm is surrounded by mature garden planting and is set at 45 degrees and at a higher level from the site. Beyond this dwelling there is a small residential development consisting The Dene - 14 large detached dwellings and a courtyard development of 5 dwellings, accessed from Holmhill Lane 60m south of the site entrance, and further south, The Oval - 12 semi-detached dwellings in a cul-de-sac accessed directly from the A167, 300m from the site entrance. At the entrance to The Dene is an open steel-frame of a barn that following a prior notification in 2016 was granted consent for conversion of an agricultural building into single dwelling.
4. The site is entirely within the designated Green Belt and borders an Area of High Landscape Value.

The Proposal

5. The application proposes the construction of a new building to be used as a customer display area, a new storage shed and the siting of 2.4m and 3m high storage pallets and three rows of material storage racks within the site. Ten staff car parking spaces are proposed in the south of the site with 14 customer spaces in the north. These include 2 EV spaces and 2 accessible spaces. Access into the site is to be retained from Holmill Lane. The proposals also feature new tree planting and a SUDS scheme with a pond to the south.
6. This application is being considered by Committee at the request of Councillor Bill Moist to consider the impact on the Green Belt.

PLANNING HISTORY

- DM/21/01635/CPO Certificate of Lawfulness of Proposed Development for the change of use from garden centre to builders merchants, including the erection of a covered open storage unit, external material storage and ancillary car parking
Granted 13th July 2021
- DM/20/02327/VOC Variation of Condition 2 of approval DM/19/03858/FPA to allow revised single apex roof design to main building and minor alterations to fenestration
Approved 7th October 2020
- DM/19/03858/FPA Change of use from garden centre to builder's merchants, including the recladding of existing building, erection of covered open storage unit, external material storage and ancillary car parking
Approved 13th March 2020
- DM/19/03602/AD 2 no. existing signs to be replaced, 1 no. new sign to existing boundary fencing and 2 no. new fascia signs to front elevations of main building
Approved 18th December 2019

- 2/08/00069/FUL Side extension to existing garden centre to provide additional retail floorspace in connection with existing use and insertion of new shop doors Approved 22nd April 2008
- 2/04/00416/ADV Directional sign (retrospective) Approved 23rd June 2004
- 2/89/00444/FUL Extension to Retail Glasshouse. Conditionally Approved (CLS) 9th November 1989
- 2/88/00104/FUL Extension of Existing Glasshouse Building. Conditionally Approved (CLS) 14th April 1988
- 2/85/01006/REM Garden Centre (Reserved matters of 2/85/00006/OUT) Conditionally Approved (CLS) 27th August 1985
- 2/85/00006/OUT Outline Application for Garden Centre. Conditionally Approved (CLS) 15th February 1985

PLANNING POLICY

NATIONAL POLICY

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal: 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.
8. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. *NPPF Part 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.
10. *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.

11. *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.
12. *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.
13. *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.
14. *NPPF Part 13 – Protecting Green Belt land.* The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.
15. *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.
16. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment, protecting biodiversity and recognising the intrinsic character and beauty of the countryside. There is further advice for ground conditions and pollution.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

17. 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; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; 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)

18. *Policy 10 Development in the Countryside.* Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and general design principles.
19. *Policy 20 Green Belt.* Development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out several exceptions as well as other forms of development which may be inappropriate in the Green Belt.
20. *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.
21. *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.
22. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
23. *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.
24. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that

the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.

25. *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.
26. *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 defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
27. *Policy 39 Landscape* states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
28. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
29. *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.
30. *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.

SUPPLEMENTARY PLANNING DOCUMENTS

31. The Council adopted a SPD in 2022 dealing with Residential Amenity Standards. The SPD promotes high quality design which is sensitive and in keeping with the area in which it is located.

Neighbourhood Plan:

32. There is no neighbourhood plan for this area.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

33. *Highways Authority* - comment that upgrades are required in respect of the access to the site and the proposed car parking must be implemented, but subject to that no objections are raised.
34. *Network Rail* - did not comment, however offered no objections in principle to the previous applications on the site.

INTERNAL CONSULTEE RESPONSES:

35. *Spatial Policy Officers* write:

The site is within the green belt and regarded as an area of high landscape value. It is therefore a sensitive location for development. Policy 20 (Green Belt) of the CDP states that development proposals within the Green Belt will be determined in accordance with national planning policy. The supporting text confirms that there is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated.

The NPPF (2021) should therefore be used to assess this proposal in respect of Green Belt implications. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 138 that the Green Belt serves five purposes. Paragraph 147 of the NPPF under proposals affecting the Green Belt states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

In this case the proposal does not fall under any of the exceptions, and given that a new building and structures are proposed it is unlikely to preserve the openness of the Green Belt and will conflict with the purposes of including the site within it. They are therefore likely to be regarded as inappropriate and the 'Very special circumstances' test will need to be satisfied.

Policy 10 (Development in the Countryside) seeks to protect the countryside from inappropriate development stating that development in the countryside will not be permitted unless allowed for by specific policies in the Plan (set out within footnote 54), or where the proposal relates to one or more of the following exceptions contained within Policy 10 itself. In this instance the 'Economic Development' element of Policy 10 and part b.) would be relevant as it relates to the expansion of an existing business falling beyond the scope of a rural land based enterprise (as would be the case here). It requires a demonstration that the enterprise is financially sound and will remain so. Financial accounts of the business would assist with demonstrating it is viable. Policy

10 also provides general design principles for all development in the countryside and applications must therefore meet criteria 1-t of the policy.

Policy 39 (Landscape) seeks to protect the character, quality or distinctiveness of the landscape and expects new development to incorporate appropriate measure to mitigate adverse landscape and visual effect. The policy makes clear that development affecting Areas of Higher Landscape Value (as in this case) will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. Given the sensitive location of this site, comments should be sought from specialist colleagues to determine whether the development will be acceptable, and whether any potential mitigation may be required to lessen any harm. This can then be weighed against the benefits of the development.

36. *Ecology Officers* consider that the development shows a net loss of biodiversity, the first port of call is to redesign the layout to provide a net gain through the retention and enhancement of extant habitats. A biodiversity management and monitoring plan will be required for the retained habitats, this can be in draft format with its finalisation being secured via a legal agreement. The applicant should look at design options that deliver biodiversity net gain ensuring that the development meets the requirements of the NPPF and Local Plan.
37. *Environmental Health (Contamination)* note that there is the risk of land contamination on the site and therefore a requirement for a phase 2 investigation. Given this suggested contaminated land conditions should apply to ensure physical investigation of the site, mitigation, where identified as required with where necessary include gas protection measures and thereafter verification of the methods and operations undertaken. Informatives are suggested to cover the eventuality for unforeseen contamination being encountered.
38. *Environmental Health (Nuisance Action Team)* do not envisage that the proposal would have a significant impact in terms of statutory nuisance or amenity.
39. *Lead Local Flood Authority* consider there is insufficient information provided to determine the suitability of the surface water drainage proposal.
40. *Tree Officers* consider that the proposed development would have a low and acceptable impact on existing trees. The additional tree planting will enhance the tree cover and biodiversity on the site.
41. *Landscape Officers* note that the site does not lie within any national or local landscape designations but is adjacent to an Area of High Landscape Value. It contains no protected trees but is within designated Green Belt. They note that the proposed buildings, storage structures and hard surfaces would create a stark spectacle in comparison to the surrounding rural countryside and would bring about adverse and permanent landscape effects. The proposed planting would serve as mitigation, but the wide expanses of hard surfaces would still dominate with proposed buildings and storage racks being additional development to the existing site. The proposed development would increase the extent of built form on the site with potential impacts on the openness of the Green Belt,

PUBLIC RESPONSES:

42. 38 consultation letters were sent out, with the application also advertised by site notice and in the press. 18 public representations have been received, all objecting.

43. The stated reasons for objection are:

- Inappropriate development in the Green Belt
- No 'special circumstances' to justify development with the Green Belt
- Traffic generation and deliveries to the site will be dangerous
- Insufficient parking on the site
- Noise and disturbance to local residents from the site

APPLICANT'S STATEMENT

44. The applicants submitted a statement in support of the proposal to justify 'very special circumstances' as to why the development can be justified within the Green Belt as follows:

1) The extant use is a Garden Centre and new buildings could be permitted via NPPF Para 149. This would allow the erection of a replacement building under Para 149 (d). The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

2) Additionally, it is the intention of the applicant to implement the active approval, DM/21/01635/CPO, which would then permit a degree of appropriate new buildings also under NPPF Para 149 (c) as an extension to the approved storage unit and under (d), the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

3) One important VSC to be considered is sustainable development which is contained in Paragraph 8 of the NPPF: the economic, social and environmental benefits. It can be a series of circumstances which in themselves might not be very special, but could amount to very special circumstances in combination. Refer to 5) below.

