



Area Planning Committee (South and West)

Date Thursday 21 March 2024
Time 10.00 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meeting held on 22 February 2024 (Pages 3 - 16)
5. Applications to be determined
 - a) DM/23/02915/FPA - The Beehive, Salters Lane, Fishburn, TS21 4AS (Pages 17 - 38)
Change of use of public house (Use Class Sui Generis) to retail (Use Class E), including demolition of existing lean-to canopy and rear patio, installation of a new compound, facade treatment alterations car park alterations, access alterations and landscaping works
 - b) DM/23/02803/FPA - High Green Farm, Binchester, Bishop Auckland, DL14 8AU (Pages 39 - 62)
Resubmission of DM/22/03077/FPA for the erection of one permanent rural equine workers dwelling.
 - c) DM/23/03634/FPA - Land West Of The Garth, Old Eldon, DL4 2QT (Pages 63 - 88)
Proposed bungalow, boundary wall and associated access (resubmission).

d) DM/23/02403/FPA - Land North of Hill Top Cottage, Eggleston, DL12 0AU (Pages 89 - 116)

Erection of 2no. residential dwellings and associated works.

6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

Helen Bradley

Head of Legal and Democratic Services

County Hall
Durham
13 March 2024

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

Councillor J Quinn (Chair)
Councillor A Savory (Vice-Chair)

Councillors E Adam, V Andrews, J Atkinson, D Boyes, D Brown, J Cairns, N Jones, L Maddison, M McKeon, S Quinn, G Richardson, M Stead and S Zair

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DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, County Hall, Durham on **Thursday 22 February 2024 at 10.00 am**

Present:

Councillor J Quinn (Chair)

Members of the Committee:

Councillors A Savory (Vice-Chair), E Adam, V Andrews, J Atkinson, D Brown, J Cairns, N Jones, S Quinn, G Richardson, M Stead and S Zair

1 **Apologies for Absence**

Apologies for absence were received from Councillor Liz Maddison.

2 **Substitute Members**

There were no substitutes.

3 **Declarations of Interest**

Councillor S Zair declared an interest in relation to agenda item 5a as he was a member of Bishop Auckland Town Council. He confirmed that he had no input into their decisions about the application.

4 **Minutes**

The minutes of the meeting held on 14 December 2023 were agreed as a correct record and signed by the Chair.

5 **Applications to be determined**

a **DM/23/02917/FPA - 7 Kensington, Bishop Auckland, DL14 6HX**

The Committee considered a report of the Planning Officer for the change of use of a property from Offices (Class E) to an 8 bed House in Multiple Occupation (Class Sui Generis), including external alterations to the rear and cycle parking (for copy see file of minutes).

H Sperring, Planning Officer gave a detailed presentation that included a site location plan, aerial location plan, site photographs that showed the road and the front and rear of the property, the proposed floor plans and the proposed elevations. A site visit had taken place prior to the Committee meeting to enable Members to assess the impact of the proposed development and the relationship with their surroundings. She explained that it was a vacant large, stone built mid terraced property within the Cockton Hill area of Bishop Auckland that had hard surfacing that separated the front of the property from the footpath and Cockton Hill Road. The proposal was to include the demolition of the rear extension to provide refuse storage in the gated rear yard area and bicycle parking at the front that had been challenged to add to the rear instead due to health and safety issues. The property was surrounded by residential and commercial properties with a nursery and school nearby.

The property was considered to be a non-designated heritage asset and was set over three levels with the ground floor proposing to have two bedrooms and shared living facilities, four bedrooms on the first floor with ensuite bathrooms and two bedrooms on the second floor with ensuite bathrooms. As the proposal was the conversion to an HMO over 5 bedrooms the property was required to be licensed. Upon consultation Bishop Auckland Town Council objected to the application based on the increased Anti-Social Behaviour (ASB) in the area, issues surrounding housing, parking, fly tipping and a CAT Team currently operated in the area. The public had responded that as there had been several properties bought to rent the proposed HMO would fail to create a balanced mix. The Planning Officer explained that Councillor A Jackson had called the application in to be discussed at committee as he had concerns over amenities, the concentration of HMO's in the area and parking. Officer recommendation was to approve the application subject to conditions highlighted in the report.

As there were no registered speakers the Chair opened the meeting to questions.

Councillor S Quinn asked how long the property had been empty.

S Pilkington, Principal Planning Officer responded that they had no definitive answer as to how long the property had been empty. He suspected it had been empty for several years based on the condition of the rear, the number of windows that had been broken and the number of pigeons going in and out of the property.

Councillor S Quinn felt like she was caught between the devil and deep blue sea as she did not want to change the use of the building but did not want the property to remain empty.

Councillor E Adam referred to paragraph 84 on page 29 of the report and questioned how the Highway Officer and Planning Officer came to decision that the development would not be prejudicial to highway safety or had a severe cumulative impact on the network capacity. He queried how that had been measured against policy.

The Principal Planning Officer responded that the supplementary planning documents (SPD) on parking standards required that for a residential development with 5 bedrooms it would ask for 3 parking spaces. However, it recognised that this was an existing property and was not required to provide any spaces for parking.

J Robinson, Principal DM Engineer advised that Highways had carried out an assessment based on three elements: 1) the SPD 2023 parking guidance – the new guidance allowed flexibility for parking provision in high accessible areas. This area was a high accessible area that had a good train and bus network; 2) Site specific – the property had not been used for a while and under the new use may generate more road usage and there may be a need for parking demand. Cockton Hill Road provides limited on-street parking. This was considered as tidal whereby parking during the day was for office use that would free up the spaces on a night for residential parking when people went home. Potentially not all new tenants would have a car and there were adequate other modes of transport; and 3) accident and personal injury data recorded by the Police – data had been assessed and it was found that within the immediate area there had been no personal injuries reported in the last 4 years. A further search had been carried out by extending the area by 100 metres either side of Cockton Hill Road and had found 4 personal injuries in 4 years – two were driver error and two were human error. On balance the development would not impact traffic patterns and would not severely impact on the safety of the highway network.

Councillor E Adam appreciated the in depth explanation. He reflected on the point raised by Bishop Auckland Town Council regarding the issue of parking in the area. He asked if highways had measured parking spaces on an evening. He felt that there would be a significant impact on the area if potentially 16 people lived in the property with 16 cars.

The Principal DM Engineer replied that a parking survey had not been carried out as parking was fluid in the area. If it had been carried it may have shown a high demand. There were no records for the previous use of the property to take into consideration on balance a pragmatic approach was required. Worse case scenario would be that every tenant would have a car.

The Principal Planning Officer clarified that although the proposal was for 8 bedrooms there was a condition to limit the number of people to 8 in the property. There were parking issues as it was a terraced block and it may be that the development would increase demand but policy stated there was no loss of safety and would not sustain the application to be refused on highway safety grounds.

Councillor S Zair noted that this development was not in his division and it would have been helpful had the ward Councillor been present to share information on how long the property had stood empty. He queried that if the property was to house 8 people what were the guidelines on how big it should be for living quarters. He also asked on what grounds had Councillor A Jackson called the planning application into committee.

The Planning Officer stated that as the premises was to be an HMO there would be a requirement for the property to be licensed. During consultation with the HMO Licensing Officer the development had met all their space requirements for the dining and living areas.

The Principal Planning Officer advised that Councillor A Jackson called in the planning application to be debated at committee as he had been concerned about the amenities, parking issues and number of HMO's in the area.

Councillor S Zair referred to the report that stated there were no HMOs within 100 metres of the development. He asked how many HMOs in total there were on both sides of Cockton Hill Road.

The Planning Officer responded that it was a good question but there had been difficulties in accessing data on how many HMO's there were in the area. The data used looked at any properties that was exempt from paying Council tax for student properties. Under HMO licensing it would look at any properties that housed 5 tenants or more but there were none in the area. There could be other properties rented out with fewer than 5 living in the property that was not collated.

Councillor S Zair questioned whether properties that housed less than 5 people should also be licensed.

The Planning Officer advised that HMOs were only licensed if there were 5 or more people living in the property. There was the subject of selective licensing where private landlords were requested to register with the local authority but again it was difficult to quantify the number of these types of properties in the area.

Councillor S Zair asked if the outdoor space was adequate for 8 people living in the property to congregate in.

The Principal Planning Officer stated that there was no policy that set out requirements for outdoor space. There was set out in the planning application for this development a location for storage for cycles and refuse which was acceptable for this development.

Councillor M Stead felt that policy 16 did not apply nor policy 15. He asked if there was a need to have an HMO in the area and referred to those concerns raised by Bishop Auckland Town Council. He was concerned with the historic issues with ASB and noise in the area and whether there would be wheelchair accessibility if the property was changed into an HMO. He queried if the common areas would meet certain living standards based on an 8 bed roomed HMO as the common areas would be very important.

The Principal Planning Officer stated that the NDSS (National Described Space Standard) set out minimum space sizes for bedrooms but not shared spaces. The HMO Licence complied with the minimum standard and there was not a policy conflict. He added that as the property was over several floors there would be no wheelchair access. However, if the application was successful and the conversion took place building regulations may stipulate changes.

Councillor M Stead stated that policy 15 did not apply as he did not feel there was a need for an HMO in the area as Bishop Auckland was not considered a student area and there were several empty shops in the area.

L Ackermann, Legal Officer (Planning and Highways) commented that although the planning application was for the conversion into an HMO that did not necessarily mean that it would be tenanted by students. The property could accommodate young professionals who wanted to live in a house share facility or nurses from the nearby hospital who wanted to live in a property together due to working anti-social hours. She noted that anyone could be potential tenants of the property.

The Principal Planning Officer advised that policy 16 was applicable as it was for HMO occupied by students and other persons and therefore complied with policy.

Councillor G Richardson had seen on the site visit that the road past number 1 lead to a school and felt that morning and afternoon sessions with drop offs and collections would be really busy and queried if this had been taken into account.

The Principal DM Engineer confirmed that the school traffic had been considered. Highways were aware of the high demand with drop off and collections and had been taken into account as part of the application.

Councillor S Quinn knew the area well and anyone living in the dwelling would know the issues with parking as it was a terraced street. There was already ASB in the area and a CAT project in place. She felt that the empty property had already been targeted as there was damage at the rear and felt that it should be occupied. She was minded to support the application.

Councillor G Richardson had attended the site visit and felt that the damage at the rear windows was too high up and was doubtful that someone had thrown a stone. He thought that it was due to natural storm damage.

The Chair opened the meeting up for debate.

Councillor J Atkinson **moved** to approve the application for the change of use. It was an old property and it was not built with cars in mind. He felt that properties needed to be allowed to move forward and be put back into use and not stay empty. He did not think that the lack of parking should prevent this from happening and noted that the former use as an office had managed. He was happy with the officer's recommendation.

Councillor A Savory commented that there was a lot of regeneration work taking place in Bishop Auckland where people involved may look for accommodation including the local hospital with nurses and medics as there was no provision at the hospital. She felt that the proposal was necessary and if left a derelict building would attract Anti-Social Behaviour.

Councillor G Richardson agreed with Councillor J Atkinson and **seconded** the application for approval.

Councillor S Zair agreed to a certain extent with comments from Councillors but had a problem with the HMO that it should be in the right place as it was unknown who it would attract to live there. He was concerned with the parking and dependent upon who lived there if they would take into consideration the nursery and school in the area. He noted that Cockton Hill was ripe with Anti-Social Behaviour and therefore did not want the property to remain empty. He commented that it had been proposed to develop a Children's Home on the opposite side of the road last year and upon walking the streets at night the proposal had been shelved. He did not support the application but did agree with some of the details of ASB that could escalate if the HMO was in the wrong place.

Councillor J Quinn stressed that the concern over who resided in the accommodation was not a material planning consideration. If in the future the property was to become a house for undesirables then it would need to come back to committee again for a change of use and debated upon. It was not in the remit of the committee to predict tenants. He commented that whoever viewed the property would see there was issues with parking that would then determine whether they lived there or not.

Councillor E Adam responded to Councillor S Zair and the Committee that the parking and ASB issues were all speculation and not material consideration. He stated that the HMO would be licensed and there were restrictions on these types of properties. He was satisfied that there was sufficient evidence from highways and Officers to suffice the balance to approve the application.

Councillor M Stead wanted it recorded that he also agreed with Councillor J Atkinson and Councillor J Quinn regarding the parking aspects. He did request that condition 8 was amended that construction commenced at 8am and not 7.30am due to the noise and disturbance to residents.

The Principal Planning Officer advised that it was up to members to decide if they wished to improve the conditions imposed on the application. Officers felt that as Cockton Hill Road was a busy road it was not unreasonable for construction to start at 7.30am.

Councillor S Zair requested clarification that if worst case scenario it was planned to house undesirables in the property it would have to come back to committee.

The Principal Planning Officer clarified that the Chair was making a point that if there was a further change of use for the property there would be a requirement for a further planning application. In relation to the HMO the committee could not consider who lived there. There would be a management tenant plan in place to dove tail the accommodation but the committee had no control over who went in.

Councillor J Atkinson and Councillor G Richardson as **mover** and **seconder** respectively agreed to the change in time from 7.30am to 8am in condition 8.

Upon a vote being take it was **unanimously**:

Resolved:

That the application be **APPROVED** subject to the conditions set out in the report and the change of time to condition 8.

b DM/23/02268/FPA - Masonic Hall, 25-26 Victoria Avenue, Bishop Auckland, DL14 7JH

The Committee considered a report of the Senior Planning Officer for the conversion of the ground floor of a property to a commercial space (Class E) and the conversion of the first, second and third floors into 10no. apartments (C3) with associated works (for copy see file of minutes).

G Heron, Senior Planning Officer gave a detailed presentation that included a site location, site photographs, proposed elevation plans and proposed floor plan. A site visit had taken place prior to the Committee meeting to enable Members to assess the impact of the proposed development and the relationship with their surroundings. She explained that it was a stone and brick building near retail sites with two car parks within the vicinity and an additional public square and parking area that was being developed on brownfield land at the front. It had been vacant for some time but historically it had been the Masonic Hall and then used as a function venue. It was in a poor state of repair with several windows either broken or boarded up. Within the proposal for ten apartments there would be commercial space on the ground floor for a potential art area.

The Senior Planning Officer explained that there was to be bin and cycle storage within the red line boundary of the property. It was classed as a non-designated heritage site and Historic England felt that if approved the proposal would enhance the conservation area within Bishop Auckland. The development was not required to provide any affordable housing as it would provide vacant building credit. An open space contribution was not being sought as after financial assessment it would render the scheme financially unviable if requested. The property was in a highly sustainable location accessible by sustainable travel modes of walking, cycling, bus and train. It was recommended that the application be approved subject to conditions set out in the report.

As there were no registered speakers the Chair opened up the meeting for questions.

Councillor E Adam referred to sustainability on page 59 of the report. He queried why there had been no energy assessment carried out to meet policy 29. If building regulation had changed to require new homes to produce less emissions, how could it exceed the requirements of policy 29.

The Senior Planning Officer responded to Councillor E Adam that the report had been drafted in error. There was separate legislation where there was no need for a condition to be imposed on the application as sustainability would be covered under the building regulations. It was a typing error and the report should read that it would meet policy 29 not exceed it. In context the existing building was in the conservation area as a non-designated heritage site and as standard it did not propose EV charging points but had the benefit of bringing a building back into use so there were no real sustainable proposals for the wider scheme.

S Pilkington, Principal Planning Officer noted that the building had met some efficiency with the internal walls that had met policy requirement.

The Senior Planning Officer stated that in policy 15 there was to be a M4(2) requirement but due to the current state of building it was not M4(2) compliant but on balance concluded that policy 15 be flexi as evidence showed that the building brought harm to the Bishop Auckland conservation area.

The Principal Planning Officer advised that there would be duplication within the building regulations and it could be demonstrated that this could not be achieved due to fabric of building. There was a caveat existing that did not need M4(2) regulations.

The Chair opened up the meeting to debate.

Councillor M Stead loved the application and thought it was great. He **moved** to approve the application.

Councillor S Zair mentioned that the property was in his division and it was great to see the building being brought back into use. He noted that there had been adverse comments on social media concerning the state of the building. He **seconded** the application to be approved.

Councillor S Quinn agreed with both Councillors Stead and Zair that the building was in a sorry state and it would be beneficial for the town to be restored.

Upon a vote being taken it was **unanimously**:

Resolved:

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

c DM/23/02935/FPA - Garage Block, Bewick Crescent, Newton Aycliffe

The Committee considered a report of the Planning Officer for the conversion and alteration of existing garages to form 4no. bungalows including bin collection hardstanding (for copy see file of minutes).

Councillor E Adam declared that he had called the application in to be discussed at committee as he had concerns with the proposal. He was not prejudicial and had not pre-determined the application.

M Sandford, Planning Officer gave a detailed presentation that included a site location, aerial photographs, site photographs of the garages that included the hedges and privacy screen, the proposed bin collection site, the existing site plan, the proposed site plan, the existing elevations, the proposed elevations and 3D images of examples of existing developments of the same nature in the northeast. A site visit had taken place prior to the Committee meeting to enable Members to assess the impact of the proposed development and the relationship with their surroundings. He explained that there were three garage blocks that totalled 29 garages within an established residential estate that was surrounded by the rear gardens of residential properties that consisted of a mix of privately owned and housing association.

It was proposed to convert the garages into four bungalows that contained two bedrooms, a combined living and cooking area, bathroom, storage and small garden areas for each unit as well as a shared outdoor space, with bin store, bike store, rotary drier area and two car parking spaces per bungalow and a visitor parking space provided adjacent to the remaining private garage. The proposed small gardens would offset the bio-diversity net gain for ecology purposes. There was no support for the removal of the well-established hedges on the site. This would re-use a brownfield site that was considered underutilised, accrued maintenance costs and was a blight in the area.

As the land was private there could be no proposals put forward to improve street lighting but occupants could install their own external lights. The bungalows met nationally described space standards internally and the close proximity of the bungalows would create a close-knit community with security benefits. A site visit of a similar development had proved that the arrangement was successful.

Local Member Councillor E Adam had requested the application to be called in to be discussed at Committee as he was concerned over access to the site, lack of parking restrictions, lack of EV charging points and internal/external spatial requirements. The proposed bin collection point (within the site) had been considered unacceptable and a new plan showed the bin collection point to be located on Emerson Way which was acceptable. It was reiterated that the access from Bewick Crescent was unadopted highway and would remain the responsibility of the landowner. The development proposed affordable housing and was recommended for approval subject to the conditions highlighted in the report.