4) It is considered that the site is unique and this is considered another VSC. To explain, the applicant has sought an appropriate site within between its two other sites which are in Teesside and North Tyneside. The selective criteria were;

a) An out-of-town location with good access

b) a site which would enable the Joseph Parr Ltd to proceed with its intention to change the current public perception of Builders' Merchants via the adoption of 'green' policies' which would not only have environmental benefits for the common good but also to project its image as a responsible and caring company.

c) A site of sufficient size to allow the implementation of ecological and environmental procedures.

d) a previously-developed site with either an existing or similar use with established traffic patterns, so as not to create conflict with any adjacent uses.

Joseph Parr Ltd strongly considers that the application site is the only one, after extensive and protractive searches, which meets all of the above factors, and is considered, therefore, unique

5) The application site is large enough and has existing landscaped areas which not only meet Joseph Parr's own ecological aspirations but enable the company to conform, to both lesser and greater degrees, with Durham County Council's many existing and emerging ecological/environmental policies, together with others proposed by bodies such As RIBA etc.

It is the applicant's opinion that none of other sites which have been considered have the ability to incorporate these important factors. Please refer to Appendix 01 which quantifies the special character of the application site when compared to Joseph Parr's other operations and also competitors' site.

Paragraph 11 of the NPPF states that there is a presumption in favour of proposed development for buildings or infrastructure which promotes high levels of sustainability. Planning consent on Green Belt land relies on the outstanding design criteria and to achieve success, an application must be mindful of this. The scheme incorporates enhanced landscaping plans, including biodiversity improvement, such as increased planting and run-off water attenuation. Furthermore, DCC policies contain the following extract:

“When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. The Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

6) The proposals have many economic and social benefits, such as job creation which have been addressed in Bradley Hall’s Planning Statement and MMA’s Design and Access Statement and Environmental Design document which have been previously submitted.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

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

The Development Plan

46. 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.

Principle of the Development

47. This application proposes the redevelopment of a disused brownfield former garden centre site situated in the countryside and within the North Durham Green Belt. The site had been in this use since its approval in 1985 until recently. Google Earth images from 2001 onwards (2001, 2006, 2008, 2009, 2012, 2014, 2015) show the site in use as the garden centre, with the central core of buildings surrounded by various forms of open storage, product displays - including erected conservatories, storage

containers and ancillary buildings. The garden centre ceased trading comparatively recently in 2018 and the site was then cleared of some the smaller buildings, structures and the external storage (Google Earth images 2017, 2018) to facilitate unauthorised storage of vehicles - caravans and motor trade cars - a use subsequently enforced by the Local Planning Authority and discontinued. Since that time the last remaining buildings on the site have been demolished and were removed in October 2020. The site is therefore within Green Belt and wholly cleared of existing buildings.

48. The most recent planning activity on the site was the approved application (DM/21/01635/CPO Certificate of Lawfulness of Proposed Development) for the change of use from garden centre to builders merchants, including the erection of a covered open storage unit, external material storage and ancillary car parking which was granted on 13th July 2021. This application was considered after the demolition of the principal building on the site (the glasshouse). It concluded that the unexpected demolition of the glasshouse precluded its recladding and re-use given that it no longer existed, but that the change of use to builder's merchants and other previously approved ancillary buildings and storage racks could be implemented lawfully. Therefore, as it stands no lawful permission exists for the erection of a new building for a customer display area and hence an application for planning permission has been submitted.
49. It is considered that the main issues in the determination of this application are
- a. Whether the proposal is inappropriate in the Green Belt having regard to the NPPF and any relevant development plan policies (Policy 20 of the CDP); and the effect on the openness of the Green Belt;
 - b. Whether the proposal would satisfy the requirements of development in the countryside (Policy 10 of the CDP);
 - c. Would any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

Green Belt

50. Paragraph 149 of the NPPF whilst stating that the construction of new buildings is inappropriate in the Green Belt, provides a number of exceptions to this which includes at paragraph 149 (g) 'the partial or complete redevelopment of previously developed land'. Whilst there is no dispute that the proposal accords with paragraph 149 (g) in respect of it being the redevelopment of previously developed land, to not amount to inappropriate development, it must also 'not have a greater impact on the openness of the Green Belt than the existing development'.
51. In this case the site has recently been wholly cleared of buildings. It must be acknowledged that the approval of the recent Certificate of Lawfulness DM/21/01635/CPO allows the lawful implementation of elements of the scheme now proposed, most notably the material storage sheds, and bulk material storage racks albeit in slightly different locations. This is considered to be the fallback position.
52. Whilst it is acknowledged that the fallback position would have an affect on the openness of the Green Belt, should it be implemented, it is considered on balance that the quantum of the newly proposed development would by virtue of its scale, mass and design have a greater impact that on the openness of the Green Belt over that of the fallback position.
53. Notwithstanding the fallback position, it is considered that the proposed development would result in new built development where (following the demolition of the

glasshouse in 2020) there is currently none, which due to their presence will have a greater impact on openness of the Green Belt contrary to paragraph 149 of the NPPF and Policy 20 of the CDP.

Very Special Circumstances

54. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 138 that the Green Belt serves five purposes. Paragraph 147 of the NPPF under proposals affecting the Green Belt states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very Special Circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
55. The applicants have presented a list of what they consider to be Very Special Circumstances repeated in the Applicant's Statement section above.
56. Two of the six reasons offered relate to the replacement of an existing building which in this case is not applicable due to the site being wholly cleared of buildings.
57. The applicant considers that the development would offer the opportunity to provide ecological and landscape benefits. It is acknowledged that development of the site could indeed offer such benefits, but it is felt that this would not amount to a very special circumstance. Such enhancements would be a requirement for any development of this nature in order to be considered acceptable when assessed against Policies 39 and 41 of the County Durham Plan.
58. The applicants also consider the economic and social benefits which would be created through job creation to be a very special circumstance. Job creation is clearly a desirable outcome which can be weighed in favour of development and it is acknowledged that the proposal could lead to 19 FTE positions. However, on its own this would not be considered so significant or exceptional to be considered a very special circumstance, given its proximity to 2 large conurbations (Chester-le-Street and Durham City). According to the Office of National Statistics, long-term unemployment is between 1.6% in Chester-le-Street and 0.9% within Durham City area and therefore the job creation is not considered to outweigh the long-lasting and permanent harm to the openness of the Green Belt.
59. The potential landscape, ecological and economic benefits that the proposal could generate are clearly positive but are not considered to be so unusual, exceptional or significant as to outweigh the identified harm to the openness of the Green Belt. It is not accepted that Very Special Circumstances exist in this case as is required by paragraph 147 of the NPPF.

Conclusion on Green Belt impact

60. The Government attaches great importance to Green Belts. Substantial weight should be given to any harm to the Green Belt and in this case, it is considered that the proposal is inappropriate, having a greater impact on openness and therefore causing harm to the openness of the Green Belt. This is as well as the other harms identified in terms of the building being located in the open countryside. Despite the other considerations put forward by the applicants, these do not outweigh this harm. Consequently, Very Special Circumstances necessary to justify the development do

not exist and the proposal is considered to fail against the NPPF and Policy 20 of the CDP.

Development in the Countryside

61. The site is considered to be within the open countryside as it is located outside the existing built development of a settlement. Policy 10 of the CDP states that development in the open countryside will not be permitted unless allowed for by specific policies in the CDP, or where the proposal relates to one or more exceptions. There are no such specific policies in this case.
62. In terms of the exceptions, the proposal would not satisfy the requirements of economic development given the site has been cleared, does not constitute an expansion of an existing business and does not relate to the establishment of a new agricultural or rural land based enterprise. Furthermore, in response to the 2 remaining Policy 10 exceptions, the proposal would not constitute infrastructure development or the development of an existing building. The proposal would not therefore accord with Policy 10 of the CDP.

Landscape and visual impact

63. Policy 39 (Landscape) of the CDP, requires new proposals to not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Development affecting Areas of Higher Landscape Value defined on Map H, will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. Part 15 of the NPPF requires planning decisions to protect and enhance valued landscapes.
64. The site does not lie within any national or local landscape designations but is adjacent to an Area of High Landscape Value. It contains no protected trees but is within designated Green Belt. When considered against the now open character of the site, the proposed buildings, storage structures and hard surfaces would create a stark spectacle in comparison to the surrounding rural countryside and would bring about adverse and permanent landscape effects. The proposed planting would serve as mitigation, but the wide expanses of hard surfaces would still dominate with proposed buildings and storage racks being additional development to the existing site. The proposed development would increase the extent of built form on the site with potential impacts on the openness of the Green Belt. Notwithstanding the impact in relation to Green Belt policy, the proposal is not considered to accord with Policy 39 of the CDP.
65. Policy 40 Trees, Woodlands and Hedges states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
66. The proposal would retain the existing and add additional trees to the site. It is considered that it would accord with Policy 40 of the CDP in this regard.

Highways Safety and Access

67. Policy 21 of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Paragraphs 110 and 111 of the NPPF repeat this. Whilst there were some issues identified by County

Highways Officers that related mainly to the access and on site car parking, the applicant has provided sufficient detail in response to indicate that these issues could be resolved through the imposition of appropriate conditions and on that basis no objections are raised from a Highways perspective.

Residential Amenity

68. 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.
69. Policy 29 requires development to provide high standards of amenity and privacy, and minimise the impact of development upon occupants of existing adjacent and nearby properties. 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.
70. The site is approximately 50m distant from the nearest noise sensitive residential properties located at The Dene. A number of residents has objected to the proposal on the grounds of noise and disturbance. Consultation was carried out with specialist officers within Environmental Health who do not envisage that the proposal would have a significant impact in terms of statutory nuisance or amenity. Based on the submitted Noise Assessment and comments from Environmental Health the proposal is considered to accord with Policies 29 and 31 of the CDP and the Residential Standards SPD.

Ecology

71. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Although not yet defined by the applicant, it is considered that requirements for net biodiversity gain can be achieved within the site and are capable of being secured by planning condition.

Ground conditions

72. Implications from contamination from the former uses of the site can be addressed through the imposition of standard conditions as requested by officers within Environmental Health. It is considered that the proposal accords with Policy 32 of the CDP.

Drainage and Flood Management

73. The submitted plans indicate areas of the site set aside for reed beds, septic tanks, SUDS pond and use the permeable hard surfaces. Colleagues in the Lead Local Flood Authority have requested additional information but at the time of writing this has not been supplied by the applicant. However, it is considered that a suitable surface water drainage strategy is capable of being designed (secured via a planning condition)

within the constraints of the site and no objection on the basis of Policy 35 and 36 is recommended.

Other Considerations

74. All other material issues (traffic impact, impact on Green Belt, parking, noise disturbance) raised in the submitted objection letters, , have been considered as part of the assessment above.

Public Sector Equality Duty

75. Officers have considered whether there are implications in the proposals including the loss of the existing land, the nature of the proposed development and the development period that would affect rights under the Human Rights conventions and the Equalities Act 2010 over and above those implicit in the planning assessment, concluding that in this instance there are none. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
76. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

77. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
78. It is considered that the proposal is inappropriate, having a greater impact on openness and causing harm to the openness of the Green Belt. This is as well as the other harms identified in terms of the building being located in the open countryside. Despite the other considerations put forward by the applicants, these do not outweigh this harm. Consequently, very special circumstances necessary to justify the development do not exist and the proposal is considered to fail against the NPPF and Policies 10, 20 and 39 of the CDP.

RECOMMENDATION

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

1. The application proposes inappropriate development, harmful to the Green Belt and is not supported by very special circumstances that would individually or cumulatively outweigh the harm, contrary to the requirements of Policy 20 of the County Durham Plan and Part 13 of the NPPF.
2. The application represents new development in the countryside without appropriate justification or evidence of need contrary to the requirements of Policy 10 of the County Durham Plan.

3. The proposed development would create unacceptable harm to the character, quality and distinctiveness of the landscape contrary to the requirements of Policy 39 of the County Durham Plan.

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, notwithstanding the negative conclusion.

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant
Statutory, internal and public consultation responses
The National Planning Policy Framework
National Planning Practice Guidance Notes
County Durham Plan
Residential Amenity Standards SPD (2023)



Planning Services

DM/22/00969/FPA

Construction of a new building to be used as a customer display area in association with a previously approved builders merchants premises; the repositioning of a previously consented storage shed (LPA ref: DM/19/03858/FPA); and the siting of 2.4m and 3m high storage palettes and three rows of material storage racks within the site

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Date 30th March 2023

Scale NTS

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/00378/FPA
FULL APPLICATION DESCRIPTION:	Erection of a single-story dwelling including associated access and landscaping works.
NAME OF APPLICANT:	Mr Alan Bell
ADDRESS:	Land north of Fenton Well Lane Great Lumley
ELECTORAL DIVISION:	Lumley
CASE OFFICER:	Scott Henderson Senior Planning Officer Telephone: 03000 256286 scott.henderson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site sits in countryside designated as Green Belt beyond the western edge of Great Lumley, a medium sized village that includes a school, convenience store, clubs and a range of services and facilities proportionate to its size. The site is in a raised, prominent position with expansive views across the valley of the River Wear to Chester-le-Street, the East Coast Mainline railway and Durham County Cricket Club.
2. The land is a formed plinth, 'cut' into the rising ground to the east, and 'formed' above the lower ground to the west. The west edge of the plinth has a line of low-level shrubs and small trees. The southern boundary of the site is formed of a stone wall, with an entrance gateway at its eastern end. The wall separates the site from Fenton Well Lane, an unadopted access to Lumley Grange, 500m to the east. The adopted highway begins at the edge of the village, 50m to the east, where two extended semi-detached dwellings front the lane. To the rear of these dwellings is another, Half Moon Cottage. Facing them across Fenton Well Lane is a short cul-de-sac of three large modern detached two-storey dwellings, with an outstanding consent for another.
3. The status of the land between the site and the nearest dwellings is unclear. Part is close mown on satellite images and Council owned, appearing to have informal public access, part is fenced off as unimproved grassland without obvious use. Land to the north, west and south is in agricultural use.

4. The site is considered to be 'brownfield', having been historically occupied by a schoolhouse. Hardstanding and sparse ground level remains of former structures are partially visible on site, the actual structures having been long since cleared and last visible on the 1969 OS Map – over 50 years ago.

The Proposal

5. The application proposes a single storey detached dwelling of bespoke design on slightly raised site levels. 'U' shaped in form, with a shallow green roof, the floorplans show three bedrooms (one an optional study), an open plan kitchen / lounge and a study, a bathroom and utility room. The roof provides for solar and thermal panels. Elevational materials are red brick, brown render and wooden cladding, with dark grey fenestration. Car parking is open, with the existing access point from Fenton Well Lane used.
6. This application is being considered by Committee at the request of Councillor Philip Heaviside, to consider the impact on the Green Belt of a brownfield site.
7. The application has been submitted in response to the refusal in 2022 of a similar scheme Ref DM/22/00199/FPA. The applicant has sought to address the reasons for refusal in this current submission by enhancing the landscape elements of the proposal.

PLANNING HISTORY

DM/22/00199/FPA Erection of a single storey dwelling – North Planning Committee – Refused

DM/17/03144/FPA Erection of a dwelling - North Planning Committee – Refused

2/06/00208/OUT Residential development comprising 1 no timber residential chalet – Withdrawn when recommended Refused to Committee.

2/03/00558/OUT Single storey dwelling & garage – Committee Refused – Refused – Appeal dismissed.

2/75/462/CM Outline application for house – Refused.

2/75/00441/CM Erection of dwelling house (outline) – Refused.

Following appropriate procedure, this site was considered for removal from the Green Belt to facilitate erection of a dwelling during the preparation of the County Durham Plan, however following examination the Inspector was not persuaded that there were exceptional circumstances to justify the removal of the site from the Green Belt and the proposal rejected.

PLANNING POLICY

NATIONAL POLICY

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

9. *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.
10. *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.
11. *NPPF Part 5 - Delivering a wide choice of high-quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
12. *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.
13. *NPPF Part 9 - Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 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.
15. *NPPF Part 12 - Achieving Well-Designed Places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 13 – Protecting Green Belt land.* The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved

except in very special circumstances. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.

17. *NPPF Part 14 - Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
18. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment, protecting biodiversity and recognising the intrinsic character and beauty of the countryside. There is further advice for ground conditions and pollution.

<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; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; 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 10 Development in the Countryside.* Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and general design principles.
21. *Policy 20 Green Belt.* Development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out several exceptions as well as other forms of development which may be inappropriate in the Green Belt.
22. *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.

23. *Policy 25 Developer Contributions.* Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
24. *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.
25. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an area's character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
26. *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.
27. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
28. *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.
29. *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 defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.

30. *Policy 39 Landscape* states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
31. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
32. *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.

SUPPLEMENTARY PLANNING DOCUMENTS

33. The Council adopted a SPD in 2022 dealing with Residential Amenity Standards. The SPD promotes high quality design which is sensitive and in keeping with the area in which it is located.