Mr Edwards, Agent thanked the Committee for the opportunity to speak on behalf of the applicant for the application. He explained that the site was for 100% affordable housing that would be managed by Livin. He noted that the age population had increased in Durham and they did not want to create barriers for people to live independent lives. It was an innovative design for four sustainable two bed bungalows that was compliant by accessing housing on a brownfield site. The properties had easy access, high levels of design, a wet room, an air source heat pump and EV points. He had worked closely with Councillor E Adams and had hosted a site visit with him to view similar designed bungalows at a different site. There would be no parking signs at the entrance of the site and sprinklers in each bungalow that had been approved by the Fire Authority. He advised that they had worked with highways for a suitable bin collection site and it had been agreed that no refuse wagon would enter the site. The bungalows met with national space standards and other sites of a similar nature had proved to be successful. The bungalows were aimed at the over 55 year old demographic and had private gardens that would be easy to maintain. The bungalows would be designed and built to ensure living rooms and bedrooms did not overlook each other and there would be privacy screens added. There were developments in Spennymoor and Peterlee that had long waiting lists. He asked that the committee approve the application.

L Ackermann, Legal Officer (Planning and Highways) noted that Councillor E Adam had not pre-determined the application but was concerned with what she had heard from Mr Edwards that Councillor E Adam had worked with the agent on the application and asked for clarification on the relationship.

Councillor E Adams clarified that the agent had used the wrong choice of words. He had concerns with the application since October 2023 and that was the reason he had called the application into committee. He had issues with the internal and external space and had asked the Planning Officer for advice who had put him in touch with Mr Edwards. He contacted the agent to express his concerns which some had now been addressed. He had been shown round a bungalow that was of a similar design on another site that had alleviated some of his concerns. He confirmed that he had no financial gain and was purely assessing the information that had been supplied in the report as factual.

Mr Edwards agreed he had used the wrong choice of words in stating that he had worked with Councillor E Adams. He confirmed that he had taken Councillor E Adam on a site visit of another site that had similar designed bungalows to that what was proposed in the application and had taken on board the issues that Councillor E Adam had highlighted.

The Legal Officer (Planning and Highways) was happy with the clarification.

The Chair opened up the meeting to questions.

Councillor E Adam referred to paragraph 95 within the report relating to the RAS SPD as being 7 metres separation between properties but nationally it should be 18 metres. He was concerned that they were too close and the proposed privacy screen would have a visual impact. He asked if this was the opinion of the officer.

The Planning Officer responded that the NSD (National Described Space Standard) only looked at the internal space and not the external space. The development could not accommodate the 18 metre division as the site was enclosed. He advised that the dwelling's proposed layout was that the living rooms or bedrooms of each property would not face each other. He added that it would be advantageous considering the demographics of the site that the closeness would help with surveillance and create a close community.

Councillor E Adam was worried about the entrance to the site as he thought it was too narrow with substantial hedges in the vicinity. He queried if the entrance could go all the way up to the edge of the site. He was unhappy with the bin location. He asked who maintained the hedges and if there was a management plan in place as he received lots of complaints about overgrown hedges.

The Planning Officer stated that the hedges were owned and maintained by Livin. He had visited the site three times and they were well maintained and kept back from the road. Livin would continue to maintain them.

Councillor M Stead acknowledged it was good information to know about the maintenance of the hedges. He asked if the application was approved how long would it be before the proposed site would be finished and the properties occupied.

The Planning Officer was unsure of deadlines but as the bungalows would be erected from the shell of the existing garages it was likely that the timescales for completion would be reduced.

The applicant informed the Committee that if the application was approved, he aimed to be on site as soon as possible with full completion by March 2025 for occupation.

Councillor G Richardson stated that upon attending the site visit the garages were in a dilapidated state of disrepair and asked how many garages were occupied.

The Planning Officer noted that at present there were 5 occupied out of 30 garages. There was one private garage that would remain. The garages were built a long time ago and were not built for the size of modern cars.

Councillor N Jones thought it was a great development.

The Chair opened up the meeting for debate.

Councillor E Adam had looked at the planning application for a period of time as potentially there may be other proposals come forward in the future for other garage plots and queried what properties should be acceptable and sustainable for Newton Aycliffe. He thanked the agent for the site visit to see a similar designed bungalow on another site which he thought was excellent the way it had been laid out and consideration given to the build. He was still concerned that the bungalows would be too close to each other. His concerns had been alleviated over parking and the EV charging points and real consideration had been given to the bin collection site and the access road and on that basis he **moved** the application to be approved.

Councillor J Atkinson did not agree with Councillor E Adam over the hedges. Upon looking at the photographs the garages were a blot on the landscape and **seconded** the application to be approved.

Councillor A Savory thought it was a great scheme as bungalows were sort after and was happy the site promoted affordable housing. She supported the application to be approved.

Councillor S Quinn thought the standard of work by Livin was exceptional in the new bungalows in Shildon. They were homes people wanted to live in.

Upon a vote being take it was **unanimously**:

Resolved:

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

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/23/02915/FPA
FULL APPLICATION DESCRIPTION:	Change of use of public house (Use Class Sui Generis) to retail (Use Class E), including demolition of existing lean-to canopy and rear patio, installation of a new compound, facade treatment alterations car park alterations, access alterations and landscaping works
NAME OF APPLICANT:	Mr Kavitha Thirumalai
ADDRESS:	The Beehive, Salters Lane, Fishburn, TS21 4AS
ELECTORAL DIVISION:	Sedgefield
CASE OFFICER:	Mark Sandford Planning Officer 03000 261156 mark.sandford@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a vacant public house which is sited centrally within Fishburn. The building is not within any landscape or protected use designations and is located in a mixed commercial/service and residential area. Fishburn Primary school is located to the rear/east with its car parks abutting the site. The crossroads of Front Street/Butterwick Road and the B1278 are to the south and there is a small collection of retail/service shops on the south-west corner of the crossroads. The residential properties of 'Glebe Close' are located on the opposite side of the B1278 to the west and 'Park View' to the north.
2. A bus stop is located on the opposite side of the B1278 to this site, a pedestrian crossing to the south before the crossroads and the 'East View' access road which supplies the school is to the north. Vehicular access to the site would be from the existing access to the north of the building onto the B1278. The site is surrounded by a 1.5-2m mixed brick and stone wall. The site slopes downwards from north to south.

The Proposal

3. The application seeks full planning permission to change the use of the public house to Use Class E Retail unit including demolition of existing off-shoots, installation of a new plant compound, fascia and other fenestration alterations as well as alterations to the car park to the side/rear and landscaping works.
4. The application proposes opening hours of 06:00 until 23:00, Monday to Sunday. It is proposed to provide a variety of grocery products, frozen and fresh foods. Access arrangements would be altered from the doorway in the front of the property, to one in

the north side, further external alterations are proposed in the removal of a lean-to extension on the south side of the building and replacement with a plant compound, removal of a patio area to the rear to make space for additional parking and an internal refit to create a retail space and store rooms at ground floor and a management suite at first floor. The proposal would create 4no. full time jobs and 8no. part time jobs.

5. The application is reported to the Planning Committee at the request of Fishburn Parish Council who considered issues relating to highway safety and harm to the fabric of a historic building to be such that the application should be determined by the Planning Committee.

PLANNING HISTORY

6. The following summarises planning history at the site:
7. DM/22/03291/FPA – Erection of six dwellings (Use Class C3), formation of vehicular access, car and cycle parking and other associated and ancillary development - Withdrawn

PLANNING POLICY

NATIONAL POLICY

8. A revised National Planning Policy Framework (NPPF) was published in December 2023. 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.
9. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
10. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
11. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-

makers at every level should seek to approve applications for sustainable development where possible.

12. *NPPF Part 6 - Building a Strong, Competitive Economy.* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.
13. *NPPF Part 7 - Ensuring the vitality of town centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
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 15 - Conserving and Enhancing the Natural Environment -* Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
17. *NPPF Part 16 -* Conserving and enhancing the historic environment. Heritage assets range from sites and *buildings* of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

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; determining a planning application; healthy and safe communities; noise and use of planning conditions.

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

LOCAL PLAN POLICY:

The County Durham Plan

19. *Policy 6 – Development on Unallocated Sites.* Supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built up

area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.

20. *Policy 9 (Retail Hierarchy and Town Centre Development)* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.
21. *Policy 21 - Delivering Sustainable Transport.* 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.
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.
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 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.
25. *Policy 41 (Biodiversity and Geodiversity)* restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit

and where appropriate promote public access, appreciation and interpretation of geodiversity.

Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

26. *Policy 42 (Internationally Designated Sites)* states that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.

Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017.

Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.

27. *Policy 44 (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
28. *County Durham Parking and Accessibility Standards (2023)* This document sets out the Council's approach to vehicle and cycle parking provision on new development and extensions to existing development which includes both residential and non-residential.

NEIGHBOURHOOD PLAN:

29. No neighbourhood plan is present in this location.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

30. Sedgefield Town Council – Objects to the application. Highway safety concerns as the nearby junction is already busy and the proposal would generate further significant volumes of traffic, thereby increasing the chances of an accident.

31. Highways Engineer – No objection, detailed comments contained within the main body of the report under the Highway Safety section.
32. *Fishburn Parish Council* – Objects to the application. That area of the village is a bottleneck, particularly at school (drop off and pick up) times and there have been many near-misses with cars using the East View road. The B1278 through the village has no traffic calming measures and cars speed through the village. Safety improvements are required so that vehicles could safely use the retail premises. Cars speeding through the village have caused several accidents and near-misses at the nearby crossroads and zebra crossing. Converting the building, which is of historical significance would significantly alter the façade of the building.

INTERNAL CONSULTEE RESPONSES:

33. *Environment Health (Nuisance Action)* – No objection. Hours of opening should be restricted to those stated on the application form.
34. *Environment, Health (Contaminated Land)* – With reference to the planning application, I would confirm that I have assessed the historical maps and available information with respect to land contamination. I have no adverse comments to make. There is no requirement for a contaminated land condition.
35. *Spatial Policy* – Advises on relevant policies within the County Durham Plan. They further comment that the proposal would see a town centre use come forward outside of the designated local centre location and would therefore be subject to a sequential assessment, being edge of centre. Assessment of the submitted sequential assessment was undertaken and found to be acceptable. Further comment provided in the report below. The other impacts of Policy 6 are to be further assessed by other consultees.

PUBLIC RESPONSES:

36. The application has been advertised by way of a site notice, press notice and individual notification letters to neighbouring properties.
37. 30 no. letters of objection as well as a petition with approximately 250 signatures have been received – the petition stating that the Community of Fishburn Small Village object to this over the concerns of child safety, parking issues, accidents and other small businesses etc. Summary of remaining objections as follows;
 - There are already two other similar shops in the village and further offerings in Sedgefield a short drive away. The village is not big enough to accommodate a further shop and the proposal could harm the business of other established shops.
 - The proposal would increase traffic to an already busy area, especially at school pick up and drop off times. There have been several accidents and near-misses here. This is exacerbated by being close to a primary school.
 - Fishburn Primary school caters for over 150 families who attend the site on a daily basis which causes traffic concern.
 - There is no traffic system in place on the main road and there is no crossing guard manning the crossing either in the morning or afternoon.
 - Parking around the area is heavily over-subscribed and the proposal would add to this.
 - It is believed that there is a covenant on the building which requires it to be retained as a pub.

- It is believed that the pub has Listed status and any alterations to the façade would not be possible.
- The building should be retained as a pub or restaurant as that is what the village needs.
- The litter around the village is already an issue and a further shop will add to this.
- Dust and debris caused during the construction could be harmful to the children at the school.
- Several complaints regarding lack of notification.

The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at: <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QU6BIIGD0BK00>

APPLICANTS STATEMENT:

This Statement has been prepared to support the application at Beehive Public House for the Change of Use from Public House (Use Class Sui Generis) to Retail (Use Class E) and associated amendments to the building and car park.

Following the submission of the application in September 2023, we have been working closely with Durham County Council to bring forward a proposal which accords with local planning policies and which will provide a positive contribution to the village of Fishburn.

The Spatial Policy department has confirmed that the proposal is acceptable in principle, as it meets the requirements of the sequential site assessment, and given the small scale nature of the proposal, it falls below the retail impact threshold for Fishburn Local Centre. As such, it is concluded that the change of use is acceptable in retail planning policy terms and that it will not harm the vitality or viability of Fishburn Local Centre.

Following feedback from the Design and Conservation Officer, we have made amendments to the plans to maintain the front façade of the building, implement a stallriser to the front façade and relocate the entrance to the northern elevation. The Officer has confirmed that the revised proposals are much improved and could have a positive impact on the historical significance of the building. As such, the proposal is considered to conserve and enhance the local heritage asset.

Finally, Durham County Council's Highways Department have requested a secure cycle compound to be installed within the site (which is now included in the latest plans) and for no waiting/no loading restrictions to be provided in front of the building between the zebra crossing and the East View road to the north. The applicant is happy to work with the Highways Department to provide these measures to ensure the proposed development does not give rise to any road safety issues. The number of car parking spaces proposed are above the minimum requirements for a retail development, thus minimising any chance of overflow parking on the local highway.

There are also a number of clear tangible benefits of the proposal which should be noted:

- The proposal will bring a disused building back into beneficial use, which represents sustainable development in its truest sense;
- The scheme represents a significant investment in Fishburn by the applicant;
- 12 new job positions will be created once the site is up and running, the majority of which will be staffed by local people;
- The site will provide a local shopping facility in an accessible location, which will allow residents living nearby to shop locally and sustainably;

- It will improve the retail offer within the settlement, helping to keep prices competitive to the benefit of residents; and
- It will ensure the longevity and conservation of a local heritage asset.

In conclusion, we are strongly of the view that the proposal should be supported. The amendments made through the planning process demonstrate the applicant's willingness to work with the Council and stakeholders to mitigate any potential impacts from the development.

On this basis, we respectfully request that the application is approved.

PLANNING CONSIDERATIONS AND ASSESSMENT

38. 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) forms 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.
39. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, impact upon a Non-Designated Heritage Asset, impact on amenity, highway safety, ecology and arboriculture.

The Principle of the Development

40. CDP Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it:
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities services unless it has been demonstrated that they are no longer viable; or
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and

j. where appropriate, it reflects priorities for urban regeneration.

41. The property is located centrally within the Fishburn settlement and it is considered criterion a), d), e), f), g), i) and j) of CDP Policy 6 are the most relevant. The building is not listed but is considered to be a Non-designated Heritage Asset (NDHA) and as such alterations must be sympathetic to the building. The site is not within any landscape designations and none of the trees nearby are covered by Tree Preservation Orders.
42. The proposal would see a former public house changed to a Use Class E retail unit, creating 152sqm of Net Sales Area, and a total gross internal area of 223sqm. The property is reasonably well separated from nearby neighbouring properties and the change from pub to retail premises would be considered compatible with the surrounding area.
43. Taking into consideration the NDHA nature of the property, the proposal has gone through several design iterations with the final version acceptably retaining the character of the premises, specifically the unique street side windows which provide the most architectural and aesthetic merit. The property is not being extended to facilitate the change of use and in fact some of the redundant structures which are obvious modern additions are being removed. Further discussion in relation to criterion d) of CDP Policy 6 is provided below, but in general, the design approach is considered consistent with the requirements of this part of the policy.
44. The proposal would use the existing vehicular access point to the north side of the building which leads into an existing car park. The proposal would see an opening up of the rear of the site and additional car parking spaces provided for patrons, as well as a cycle storage area. This would be in line with requirements of criterion e) of CDP Policy 6, although further discussion on highway safety and access is provided in relevant section below. In terms of criterion f) of CDP Policy 6, there are several bus stops within 100m of the site which provide regular services to Sedgefield, Durham and beyond, so the site is considered to have good access to sustainable modes of transportation.
45. The former Beehive public house has been closed for a significant period and a Viability Report has been submitted which concludes it would not be financially viable to continue the use of the premises as a public house. The addition of a Use Class E retail/convenience unit could be considered a substitution of one service facility for another. In this regard, it is not considered that there is any conflict with CDP Policy 6 g).
46. The proposal would bring back into use an otherwise vacant commercial unit which has started to show signs of disrepair through lack of maintenance and vandalism, and as such would see the reuse of a brownfield site and the preservation of a NDHA, in line with urban regeneration aims as outlined in criterion i) and j) of CDP Policy 6.
47. CDP Policy 9 (Retail Hierarchy and Town Centre Development) seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county. The site is located outside of the defined local centre for Fishburn as set out on the CDP Policies Map. It constitutes an 'edge of centre' location. CDP Policy 9 sets out a retail hierarchy, with Fishburn recognised within the lowest tier (local centres). The CDP seeks to protect and enhance these retail centres and supports new town centre development across all of the county's centres that will improve choice and bring about regeneration and environmental improvements. The proposed retail unit/use are a main town centre uses under the Annex 2: Glossary of the National Planning Policy Framework (NPPF) (December 2023). CDP Policy 9

requires proposals for town centre uses not within a defined centre to provide a sequential assessment (this reflects advice within the NPPF, paragraphs 91 and 92), and also (depending on the scale of floorspace) an impact assessment.

48. As part of this planning application, the applicant has set out in Section 5 of the 'Planning and Retail Statement' the justification and rationale behind the proposal, in terms of an assessment of sites/premises within the local centre (sequential assessment). There are no in centre premises identified as being available/suitable, with only one edge of centre premises identified. The proposal only includes 223sqm (gross) of retail floorspace and this is part of the wider proposal to productively reuse this building. Given the small scale nature of the local centre, together with residential uses occupying a significant number of the premises within it, the findings in respect of the sequential assessment are acceptable.
49. Para 94 of the NPPF advises that retail schemes which are outside of town centres and not in accordance with an up-to-date Local Plan should be accompanied by an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500sqm). CDP Policy 9 specifies that proposals for retail in excess of 1,500 sqm (gross) convenience floorspace or 1,000 sqm (gross) comparison floorspace, proposed outside of a defined centre, and that could impact on a Sub Regional, Large Town or District Centre, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG. Where there could be an impact on a Small Town or Local Centre the threshold reduces to 400 sqm (gross). Based on the floorspace of this scheme (223sqm GIA / 152sqm NSA) the scheme falls below this threshold for a local centre. An assessment of the impact of this proposal is therefore not required.
50. Numerous objections to the application were received from members of the public with comments made that Fishburn already has two convenience type premises, as well as there being similar businesses a short drive away in Sedgefield. It is noted there is a 'Co-op Food' shop on Butterwick Road 150m to the south-east and a 'Go-Local' shop on the corner of the B1278 and Moorside Crescent 200m to the south, however, the CDP and NPPF do not specify a number, or otherwise seek to specifically limit the number, of retail/convenience units within a given area and note the importance of providing a range of uses and services to offer the local population, which includes traditional retail such as this.
51. Given the above, and as there is no policy limiting factor in terms of numbers of retail properties offering similar goods, it is considered, subject to the assessment under other relevant CDP Policies, that the principal of the development is acceptable and in compliance with Policies 6 and 9 of the County Durham Plan.