Neighbourhood Plan:

34. There is no neighbourhood plan for this area.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

35. *Highways Authority* comment that upgrades are required in respect of the access to the site beyond the extent of the adopted public highway and lighting along with requirements for refuse to be collected at the nearest point of adopted highway.
36. *The Coal Authority* confirm the site falls within the defined Development High Risk Area and raise no objection to the proposed development subject to the imposition of suggested conditions to secure proper investigation of the issues posed by the coal mining legacy, mitigation where identifies as required and verification when complete. The potential for mine gas and the need for mitigation where present is raised. Where sustainable drainage is proposed, the developer should seek their own to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

INTERNAL CONSULTEE RESPONSES:

37. *Spatial Policy* Officers write: This site lies to the west of Great Lumley settlement, on land designated Green Belt within the development plan. The land is also identified as an Area of Higher Landscape Value. The site is physically separate from the built-up area of Great Lumley, as a field lies between the site and existing dwellings, and it would be regarded as being in the open countryside in planning terms.
38. Residential development proposals have been previously considered on this land and refused. In May 2022 a proposal for a single storey dwelling was refused on the basis that it was contrary to the requirements of policy 20 (Green Belt) of the CDP and National Policy as contained in the National Planning Policy Framework. The proposal was deemed to be inappropriate development, harmful to the green belt and it would not supported by very special circumstances that would individually or cumulatively outweigh the harm. Furthermore, the application represented new development in the countryside without appropriate justification or evidence of need contrary to the requirements of Policy 10 of the CDP. It was also found to be contrary to Policy 39 of the CDP. In December 2017 a proposal for a single dwelling was refused on the basis that it was contrary to Green Belt policy set down in the (former) Chester-le-Street Local Plan and national policy as contained in the National Planning Policy Framework (2012 version). The proposal was deemed to have a greater impact than the existing open land, and it would have therefore been harmful and unacceptable in planning terms. The officer report also noted that whilst each site is assessed on its own merits, the approval of this site would create a dangerous precedent on a significant level in relation to the Green Belt matter.
39. Historical mapping shows that the land was previously built upon and used as a school/schoolhouse. The site is clear in the 1970s maps and it is therefore presumed that it the building was demolished sometime in the 1960s.
40. Looking at national guidance, set down in the most recent version of the National Planning Policy Framework (2021), previously developed (brownfield) land is defined as: *"Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure."*
41. This site has been identified as Green Belt land since the adoption of the former Chester-le-Street Local Plan (2003); this plan established the detailed extent of green belt land for the former district area. Chester-le-Street District Council sought to designate an 'irretrievable' minimum of Green Belt land which fulfilled the criteria contained in planning policy guidance at the time to ensure it was kept permanently open.
42. The adoption of the County Durham Plan (October 2021) led to the replacement of the former district local plans and the Green Belt designation is now set down in the CDP. This site was considered for removal from the Green Belt during the preparation of the CDP, however following examination the Inspector was not persuaded that there were exceptional circumstances to justify the removal of the site from the Green Belt.
43. The Inspectors Report notes:
- *The site of the former Lumley Boys School is in the countryside to the west of Great Lumley. It is physically separate from the village and whilst development may offer the opportunity to remove the last remnants of the former school, these are not visually prominent. On the other hand, new buildings on the site, even if well designed and landscaped, would represent a significant encroachment into the countryside and reduce the openness of the area.*

44. Policy 20 of the CDP defines the physical extent of the Green Belt; it states that development proposals within the Green Belt will be determined in accordance with national planning policy, to ensure consistency and an up-to-date approach for decision making. The Framework sets down that in general terms new development in the Green Belt ought to be resisted, as the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
45. Paragraphs 147 to 150 set down the key requirements for considering development proposals of this nature. Given that the site sits physically separate from Great Lumley, the development would fall to be considered against criteria 'g' of Paragraph 149. This states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Applicable exceptions to this include:
- (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
- *not have a greater impact on the openness of the Green Belt than the existing development; or*
 - *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*
46. It is a matter of planning judgement as to what would constitute such an impact on openness. This would normally be based upon area and volume, however it may also be affected by topography and location, as well as other factors depending upon the details of the case. Given that the site is currently undeveloped, any development would be likely to have a greater impact on openness than existing (in relation to the requirements of the first sub-criteria under criteria 'g' of Paragraph 149). In terms of the second sub-criteria, while it is acknowledged that the proposed design seeks to reduce potential impacts through scale and materials (including green roofing), as well as falling below the level of 'substantial harm' to openness, the scheme would also be required to address affordable housing needs, which is not proposed in this case.
47. These fundamental policy restrictions serve to establish the primary policy issues in relation to this proposal. It is nevertheless the case that this proposal would gain no support if it were assessed against Policy 10, as this seeks to control new dwellings in the countryside unless an exceptional case is evidenced. Policy 39 sets down requirements for proposals in Areas of Higher Landscape Value, which reinforces concerns around impacts on the landscape. This policy states that development will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm.
48. Summary comments: This site lies outside of Great Lumley settlement, on land designated Green Belt and identified as an Area of Higher Landscape Value. The principle of development would fall to be considered against Policy 20 (which confers to criteria 'g' on the NPPF), alongside Policies 10 and 39 of the CDP.
49. *Ecology Officers* consider that the additional landscaping now proposed as part of this current submission should be included within the existing net gain assessment. However, the previous submission was considered to be acceptable in this regard, and with the additional landscape measures proposed, it is still considered acceptable and no offsite solution or financial contribution would be deemed necessary.

50. *Public Rights of Way* Officers note the vehicle access to the development site is in part via public footpath no. 22 Great Lumley Parish. The affected section of footpath 22 is also recorded as adopted highway, serving a number of other properties. No concerns are raised over the proposed access arrangements to the development site.
51. *Environmental Health (Contamination)* note that the report submitted is a number of years old however the information is still relevant: there is the risk of land contamination on the site and therefore a requirement for a phase 2 investigation. Given this and due to the fact that this development constitutes a change of use to a more sensitive receptor, suggested contaminated land conditions should apply to ensure physical investigation of the site, mitigation, where identified as required with where necessary include gas protection measures and thereafter verification of the methods and operations undertaken. Informatives are suggested to cover the eventuality for unforeseen contamination being encountered.

PUBLIC RESPONSES:

52. Nine consultation letters were sent out, with the application advertised by site notice and in the press. Four public representations have been received – two in support, two objecting.
53. Opposed to the development, an objector seeks to repeat objections from previous applications in 2003, 2006, 2017, and 2022 with, to the forefront – the property was not ‘brownfield’ when acquired by the current owner – the land had been used to graze horses and the objector took riding lessons on the site as a child. The foundations now apparent were below ground level and have been uncovered by the applicant – the former property having been removed more than half a century ago. More importantly if the site is allowed for development in the Green Belt further may follow. The village has grown significantly further encroachment into the green belt is detrimental to the sustainability of the village community and the surrounding countryside. This correspondent, and the immediate neighbour of the site has not seen or heard of any anti-social behaviour emanating from the site.
54. A second close neighbour objects to the principle of a Green Belt development with climate change and the ecological crisis a national topic requiring a regional and local level of response. With sizable new-build projects recently developed and planned the ‘counterbalancing importance of the formal Greenbelt by Great Lumley cannot be clearer’. The correspondent is not aware of any significant anti-social behaviour associated with the land in their residence.
55. In support occupants of the nearest dwelling write the scheme will deter anti-social behaviour and the potential for youths and vehicles to converge in the area adjacent to the land which can be intimidating and leads to fast food debris, empty alcohol cans and broken bottles and sometimes evidence of drug paraphernalia.
56. A resident at the edge of the village writes that the site has been vacant for some time and attracts ‘some’ anti-social behaviour, with cars driving down the lane and youths gathering near or in the application site. This brings a danger of fires, with two extinguished in recent months. The proposals seeks to assimilate into the landscape.

APPLICANT’S STATEMENT:

57. The Council sought to delete this area of land from the Green Belt in their preparation of the County Durham Plan. At no point in this process were any public objections raised.
58. The Council's view was that the removal of the site from Green Belt would not challenge the fundamental aim of Green Belt policy.
59. Very special circumstances exist in this instance;
- Council officers have previously supported its deletion from Green Belt
 - The site is brownfield and previously developed and represents a more sustainable form of development than greenfield development
 - The development represents 'limited infilling within a village' (para 149, NPPF)
 - The site has been recognised by the Council as untidy and a focus for anti-social behaviour
 - The development will deliver a biodiversity net gain
60. It is submitted that in the consideration of the previous application – DM/22/00199/FPA – insufficient weight was given to the design and sustainability of the dwelling. The design will make a positive contribution to the visual amenity of the area and the use of materials including a sedum roof will minimise visual impacts.
61. It is considered that the site is not in open countryside and therefore Policy 10 does not apply.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

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

Principle of the Development

The Development Plan

63. 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.

Green Belt

64. The principal Policy for determination of this application is Policy 20 that effectively sets the detailed requirements against Part 13 of the Framework. This part of the Framework is unusually precise, giving specific and definite advice for the establishment and protection of Green Belts, and the control of development within them. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Five purposes of Green Belt are set out including: to assist in safeguarding the countryside from encroachment.
65. Changes to Green Belt boundaries should only be allowed in exceptional circumstances and through the Local Plan process. This specific site was very recently considered by this process, with the Planning Inspector concluding that *'new buildings on the site, even if well designed and landscaped, would represent a significant encroachment into the countryside and reduce the openness of the area'*. The applicant's Planning Statement seeks to revisit the arguments offered in this procedure, asking for a different conclusion. Whilst it is understood the applicant desire for a different conclusion it is considered given how recently the Planning Inspectorate considered this application that it would be wholly inappropriate and undermine the examination in public process for Officers to overrule the conclusions of the Inspector.
66. The Framework offers advice for proposals affecting the Green Belt: Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The exceptions are set out at length in paragraph 149, with the applicant relying on two criteria: (e) Limited infilling in villages; in this regard the site is considered outwith the developed envelope of the village, separated by open, undeveloped land a view which is supported by the Planning Inspector; therefore this criteria does not apply – as it is intended to relate to open sites within the envelope of small settlements that a Green Belt washes over. In relation to criteria (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the Green Belt than the existing development. Notwithstanding one objector's ascertainment that the very basic foundations apparent on the land have been exposed to contrive an apparently brownfield site, there are no built structures visible on the site, and as such the LPA accepts that the site is previously developed land. However, as the site only contains the original foundations of the previous building, it is considered that any new development of the site will have by virtue of its presence a greater impact on the openness of the Green Belt than the existing foundations. The material weight that the development would accrue from 'brownfield' status is positive but not significant. As such it is considered that the development is contrary to the exception in paragraph 149(g) of the Framework and therefore Policy 20 of the Durham County Plan.
67. Design and highways elements of the proposal will be considered below. The applicant offers a further specific 'very special circumstance' in support of his proposals – an apparent anti-social behaviour issue. All four respondents to the application refer to this issue, all four are immediate neighbours, yet there is disagreement as to whether this is anything other than a low-key issue, and indeed whether it relates to the actual site or the conjunction of lanes on the approach to it. Where proposal in the Green Belt, material weight has only been attributed where overwhelming formally evidenced information has been submitted – a scheme at Beamish presented an extensive dossier of Police reports of damage and vandalism extending over a number of years as one component of a series of tangible high level benefits including employment generation. The Case Officer has visited the site for the current proposals and the applicant has provided photographs of evidence of litter and low-level fly tipping in support of the current application. With contradictory views offered by immediate neighbours and suggestion that the apparent issue relates as much to 'gatherings' in

Fenton Well Lane, rather than on the site, this issue falls far below the level where it can be afforded significant weight.

Development in the Countryside

68. As the site is considered separate from the existing settlement, the proposals must be considered against the requirements of Policy 10 – Development in the Countryside and Policy 39 – Landscape, the implications in the latter Policy in the context of the site's inclusion within a designated Area of High Landscape Value (AHLV). Policy 10 is summarised above and restricts development in the countryside to agricultural or employment related operations and alteration of existing buildings. The proposals fail assessment against this Policy, an issue that is not addressed within the application.
69. Policy 39 – Landscape, requires new proposals to not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Development affecting Areas of Higher Landscape Value defined on Map H, will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. Part 15 of the Framework requires planning decisions to protect and enhance valued landscapes.
70. The proposed building is considered to have a neutral effect in the landscape. The application describes the land as 'unsightly'. Whilst the site could be considered unsightly when viewed from within the site, this is not the case where viewed from the public domain – whether nearby footpaths, the mown public land around the village art feature at the edge of the village, or in longer views from the west across the AHLV, the site is only apparent by its formed nature and the flora that has grown up around its boundaries. However, it is acknowledged that the application now proposes a significantly enhanced landscape and planting scheme over and above the 2022 submission. These additional measures will not only help to mitigate visual impacts on the landscape but also enhance the site's biodiversity offering.
71. The presented benefits of the proposal are discussed elsewhere in this report but acknowledgement is given to the improved landscape and planting scheme. Ultimately in proposing inappropriate development in open countryside and notwithstanding the design assessment below, the proposals represent 'harm' and fails the requirements of Policy 10. The proposal can now be demonstrated to conserve and slightly enhance the site level landscape qualities (in a specific and limited way) to address the requirements of Policy 39. Notwithstanding that, the fundamental conflict with Green Belt policy as previously discussed is still maintained.

Highways Safety and Access

72. Policy 21 of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Paragraphs 110 and 111 of the NPPF echoes this. Whilst there were some issues identified by County Highways Officers that related mainly to the separation of the site from the adopted highway, some 50m from the site entrance and the quality of surface on Fenton Well Lane, the applicant has provided sufficient detail in response to indicate that this issue could be resolved through the imposition of appropriate conditions if members are minded to approve the application. An electric vehicle charging point could also be secured via a planning condition.

Layout, Design and Residential Amenity

73. Policy 29 of the CDP outlines that development proposals 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. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing valued landscapes.
74. The proposal makes provision for on-site renewable energy generation, thereby minimising carbon emissions in line with parts c and d of Policy 29. The building can be seen to perform well against the Budling for Life Supplementary Planning Document and meets minimum NDSS internal space standards. No specific proposals have been put forward in terms of broadband connections in line with Policy 27, however, the Ofgem website confirms that the settlement of Great Lumley is served by multiple broadband suppliers offering ultrafast broadband connection, it is therefore considered that should the application be considered acceptable the final details are capable of being secured via a planning condition.
75. The proposed design is an appropriate modern approach to minimising the impact of a new dwelling in the countryside. This however does not mitigate the principle of the openness of the Green Belt. The weight that could be offered to the 'eco' nature of the proposal is reduced as this becomes a standard requirement of all development, however it is acknowledged that the proposals go further than minimum Building Regulation requirements.
76. In terms of Policy 31 the proposal would provide good levels of residential privacy and private amenity space for its future residents and is not considered to pose any significant detrimental issues for surrounding neighbours, due to its location, design and physical separation. It is thus compliant with Policy 31 of the Plan and the 2023 SPD on Residential Amenity Standards.

Ecology

77. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. It is considered that requirements for net biodiversity gain can be achieved within the site, especially following the enhanced landscape and planting scheme. This is presented as one of the very special circumstances offered in justification of the development. It is actually a basic requirement of all forms of built development without which the scheme would be refused and should be weighted accordingly.

Ground conditions and Drainage

78. Implications from the Coal Mining legacy and contamination from the former uses of the site can be addressed through the imposition of standard conditions. It is considered that this fully addresses the requirements of Policy 32 of the CDP. Foul and surface water proposals are referred to in principle in the submitted forms, the size of the application being such that the relevant consultees would not offer comment. Despite the small scale of the proposal, the inclusion of a green roof is welcomed, and it is considered that subject to the detail of that, which could be conditioned should members be minded to grant, the proposal would accord with Policies 35 and 36 of the CDP.

Public Right of Way

79. Footpaths Officers have confirmed the proposals offer no conflict with the surrounding footpath network.

Trees

80. No trees would be removed as part of the proposal. Accordingly, there is no conflict with Policy 40.

Other Considerations

Precedent and Consistency

81. The application is presented as of benefit to the Council, to the environment and to neighbours, concluding that it is a requirement of precedent for planning decisions to be consistent. Two decisions are presented – both approved by Committee against Officers recommendation. The first at Rainton gate was a Green Belt site immediately adjacent a rear garden – it noted that the current application is physically separate from the nearest garden. The second was a proposal for holiday accommodation associated with a commercial operation – and established large garden centre.
82. Officers concur that consistency in decision making and Policy application is essential. To do otherwise significantly undermines the Policies in the Development Plan. Whilst it is right to look at the wider context of planning decisions, members will be aware that each proposal and each site must be considered on its own merits. Whilst the Development Plan and its policies are new, and the Framework is often revised, Green Belt policy in its intent and detailed application has been consistent for some years. Therefore, the refusal of the four applications referred to in the history section, the withdrawal of another under threat of refusal and the conclusions of the Local Plan Inspector represent a clear consistency of approach that it would be inappropriate to deviate from.

Public Sector Equality Duty

83. Officers have considered whether there are implications in the proposals including the loss of the existing land, the nature of the proposed development and the development period that would affect rights under the Human Rights conventions and the Equalities Act 2010 over and above those implicit in the planning assessment, concluding that in this instance there are none. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
84. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

85. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

86. It is considered that the proposal represents inappropriate development in the Green Belt as set out above. A series of what the applicant considers to be 'very special circumstances' are presented in deference to this however, under examination these cannot be attributed significant weight. Claims of anti-social behaviour are unevidenced and called into question in some responses from neighbouring residents. They may not relate in whole to the site. The brownfield land nature of the site brings positive but not significant weight. The potentially sustainable nature of a 'eco' build is again positive but as an increasingly standard requirement, not significant. Net biodiversity gain is a standard requirement. The principle of development proposed has been recently tested in the Local Plan Examination process and this must carry significant weight in any assessment. The proposals fall far short of presenting a defensible set of 'very special circumstances'.
87. Consequently, very special circumstances necessary to justify the development do not exist and the proposal is considered to fail against the NPPF and Policies 10 and 20 of the CDP.