Impact on the Character and Appearance of the NDHA and Surrounding Area

52. CDP 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.

Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety.

53. The building is not listed, but is considered to be a non-designated heritage asset (NDHA). CDP Policy 44 (Historic Environment) requires development to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate. Para 209 of the NPPF requires the LPA to take into account the effect of proposals on the significance of NDHAs and provide a balanced judgement of the scale of any harm or loss which may occur.
54. The property's significance as a NDHA is derived from its architectural features on the front elevation and its social significance from its use as a pub. There are no listed structures in its vicinity and it is not within a conservation area. The initial proposal sought to entirely sanitise the front elevation of the property, removing all features including the two large and unique arched windows, whilst installing full height glazed sliding doors in the front elevation. An initial redesign saw one of the windows retained while the other was removed and the sliding glazed doors inserted in its place.
55. As one of the few buildings of architectural merit within Fishburn and in a prominent location, the Design team considered that the proposals initial design to be harmful to the architectural significance of the building by removing the well-proportioned frontage, panelled stallrisers and the distinctive arched headed panels above the windows. The applicant was encouraged to incorporate design solutions that allow the arched window pattern to be retained by placing the entrance door on the north side of the building to allow the architectural features of the NDHA to remain legible.
56. The proposal was amended in line with the Design teams recommendations and further refined by carrying a matching stallriser across the defunct front doorway which was proposed to be a full height window, as well as reducing the thickness of a canopy over the new entrance proposed to the north side elevation.
57. Objections have been received with concerns relating to the impact of the proposal on character and appearance of the building, including from the Town Council, however it is the LPA's opinion that these have been addressed through the successive design alterations as detailed above and as such those objections are no longer supported. As the property is not listed, the retention of internal fixtures could not be controlled by the LPA and no request of a listing of them has been requested by the Design team.
58. The proposal also includes the demolition of a lean-to canopy to the south side of the building and a raised patio area to the rear. Neither of these elements carry any architectural, historical or visual interest and their loss is not considered to be harmful to the character or appearance of the building.
59. Whilst it is recognised that the retail unit would require some form of signage should planning permission for the change of use be granted, a satisfactory arrangement could be achieved, and in any event, this would be subject to a separate application for the display of Advertisements.
60. Overall it is considered the proposal would preserve the special interest of the NDHA, bringing it back into use as well as retaining the main architectural interest of the building, and therefore there would be no harm caused in terms of the character and appearance of the property, or the surrounding area, and thereby compliance with Policies 6 and 29 of the County Durham Plan as well as the NPPF would be achieved.

Impacts on Amenity and Pollution

61. CDP Policy 31 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.
62. NPPF Part 15 states that decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
63. The closest residential properties to the proposed development are located on the opposite side of the B1278 in 'Glebe Close' at approx. 25m from the frontage of the property, and no. 1 Park View to the north approx. 32m from the building. Although it is acknowledged that the public house use of the property has been ceased for some time, it is relevant that such a use would have been generally considered significantly more noise generating than a retail use.
64. No objections were received with regard to potential amenity harm and the Council's Environmental Health (Nuisance Action) team raised no objections to the proposal. They have assessed the application, including the proposed opening hours (06:00 to 23:00 Mon-Sun), and considered the scale of the development and subsequent construction phase to be relatively brief, however they did recommend a condition to control those hours, which is considered appropriate and would address the objection concerns in regard to the construction works.
65. A comment was received that the proposed use would add to an existing littering issue in the locality. It was noted during the site visit that there is not a litter bin at the property or nearby. It is considered reasonable that a shop which would likely provide readily consumable goods makes such a provision and therefore it is considered appropriate to include a condition to achieve this.
66. Overall it is considered the proposal would not be harmful to amenity and would comply with the requirements of Policy 31 of the County Durham Plan.

Highways Safety and Access

67. CDP 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 (SPD).
68. The NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable

impact on highway safety, or the residual cumulative impacts on the road network would be severe.

69. The application has been called to committee with concerns raised regarding traffic generation, highway safety and the existing parking issues of the area in relation to the nearby school.
70. Numerous objections were received, including from the Parish and Town Councils and nearby Fishburn Primary School, with concerns raised over the proposals potential to exacerbate existing parking problems around the area at school drop off and pick up times. Anecdotal evidence was provided that there have been several accidents and near-miss type accidents in the area which an increase in traffic could worsen, as well as drivers speeding passing through the village.
71. The proposal would use the same vehicle access point to the north of the building that the former pub utilised which feeds to the car park and increase the current 12no. space car park to 20no. spaces, primarily achieved by replacement of the beer garden and patio area to the rear. Two of the parking spaces would be set aside for disabled users and four reserved for future EV bays. This would exceed the requirements of the DCC Parking & Accessibility standard set out in the SPD. A later iteration of the proposal included a bicycle shelter, which is considered appropriate.
72. The DCC Highways team have considered the accident history of the highway network in the vicinity and a number of incidents have occurred within the standard search period (previous three full years plus current year). Analysis of the incidents and their causation factors indicates that none are associated with the existing property.
73. It is however noted that there are currently no parking restrictions to the front of the building, however those associated with the nearby zebra crossing do cover part of the boundary to the south. The proposed change to a retail store has the potential to increase the likelihood of vehicles parking on the main road to the front of the building. The proximity of the building to the existing zebra crossing could potentially create a road safety issue due to pedestrians using this facility being obscured by parked vehicles for approaching motorists. To mitigate this issue, the applicant has agreed to install no waiting/no loading restrictions between the zebra and the East View side road to the north. This would be secured by a traffic management scheme condition, which would require details to be submitted to, and approved by, the LPA in a further application.
74. With regard to concerns that the proposal would increase the presence of parked vehicles within surrounding streets, it is noted that given the increase of in curtilage parking as described above and the indicated restrictions, the proposed use would not increase on street parking to an extent that it would adversely impact upon existing network capacity or road safety. In instances where vehicles presently obstruct the adopted footway this is subject to legislative control via the Highways Act 1980 and cannot be afforded weight in determination of this application.
75. The application is supported by a Traffic Statement (TS) which the Highways team have assessed. They note that the data modelling indicates a Peak Hour increases of 20 in the morning peak and 12 in the afternoon peak. Whilst the TS has provided this information the Highways team note that it does not consider that many of these are likely to be from passing vehicles and are therefore not additional trips on the highway network, and the Highways team considered the capacity of the existing highway network being capable of accommodating the additional number of trips generated by the proposed change to the establishment.

76. The previous servicing to the public house has been taken into consideration and the Highways team consider the proposed servicing arrangement, which is on private land, to be acceptable. The dray would utilise the cellar hatch to the north side of the building within the car park and therefore the proposed servicing is considered to be similar to previous use.
77. An observation was made by an objector that the zebra crossing near the site is not manned and that the safety of the locality could be improved by rectifying this. DCC operates a policy under the School Crossing Patrol Guidelines (June 2012) whereby members of the public can request/suggest a site has a school crossing patrol. It should be noted that this is not a statutory duty. The assessment calculates the number of pedestrians and vehicles which use the proposed patrol site and uses a formula to determine whether the necessary threshold has been met. It is not clear whether there has been such an application made, however if it has not, contact should be made with the DCC Road Safety Team.
78. On the basis of the above and with compliance with the suggested conditions there are insufficient road safety grounds on which to sustain a refusal under NPPF paragraph 115.

Ecology and Nutrient Neutrality

79. CDP Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.

Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss of deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

80. CDP Policy 42 (Internationally Designated Sites) states that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.

Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017 ("Habitat Regulations").

Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.

81. The application is supported by a Preliminary Bat Roost Assessment which the Councils Ecology team have assessed. The Ecologist has determined that its findings are acceptable, and that with the provision of a condition to ensure the development is carried out in accordance with the requirements of the report's Conclusion and Recommendations section, that the proposal would not be harmful to ecological concerns.
82. Under the Habitat Regulations, the Local Planning Authority must consider the nutrient impacts of any new plans and projects (including new development proposals) on habitat sites and whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality. Only certain development types are impacted, but as the application site falls within the Tees catchment area, there may be a requirement for the potential impacts of this development to be considered in terms of nutrient neutrality.
83. In general, commercial development, schools and retail can be exempted. This is because it is generally accepted that people tend to work and live in the same catchment, therefore additional wastewater is already accounted for by existing and new housing. The proposed retail unit would not result in an increase in overnight stays in the area and the use itself would not result in a subsequent increase in human wastewater/nitrogen and as such there is no requirement to address Nutrient Neutrality impacts of the development any further.

Arboriculture

84. CDP 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.

The proposal would require the removal of several trees which the Councils Arborist has classified as low quality, and as such it is considered this would be of low impact.

85. It is proposed to extend the hard standing area through a considerable portion of the root protection area (RPA) of a large mature tree which borders the site, labelled as T1. The application is supported by an Arboricultural Impact Assessment (AIA) which has recommended the use of a no dig method of construction which would include a cellular confinement system.
86. The Councils Arborist has assessed the proposed method of construction and considers this would be essential in order to maintain the integrity of the tree's RPA and ensure its health and vitality. With this in mind, the Arborist has requested that further details with regards to the method of removing existing hard surface and the construction of the additional hardstanding are provided by way of an Arboricultural Method Statement (AMS). A condition to this end is considered appropriate.

With a condition to obtain a detailed AMS, it is considered that the proposal would not be significantly harmful to arboriculture and would comply with Policy 40 of the County Durham Plan.

Other matters

87. Comments/objections were made which were not considered to be material planning considerations and/or were factually inaccurate;
- It is believed that there is a covenant on the building which requires it to be retained as a pub.
 - It is believed that the pub has Listed status and any alterations to the façade would not be possible.
 - The building should be retained as a pub or restaurant as that is what the village needs.
 - Several complaints regarding lack of notification.
88. If there is a restrictive covenant on the property this would be a civil matter and would need to be addressed separately to the planning process. The property is not a Listed Building, and even if it were this would not preclude an application to alter it, rather a Listed Buildings Consent application would need to be submitted in addition to a planning permission submission. While it is evident from comments submitted that several locals would prefer the use of the building as a pub and/or restaurant, no applications for such uses have been submitted for consideration. The determination of this application would not prevent such applications or uses coming forward in the future.
89. 53 direct letters of notification were generated and posted out, a site notice was installed on the telegraph pole to the front of the property and the application was advertised on the DCC Weekly List, as such it is considered that the LPA has discharged its duty to inform nearby residents of the application's submission.

CONCLUSION

90. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11 c).
91. The details of the scheme have been assessed against relevant policies and are considered to accord with appropriate criteria and requirements, and subject to conditions would not have any unacceptable impact upon the character and appearance of the surrounding area, local amenity or highway safety in accordance with Policies 6, 9, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 5, 6, 7, 8, 9, 11, 12 and 15 of the NPPF.
92. The proposal has generated significant public interest, including a petition, however whilst the objections and concerns raised have been taken into account, they would not warrant a refusal in this case for the reasons detailed in this report. On balance, it is therefore considered that the proposals are acceptable and the application is recommended for approval.

Public Sector Equality Duty

93. 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.

94. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That the application be **APPROVED** subject to the 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 6, 9, 21, 29, 31, 40, 41, 42 and 44 of the County Durham Plan and Parts 2, 4, 6, 7, 11, 12, 15 and 16 of the National Planning Policy Framework.

Plan	Drawing No.	Date Received
Proposed Layout	230699-04E	17/01/24
Proposed Building Plans and Elevations	230699-07F	25/01/24
Proposed Elevations	230699-05G	25/01/24
Location Plan	230699-01	29/10/23

3. Notwithstanding any details of materials submitted with the application no development shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

Reason: In the interest of visual amenity and to preserve the appearance of a Non-Designated Heritage Asset and to comply with the Policies 6, 29 and 44 of the County Durham Plan.

4. Notwithstanding details submitted with the application the development hereby approved shall not be occupied/operated until a traffic management scheme has been submitted to and approved in writing by the Local planning authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interest of highway safety and to comply with the Policy 21 of the County Durham Plan.

5. Prior to the commencement of the development a scheme for the management of litter associated with the premises to include additional litter bins, anti-litter signage and a litter-picking regime shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the agreed details.

Reason: In the interest of the amenity of the area in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. The development shall be carried out in strict adherence to Section 4 of the Preliminary Bat Roost Assessment by Tyler Grange 16/11/23 (received 17/11/23).

Reason: In the interests of ensuring no protected species are adversely affected by the development and habitats are retained and improved in accordance with Policies 41 and 43 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

7. Prior to the commencement of works a detailed Arboricultural Method Statement shall be submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

Reason: In the interest of visual amenity and to preserve existing trees and to comply with the Policy 40 of the County Durham Plan.

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

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

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

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

Reason: In the interest of residential amenity and to comply with Policy 31 of the County Durham Plan.

9. The retail premises hereby approved shall only be open 06:00-23:00 Monday-Sunday.

Reason: In the interest of residential amenity and to comply with Policy 31 of the County Durham Plan.

10. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

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

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

- Trees, hedges and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interest of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan.

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

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

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

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

Replacements will be subject to the same conditions.

Reason: In the interest of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan.

12. No external windows and doors shall be installed unless full details including plans at a scale of 1:20, including cross sections and details of colour finish, of the proposed windows and doors have first been submitted to and approved in writing by the Local Planning Authority. The windows and doors shall thereafter be installed in accordance with the approved details.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policies 29 and 44 of the County Durham Plan and Parts 12 and 16 of the National Planning Policy Framework.

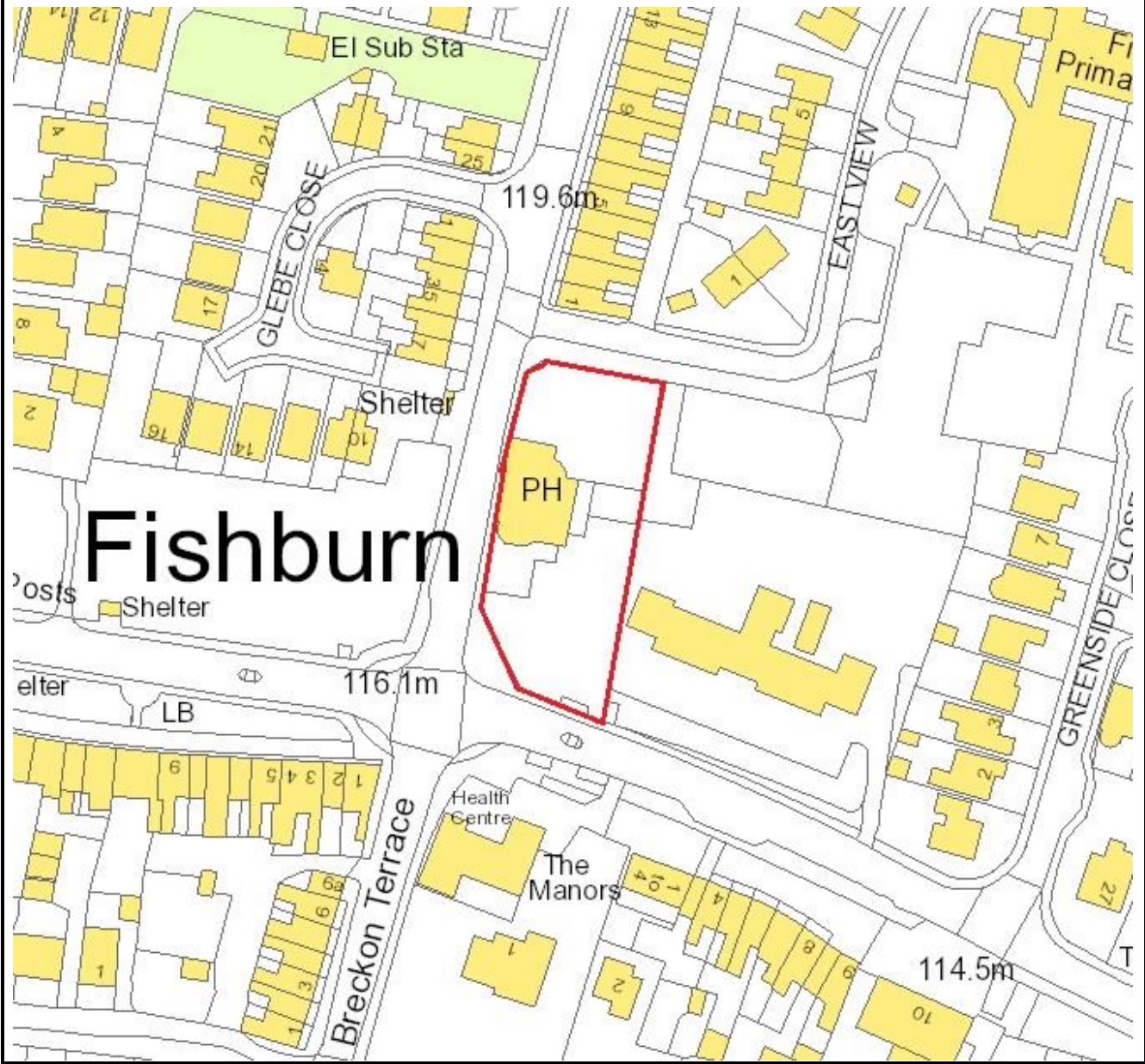
STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner

with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- Statutory, internal and public consultation responses
- County Durham Parking and Accessibility Standards 2023



Planning Services

Change of use of public house (Use Class Sui Generis) to retail (Use Class E), including demolition of existing lean-to canopy and rear patio, installation of a new compound, facade treatment alterations car park alterations, access alterations and landscaping works
 The Beehive, Salters Lane, Fishburn, TS21 4AS
 Ref: DM/23/02915/FPA

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Comments

Date 21 March 2024

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/02803/FPA
Full Application Description:	Resubmission of DM/22/03077/FPA for the erection of one permanent rural equine workers dwelling
Name of Applicant:	Mr Brent Green
Address:	High Green Farm, Binchester, Bishop Auckland, DL14 8AU
Electoral Division:	Spennymoor
Case Officer:	George Spurgeon (Senior Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to a parcel of grassed land to the west of an unclassified road linking Binchester and Byers Green, and to the north of Clergy House and the adjacent cemetery at Binchester. The land currently accommodates a static caravan granted consent for a temporary 3 year period in September 2019.
2. The wider site comprises 7.11ha of grazing land, and an agricultural building used to store winter feed and stable block of eight stables situated around a gravelled yard area. Vehicle access into the site is via a gated track leading from the unclassified numbered road to the north east. Post and wire fencing forms the boundary treatment of the site.
3. The applicant has operated an American miniature horse stud business at High Green Farm since 2019, having previously bred Welsh Cobs as a personal hobby. The applicant currently keeps 4 stallions and 18 mares on the site, which has increased from 1 stallion three years ago. Prior to 2019 the applicant also kept sheep, cattle and poultry and had leasehold tenancies on land at Brancepeth, Whitworth and Coundon amounting to approximately 17 hectares of agricultural land which have since been surrendered.