RECOMMENDATION

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

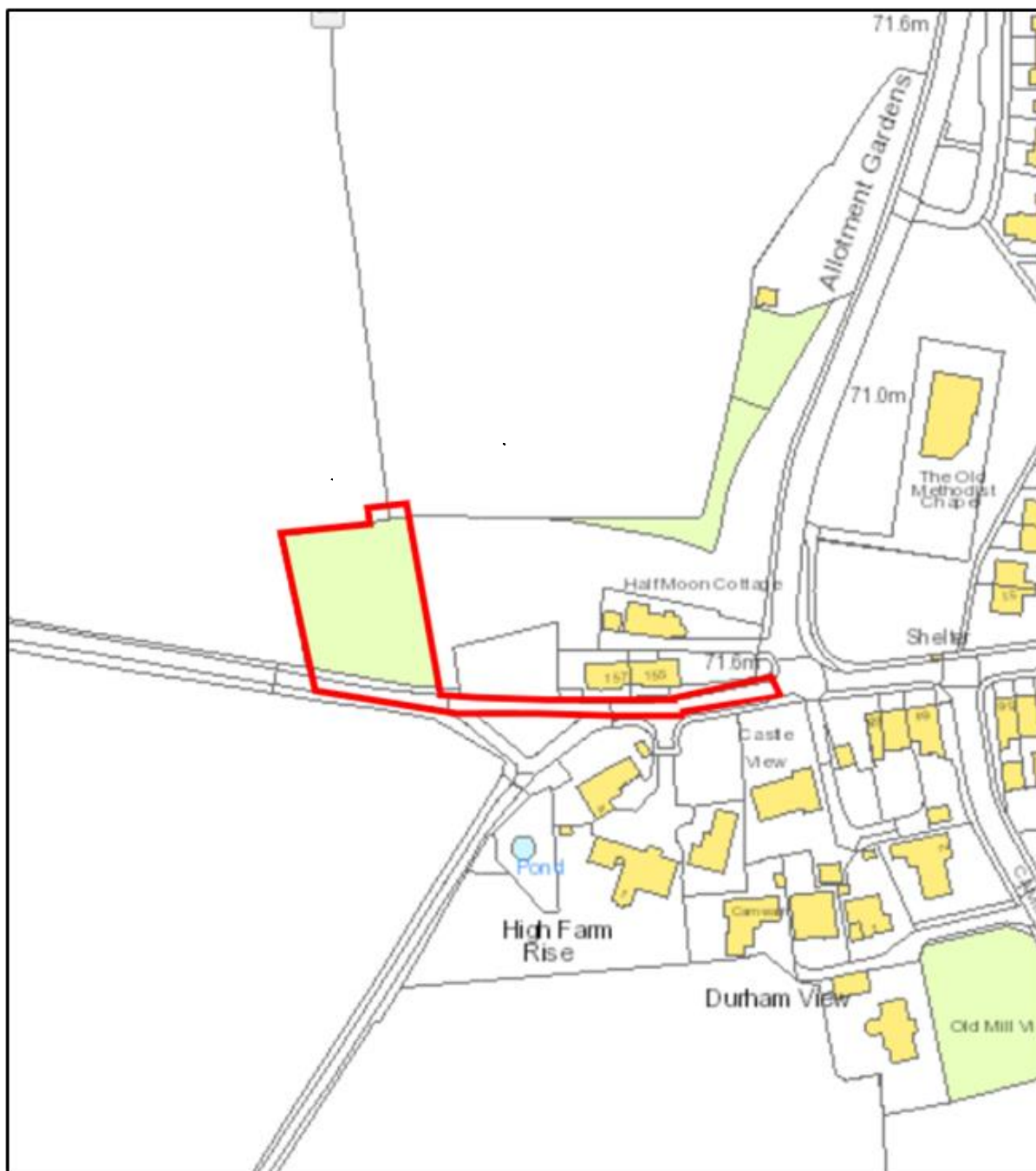
1. The application proposes inappropriate development, harmful to the openness of the Green Belt and is not supported by very special circumstances that would individually or cumulatively outweigh the harm, contrary to the requirements of Policy 20 of the County Durham Plan and Part 13 of the National Planning Policy Framework.
2. The application represents new development in the countryside without appropriate justification or evidence of need contrary to the requirements of Policy 10 of the County Durham Plan.

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, notwithstanding the negative conclusion.

BACKGROUND PAPERS

Submitted application form, plans, supporting documents and subsequent information provided by the applicant
Statutory, internal and public consultation responses
The National Planning Policy Framework
National Planning Practice Guidance Notes
County Durham Plan
Residential Amenity Standards SPD (2023)



Planning Services	DM/22/00199/FPA Erection of single storey dwelling	
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	Date 20 th March 2023	Scale NTS



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/22/00479/FPA
Full Application Description:	Retrospective consent for change of use from agricultural to a mixed use comprising of agricultural and equestrian for commercial purposes, erection of menage and flood lighting and infill extension between existing and proposed building
Name of Applicant:	Mr Grant Findley
Address:	Stream Valley Farm, Burnhope, Durham, DH7 0DS
Electoral Division:	Lanchester
Case Officer:	Gemma Heron (Senior Planning Officer) Tel: 03000 263 944 Email: gemma.heron@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to a parcel of agricultural land and buildings sited approximately 435 metres to the north of the built settlement of Burnhope. The site extends over approximately 20.5 hectares of land. The site is accessed via an existing arrangement from Green Lane with the land sloping gradually North to South.
2. The site is bounded to the North by Public Bridleway (No.23), Public Footpath (No.38) to the East and Public Footpath (No.26) to the South with open countryside and the Settlement of Burnhope further to the South. The site is situated within Flood Zone 1 and there are no designated heritage assets within close proximity of the site. The boundary of the Area of Higher Landscape Value lies approximately 330 metres to the east of the application.

3. The agricultural land is identified as Grade 4 in the Agricultural Land Classification which identifies the land as 'Poor' under the standards.

The Proposal

4. Full retrospective planning permission is sought for the change of use from agricultural to a mixed use to include agricultural and equestrian use for commercial purposes, alongside the erection of an outdoor menage with flood light and infill extensions between existing buildings. All of these aspects of the proposal are retrospective. In addition to this, a new stable building is also proposed.
5. In relation to the commercial equestrian business, there is the provision (including the new building) for up to 38 horses to be stabled on the site. The business is operated by two full time members of staff and is operational from 06:00 to 20:00 every day. Information has been submitted to show there is 19.5 hectares of land available for the equestrian business for the grazing of the horses.
6. The menage approximately measures 43 metres by 22 metres and is marked by a 1.2 metre fence with timber gates. It includes the erection of 8no. 50W flood lighting around the boundary. It is located to the northern section of the site and will continue to be used by customers of the livery alongside the applicant themselves.
7. In terms of the agricultural activity to remain on the site, this consists of the cutting of haylage and the keeping of pigs by the applicant. Information has been submitted which shows the remaining 1 hectare will remain in agricultural use.
8. The application also seeks planning permission for the erection of a new building to be used for the commercial equestrian business to provide an additional 20 stables for the use as a livery business. The new building will approximately measure 44 metres by 11 metres, standing to 4.7 metres to the eaves and 7 metres to the ridge line. The building will be of a similar height and design as the existing buildings on the site. It is proposed to be constructed from white painted block work followed by painted green steel with metal roof cladding.
9. The application is being reported to planning committee in accordance with the Council's Scheme of Delegation as it is greater than 1 hectare in size and the use proposed is a commercial equestrian use.

PLANNING HISTORY

- 1/2007/0811/62545 – Erection of double garage with workshop. Refused November 2007.
- 1/2007/0999/63387 – Erection of detached double garage (Re-submission). Approved January 2008.
- DM/16/03446/FPA - Erection of childrens play house, childrens swing and raised vegetable beds, surfacing works to patio and driveway, and creation of a wildlife pond (retrospective). Approved March 2017.

- DM/17/00305/FPA – Retention of lunge pen, horse walking area and storage building for quad bikes, and erection of intervening shed building. Approved March 2017.
- DM/17/03379/FPA – Erection of a link extension. Approved November 2017.
- DM/18/03506/FPA – Proposed gated entrance and change of use to agricultural use. Approved January 2019.
- DM/22/00074/FPA – Single storey rear extension (retrospective) with a roof terrace including a staircase and glass balustrade. Approved February 2022.

PLANNING POLICY

National Policy

10. 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.
11. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
12. NPPF Part 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.
13. 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.
14. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located

where the need to travel will be minimised and the use of sustainable transport modes maximised.

15. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
17. NPPF Part 15 Conserving and Enhancing the Natural Environment - 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:

18. 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; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; noise; public rights of way and local green space; planning obligations; 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)

19. *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.

- Provision for economic development includes: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of a design and scale suitable for intended use and well related to existing development.
- Provision for infrastructure development includes: essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity.
- Provision for development of existing buildings includes: change of use of existing building, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.

20. *Policy 13 (Equestrian Development)* considers equestrian development as appropriate within the countryside subject to a number of criteria including: development being of an appropriate scale, size and design; buildings well related to the farm steading; proposals not unacceptably affecting the character, heritage or nature conservation value or the locality; appropriate screening being in place; appropriate waste management; and the amenity of neighbouring properties is protected and a safe access can be achieved.
21. *Policy 14 (Best and Most Versatile Agricultural Land and Soil Resources)* Development of the best and most versatile agricultural land, will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. All development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.
22. *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.
23. *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.
24. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive

contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.

25. *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.
26. *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.
27. *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.
28. *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 wastewater 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 defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
29. *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

30. *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.
31. *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>

Neighbourhood Plan:

32. There is no neighbourhood plan for this area.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

33. *Highways Authority* – No objections subject to two planning conditions in relation to the construction of the access and site visibility being included on the consent and an informative.
34. *The Coal Authority* – No objection as consider that the content and conclusions of the Coal Mining Risk Assessment are sufficient for the purposes of the planning system demonstrating that the application site is safe and stable for the proposed development.
35. *Burnhope Parish Council* – No response received.