4. The site is bordered by Church Street to its east and south west, and by the Auckland Way Railway Path to its north west. Beyond these lie open fields. The site lies within Old Park, which is included on the Local List of Historic Parks, Gardens and Designed Landscapes.

The Proposal

5. The application seeks full planning permission for the erection of a single storey rural workers dwelling. The dwelling would have a footprint of approximately 133m² comprising a rectangular form featuring two storey projecting gable ends to the south west and north east elevations. Four dormer windows are proposed to accommodate three bedrooms within the roof space. The dwelling is proposed to be finished in brickwork to the external walls, with Marley Modern roof tiles and upvc window frames and composite doors. The dwelling would be sited in a similar position to the existing static caravan over an enlarged footprint, orientated north west to south east. Within its curtilage, there is space to accommodate a parking area and a garden.
6. The application is being reported to the South West Area Planning Committee at the request of Councillor Molloy in the interest of the welfare of the horses kept on the site.

RELEVANT PLANNING HISTORY

7. An agricultural storage building in situ on the site was approved on the 11th of October 2013 under application reference 7/2013/0355/DM. At that time the building was used for the keeping of winter animal feed, hay and agricultural machinery associated with the use of the adjacent land for the rearing of cattle and sheep.
8. An additional storage building and retention of surrounding hardstanding was approved on the 21st of September 2015 under application reference DM/15/01643/FPA. Condition 4 of this approval related to the removal of an unauthorised static caravan from the site.
9. Applications seeking approval for the siting of a caravan on the site to be used as an office and for sleeping accommodation for temporary periods during lambing and calving times were withdrawn in April and July 2018.
10. The change of use of the land and existing agricultural building to an equestrian stud business, including the retention of a residential static caravan for a temporary 3 year period was approved on the 16th of September 2019 under application reference DM/19/01236/FPA. The static caravan remains on the site, in breach of condition 2 of this approval. If the current application is refused, the matter will be passed to the Planning Enforcement team to take appropriate action.
11. Application DM/22/03077/FPA for the erection of a rural workers dwelling was withdrawn by the applicant on the 5th of May 2023 after being advised that it could not be supported.

PLANNING POLICY

National Policy

12. A revised National Planning Policy Framework (NPPF) was published in December 2023. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
13. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
14. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
15. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
16. *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.
17. *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.
18. *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.

19. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
20. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
21. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.
22. *NPPF Part 16 Conserving and enhancing the historic environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

National Planning Practice Guidance:

23. 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)

24. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
25. *Policy 12 (Permanent Rural Workers' Dwellings)* sets out the criteria needed to demonstrate the acceptability of a new permanent agricultural, forestry and other rural workers' dwellings outside the built-up area. These criteria include: details of the nature and demands of the work that demonstrate an essential functional need for a permanent full time worker to live on site; details that the rural business activity has been established for at least three years and is financially sound; the proposed dwelling should not be harmful to the landscape and character of the area; the scale of the dwelling should be commensurate with the functional requirement; the functional need cannot be fulfilled by another existing dwelling in the unit or area. If planning permission is to be granted, it must be subject to an occupancy condition and removal of householder permitted development rights. Further provisions for temporary accommodation and removal of occupancy conditions.
26. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
27. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* requires all residential and commercial development to be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.
28. *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.
29. *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.

30. *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.
31. *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.
32. *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.
33. *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.
34. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
35. *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.

36. *Policy 44 (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
37. Residential Amenity Standards SPD (2023 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

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

Neighbourhood Plan:

38. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

39. *Spennymoor Town Council* – No response received.
40. *Environment Agency* – No response received.
41. *The Coal Authority* – Raise no objections.
42. *Highways Authority* – Raise no objections.

Non-Statutory Responses:

43. *Spatial Policy* – Advise that CDP Policy 10 and 12 are permissible towards the erection of rural workers dwellings provided that key tests regarding the functional need for the dwelling and whether this could be met through alternative accommodation nearby, as well as the financial soundness of the enterprise, are met.
44. *Design and Conservation* – Advise that the site lies within Old Park, Spennymoor, which is included on the Local List of Historic Parks, Gardens and Designed Landscape and that in this historic context the proposed dwelling is of limited architectural merit.
45. *Landscape Section* – Advise that the dwelling would be visually and functionally related to the associated agricultural buildings grouping, but that dormer bungalows are not characteristic of rural dwellings.
46. *Ecology* – Raise no objections subject to conditions to secure adherence to the recommendations within the submitted preliminary Ecological Appraisal.

47. *Environmental Health Contamination* – Confirm there is no requirement for a contaminated land condition.

Public Responses:

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

Applicants Statement:

49. This is the applicant's statement in support of their re-submission application DM/23/02803/FPA for the erection of a permanent rural workers dwelling in connection with the operation of a commercial equine stud.
50. The applicants in support of their current application refer to application DM/19/01236/FPA approved on 16 September 2019, for a change of use and land and existing buildings to equestrian stud business including the siting of a residential caravan for a temporary 3-year period.
51. The applicants consider the granting of this temporary permission is relevant to the current re-submission application seeking permission for the erection of a permanent rural workers dwelling essential for the welfare of the horses and daily operation management and functioning of the equine stud business that has been developed and grown over the 4-year period that has elapsed since DM/19/01236/FPA was approved.
52. The applicants argue this temporary permission was granted in acceptance that residential accommodation on the site was essential to grow and develop the equestrian stud business and secure the necessary welfare provision for the stud horses. Accepting that since this approval was granted the new County Durham Plan adopted in 2020 has superseded the previous local District Plan the broad planning principles that applied then remain significantly unchanged both in terms of Policy 12 of the CDP and the NPPF in relation to the granting of planning permission for permanent rural workers accommodation in the countryside.
53. The applicants believe that none of the circumstances and supporting evidence submitted previously about demonstrating the key criteria for essential need for having full-time residential accommodation on the site have altered during the intervening 4-year period. If anything, the current supporting written evidence, and justification provided by the applicant's equestrian consultant simply reinforces the essential need for a permanent rural worker dwelling to replace the temporary mobile home.
54. Contrary to the planning officer's recommendation of refusal on the grounds the current proposed development does not meet criteria a) and e) as set out in CDP policy 12 the applicants argue the earlier temporary approval granted by DM/19/01236/FPA established the principle of essential need was met and nothing has changed to suggest this situation has fundamentally changed and the proposed development is acceptable in regards to the requirement set out in CDP policy 12 a). The applicants also argue that living off site would put the welfare of the stud mares at high risk specifically during foaling and the detailed

reasons for this have been submitted and described in the equestrian consultant's report and ancillary responses to additional questions raised by the planning officer.

55. The applicants note the proposed development is considered acceptable in respect of criteria b), c), and d) that form policy 12.
56. On balance and without specific knowledge as to the detailed reasons put forward by the planning officer in terms of recommending refusal of the current application the applicants are of the opinion the crucial consideration of essential need is met in terms of both criteria a) and e) and members should overturn this recommendation of refusal and approve this application for a permanent rural workers dwelling to ensure the long-term financial viability of the equestrian stud business and protect the welfare and well-being of the foals and stud mares.

PLANNING CONSIDERATION AND ASSESSMENT

57. 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, Impact on the Character and Appearance of the Area, Highway Safety, Residential Amenity, Ecology, Ground Conditions, Carbon Emissions, and Other Matters.

Principle of Development

58. 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 NPPF Paragraph 12. 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.
59. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
60. The application seeks full planning permission for the erection of a rural workers dwelling in an unsustainable countryside location. County Durham Plan (CDP) Policy 10 permits development in the countryside provided it falls under one or more listed exceptions or is permitted by another specified policy within the plan. One of these specified policies is CDP Policy 12 which relates to rural

workers dwellings. Policy 12 sets out criteria a) to e) which such proposals must demonstrate compliance with. These will be discussed in turn below.

Functional Need

61. Criterion a) requires the application to demonstrate that the nature and demands of the work involved means that there is an essential existing functional need for a permanent full time worker to live at, or very close to, the site of their work in order for the enterprise to function effectively.
62. This is in line with NPPF Paragraph 84 which sets out that planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more listed circumstances apply, one of which relates there being an essential need for a rural worker to live permanently at or near their place of work in the countryside.
63. Whilst the site is not considered to be in an isolated position due to the presence of existing dwellings Clergy House, Binchester Old School and Old Park Lodge Farm within 150m, there are very limited facilities in Binchester, comprising only a Community Centre and bus stops, with the closest primary local services being situated in Byers Green and Spennymoor, around 1 and 1.5 miles from the site respectively. Therefore, occupiers of the dwelling are likely to be heavily reliant on private car journeys and the site is not considered to be a sustainable location for residential use.
64. Planning Practice Guidance (PPG) at Paragraph: 010 Reference ID: 67-010-20190722 advises the considerations that it may be relevant to take into account when applying NPPF Paragraph 84 a) could include evidence of the necessity for a rural worker to live at, or in close proximity to, their place of work to ensure the effective operation of an agricultural or similar land-based rural enterprise. To this effect, it gives the examples of where farm animals or agricultural processes require on-site attention 24-hours a day, where otherwise there would be a risk to human or animal health or from crime, or to deal quickly with emergencies that could cause serious loss of crops or products.
65. The applicant's business comprises two elements which both contribute to its profitability. The first relates to a stud farm operation whereby a third party will bring their mare to the application site to breed with one of the applicants four stallions. The information submitted with the application states that up to two mares per stallion per week can visit the site during the breeding season, with mares typically staying on site for an average of four weeks before returning to their owners to give birth when it has been confirmed they are in foal. In 2022, 68 mares are stated to have been covered in this way, which generated approximately 58% of the income brought in by the enterprise. The second element of the business relates to the foaling of the applicant's own miniature horses, whereby the colts are sold as pets and the fillies either retained or sold at six months of age. The applicant currently keeps 18 mares on the application site.
66. The Justification Statement also states that 'According to the Equine Business Guide, the total labour requirement is now just over 3 full time labour equivalents'. Whilst this exceeds one full time worker, the detailed breakdown

of this has not been provided for review. The Statement also makes reference to five part time staff working at the site in connection with the enterprise when needed, which the applicant has confirmed comprises of unpaid family members.

67. Generally, it is not considered that on-site attention 24-hours a day is required to ensure the welfare of horses. In this regard, the British Horse Society (BHS) advise that horses “*need to be checked a minimum of twice a day to ensure their health and welfare is maintained*”, with Paragraph 3.3.5 of the submitted Justification Statement setting out that “*Miniature horses have very similar management to large horses.*” It is not uncommon for horses to be stabled and grazed in locations which do not have a residential occupant within sound and site, with the majority of similar sized equestrian operations across the County able to operate successfully without the benefit of a dwelling on the site and the majority of care being able to be provided around social hours. Responding to daytime incidents would not be dependent upon on a worker living on or near the site, as if living remotely the applicant would still be able to monitor the horses twice a day during social hours, as recommended by the BHS. Therefore, the presence of the horses alone is not sufficient justification for someone to live permanently on the site.
68. In terms of ensuring the welfare of the horses, the application sets out a number of emergencies to which the applicant suggests a permanent on-site presence is required. This includes complications during foaling, as well as horses becoming cast or stuck on their backs, suffering from illnesses such as colic, and being injured. The applicant’s case is that if such emergencies are not responded to quickly it can lead to fatalities.
69. In terms of foaling, it is accepted that close monitoring of horses is required during the period just before, during, and just after birthing, and that this may take several hours and include supervision overnight. Foaling on site is stated to take place during a nine month period April to December. The number of foals born on the site each year has not been specified but it is noted that 11 horses were sold in 2022. Given this, whilst acknowledging the enterprise has been profitable, foaling that has occurred on the site to date has taken place on a relatively small scale.
70. The Details of Emergency table at Paragraph 5.15 in the Justification Statement records 11 incidences of intervention during foaling required to save the foal between October 2019 to June 2023 (approximately one every four months), with a vet being called on one occasion. From the information submitted with the application, there are no records of a vet being called to the site outside of social hours to provide care to a horse in foal. In addition, it is not clear at what time of day the attention was required, and if any overnight attention was required at what time of day this need became apparent. As such, there is a lack of evidence to demonstrate that frequent overnight attendance is required.
71. It is appreciated that birthing times are not regular and so overnight attendance could not necessarily be planned for in advance, however from the information submitted with the application it has not been demonstrated that there has been any or anything above a low number of occasions when overnight attendance has been required. In this regard, the submitted Justification Statement acknowledges that ‘*Some conditions whilst not predictable, will be expected*

after foaling and will usually only exhibit themselves as an emergency situation if not detected early enough to treat effectively. The applicant would be expected to be on site for large portions of the day, even if living elsewhere, which would enable them to detect potential emergency situations arising after foaling.

72. There is a stable building on site to accommodate horses overnight and it is considered possible to remotely monitor expectant mares and those that have recently foaled from here outside of social hours. It is understood that a range of low light cameras which can connect to wi-fi or a mobile network are available, some of which also display colour, to allow monitoring to take place during the dark. Some of these cameras also come with built in microphones to capture audio, as well as infrared, motion detection and alarm systems. Therefore, it is considered that an appropriate camera system could be installed to allow effective remote monitoring of horses in foal and after foaling outside of social hours to enable the applicant to detect and respond to emergency situations.
73. Overall, the information submitted with the application does indicate that there are times when horses may require attendance or attention during the night, however it does not indicate that unexpected incidences that cannot be planned for are frequent, with such incidences not being daily, or even weekly, occurrences.
74. The applicant makes reference to three appeal decisions relating to the erection of an equestrian workers dwelling where an Inspector considered that there was a functional need for a person to live on site that could not be met by the installation of CCTV cameras. However, it is noted that these decisions were made in 2008, 2009, and 2012 and it is considered that a greater range of cameras with features such as those discussed above are now available. When combined with the merits of this case in terms of the extent of the foaling operation occurring on site and the infrequent incidences requiring human intervention recorded by the applicant, it is considered that the installation of remote monitoring systems could adequately safeguard the welfare of horses on the site to enable potential emergency situations to be detected and responded to. Therefore, it is considered that a 24-hour presence on site is not required for the effective functioning of the enterprise.
75. The applicant has explained that once foaling has taken place they initially remain with the mare and new foal to ensure it is feeding correctly and regularly with no problems, as mare miniature horses tend not to have the same mothering instincts after foaling resulting in human intervention being required. Where feeding is a problem foals are hand fed by bottle several times a day. During the most recent foaling season, the applicant states that up to ten foals had to be hand fed every two hours day and night for the first few weeks of life due to rejection by their mother. Whilst more convenient to live on site to carry out this activity, there does not appear to be any reason that this activity could not to an extent be planned for if living nearby, as following the identification of a feeding problem it would be an anticipated regular task to be carried out for a limited temporary period of time.
76. Excluding those relating to foaling, the Details of Emergency table at Paragraph 5.15 in the Justification Statement records the following incidences that

occurred between October 2019 to June 2023: two incidences of a horse becoming cast; one incidence of a horse suffering from colic; and no incidences of horses panicking during thunderstorms, fires, or from cuts and kicks. Four incidences of a horse being injured were recorded which comprised occasions where a stallion got his leg caught in a hay net, a foal got trapped in a water trough, and horses were spooked and got caught in the post and wire fencing along the site boundary. There are no records provided of a vet being called to the site in response to these incidences.

77. Generally, arguments relating to a need for a worker to be on hand to protect and care for valuable animals which may be highly-strung and prone to injury or sickness do not justify on-site attention 24-hours a day through the provision of a rural workers dwelling. In this case, it is not clear at what time of day these incidents occurred and even if not permanently living on site the applicant would be expected to be present at the site for the majority of the day to observe and care for the horses, at least in compliance with the BHS's recommendation to check horses at least twice a day to ensure their welfare.
78. Over a near three year period, the incidences recorded in the Details of Emergency table demonstrates that the occurrence of such incidences is relatively low, at a rate just under one every seven months. Therefore, a permanent dwelling is not considered essential to ensure satisfactory levels of welfare for the animals at the application site, or that on-site attention 24-hours a day is required to ensure the welfare of the horses and enable the effective functioning of the enterprise through the avoidance of stock loss.
79. In response, the applicant contends that their 24-hour on-site presence and constant supervision significantly lowers the likelihood of such emergencies occurring through early intervention, hence the low level of such incidences arising. However, there is nothing within the information submitted with the application to suggest that these incidents have been prevented by the applicant's presence in the static caravan and if the applicant was not living on site this would not be anticipated to lead to a higher number of incidences of horses becoming cast or suffering from illnesses such as colic. Overall, the risks to the business of a horse becoming injured cannot be fully mitigated by an on-site presence.
80. In addition, it is considered that remote monitoring systems with audio could be installed to allow animals to be checked upon outside of social hours. This would allow the applicant to observe and become aware of horses showing signs of injury or distress. The applicant would be able to check up on livestock using a remote monitoring system just as frequently as could be achieved on site, with many such systems including audio which could notify them of emergencies such as animals in distress. Whilst such systems would be unlikely to effectively cover the entire field, they would be more effective within the stable building and are considered to provide a comparable level of animal welfare to that which is currently provided from the caravan on site, with it noted that the far end of the site is 270m away from the static caravan and considered that the applicant cannot reasonably expect to hear all instances of animals in distress even if living on site, for example when asleep.
81. The applicant also raises concerns over the cost of installing and maintaining any CCTV and alarm system, as well as shortcomings in picking up the

presence of Chinese lanterns, hot air balloons, fires, and foxes. No information regarding such costs has been provided, and in any event are considered to be less than those involved in the construction of a new dwelling. The Details of Emergency table provided by the applicant is a log of incidents on which the applicant has needed to respond to in order to ensure the welfare of the horses and this makes no reference to incidences involving Chinese lanterns, hot air balloons, fires, or wild animals.

82. In terms of security, the applicant contends that a 24-hour on-site presence is required in order to safeguard the site from theft. The submitted Justification Statement states that prior to the temporary dwelling being sited at High Green Farm in 2019 and the applicants living on site, the farm suffered from incidences of crime at a rate of one incidence per year. Crimes are stated to have varied from theft of equipment to livestock being worried and killed by dogs. This relates to the death of four lambs. However, it should be noted that the nature of the enterprise has changed from 2019 as the applicant no longer keeps cattle, sheep or poultry.
83. The applicant states that the National Farmers Union have noticed a sharp increase in rural crime in recent years and that miniature horses are extremely valuable and could well be considered an easy target for criminal gangs due to their size. The applicant also states that whilst living on site there have been no instances of trespass or crime. Whilst it is accepted that the applicant living on site would help to deter potential criminals, it is considered that there are alternative means that could achieve a similar level of deterrence and security, so a 24-hour on-site presence is not required to avoid stock loss and to allow the effective functioning of the enterprise.
84. The site is bounded by post and wire fencing to all three sides, with a short section of roadside hedgerow present on the outside of this for a stretch of approximately 240m along the eastern perimeter. The Auckland Way Railway Path spans the western boundary, also bounded by post and wire fencing. It is considered that the security of the site could be improved through the planting of additional hedgerows along the inside of the site perimeter and/or the installation of new boundary fencing up to a height of 1m under permitted development. In addition, there is limited evidence to demonstrate that the horses and equipment on site could not be adequately protected using security systems such as alarms and CCTV, and that the installation of such appropriate technology could improve security at the site. It does not appear that installation of technology such as CCTV and warning alarms has been seriously considered by the applicant but this is considered to provide a reasonable deterrent.
85. The applicant suggests that CCTV and warning alarms are not practical solutions as they would require 24-hour surveillance, could be disabled by professional thieves, and would not offer a reasonable deterrent to vandalism of theft. However, it is considered that the installation of an appropriate security system incorporating CCTV and alarms would deter people from trying to access the site in the first place, as well as notifying the applicant of unauthorised persons attempting to access the site and any buildings. This is considered to adequately safeguard against thieves without requiring the applicant to personally survey the site for 24-hours a day.

86. It should be noted that there are several relevant appeal decisions where the issue of security has been considered. An Inspector reached a similar view to the above when considering appeal decision APP/X1355/W/18/3218968 relating to a rural workers dwelling in connection with an equestrian business which included foaling in Stanley. Similarly, when dismissing appeal decision APP/X1355/W/19/3243270, relating to the siting of a static caravan as a rural worker's dwelling in relation to a livery business in Easington, an Inspector considered that whilst CCTV cannot physically prevent the taking or harming of horses, or prevent vandalism to the site, it would have some deterrent effect. When dismissing appeal APP/X1355/W/22/3313275 relating to a permanent rural workers dwelling in Ramshaw, the Inspector accepted that living at the site would be more convenient for the appellant but did not find that the incidence or risk of crime or trespass was so great that a constant presence was required, concluding that there was not an essential need for a permanent presence at the site in order for the enterprise to function effectively.
87. Furthermore, whilst occupying a countryside location, Clergy House and Binchester Old School lie approximately 60m and 130m to the west of the site of the proposed dwelling, with Old Park Lodge Farm 125m to the north. These properties would provide some informal surveillance of the site which may help to deter potential criminals. The applicant suggests that the residents of these properties would be unable to tell whether visitors to the site were genuine or not and may not wish to involve themselves in ringing the police should they see any untoward activities taking place. However, it is considered that the presence of these properties alone would provide a level of deterrence which when taking into account the potential to install an appropriate security system does not require a 24-hour on-site presence to enable the effective functioning of the enterprise.
88. Overall, instances of crime occurring on the site have been relatively low in the past and it is considered that the site could be further safeguarded against this through the installation of additional security measures. These security upgrades are considered capable of deterring crime without the applicant needing to live permanently at the site.
89. Whilst it is acknowledged that planning permission was granted (under application DM/19/01236/FPA) to allow the siting of a temporary static caravan on the site to be lived in by the applicant to run the enterprise, the number of incidences anticipated at that time to require human intervention have not been as numerous as expected, as demonstrated by the relatively low frequency of such incidences recorded in the Details of Emergency table. In addition, at the time of the granting of that permission, the applicant also kept cattle and sheep on the site which is no longer the case. It should also be noted that application DM/19/01236/FPA was approved prior to the adoption of the CDP, although the national policies in place at that time remain similar to those currently in place.
90. Overall, it is considered that there is not a functional need for a 24-hour on-site presence and so the application is contrary to criterion a) of CDP Policy 12.

Financial Soundness

91. Criterion b) requires the rural business activity to have been established for at least three years and be currently financially sound as verified by a qualified accountant, with a clear prospect of remaining so.
92. The application is supported by financial accounts for the years ending May 2020, 2021, and 2022. The accounts show an upward trend in profit since the business was established, with net profits of £17,239 in 2020, £32,529 in 2021, and £70,548 in 2022. This indicates that the business would be capable of paying the applicant the national minimum wage of £20,048 per worker (from April 2023).
93. The value of the current foundation stock purchased by the applicant in 2019 is stated to have totalled £33,100, comprising 1 stallion and 11 mares, but this is not included within the expenses for the year ending May 2020, the first year of the operation of the miniature horse enterprise. Nevertheless, when accounting for this the enterprise could still be profitable whilst paying the applicant the national minimum wage.
94. The applicant states the enterprise requires the equivalent work of three full time labourers according to the Equine Business Guide, despite the applicant being the only person paid in connection to work carried out at the enterprise. It is questionable for how long the applicant would be able to carry out the work of three people and if additional workers were to be hired on a part time basis in the future as the applicant suggests, this would affect the profitability of the enterprise.
95. Nevertheless, the enterprise has been established for more than three years and is currently financially sound, according with criterion b) of CDP Policy 12.

Scale of the Dwelling

96. Criterion d) requires the scale of the dwelling to be commensurate with the established functional requirement of the enterprise.
97. The proposed dwelling would have a footprint of approximately 133m², featuring an open plan kitchen dining room, lounge, utility room and office on the ground floor, with three bedrooms within the roof space. Whilst larger than the static caravan it would replace, a dwelling of this size is considered to be commensurate with the established functional requirement of the enterprise, according with criterion d) of CDP Policy 12.

Alternative Accommodation

98. Criterion e) is only permissible towards the erection of a rural workers dwelling where the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.
99. It is accepted that none of the existing buildings on the site are suitable for use as part time accommodation. One of the buildings is used for storage of animal feed and machinery and the other is used as stables for the horses.

100. However, it is noted that the applicant previously owned the dwelling 52 High Street in Byers Green which they sold in 2021 and is located approximately 1.8km away from the application site, around a two minute drive. It is considered that the proximity of this dwelling to the site would have allowed the applicant to promptly respond to emergencies occurring on the site as they become aware of them through remote monitoring systems installed at the application site. In addition, it is noted that according to Rightmove, as of the 29th of February 2024 there is one three bed property for sale in Byers Green at Greenhills, approximately 2.2km away, and 15 three bed properties for sale in Middlestone Moor, 2.3km away or around a three minute drive (many of which comprise those located on the Middlestone Meadows site to the north of Durham Road where the construction of 300 dwellings is well underway).
101. The applicant contends that having to get dressed and drive to the site would delay immediate action which could lead to fatalities. However, the applicant would need to get dressed even if living on site and the two to three minute travel time to the application site is considered unlikely to prevent a sufficiently timed response to an emergency. The foaling period is stated to occur between April to December and the applicant also raised concerns over adverse weather conditions potentially delaying any journey to the application site. Whilst it is accepted that this would be beyond the applicant's control, given the short distance away from the site and that Church Street is a main bus route for the no.111 to Spennymoor and no.104 to Bishop Auckland and therefore a priority route for the Council to grit to prevent ice forming on the road surface, this is considered to be unlikely to materially impact upon travel times to the site.
102. The applicant also contends that regular attendance from an off-site location is likely to cause noise and light nuisance to nearby residents from car engines and headlights at unsociable hours. In this regard, the driving of a vehicle to and from the application site during the night is not considered to represent an adverse impact on the living conditions of nearby residents, particularly given the infrequency of these occasions as set out by the Details of Emergency table which records a log of incidences responded to by the applicant.
103. Overall, it is considered that the functional need could have been fulfilled by 52 High Street had it not been sold by the applicant in 2021, with alternative three bed properties nearby currently on the market, and so the application is contrary to criterion e) of CDP Policy 12.

Impact on the Character and Appearance of the Area

104. Criterion c) of CDP Policy 12 is permissible towards rural workers dwellings where they would not be harmful to the rural landscape and character of the area and are physically well related to the activities required.
105. 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.
106. CDP Policy 44 states that when determining application particular regard will be given to the sustainable management of the landscape of Registered Parks and Gardens, and their features and setting. A balanced judgement will be

applied where development impacts upon the significance and setting of non-designated heritage assets.

107. Parts 12 and 15 of the NPPF also seek to promote good design, while contributing to and enhancing 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. Specifically, NPPF Paragraph 135 states that planning decisions should aim to ensure developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and the surrounding built environment and landscape setting, and establish or maintain a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
108. The site lies within 80m to the south of an Area of High Landscape Value, and within Old Park, Spennymoor which is included on the Local List of Historic Parks, Gardens and Designed Landscapes and is considered to be a non-designated historic asset (NDHA).
109. The site is primarily seen from the unclassified road to the north east, Long Lane to the south west, and the Auckland Way Railway Path which runs along the western boundary of the site. The dwelling is proposed to be sited to the west of the existing buildings where it would be seen in the context of existing built form with a backdrop of existing residential properties and mature trees which would help anchor the proposal into the landscape, with the dwelling being both visually and functionally related to the associated grouping of agricultural / equestrian buildings.
110. Whilst dormer bungalows are not considered to be characteristic of rural dwellings and the dwelling itself is of little aesthetic merit in its own right, it would sit at a similar height to the adjacent agricultural buildings and be viewed within the context of this grouping and adjacent dwellings. Therefore, whilst the proposed dwelling would not make a particularly positive contribution to the area's character due to its lack of any particular architectural merit or reference to the heritage of the area, on balance it is not considered to harm the character or appearance of the rural landscape or the Old Park given its small scale and position well related to existing built form, in accordance with CDP Policies 12 c) and 44.
111. If the application were to be approved, conditions could be imposed to secure further details of external materials and a landscaping scheme to include the planting of a native hedgerow to the west side of the dwelling.

Highway Safety

112. 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. In addition, CDP Policy 10 q) is not permissible towards development that would be prejudicial to highway safety.

113. The NPPF sets out at Paragraph 114 that safe and suitable access should be achieved for all users. In addition, NPPF Paragraph 115 states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
114. The site is served by an existing vehicular access, which is capable of accommodating the existing equestrian use and the proposed dwelling. No significant increase in vehicle traffic is expected as a result of the proposed dwelling and the existing gravel hard standing would provide adequate space for the turning and parking of vehicles. The Highways Officer raises no objections to the application.
115. Overall, the proposed development would not adversely affect highway safety, according with CDP Policies 10 q) and 21, as well as Part 9 of the NPPF.

Residential Amenity

116. 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. In addition, CDP Policy 10 r) is not permissible towards development that would adversely affect residential or general amenity.
117. 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.
118. The application seeks consent to replace a static caravan with a permanent dwelling. Due to its distance away, the proposed dwelling would not adversely affect the amenity of the occupants of the closest dwellings to the site in the form of Clergy House, Binchester Old School, or Old Park Lodge Farm, either in terms of loss of privacy, visual dominance or overshadowing. If the application were to be approved, a condition could be imposed to restrict construction working hours to safeguard the amenity of nearby residents during the construction phase.
119. Overall, the proposed development would not adversely affect the amenity of neighbouring residents, according with, CDP Policies 10 r) and 31, as well as Parts 12 and 15 of the NPPF.

Ecology

120. NPPF Paragraph 186 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 secure net gains for biodiversity and coherent ecological networks. CDP Policy 43 relates to protected species and nationally and locally

protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.

121. The application site lies approximately 660m to the north east of Bellburn Wood Local Wildlife Site. The application is supported by a Preliminary Ecological Appraisal which identifies the presence of four ponds within 500m of the site, with the closest being located within a garden area approximately 30m from the southern boundary of site.
122. The County Ecologist has indicated their satisfaction with this Appraisal, advising that due to the presence of koi carp, and subsequent lack of emergent vegetation, the isolated nature of the pond, and the lack of known records of the species within the locality, that the risk of impact on Great Crested Newts is likely to be negligible. This is provided that a detailed method statement is secured via a suitably worded pre-commencement condition as recommended within the Appraisal. If the application were to be approved a condition would also be required to secure details of the locations of the two integrated bat boxes and bird boxes recommended in the Appraisal prior to the first occupation of the dwelling.
123. Overall, subject to these conditions, the proposed development would not adversely affect any protected species or their habitats and would deliver a biodiversity net gain, according with CDP Policies 41 and 43, as well as Part 15 of the NPPF.

Ground Conditions

124. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. NPPF Paragraph 189 requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
125. The site falls within the defined Development High Risk Area and so the application is supported by a Coal Mining Risk Assessment. The report considers that whilst shallow coal mining may be present beneath the site, there is sufficient competent rock cover present and concludes that the risk from historic coal mining activity at the site is very low, with no intrusive site investigations or remedial / mitigation measures required to ensure safe and stable development. The Coal Authority has indicated their satisfaction with this report and on this basis raise no objections to the application.
126. Accordingly, the proposed development is not expected to adversely affect the stability of surrounding land, according with to CDP Policy 32 and NPPF Paragraphs 189.

Carbon Emissions

127. Criterion c) of CDP Policy 29 requires all development to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source.

128. Criterion d) of CDP Policy 29 requires all development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials, during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable waste and prioritising the use of local materials.
129. In addition, NPPF Paragraph 164 advises that in determining planning applications, Local Planning Authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including through installation of heat pumps and solar panels where these do not already benefit from permitted development rights).
130. The application is not supported by any details regarding how the development would minimise greenhouse gas emissions, however in this instance it is considered that these could be secured via a suitably worded condition if the application were to be approved.
131. Given the above, the proposal is considered to accord with the sustainability aims of CDP Policy 29 and Part 2 of the NPPF.

Other Matters

132. CDP Policies 35 and 36 relate to flood water management and infrastructure. Surface water run-off must be managed at source wherever possible and disposed of in accordance with the hierarchy of preference: to an infiltration or soak away system; to a watercourse; to a surface water sewer; lastly to a combined sewer. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water. The site is not located within a flood zone or an area identified as being at high risk of surface water flooding. The applicant proposes to dispose of foul water to a Klargestær septic tank that was approved and installed as part of permission DM/19/01236/FPA, which is considered to be acceptable in this instance. Therefore, the application accords with the aims of CDP Policies 35 and 36.
133. CDP Policy 27 requires all new residential development to be served by a high speed broadband connection. This will need to be directly accessed from the nearest exchange and threaded through resistant tubing to enable easy access to the cable for future repair, replacement and upgrading. Where it can be demonstrated that this is not appropriate, practical or economically viable, developers will be encouraged to provide appropriate infrastructure to enable future installation. No details of how the dwellings will be served by a high speed broadband connection have been submitted with the application, but it is considered that these details could be secured via a suitably worded condition if the application were to be approved.

CONCLUSION

134. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local

planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

135. The application seeks full planning permission for the erection of a detached dwelling, to serve the current operations on the site. Whilst the dwelling would add to the urbanisation of the site and its design is not characteristic of rural dwellings in the locality, it is considered that on balance any harm would not result in policy conflict given the nature of the site and surrounding built form. Subject to conditions, the proposed development is considered to be acceptable in terms of its impact on the Character and Appearance of the Area, Highway Safety, Residential Amenity, Ecology, Ground Conditions, Carbon Emissions, and Other Matters, and in accordance with Policies 21, 29, 31, 32, 35, 36, 39, 41, 43, and 44 of the CDP, and Parts 6, 8, 9, 12, 14, 15, and 16 of the NPPF in this respect.
136. However, it is considered that a permanent 24-hour on-site presence is not required to ensure the welfare of the horses, respond to emergencies, or safeguard against crime. Most of the required care for the horses is capable of being provided around social hours, with there being the potential to install remote monitoring systems including cameras and alarms to enable the applicant to become aware of and respond to emergencies occurring overnight. The information submitted with the application indicates that there have been a low number of emergencies requiring a response from the applicant since the enterprise began operating in 2019. Whilst there are times when horses may require attendance or attention during the night, the information submitted with the application does not indicate that unexpected overnight incidences that cannot be planned for are frequent occurrences. The hand feeding of foals at regular intervals is an activity that, once identified as necessary, could be planned for and carried out even if not living on site. Instances of crime occurring on the site have been relatively low in the past and it is considered that the site could be further safeguarded against through the installation of additional security measures.
137. Therefore, it is concluded that the proposed dwelling would represent isolated residential development in an unsustainable rural location without meeting the functional test set out by CDP Policy 12. It is also concluded that any functional need could be met by existing dwellings in close proximity to the site, including those at Byers Green and Middlestone Moor which are within a three minute drive away. There are no material considerations which indicate a decision should be otherwise and therefore the application is recommended for refusal.

Public Sector Equality Duty

138. 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.

139. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

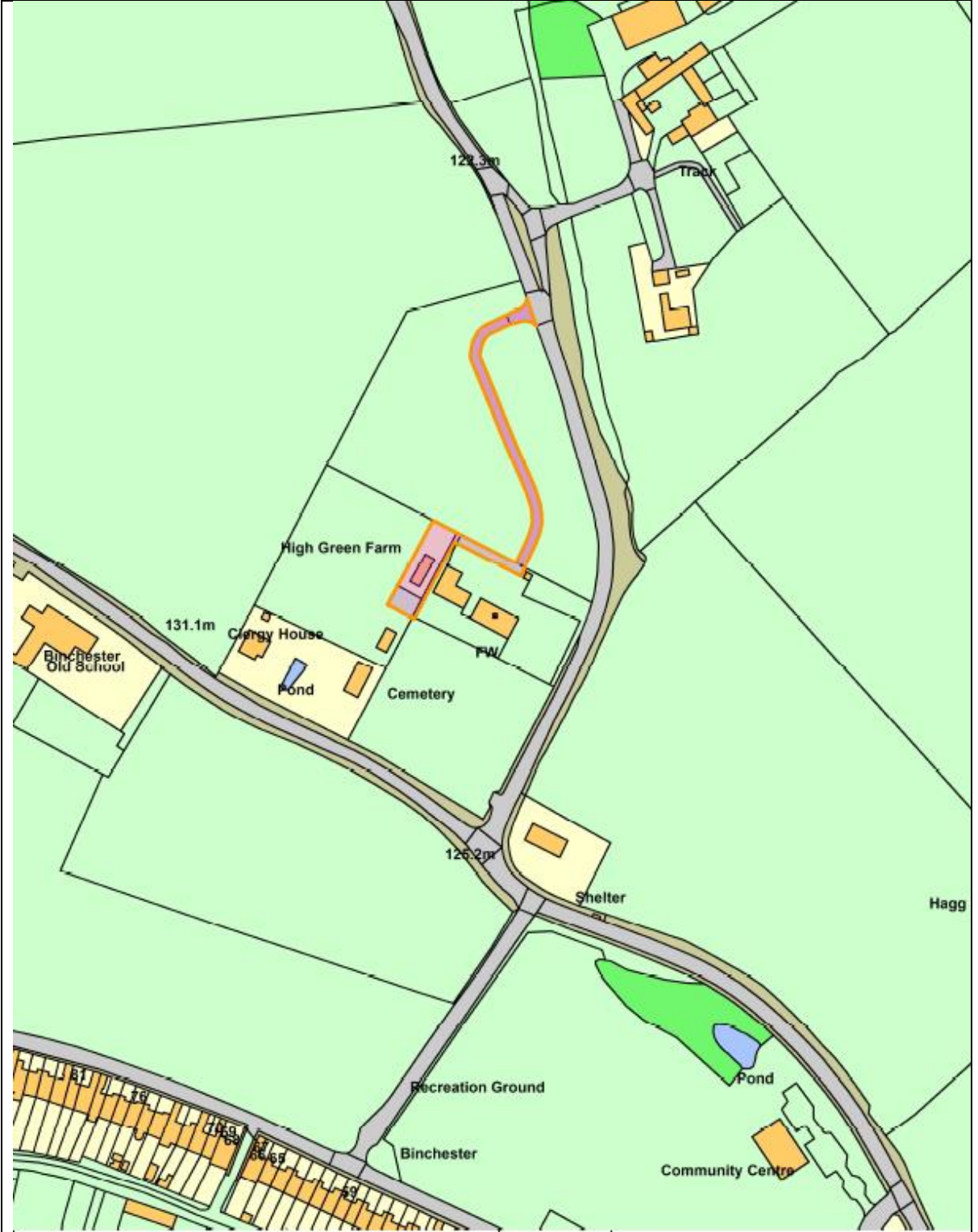
1. The proposed development would represent residential development in an unsustainable location within the open countryside without meeting the relevant functional test to satisfy the policy requirements of such a development in this location. It is also concluded that any functional need could be met by existing dwellings in close proximity to the site. The development is therefore contrary to Policies 10 and 12 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)
County Durham Parking Standards 2023
Residential Amenity Standards Supplementary Planning Document 2023
Statutory consultation responses
Internal consultation responses
External consultation responses



<p>Planning Services</p>	<p>Resubmission of DM/22/03077/FPA for the erection of one permanent rural equine workers dwelling</p>	
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	<p>Date: 12th of March 2024</p>	



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/03634/FPA
Full Application Description:	Proposed bungalow, boundary wall and associated access (resubmission)
Name of Applicant:	Mrs Gayle Dugdale
Address:	Land West Of The Garth, Old Eldon, DL4 2QT
Electoral Division:	Shildon and Dene Valley
Case Officer:	Hilary Sperring (Planning Officer) Tel: 03000 263 947 Email: hilary.sperring@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is located to land to the west of the residential property of The Garth, Old Eldon. The site relates to a parcel of land in an agricultural use roughly rectangular in shape measuring approximately 0.15 hectares in area. A larger agricultural field to the north also within the ownership of the applicant. The boundary is demarked by various markers, including stone walling, and post and rail fencing. The residential property of The Garth, with associated land and buildings lies to the east and a residential dwelling 8, Old Eldon to the west, with the boundary to the application site demarked by a stepped brick wall approximately 1.8 metres in height. Other residential properties lie to the south across the highway C 34 (Moor Lane). The land within the application site rises slightly across the site and towards the north west corner.
2. In terms of planning constraints, the site lies outside of the Area of Higher Landscape Value (AHLV), a Public Rights of Way (Footpath no.19) runs approximately 70 metres to the west and Bridleway 20 approximately 100 metres to the south east (beyond existing properties). The site also lies within a Coalfield Development High Risk Area and the Teesmouth and Cleveland Nutrient Neutrality constraint Area.

The Proposal

3. Full planning permission is sought for the erection of 1 no. detached 2 bed bungalow on the site, along with associated access and front boundary wall. The dwelling would measure 14.5 metres by 10.2 metres, approximately 2.7 metres in height to eaves and 6 metres to the ridge and includes a hipped roof design, along with chimney detail. The dwelling is to be constructed from brick under a grey Redland pantile roof with uPVC windows and doors in grey, with stone head and cill detailing to the windows. The dwelling would include a sitting room, open plan dining room/ kitchen area, separate utility room, WC, bathroom and 2 bedrooms along with storage space. The submitted plans show new, improved access taken from the existing. A parking and turning area are proposed within the site and visitor parking also shown to the front of the site between the wall and road. The proposals also include the addition of a proposed 2 metre boundary wall and railings to the front.
4. The application is being reported to Planning Committee upon the request of Eldon Parish Council who offer support the application and would like representations to be made in person from interested parties.

PLANNING HISTORY

5. An application for a proposed bungalow, boundary wall and associated access was withdrawn in November 2023 (DM/23/03014/FPA).

PLANNING POLICY

National Policy

6. 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.
7. *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.
8. *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.

9. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
10. *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.
11. *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.
12. *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.
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 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.
15. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

National Planning Practice Guidance:

16. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; design 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; natural environment; 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)

17. *Policy 1 (Quantity of Development)* outlines the levels of employment land and housing delivery considered to be required across the plan period.
18. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
19. *Policy 10 (Development in the Countryside)* states the 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 settlement.

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; changes of use of existing buildings, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.

20. *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.
21. *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.
22. *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.
23. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* States amongst its advice that new residential and commercial development should be served by a high speed broadband connection or appropriate infrastructure for future installation if direct connection is not appropriate, practical or economically viable.
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.
32. *Policy 42 (Internally Designated Sites)* states that development that has the potential to have an effect on internationally designated sites, either individually or cumulatively with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely, and, if so, will be subject to an Appropriate Assessment.
33. *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.

34. *Policy 56 (Safeguarding Mineral Resources)* states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.
35. Residential Amenity Standards SPD (January 2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
36. Parking and Accessibility Supplementary Planning Document (October 2023)

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

Neighbourhood Plan:

37. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

38. *Eldon Parish Council* – Support the application, highlighting that there is an established and growing community at Old Eldon. The Parish Council note that in respect of landscape and visual impact there are properties of different appearance in the immediate vicinity and existing vehicular access is provided so that adjoining vehicles would have unrestricted views, comparative to vehicular access at properties opposite. They understand that Nutrient Mitigation would be applied for, and other recommendations adhered to. They request that the application is considered by the Planning Committee.
39. *Highways Authority* – Object to the application. In summary consider that the proposals constitute new housing in the countryside. Given the poor

sustainable location, poor access for motorised vehicles and unsafe accessibility for pedestrian movements from the site to the wider network, objections are raised from the highways road safety perspective.

40. *Coal Authority* - Concurs with the recommendations of the Preliminary Investigation of Land report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. Should planning permission be granted pre commencement conditions are requested and informative advice offered.
41. *Natural England* - The application could have potential significant effects on Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site. Natural England requires further information in order to determine the significance of these impacts and the scope for mitigation.

Non-Statutory Responses:

42. *Spatial Policy* – Offers key policy observations. The site is located at a sporadic group/cluster of houses in the countryside. Policy 10 (Development in the Countryside) is therefore applicable and there would need to be a robust justification for a new house to be permitted in this location. The site fronts on to the C34 which has no footpaths or street lighting. This will make walking and cycling from the site towards settlements with facilities (Newton Aycliffe (Eastwards) and Shildon to the south via an unclassified road) both unattractive and potentially dangerous. Residents of this new property are going to be highly dependent on the private vehicle to access everyday services and facilities, which conflicts with principles of sustainable development.
43. *Ecology* – It is recommended that in order to ensure that a net gain in biodiversity is achieved by the proposals, at least 1 integrated bat box should be included in the completed development. This should be appropriately sited and clearly shown on the proposed elevation plans prior to determination. It is also noted that the applicant is seeking to purchase Nutrient Neutrality credits from the National Mitigation Scheme. Until a provisional certificate (signed) has been provided, cannot complete the HRA and determine the application.
44. *Landscape Section* – The site does not lie in an area covered by any national or local landscape designations. Trees within the site are / are not covered by a Tree Preservation Order (TPO). The site lies within an area identified in the County Durham Landscape Strategy (2008) as a Landscape Conservation Priority Area with a strategy of conserve and restore. Key visual receptors will be users of the lane to the South of the site. The proposed development will cause the loss of open agricultural field, the existing stone boundary wall will be replaced, a new access introduced, and remaining boundary trees impacted. The local character of the lane will be negatively impacted by the loss of existing site boundary and introduction of a domestic boundary wall. The proposed development may not be compliant with criterion I of Policy 10.
45. *Environmental Health Nuisance* – The proposed development is a detached plot. The locality maybe regarded as rural, with some residential properties nearby, surrounded by agricultural land. There are no major roads near to the site, therefore relevant noise levels should be relatively low and comply with the

thresholds, stipulated in the TANs (Technical Advice Notes). Considering, the scale of the development, the construction phase is likely to be relatively brief and assuming works are kept within suitable hours (via an appropriate condition), it is not expected that the impact of this phase likely to lead to a breach of the levels stated in the TANS (Technical Advice Notes). Advise that they would have concerns regarding impact on nearby residential properties during the construction phase. To help mitigate against relevant impacts suggest a Construction Management Plan should be submitted. Subject to condition the development is unlikely to cause a statutory nuisance.

46. *Environmental Health Contamination* – The Phase 1 has identified the need for further site investigation. Given this, a contaminated land condition and informative should apply in the event of approval.
47. *Trees* - No objection
48. *Archaeology* – Given the modest nature of these proposals, there is no objection from an archaeological point of view.

Public Responses:

49. The application has been advertised by way individual notification letters being sent to neighbouring properties and a site notice.
50. Two letters of support have been received. One, in summary, believe that a new dwelling and owners will bring lifeblood to Old Eldon and will encourage and lift the small but close knit community and help give it longevity.
51. The second, do not object to the bungalow being built, noting that the place has been made nice and tidy.
52. One letter of objection has also been received noting a temporary fence has been erected reducing the size of the road. Objections include overlooking, loss of natural light, noise and disruption and loss of view and lowering property values.

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

Applicants Statement:

53. We have submitted a planning application for a single detached bungalow on land west of The Garth at Old Eldon. This infill plot fronts onto Moor Lane and is located to the north of the highway with an existing access and layby. There are residential properties located to both sides of this infill plot and directly opposite. The application site is located between 'The Garth' to the east and 'No.8' to the west but we have been informed the site is considered to be development in the open countryside, with no services or facilities and the proposal is unacceptable.

54. Old Eldon is a village settlement of residential properties with a strong vibrant resilient healthy and growing community as noted in the Sustainable Development Statement.
55. This application supports the County Durham Plan Adopted 2020 core principles of the development of a prosperous rural economy, delivering a wider more diverse choice of high quality homes in the village and promoting a healthy community within Old Eldon to join the existing development and regeneration of this village. The application also meets a number of policy's within the County Durham Plan Adopted 2020. In addition the residents have fully supported the application as it supports Old Eldon becoming more sustainable and resilient.
56. Although planning objections to the development have been raised, a recent scheme to convert seven barns to dwellings opposite the site and for a new four bedroom detached house opposite the site were approved along with fifteen new car parking spaces. The development was recently completed and all new dwellings are occupied and are integrated as part of this growing community. More recently we note the adjoining neighbour in The Garth has applied for planning permission for a single storey annexe together with five new parking spaces which Highways have supported.
57. Highways have stated the existing access onto the highway does not meet modern highways standards and is deemed to be an unsuitable means of safe access for the development. An improved safe access into the site, together with a visitors parking area is now proposed between the application site and the highway as detailed on the portal. There is a staggered junction close to the site which would indicate the speed of traffic to slow on approach to this site along with the SLOW markings on the road directly outside this site. There is street lighting along this road from each end of the village and also directly at the opening of the site's existing access. The nearest facilities are less than 1.5km in the next village of Eldon. There is a 4-5 metre verge leading to the outskirts of the village and an overgrown footpath leading from that point into Eldon. In addition there are two public rights of way at the end of the village leading to Shildon and Eldon supporting one of the Spatial vision points of promoting walking.
58. We have addressed all environmental issues associated with the development. A Preliminary Ecological Appraisal and Nutrient neutrality requirements have all been addressed.
59. Landscape comments state a visual impact with the loss of boundary trees, we would query this point as there are no boundary trees and we have submitted photographs to the portal to identify the site.
60. The proposal also includes air source heat pump, solar panels and electric car charging point to support the Spatial Vision of promoting renewable energy.
61. We currently travel and access this site a minimum of three times per day which would reduce dramatically if we were on site each day as we would both be retired.

PLANNING CONSIDERATION 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; locational sustainability; landscape and visual impact; scale and design; highway safety and access; ecology; nutrient neutrality; residential amenity; drainage; ground conditions; sustainable construction and other matters.

Principle of Development

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.
64. NPPF Paragraph 11c requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
65. The application site relates to an undeveloped parcel of land between two residential properties known as 'The Garth' and '8 Old Eldon.' The application site is not allocated for housing under CDP Policy 4. A review of historic mapping of the site indicates that this site has remained free from development for over 100 years.
66. The CDP sets out requirements for considering development proposals on unallocated sites and for where sites lie on the edge or outside of the built-up area under CDP Policies 6 and 10.
67. CDP Policy 6 relates to 'Development on Unallocated Sites' and states:
- The development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) with the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:
- a) is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;

- b) does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
- c) does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
- d) is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
- e) will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
- f) has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within the settlement;
- g) does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
- h) minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
- i) where relevant, makes as much use as possible of previously developed (brownfield) land; and
- j) where appropriate, it reflects priorities for urban regeneration.

68. The issues relating to the compatibility of the proposals to adjacent land uses(s), the ecological contribution of the land and its contribution to the character of the locality, scale, design and layout along with highways safety issues are considered in more detail below. In terms of principle a key issue relates to access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within the settlement.
69. It is acknowledged that Old Eldon is identified as a settlement within the County Durham Settlement Study. However, scores 0 and it is considered more akin to sporadic group/cluster of houses in the countryside. The area includes a number of residential properties however does not include any shops, facilities or services or any bus stops. In this respect the development would conflict with criterion f of CDP Policy 6.
70. For the purposes of CDP Policy 6 the built-up area is defined as contained within the main body of existing built development of a settlement or within a settlement boundary defined in a neighbourhood plan. When assessing whether a site is well-related, the physical and visual relationship of the site to the existing built-up area of the settlement will be a key consideration.
71. It is recognised that paragraph 83 of the NPPF advises that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby. It is also appreciated that representations in support of the application highlight that a new dwelling and owners will bring life to Old Eldon and will encourage and lift the small but close knit community and help give it longevity.

72. To the north west are Eldon, Close House, Coundon Grange which include limited services. Middridge is located over 2 km to the south east of the site by road, and includes a Public House and Hall. Larger settlements of Shildon lies to the south west and Newton Aycliffe to the south east which include a range of schools, facilities and wider services. In the context of NPPF paragraph 83 it is not considered that the addition of 1 dwelling in the location proposed would enhance or maintain the vitality of these communities.
73. CDP Policy 10 (Development in the Countryside) is also considered applicable which sets out that that development in the countryside will not be permitted unless it relates to exceptions linked to economic development infrastructure development or the re-development of existing buildings or specifically allowed by other policies in the Plan. It is considered that the application does not comply with any of the specific development exceptions policies outlined in CDP Policy 10. There are no provisions for market housing in the countryside and it is considered that the proposal would draw no support from CDP Policy 10.
74. The acceptability of the application relates to the sustainability credentials of the development and the specific impacts of these individual proposals, considered further below. Given the location of the site within the countryside and lack of services in Old Eldon it is considered that on the face of it the proposals would be in conflict with Policy 6 while also not representing an appropriate for on development in the countryside in conflict with Policy 10 of the County Durham Plan.

Locational Sustainability of the Site

75. Criterion p of CDP Policy 10 sets out that development must not be solely reliant upon unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport.
76. Criterion f of CDP Policy 6 sets out that development must have good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and level of service provision within that settlement.
77. CDP Policy 21 requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. Paragraph 114 of the NPPF states that appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location.
78. The County Durham Settlement Study 2018 is an evidence-based document which seeks to provide an understanding of the number and range of services available within the settlements of County Durham. As outlined, when assessing this, Old Eldon scores 0 and Old Eldon is considered more akin to a sporadic cluster of residential development in the countryside.

79. There are no services and facilities within the immediate area. IHT Buses in Urban Environment section A. 4.4' publication advises journeys on foot distances to public transport links should be easily safe and accessible and within a short 400m walking distance of the site. The nearest bus stops to the site are over 1.4km away in either direction however this would mean walking along the rural roads which do not have footways and are not lit by means of street lighting. It is considered that the practice of sustainable transport options will not to be fulfilled with a sole reliance of journeys by means of private motorised vehicle.
80. In conclusion, the application site is considered to be within the countryside in a location where there are no services or facilities within 400 metres, as such this will lead to reliance upon the private motorised vehicle. The site is therefore not considered to be located in a sustainable location and therefore fails to comply with Policies 6, 10 and 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

Landscaping, Design and Visual Impact

81. CDP Policy 6 sets out that development must not result in the loss of open land that recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for.
82. CDP Policy 10 under the general design principles states that development in the countryside must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for;
83. 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. Development affecting Areas of Higher Landscape Value 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.
84. 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. Paragraph 135 of the NPPF also states that planning decisions should ensure developments function well and add to the overall quality of the area, are visually attractive and sympathetic to local character and history, including the surrounding built environment and landscape setting.
85. The application site does not lie in an area covered by any national or local landscape designations.
86. As outlined above, the site is located within a sporadic group/cluster of houses in a countryside location. The area is currently a grassed field.

87. The Council's Landscape Team have been consulted on the application. They advise that the proposed development will cause the loss of open agricultural field, the existing stone boundary wall will be replaced, a new access introduced, and remaining boundary trees impacted. They consider that the local character of the lane will be negatively impacted by the loss of existing site boundary and introduction of a domestic boundary wall and visual impacts will be generated by impacts on existing trees. They consider that there will be potential impacts from associated domestic uses and parking and that the proposed development may not be compliant with criterion I of CDP Policy 10.
88. The proposal would result in the loss of the open field, replaced by residential development. The site is clearly visible from the road to the south however it is not considered that the effects of a residential dwelling, in the form of the bungalow proposed, would be adverse at local level. Concerns are however raised with regard to the proposed boundary wall, which would replace the existing stone wall. The proposed brick wall and railings, at a height of 2 metres are considered to introduce a suburban form of development and it is considered that a revised boundary treatment would be more suitable in this location. It is recognised that this element of the development could be refined by a suitably worded condition.
89. With regard to trees, the proposals would result in the removal of trees to the front of the site between the wall and road to facilitate the proposed visitor parking space. The proposed dwelling itself is unlikely to have any direct impact on trees.
90. On balance, subject to a condition to secure revised boundary details, it is considered that the proposal could accord with Policies 10, 29 and 39 of the CDP and Parts 12 and 15 of the NPPF in this regard.
91. CDP Policy 6 also requires development to be appropriate in terms of scale, design, layout and location to the character, function, form and setting of, the settlement. Whilst CDP Policy 10 under criteria o requires new development in the countryside, by virtue of their siting, scale, design and operation to not impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for.
92. 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.
93. The site is not located within a conservation area and contains no designated heritage assets, nor is the site is located within and AHLV.
94. The surrounding area is characterised by a mix of housing, of varying age, size, form, proportion, fenestration, materials and detailing. The proposals include a brick bungalow with pantile roof, which subject to condition, it is considered could be accommodated within the site, in terms of its design and appearance. The proposals could be considered acceptable in these regards.