Non-Statutory Responses:

36. *Spatial Policy* – Advice on the relevant planning policies to be used to determine the application.
37. *Ecology* – The recommendations of the ecology report are shown on the amended site plan and as long as the detail of the scrub planting and its delivery can be secured, no issues with the application.
38. *Environmental Health Nuisance* – No objection.
39. *Environmental Health Contamination* – No requirement for a contaminated land condition. Informative should be added in relation to unforeseen contamination.

40. *Public Rights of Way*: Note the inclusion of bridleway No.23 in the red line boundary and proposed improvements to accommodate vehicular access at the junction with Green Lane. The legal designation of this access is that of a public bridleway and not a public road, and that lawful public users of the bridleway take precedence at all times. There are concerns with the intended junction improvements, albeit in the interests of highway safety and therefore necessary, will reinforce the impression to passing motorist that the bridleway is a public road, encouraging existing users and other motorists to drive on it at a greater speed, possibly leading to unintentional conflict with lawful public use of the bridleway. As a section of the bridleway is in the ownership of Durham County Council, CPAL should be consulted on the proposed junction improvements.
41. *Corporate Land and Property*: No objections with comments provided in relation to land ownership and rights of access.

Public Responses:

42. The application has been advertised by way of a site notice, press notice and individual notification letters sent to neighbouring properties. No public responses have been received.

Applicants Statement:

43. 'Hi and thank you for Durham County Council Planning Department for recommending this application for approval.

As the owner and occupier of Stream Valley Farm, it was always my wish to ensure all of the land is used appropriately and sympathetically. The stables proposed within this application allow the entirety of the 56 acre farm to be used most appropriately for equestrian use.

The application proposed 20 new stable boxes, bringing the total number of stable boxes on the site to 38. The proposal will provide ample grazing space and turnout for the site as well as the proposed outdoor riding arena to provide livery clients with a safe, on site riding facility.

The proposed sheltered barn provides a safe area for storage of our tractor, machinery, and other storage requirements.

I can also confirm that the conditions included within the application will be met. Since leaving the EU, farming subsidies have been reduced and the proposals within this application enable myself to make the farm work and attract new livery clients to ensure a viable business going forward into the future.

I would like to thank the planners involved within this application for what is now 9 months of consultation and I hope that the Committee can now agree and approve this application as a result of the hard work contributed by several parties.

The work involved within the proposal does not overlook anybody and should not impact any person or the environment.

The surrounding environment and remainder of the site has been considered within the proposals via guidance from the planning department, highways department and other relevant consultants.

Thank you for reading this short statement on behalf of our family farm.

Grant Findley LLB BVC SMSTS'

PLANNING CONSIDERATION AND ASSESSMENT

44. 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, Affordable Accessible and Adaptable Housing, Open Space, Design / Layout, Landscaping and Visual Impact, Residential Amenity, Highway Safety, Flooding/Drainage, Ecology, Ground Conditions, and Sustainability.

Principle of Development

45. The application is to be determined in accordance with relevant policies set out within the County Durham Plan (CDP) and the National Planning Policy Framework (NPPF). Paragraph 11C of the NPPF requires applications for development proposals that accord with an up-to-date development plan to be approved without delay.
46. The application site relates to a collection of existing buildings in a remote location, outside the built-up area of Burnhope. The site is considered to be within the open countryside for planning purposes. Policy 10 of the CDP states that development in the countryside will not be permitted unless allowed for by specific policies in the plan.
47. Policy 13 relates to equestrian development would be relevant in this case. It states:
- 'Equestrian development will be considered an appropriate countryside use and will be permitted where the following criteria are met:
- a) Stables are of an appropriate size, design and construction for their intended use and the number of stables reflects the amount of grazing land available;
 - b) The proposal involves the appropriate conversion of existing buildings or, where proposals involve new permanent buildings, these are located as part of, or close to, an existing farmstead or other building grouping;
 - c) The proposal would not, by virtue of their siting, design, scale, materials or layout, light or through the inappropriate intensification of existing bridleways, routes and land, unacceptably affect the character, heritage

or nature conservation value or the locality, either individually or cumulatively with other development;

- d) The proposals would provide appropriate measures for screening buildings, hard standings, arenas and storage areas with trees or hedges;
- e) The proposal is supported by details of appropriate waste storage, management, end disposal and surface and ground water drainage;
- f) The proposal would not adversely impact on the general amenity of neighbouring properties and the wider area; and
- g) Safe and suitable access can be achieved, and in the case of commercial establishments are located close to existing bridleways and other routes suitable for trekking or hacking out where this forms part of the business.

New equestrian development in the Green Belt will normally be regarded as inappropriate development. Where the proposal involves limited infilling relating to an existing use, small scale stables will be permitted where they do not harm the openness of the Green Belt or conflict with the purposes for which the land was included in the Green Belt.

In all cases, applicants will be expected to demonstrate adequate provision for the proper care of horses, including stabling, grazing and exercise, in accordance with the Equine Industry Welfare Guidelines and the British Horse Society Standards. Equestrian development commercial establishments need to be located sufficiently close to existing residential accommodation to allow for appropriate levels of supervision. Proposals for a residential use associated with the equestrian development will be determined against Policy 12 (Permanent Rural Workers' Dwellings.)'

- 48. In assessing the application against Policy 13 of the CDP, the existing and proposed buildings would result in the creation of 38no. stables for the livery business which would be constructed within the existing complex. The British Horse Society (BHS) Standards requires 0.4 – 0.6 hectares of grazing land per horse and the available land for equestrian use is 19.5 hectares. Therefore, there is adequate grazing land for the 38no. horses that will be stabled in the building based on the BHS standards.
- 49. Policy 13 also requires commercial equestrian development to be located sufficiently close to existing residential accommodation to allow for appropriate levels of supervision. The application site benefits from an existing residential dwelling within the main complex of the site which allows for natural surveillance of the equestrian business. It is considered to be reasonable and necessary to impose a planning condition to secure the business to the existing residential dwelling on the site, 'Stream Valley Farm' to allow retain the policy compliance of this element of the proposal into the future.

50. The comprehensive criteria listed under Policy 13 will be discussed under each relevant section of the forthcoming report in detail. However, overall the principle of equestrian development is considered to be an appropriate countryside use and would be allowed in principle in accordance with Policy 13 of the CDP.
51. Policy 14 of the CDP sets out that the development of the best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. In considering this, the agricultural land subject of this application is identified as Grade 4 in the Agricultural Land Classification under the standards set out by Natural England. Grade 4 is identified as 'Poor' and therefore, there would no loss of the best or most versatile agricultural land as a result of the proposal. Therefore, the proposal would be compliant with Policy 14 of the CDP.

Scale/Design

52. CDP Policy 29 outlines that development proposals 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. In total, Policy 29 sets out 18 elements for development to be considered acceptable, including: buildings being adaptable; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
53. CDP Policy 13 sets out that development should not, by virtue of their siting, design, scale, materials or layout, light or through an intensification of existing bridleways, routes and land, unacceptably affect the character, heritage or nature conservation value or the locality.
54. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 127 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
55. The new building would be of a similar size, scale and design as the existing buildings on the site and would appear to be in-keeping with the existing built development. It would be constructed from similar materials which are acceptable. The menage would be of a standard riding arena design with a simple timber fence to mark the boundaries of the menage which is acceptable in terms of design. The proposal does not cause any harm to the visual amenity of the surrounding area and would comply with Policy 13 and 29 of the County Durham Plan.

Landscaping and Visual Impact

56. CDP Policy 39 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.

57. CDP Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided.
58. 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.
59. The application site is not within an area of designated landscape and it is not widely visible from public views due to the existing landscape screening which surrounds the application site, with extensive woodlands to the north, east and southern boundary. The proposal includes the change of use of existing buildings on the site which have been in situ for a number of years. The new building and menage would be located next to existing buildings on the site and would be seen within the wider context of the existing complex of buildings. Therefore, the proposal would not have any adverse harm upon the landscape.
60. Given the above, the proposal is acceptable in accordance with Policies 39 and 40 of the County Durham Plan and Parts 12 and 15 of the NPPF.

Residential Amenity

61. 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.
62. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours 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.
63. The application site is located within a countryside location with the nearest residential neighbouring property being located approximately 300 metres to the east of the site. There will be no issues in terms of overlooking, overshadowing or an overbearing impact on residential properties.
64. Environmental Health Officers (Nuisance Action) have been consulted on the application and they have no objection to the proposal. The information provided demonstrates that the application complies with the thresholds within the Technical Advice Notes which indicates that the development will not lead to an adverse impact.
65. Overall, the proposals are considered to provide a good standard of amenity for existing and future residents, according with CDP Policy 31 and Part 12 and 15 of the NPPF.