Highway Safety/Access

95. Part 9 of the NPPF requires new development to provide safe and suitable access to the site for all users and that significant impacts from development on the transport network or on highways safety should be mitigated to an acceptable degree.
96. 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, CDP Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes.
97. CDP Policy 6 criterion e. advises that development will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. Whilst CDP Policy 10 criterion p. advises development shall not be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport; and CDP Policy 10 criterion q. be prejudicial to highway, water or railway safety.
98. Development should also have regard to the recently approved Parking and Accessibility Supplementary Planning Document (October 2023), which sets out specific parking standards for different types of development.
99. Paragraph 115 of the NPPF states that the development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
100. The development proposes to utilise and adapt an existing unsurfaced field access which currently serves the field to provide access to the proposed dwelling. In curtilage car parking is proposed for the new dwelling and a visitor car parking space shown between the proposed front boundary wall and the roadside.
101. The Highway Authority have reviewed the proposals and object to the application, advising that new build dwellings should be in close proximity to community, education, and shopping facilities where realistic opportunities exist for sustainable travel modes rather than place reliance on the private motor car, as covered above.
102. However, in relation to highway safety, they advise that the site is located on the north side of the C34 Moor Lane which is unlit and subject to a derestricted (60mph) speed limit with high traffic speeds due to a relatively straight alignment. In terms of access to the site, whilst this would use an existing field access, the use and associated number of trips would intensify. For a 60mph restricted road, the set visibility splays of 2.4m x 215m would apply. This can be reduced and based on the 85th percentile speeds, where an up to date speed

survey is submitted. No speed survey has been submitted in support of the application.

103. A visibility splay of 2.4m x 215m could be achieved to the west, subject to the removal of a proposed parking bay to the front of the dwelling where a parked vehicle would obstruct visibility. However, to the east a maximum visibility splay of approximately 2.4m x 70m could only be achieved to the east, due to the presence of existing dwellings and boundary treatment outside of the application site. This would equate to a 31mph 85th percentile speed. The Highways Authority advise that given their knowledge and observations of this road, given its relatively straight geometry they consider that a 31mph 85th percentile speed to be highly unlikely. It is therefore advised that the access serving the development is considered unsafe and would lead to adverse loss of highway safety for vehicles existing the site.
104. The development of new housing at this location would also mean vehicles waiting on the highway to turn into and exit the access which is substandard in highway terms due to poor visibility.
105. As above concerns are also raised regarding the location of the dwelling and the lack of lit foot paths serving the site. The C34 is a relatively narrow rural lane with sections of winding and undulating geometry restricting forward visibility yet with maintained high vehicle speeds. There are narrow and uneven verges which are often overhung by roadside vegetation and bushes which does not afford a pedestrian easy safe refuge from passing vehicles. This is not considered to be an attractive or safe option for pedestrians. This could give rise to additional pedestrians on the highway, further leading to a loss of highway safety.
106. Whilst the application form indicates that there are 2 parking spaces, these are not indicated on the submitted plans although there would appear to be adequate space to accommodate the required level of parking.
107. In summary they consider these proposals constitute new housing in the countryside. Given the poor sustainable location, poor access for motorised vehicles and unsafe accessibility for pedestrian movements from the site to the wider network, a loss of highway safety would arise. The proposals are therefore considered contrary to Policies 6,10 and 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

Ecology

108. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
109. Paragraph 186 of the NPPF sets out the Government's commitment to biodiversity. 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.
110. 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.

111. CDP Policy 43 sets out that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts while 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.
112. The Council's Ecology Officer had recommended that in order to ensure that a net gain in biodiversity is achieved by the proposals, at least 1 integrated bat box should be included in the completed development and that this should be appropriately sited and clearly shown on the proposed elevation plans prior to determination. During the consideration of the application plans have been provided which include the provision of a Harlech Woodstone Bat Box (or equal) on the western elevation of the proposed dwelling and this is considered acceptable.
113. Therefore, it is considered a biodiversity net gain can be achieved on the site to comply with Policies 41 and 43 of the County Durham Plan.

Nutrient Neutrality

114. Under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regs), the Local Planning Authority must consider the nutrient impacts of any development proposals on habitat sites and whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality. In this respect Natural England have identified that the designated sites of the Teesmouth & Cleveland Coast Special Protection Area/Ramsar (SPA) is in unfavourable status due to excess Nitrogen levels within the River Tees.
115. In this instance the development proposes the formation of 1 additional dwelling, which would ultimately give rise to additional loading of Nitrogen into the Tees catchment. Given the advice provided by Natural England, it is likely that in combination with other developments, the scheme would have a significant effect on the designated SPA/RAMSAR sites downstream both alone and in-combination. The Habitat regulations therefore require the Authority to make an 'Appropriate Assessment' of the implications of the development on the designated sites in view of the sites conservation objectives. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest (IROPI) and the necessary compensatory measures can be secured.
116. Nutrient Neutrality advice is provided by Natural England, including the provision of a Neutrality Methodology. This requires a nutrient budget to be calculated for all types of development that would result in a net increase in

population served by a wastewater system including residential development that would give rise to new overnight accommodation.

117. Natural England have been consulted and initially advise that the application could have potential significant effects on Teesmouth and Cleveland Coast Special Protection Area (SPA) and Ramsar site. They therefore require further information in order to determine the significance of these impacts and the scope for mitigation. Without this information, Natural England may need to object to the proposal.
118. In utilising the nutrient budget calculator produced by Natural England, mitigation is identified as being required which amounts to 1.33 credits in order to achieve Nutrient Neutrality.
119. In reviewing the application, the Councils Ecology Officer notes that the applicant is seeking to purchase Nutrient Neutrality credits from the National Mitigation Scheme, which is an acceptable form of mitigation. However Natural England have advised that at this time, there is a limited supply of mitigation credits available and demand is outstripping supply. Therefore, whilst the purchase of credits is an acceptable means of mitigation there is a high risk that credits could not be secured before a permission expires. It is therefore considered that it would not be appropriate to secure the purchase of credits by condition and the lack of secured mitigation would form a reason for refusal, despite the mitigation strategy being acceptable in principle.
120. Therefore, the proposal will fail to accord with Policies 41 and 43 of the County Durham Plan and Paragraph 188 of the National Planning Policy Framework. The Authority cannot also satisfy itself under its obligations under the Conservation of Habitats and Species Regulations (2017).

Residential Amenity

121. 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.
122. 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.
123. A Residential Amenity Standards Supplementary Planning Document (SPD) has been adopted by the Council, which recommends that dwellings should benefit from private, usable garden space of at least 9 metres long. In considering this, the proposals are considered to provide suitable private amenity space for the proposed dwelling with the proposed rear garden in excess of the required 9 metres distance set out in the Residential Amenity Standards SPD.
124. The Residential Amenity Standards SPD also sets out the following separation distances for new development to comply with:-

- 'A minimum distance of 21.0m between habitable room windows, where either dwelling exceeds single storey, and a minimum of 18.0m between habitable room windows and both dwellings are single storey.
 - Where a main facing elevation containing a habitable room windows is adjacent to a gable wall which does not contain a habitable room window, a minimum distance of 13.0m shall be provided where either dwelling exceed single storey or 10.0m where both dwellings are single storey.'
125. To the north of the application site is a field (within the ownership of the applicant). To the south, separated by the road and intervening boundary treatments are various residential dwellings. It is appreciated that an objection has been received from occupiers of 3 Old Eldon, with concerns, amongst others, relating to overlooking and loss of natural light. Windows on the front elevation of the proposed dwelling would serve the sitting room and bedrooms and there is in excess of 21 metres between the existing dwellings and front of the proposed dwelling. Given the size and position of the proposed dwelling and relationship with neighbouring properties, both opposite and adjoining, it is not considered that the proposals would result in over shadowing or loss of light to sustain refusal.
126. 8 Old Eldon is positioned to the west of the application site, the boundary with this dwelling demarked by a stepped brick wall, approximately 1.8 metres in height. This dwelling includes habitable room windows which face towards the application site. The gable of the proposed bungalow would include double doors serving the dining room. There is in excess of 21 metres between the proposed gable and existing dwelling at 8 Old Eldon. Taking into account the existing boundary wall, the proposal would be acceptable in terms of amenity upon this property and its associated amenity space.
127. To the east is positioned the residential dwelling, The Garth. This two storey property includes gable windows at ground and first floor level which would face toward the application site. (It is believed that the first floor window serves a bedroom). The proposals include windows and a door on the gable elevation facing towards this property which would serve a utility room and bedroom. Given the nature of the proposed and separation distances the proposals are considered acceptable in terms of its relationship with this adjoining property.
128. There are currently a number of conifer trees within the boundary of this neighbouring property. It is also noted that an application is currently being considered for this neighbouring site for the demolition of the existing garage and outbuildings and for the erection of a single storey annex and associated external works. These proposals include the removal of the existing conifers and creation of car parking area to the west of The Garth (DM/23/03491/FPA).
129. Taking into account the above given the nature of the proposals, position and existing relationships it is not considered that the proposals will not result in a material loss of privacy or overlooking, nor is it considered that the proposals would result in material overbearing or overshadowing effects.
130. Colleagues within Environmental Health (Nuisance) have also provided comments considering, the scale of the development, the construction phase is

likely to be relatively brief and assuming works are kept within suitable hours (via an appropriate condition), it is not expected that the impact of this phase likely to lead to a breach of the levels stated in the TANS (Technical Advice Notes). They also advise that they would have concerns regarding impacts on nearby residential properties during the construction phase and to help mitigate against relevant impacts suggest a Construction Management Plan should be submitted. Subject to condition the development is unlikely to cause a statutory nuisance. The addition of such conditions are also likely to address concerns regarding possible noise and disruption.

131. In terms of the amenity of future occupiers, the dwellings would provide 2 bedrooms and would be compliant with the Nationally Described Space Standards (NDSS) which requires a 2-bedroom 4 person dwelling (single storey) to have a 70 sqm gross internal floor area. The proposed dwelling would have a gross internal floor area of 147.9 sqm.
132. Overall, the proposals are considered to provide a good standard of amenity for existing and future residents, according with Policies 29 and 31 of the County Durham Plan and Part 12 and 15 of the National Planning Policy Framework.

Drainage

133. 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 173 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.
134. CDP Policies 35 and 36 relate to flood water management and infrastructure. CDP 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. CDP Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
135. The site is not located within a flood zone. Information submitted within the application form advises that foul water will be disposed of via the mains sewer and in relation to surface water this will be disposed of via a soakaway. Details of the drainage for both foul and surface water can be controlled by a planning condition. Therefore, the application through the use of planning conditions, can ensure that acceptable foul water and surface water drainage is secured on the site to comply with Policies 35 and 36 of the County Durham Plan.

Ground Conditions

136. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 189 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.
137. The Coal Authority have been consulted and concurs with the recommendations of the Preliminary Investigation of Land report; that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures, in order to ensure the safety and stability of the proposed development. As such, should planning permission be granted they recommend pre commencement conditions and informative advice.
138. In addition, the Council's Contaminated Land Team have been consulted and advise that given the submitted report Phase 1 has identified the need for further site investigation. Given this, contaminated land conditions should apply.
139. Therefore, based on the comments from the Coal Authority and Contaminated Land Team, subject to conditions the proposal could be considered to comply with Policies 32 and 56 of the County Durham Plan and Paragraph 189 of the National Planning Policy Framework.

Sustainable Construction

140. CDP Policy 29 requires new development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable water and prioritising the use of local materials.
141. No information in relation to this has been provided within the submitted application form or plans. In the event of an approval of the application, a conditional approach can be adopted to secure the submission of this information to show how the proposal would comply with this policy requirement, including the use of renewable energy and carbon reduction measures.
142. CDP Policy 27 states that any residential and commercial development should be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable, developers should provide appropriate infrastructure to enable future installation.
143. According to the OFCOM availability checker, the site has access to standard broadband in accordance with Policy 27 of the County Durham Plan.

Other Issues

144. CDP Policy 14 states that the development of the best and most versatile agricultural land, will be permitted where it can be demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. Best and most versatile agricultural land is classified by the NPPF as grades 1, 2 or 3a.

145. A site-specific agricultural land classification has not been submitted in support of the application. However, the application site is identified as 'Grade 4' in the Agricultural Land Classification which identifies the land as 'Poor' under the standards. Therefore, it is considered that the proposals would not lead to a loss of best or most valued agricultural land.
146. It is appreciated that the objection received also raises the issues of loss of view and property value. It is appreciated that the views of the site will change should the application be approved, however loss of view is not a material planning consideration that the application could be refused on. Similarly, a refusal could not be sustained on loss of property value.

CONCLUSION

147. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material consideration indicate otherwise. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate the plan should not be followed.
148. In this instance the development is supported by Policy 6. It is also considered that the proposals do not comply with any of the exceptions set out under Policy 10 of the CDP for development within the countryside, nor does it comply with any other specific policy in the plan which would allow for development in a rural location.
149. It is identified that there are no services and facilities within proximity of the application site with a reliance upon private means of motorised vehicles to access services and amenities further afield. The site fronts on to the C34 which has no footpaths or street lighting which will make walking and cycling from the site towards settlements with facilities unattractive and potentially dangerous. It is likely that residents of this new property are going to be highly dependent on private vehicles to access everyday services and facilities, which conflicts with principles of sustainable development. The site is therefore not considered to be in a sustainable location for development contrary to Policies 6, 10 and 21 of the County Durham Plan.
150. Noting concerns from the Highways Authority the access is not considered to be a safe means of access for the intensification of use for residential vehicular traffic due to its substandard site visibility onto the C34.
151. In terms of design and landscape terms, subject to conditions the proposals could be accommodated within the site. Additionally, subject to condition, the development could be considered acceptable in terms of residential amenity, drainage, ground conditions and ecology.
152. In relation to nutrient neutrality, whilst the purchase of credits is an acceptable means of mitigation, there is a high risk that credits could not be secured before a permission expires. It is therefore considered that it would not be appropriate to secure the purchase of credits by condition and the lack of secured

mitigation, despite the mitigation strategy being acceptable in principle. The proposal will fail to accord with CDP Policies 41 and 43 and Paragraph 188 of the NPPF. The Authority cannot also satisfy itself under its obligations under the Conservation of Habitats and Species Regulations (2017).

153. It is recognised housing can support services in other nearby villages, particularly in rural areas, however it is not considered that in the context of the relationship of the site with neighbouring settlements of Shildon, Newton Aycliffe, Middridge and Coundon etc, that the addition of 1 dwelling in the location proposed would enhance or maintain the vitality of these communities to support approval of the application. The development would also result in a temporary economic uplift during construction and provide an additional unit of housing in the locality. However, these benefits are not considered sufficient to outweigh the policy conflict and harm identified above. There are no other material considerations which indicate a decision should be otherwise and therefore the application is recommended for refusal.

Public Sector Equality Duty

154. 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.
155. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

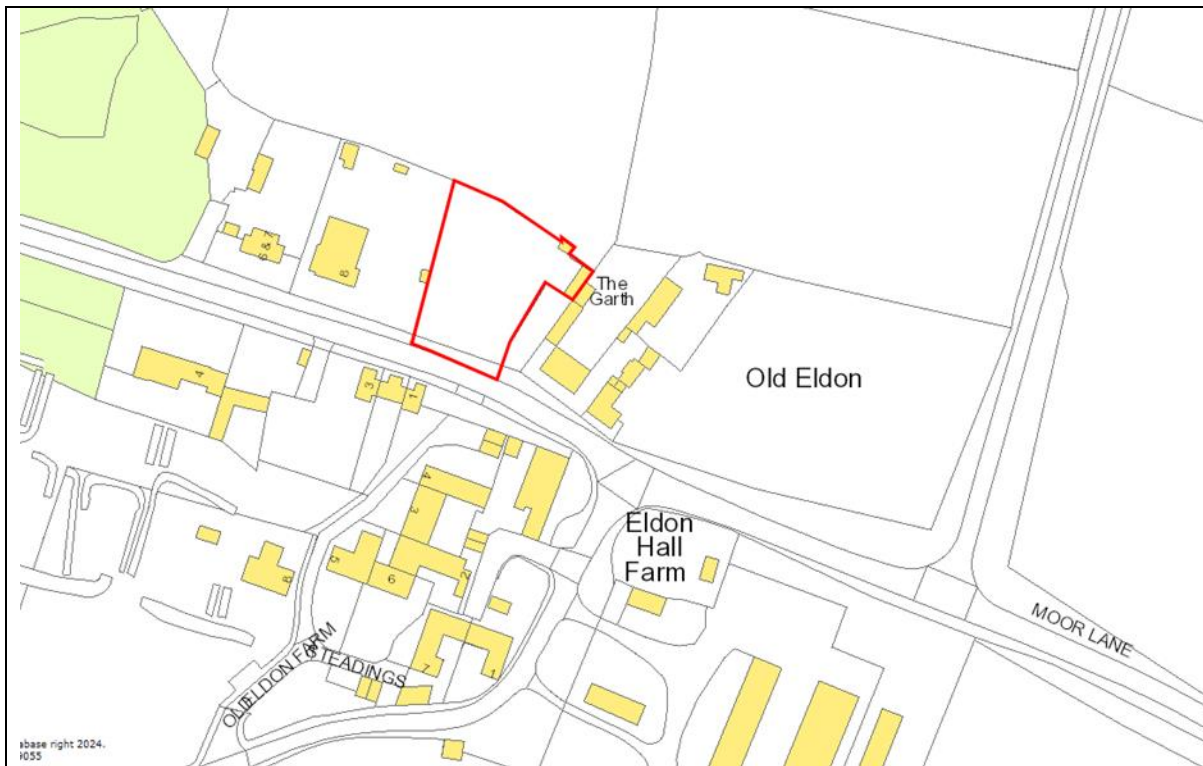
That the application be **REFUSED** for the following reasons:

1. The application site is located within an unsustainable countryside location where future residents would be dependent on private motor vehicles to access services, facilities and employment opportunities, contrary to Policies 6, 10 and 21 of the County Durham Plan and Parts 5 and 9 of the National Planning Policy Framework.
2. The development would result in an adverse impact on highway safety due to the intensification of the existing access, the inability to provide adequate visibility splays and the likely increased use of the highway by pedestrians contrary to Policies 6, 10 and 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.
3. The development has not provided evidence that it could mitigate its impacts in respect of Nutrient Neutrality and therefore, adverse impacts on the Teesmouth & Cleveland Coast Special Protection Area/Ramsar (SPA) cannot be ruled out in regard to nitrates. The development would fail to comply with Policies 41 and 43 of the County Durham Plan, Part 15 of the National Planning Policy

Framework and the Authority cannot also satisfy itself under its obligations under the Conservation of Habitats and Species Regulations (2017).