Highway Safety/Access

66. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Criterion q) of Policy 10 does not permit development in the countryside where it would be prejudicial to highway safety.
67. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
68. Policy 26 of the County Durham Plan relates to 'Green Infrastructure'. In relation to Public Rights of Way it states: 'Development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders. Proposals that would result in the loss of, deterioration in the quality of, existing Public Rights of Way (PROWs) will not be permitted unless equivalent provision of a suitable standard is made.'
69. The Council's Highways Team have reviewed the application and have no objection to the proposal subject to two proposed conditions relating to the visibility splay and the access to be constructed prior to the first use of the building if members are minded to approve the application.
70. Comments have been provided by the Council's Public Rights of Way (PROW) Team as the application site includes Bridleway No.23 and there will be improvements to the access as required by the Highways Team. The PROW Team have concerns that the intended junction improvements will reinforce the impression that the bridleway is a public road which could lead to the unintentional conflict with the public use of the bridleway. In considering these comments, the relationship between the bridleway and the application site is a historic relationship as the bridleway provides the only access to the application site. The improvements to the junction will improve the highway safety and visibility at the junction and whilst it could encourage motorists to use the access, it only leads to the application site. Therefore, those motorists who use the access track will primarily be limited to those using the application site which will limit the users of the access. Whilst the concerns of the PROW are understood, they are not considered to warrant a refusal of the planning application under Policy 26 as the proposal is not considered to result in the loss or deterioration of the quality of the PROW, especially due to the highway improvements which will be undertaken.
71. Overall, subject to conditions, the proposals are not considered to adversely affect highway or pedestrian safety and would accord with CDP Policy 10, 21 and 26 and Part 9 of the NPPF.

Drainage

72. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 advises that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 169 goes on to advise that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
73. CDP Policies 35 and 36 relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SUDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
74. In considering the impact of the development upon flood risk, the application site is located within Flood Zone 1 and the proposed new building will be located on an existing area of hardstanding. The other buildings on the site are existing with the menage being constructed from a permeable surface. Given this, there would be no significant increase in non-permeable surfaces on the site and therefore, there would be no issues in relation to flood risk.
75. Also, Policy 13 of the CDP under (e) requires the proposal to be supported by details of appropriate waste storage, management, end disposal and surface and ground water drainage. A condition can be imposed on the consent to require details of the waste storage and management to be submitted and agreed by the Local Planning Authority if members are minded to approve the application.
76. Therefore, the application does sufficiently and robustly demonstrate that the proposed development would be safe without increasing or exacerbating flood risk elsewhere as required by CDP Policy 35 and Part 14 of the NPPF.

Ecology

77. NPPF Paragraph 180 d) advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks to ensure new development minimises impacts on biodiversity by retaining and enhancing existing diversity assets and features. Proposals for new development should not be supported where it would result in significant harm to biodiversity or geodiversity.
78. The application is submitted alongside an Ecology Survey which has been reviewed by the Council's Ecology Team. They comment that the recommendations of the Ecology Survey are shown on the proposed site plan and they would have no objections to the proposal with the delivery of scrub planting and delivery being secured. A condition is proposed to require the submission of a landscaping

scheme to allow for the review of the specific native planting to be carried out on the site if members are minded to approve.

79. Subject to the above, the proposal will be acceptable in accordance with Policy 41 of the CDP and Paragraph 180 of the NPPF.

Ground Conditions

80. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 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.
81. The Coal Authority confirm they have no objection to the application as the content and conclusions of the Coal Mining Risk Assessment are sufficient for the purposes of the planning system in demonstrating that the site is safe and stable for the proposed development.
82. The Contaminated Land Team have been consulted and confirm they have no adverse comments to make and there is no requirement for a contaminated land condition.
83. Overall, the proposal complies with Policy 32 of the County Durham Plan and is acceptable in this regard.

CONCLUSION

84. Overall, the proposal is considered to be acceptable and in accordance with Policies 10, 13, 14, 21, 26, 31, 32, 35, 36, 39, 40, 41 and 43 of the County Durham Plan and Parts 2, 4, 6, 9, 12, 14 and 15 of the National Planning Policy Framework.

RECOMMENDATION

It is recommended 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 approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 10, 13, 14 21, 26, 29, 31,

32, 35, 36, 39, 40, 41 and 43; of the County Durham Plan and Parts 2, 5, 8, 9, 12, 14, 15 of the National Planning Policy Framework.

3. Prior to the first use of the new building hereby approved, details of an appropriate waste storage, management and end disposal shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed scheme shall be carried out in accordance with these details and maintained in perpetuity for the lifetime of the use.

Reason: In the interests of the amenity of the area in accordance with Policies 13 and 31 of the County Durham Plan.

4. The external lighting hereby approved as shown on 'Proposed Riding Arena Elevations' Drawing Number: AL (00) 0221 and 'Proposed Site Plan' Drawing Number: AL (90) 0030 shall be erected and maintained in accordance with these details. No lighting shall be turned on when the menage is not in use.

Reason: In the interests of the amenity of the area in accordance with Policy 31 of the County Durham Plan.

5. Prior to the first use of the new building hereby approved, six bird boxes and four bat boxes shall be installed in accordance with 'Proposed Site Plan' Drawing Number: AL (90) 0030 and shall remain so in perpetuity.

Reason: In order for the development to meet biodiversity net gains as outlined in Part 15 of the National Planning Policy Framework and Policy 41 of the County Durham Plan.

6. Prior to the first use of the new building hereby approved, the access shall be constructed in accordance with 'Proposed Access Plan' Drawing Number: AL (90) 0013.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

7. Prior to the first use of the new building hereby approved, visibility splays as shown on 'Proposed Access Plan' Drawing Number: AL (90) 0013) shall be provided. Nothing shall be erected, retained, planted and/or allowed to grow at or above a height of 1 metre above the nearside carriageway level which would obstruct the visibility splay. The visibility splays shall be maintained free of obstruction at all times thereafter for the lifetime of the development.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Parts 9 of the National Planning Policy Framework.

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

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

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

- Trees, hedge and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities and numbers.
- Details of planting procedures or specifications.

Reason: In the interests of the visual amenity and to secure biodiversity net gain to comply with Policy 29 and 41 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

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

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

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

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

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

10. No more than 38 horses shall be stabled on the site at any one time.

Reason: To define the consent in accordance with Policy 13 of the County Durham Plan.

11. The equestrian business hereby approved shall be operated by the occupant of the farmhouse known as 'Stream Valley Farm' only as shown on submitted plan 'Proposed Site Plan' Drawing Number: AL (90) 0030.

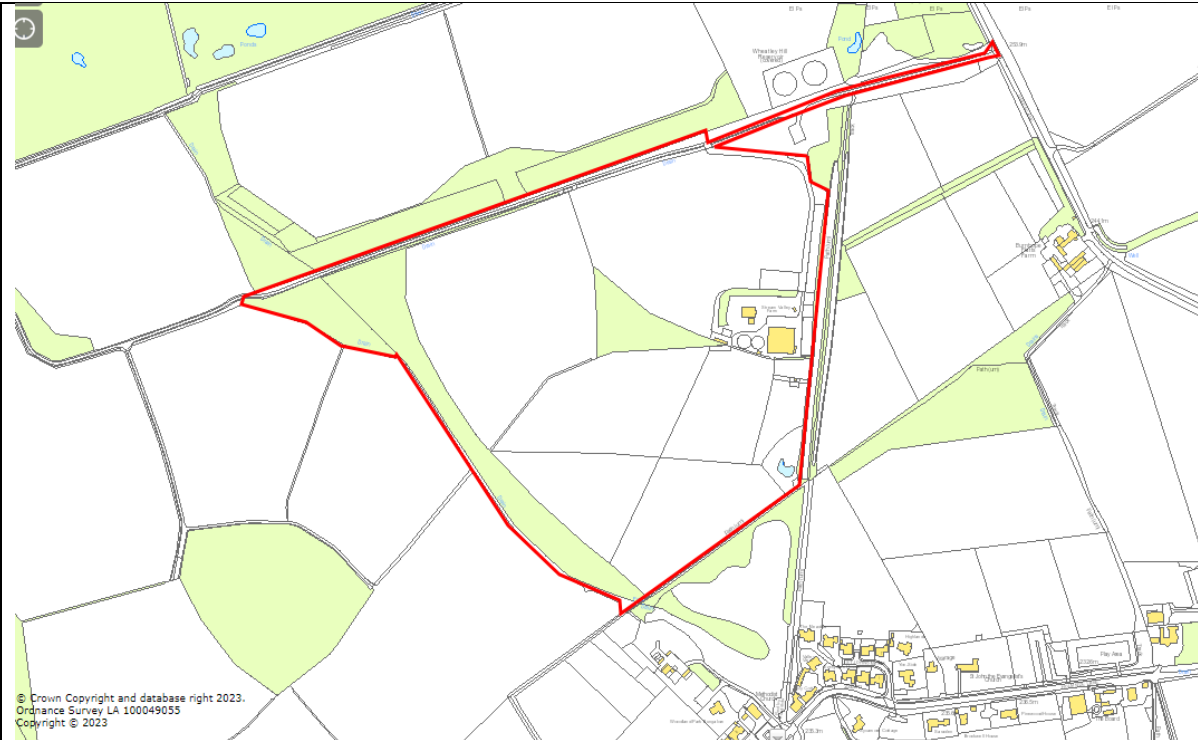
Reason: In order to allow for appropriate levels of supervision of the business to comply with Policy 13 of the County Durham Plan.

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

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