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
 National Planning Policy Framework
 The County Durham Plan (CDP)
 Residential Amenity Standards Supplementary Planning Document January 2023
 Parking and Accessibility Supplementary Planning Document (October 2023)
 Statutory consultation responses
 Internal consultation responses
 Public Representations



<p>Planning Services</p>	<p>Construction of 1 no. dwelling Land West Of The Garth, Old Eldon</p>	
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	<p>Date: March 2024</p>	

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/02403/FPA
Full Application Description:	Erection of 2no. residential dwellings and associated works
Name of Applicant:	Mr Simon Carson
Address:	Land North of Hill Top Cottage, Eggleston, DL12 0AU
Electoral Division:	Barnard Castle West
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 is located to the northwest of the village of Eggleston in an area known as Hill Top, in Upper Teesdale. The site relates to a rectangular parcel of agricultural land measuring approximately 0.16 hectares, sat within a larger agricultural field. A dry-stone boundary wall is located along the north-eastern boundary of the site, adjacent the B6278 / Roman Road. The wider site boundaries predominantly consist of dry-stone walls and post and rail fencing. The residential property of 'Cloud High' lies beyond the north-western site boundary, beyond the south-eastern boundary of the site lies the property of 'Hill Top Cottage'. The Moorcock Inn lies to the east of the site across the highway. The application site itself is level, but the level of the wider field falls away sharply to the southeast.
2. In terms of planning constraints, the site lies immediately adjacent to the boundary of North Pennines Natural Landscape (previously Area of Outstanding Natural Beauty). The site itself located within a designated Area of Higher Landscape Value (AHLV) with Public Rights of Way approximately 100 metres to the north (Footpath no.14), approximately 175 metres to the southwest (Footpath no.15) and approximately 70 metres to the southeast (Footpath no.38). The site also lies within the Teesmouth and Cleveland Nutrient Neutrality constraint Area.

The Proposal

3. Full planning permission is sought for the erection of 2no. detached dwellings on the site. The dwellings would be constructed from random rubble stone under a slate roof with timber windows and doors.
4. Each dwelling would measure approximately 16 metres by 14.5 metres, standing to 8 metres to the highest ridge and 5 metres to the highest eaves point. Living accommodation would be provided across two levels with a total of 4 no. bedrooms. Each of the dwellings would have their own access from the B6278 with parking provision to the front of the properties.
5. The dwellings would provide four bedrooms each and would be compliant with the Nationally Described Space Standards (NDSS) which requires a 4-bedroom 8 person dwelling to have a 124m² gross internal floor area. House Type 1 would be 191.3m² and House Type 2 would be 167.2m². The dwellings would therefore comply with NDSS.
6. The application is being reported to Planning Committee upon the request of Councillor Savory to allow assess the landscape harm, design and location of the development given the changed scheme.

PLANNING HISTORY

7. DM/22/01836/FPA – Construction of 2no. dwellings. Refused by members of the South West Planning Committee on 20th April 2023 for the following reasons:
 1. *The application site is located within the countryside away from any established settlement and does not comply with any exceptions set out in Policy 10 of the County Durham Plan for development on such a location and is not permitted by any specific policy in the County Durham Plan. In addition, the site is in unsustainable location with a reliance upon private motor vehicles to access services and facilities. The development is therefore considered to conflict with Policies 6, 10 and 21 of the County Durham Plan and Parts 5 and 9 of the National Planning Policy Framework.*
 2. *The development is considered to represent poor design that does not relate well to the local vernacular of the surrounding area in terms of its scale, mass and appearance resulting in the loss of a site which positively contributes to the character of the local area and wider landscape. The development does not conserve or enhance the special qualities of the Area of Higher Landscape Value and is considered contrary to Policies 6, 10, 29 and 39 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

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.

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 Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
12. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
13. *NPPF Part 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.
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; 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; 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 1 (Quantity of Development)* outlines the levels of employment land and housing delivery considered to be required across the plan period.
20. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
21. *Policy 10 (Development in the Countryside)* states the 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 settlement.

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; changes of use of existing buildings, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.

22. *Policy 14 – Best and Most Versatile Agricultural Land* – Seeks to ensure that development of best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the developing outweigh the harm.
23. *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.
24. *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.
25. *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.
26. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* States amongst its advice that new residential and commercial development should be served by a high speed broadband connection or appropriate infrastructure for future installation if direct connection is not appropriate, practical or economically viable.
27. *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.

28. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
29. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
30. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
31. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and 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.
32. *Policy 38 (North Pennines Area of Outstanding Natural Beauty)* states that the North Pennines Area of Outstanding Natural Beauty (AONB) will be conserved and enhanced. In making decisions on development great weight will be given to conserving landscape and scenic beauty. Major developments will only be permitted in the AONB in exceptional circumstances and where it can be demonstrated to be in the public interest, in accordance with national policy. Any other development in or affecting the AONB will only be permitted where it is not, individually or cumulatively, harmful to its special qualities or statutory purposes. Any development should be designed and managed to the highest environmental standards and have regard to the conservation priorities and desired outcomes of the North Pennines AONB Management Plan and to the guidance given in the North Pennines AONB Planning Guidelines, the North

Pennines AONB Building Design Guide and the North Pennines AONB Moorland Tracks and Access Roads Planning Guidance Note as material considerations.

33. *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
34. *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.
35. *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.
36. *Policy 42 (Internally Designated Sites)* states that development that has the potential to have an effect on internationally designated sites, either individually or cumulatively with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely, and, if so, will be subject to an Appropriate Assessment.
37. *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.
38. Residential Amenity Standards SPD (January 2023).

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

Neighbourhood Plan:

39. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

Supplementary Planning Documents:

40. Parking and Accessibility Supplementary Planning Document (October 2023)

41. Residential Amenity Standards Supplementary Planning Document (January 2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

42. *Eggleston Parish Council* – Object to the application on grounds of the land has had sheep grazing during recent summer periods; the land has been fallowed for less than four years; the land has been used for haymaking which is a vital agricultural product in the area. The development is outside of the planning outline of the village and does not follow the rainbow development of the area; there is no information on whether the development will be used as holiday lets or second homes and there is concern that the development will interfere with medieval terracing within the area.
43. *Highways Authority* – No objection subject to a S184 Agreement with the Highways Authority for the provision of two access.

Non-Statutory Responses:

44. *Spatial Policy* – Advise that the area of Hill Top forms a sporadic hamlet set within the open countryside. It is noted that Hill Top is not recognised as a settlement within its own right within the Settlement Study and it is physically separated from Eggleston settlement. Due to the location of the application site being of an open and rural nature, the proposal should be assessed against Policy 10 of the CDP. Policy 10 states that development in the countryside will not be permitted unless allowed by specific policies in the Plan. There has been no information submitted to satisfy any of the exceptions within Policy 10.
45. *Ecology* – Advise that the development would need to mitigate for 2.33kg TN/year nitrates in relation to Nutrient Neutrality and the applicant would need to purchase Nutrient Neutrality credits to mitigate for this amount.

The proposal shows a biodiversity net gain through the enhancement of the existing grassland on the application site.

46. *Natural England* – Advise that additional information is required to determine impacts on designated sites and request than an updated appropriate assessment, nutrient budget calculator and further consideration of the mitigation strategy for nutrient neutrality is required.
47. *Landscape Section* – Advise that the site is located in the open countryside and lies within an Area of Higher Landscape Value (AHLV). The North Pennines AONB lies directly to the north. The surrounding landscape at Hill Top is characterised by scattered pattern of development with small clusters or string of wayside dwellings of single or small terraced houses, in the most part, distinctive local vernacular and of modest scale, with development separated by agricultural fields which gives the area a strong sense of both visual unity and cultural continuity.

The loss of the open land would cause harm to the character, quality or distinctiveness of the local landscape and to important views to some degree. It is considered that the effects of development to be significant at the local level. In respect of the Area of Higher Landscape Value (AHLV), its special qualities relate to primarily its representativeness and condition interests on account of the individual elements and overall landscape structure being generally intact and in good condition and therefore its high scenic qualities. The proposals would not conserve or enhance these special qualities. It is unlikely that this harm could be reduced through design changes or additional mitigation.

48. *Design and Conservation* – Advised through the Informal Officer Design Drop-In that the site has been historically undeveloped from the 1st Edition OS c.1856 to the present day, has landscape and amenity value, is an important large gap between the buildings in the north and south that provided important views out to the surrounding open countryside. This visually connects the buildings to the landscape, and the site seems very important to the rural character.
49. In design terms, the development has moved forward positively compared to the previous scheme. The size/scale of the dwellings has been reduced and the built form in their surroundings is mixed in position, style, size/scale, some abut the road, some have gables, while others are set back where there is more separation with front gardens. The new proposals are more appropriate in scale, mass and by way of the simpler, more robust design approach. The main issue with the design is the parking and hard standing dominating the frontage, this would be out of character (more urban rather than rural) with in-plot parking generally provided to the side or rears, with fronts, where there is space, taken up by gardens.
50. *Environmental Health Nuisance* – Advise that the proposal is likely to comply with the thresholds set out within the TANS. This would indicate that the development would not lead to an adverse impact. Noise from the road may give rise to concern and recommend a condition in relation to noise levels is imposed.
51. *Environmental Health Contamination* – No adverse comments to make and no requirement for a contaminated land condition.
52. *Archaeology* – No objection.

Public Responses:

53. The application has been advertised by way individual notification letters being sent to 27 neighbouring properties.
54. Four letters of objection have been received with the following concerns summarised below:
 - Impact upon the daylight, sunlight and views of the landscape from the Moorcock Inn which would reduce the visitor appeal of the public house.
 - The previous application was refused as it did not comply with Policy 6 of the CDP and this proposal challenges this based on a new property gaining planning permission in 2013 (Jacobs Lodge). However, this was

on the site of a derelict building, was considered to be an infill plot and was assessed under the Teesdale District Council policies.

- The application does not comply with Policy 6 of the County Durham Plan as it would effectively be ribbon development as it is along a road leading out of the settlement; it results in the loss of open land that contributes to the character of the locality which cannot be mitigated or compensated for; there is a very limited bus service and there are no local amenities like schools and shops. The Post Office and The Three Tuns in Eggleston have both closed.
- The proposal will fail to meet Policy 10 as it will give rise to unacceptable harm to the beauty and tranquillity of the countryside; will contribute to ribbon development; will impact important vistas; it will not exploit any opportunities to make the location more sustainable and will impact upon residential and general amenity.
- The proposal neither protects the countryside, nor helps the rural economy. It is likely to damage agriculture (loss of the grazing land) and tourism (The Moorcock Inn).
- The proposal does not meet the requirements of Policies 38 and Policy 39 in regard to the impact upon the Area of Higher Landscape Value and Area of Outstanding Natural Beauty.
- There appears to be little material change compared to the previous application to justify this application receiving approval.
- The application is a misrepresentation of the term 'infill' as the site is sited in the middle of a viable agricultural field and would be surrounded by productive agricultural land.
- Concerns relating to the sustainability of the site. The previous application was refused due to anticipated reliance on motor vehicles, and this is still the case. The applicant references two bus services in their supporting information. However, Service 73 provides only two buses per week, on Wednesdays, travelling to and from Barnard Castle and this service does not have a bus stop adjacent to the proposed dwellings. The nearest bus stop is sited several hundred yards away along a dangerous road with no pavement. Service 95/96 is extremely limited to Barnard Castle with the bus stop being located approximately half a mile away.
- Hill Top and Eggleston have minimal facilities and services with no doctor, no pharmacy, no shops, no school and no nursery.
- This proposal encroaches closer to Cloud High and away from Hill Top Cottage with four windows directly facing Cloud High with direct line of sight into the kitchen and living room of Cloud High. Should planning permission be granted, such side facing windows should be obscurely glazed.

- Residents would like assurance that the remaining agricultural field will be protected from further urbanisation.
- There are other sites that are designated for residential development and so the change of use from grazing land to residential is not necessary.
- Grazing land in Teesdale is a core element of the area with biodiversity and ecological value and changing this would intrinsically alter the character of the area.
- Concerns regarding the design of the dwellings.
- Concerns regarding the loss of agricultural land.
- Two additional dwellings would make a minimal contribution to housing supply.

Applicants Statement:

55. A previous application was ultimately refused by Council Members for two no. dwellings on this site at a Planning Committee meeting on 20th April 2023. Since then, the applicant has employed a new architect in order to focus much more on the design, bearing in mind the comments made on this matter by Members.
56. The application has been well supported by a range of documents, including new, additional planning requirements to address Nutrient Neutral and Biodiversity Net Gain, with a Landscape Appraisal, Landscape Drawings, a Design and Access Statement and a more comprehensive Planning Statement.
57. Whilst noting the detailed comments made in the Officer Report about a range of issues, we duly took note of the Members comments and concerns about the previous design made at the last meeting, accepting that it probably did not best reflect local design, and the local architectural vernacular, like the dwelling at 'High Cloud' only 50 metres from the application site approved by the Council under reference 6/2013/0390/DM.
58. Therefore, the new designs have sought to focus, inter alia, on the following improvements:
- 1) The submitted scheme shows the provision of two no. detached dwellings sited on this infill plot each with a drive and integral garages, driveways and domestic gardens.
 - 2) The proposed dwellings are both storeys in height and are set back from the roadside in line with existing residential properties in close proximity. Pedestrian and vehicle access is from B6278 to the north.
 - 3) The properties will not extend back from the existing building line of existing properties, with the remainder of the site remaining unchanged to the south side of the development, except improvements for Biodiversity Net gain and Nutrient Neutral.

- 4) The design of the proposed houses has been informed by those of the village with the gable of offshoots presenting to the road and the dwelling eave lines also facing the highway. The massing has been used to step down from two storey to single storey adjacent to the existing dwellings to the north west and south east to minimise the impact on neighbouring properties and accentuate the vista between the dwellings. This will also maintain the vista from the public house opposite.
- 5) The houses incorporate open plan living and dining accommodation, with separate utility rooms and space for a ground floor shower room. This will allow an opportunity to develop the future potential of ground floor bedroom accommodation for reasons such as ill health, old age or other changes in domestic circumstances. On the upper floor are 4 bedrooms and bathroom accommodation.
- 6) The houses will conform to the requirements of the Disability Discrimination Act and current Building Regulations to ensure that the development is accessible for all (M4(2)). It also conforms with Future Homes Standards due to come into effect in 2025, with a 'fabric first' approach, with increased levels of thermal insulation and increased air tightness incorporated to reduce the heating requirement. Additionally, air source heat pumps will be installed as standard as a low carbon, highly efficient, heat source giving a typical reduction in carbon emissions of 31%. Water saving measures will also be incorporated into dwellings, as well as cycle storage, sustainable drainage systems for water runoff and electric vehicle charging points.
- 7) The existing landscaping surrounding the site, including walls, fences, trees and hedges will be retained, with enhanced landscaping to help screen the development from the existing dwellings laid out along the rest of the settlement frontage whilst complementing both the site and the wider public realm. Further details are provided in the supplied Design and Access Statement (despite this not being a statutory validation requirement).

PLANNING CONSIDERATION AND ASSESSMENT

59. 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; locational sustainability; landscape and visual impact; scale and design; highway safety; ecology; nutrient neutrality; residential amenity; ground conditions; sustainable construction and other matters.

Background of the Proposal

60. Planning permission was recently refused for the erection of 2 dwellings (DM/22/01836/FPA) on the same application site as this application by South West Planning Committee in April 2023 as highlighted above.

61. In comparing the previously refused application and the current application under consideration, the application site is the same with the key changes relating to the design of the dwellings. The current application presents two dwellings of a reduced scale and size, resulting in a reduction in the mass of each proposed. It also introduces two attached double garages, one for each dwelling being set back from the roadside with a driveway for each. Therefore, the design of the development is the key difference between the previously refused and the current planning application for consideration, the application is still however required to be assessed in its entirety.

Principle of Development

62. 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.
63. NPPF Paragraph 11c requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
64. The application site relates to an undeveloped parcel of land between two residential properties known as 'Cloud High' and 'Hill Top Cottage' within the Hill Top area located to the northwest of Eggleston. The area of Hill Top is not identified in the County Durham Settlement Study as a settlement, as the area is considered to form a sporadic hamlet within the open countryside. The application site is divorced from the identified settlement of Eggleston, being sited over 650 metres in distance from the main hub of Eggleston. The character and nature of the application site is open and rural in nature, marked by stone walls for the boundaries and appearing to be a purposeful gap in between the two residential properties and wider sporadic developments. Therefore, the application site is located within the countryside.
65. Policy 10 of the CDP sets out that that development in the countryside will not be permitted unless it relates to exceptions linked to economic development infrastructure development or the re-development of existing buildings or specifically allowed by other policies in the Plan. The application does not comply with any of the specific development exceptions policies outlined in CDP Policy 10.
66. However, the applicant and the agent for the application argue that the proposal should be considered against Policy 6 of the County Durham Plan. Policy 6 seeks to support the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined

in a neighbourhood plan) but well-related to a settlement and where the proposal complies with all the criteria of CDP Policy 6 which includes:

- a. are compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. do not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. do not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. are appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement;
 - e. would not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. have good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. do not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
 - h. minimise vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, make as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, reflect priorities for urban regeneration.
67. In considering the first requirement of CDP Policy 6, the site is not located within 'a built-up area' which is defined as land contained within the main body of a settlement. As set out above, given the sporadic cluster of dwellings and development in the area of Hill Top is also not considered a settlement, and not identified as such in the County Durham Settlement Study 2018. Furthermore, it is considered that there is clear separation from Eggleston itself. The application therefore fails to comply with the first requirement of CDP Policy 6; as it is not within a built-up area and it also fails to comply with the second requirement of CDP Policy 6 as it is not well-related to a settlement by virtue of its location and characteristics.
68. The applicant has referred to numerous planning approvals within the surrounding area of Hilltop and Eggleston which in their view, present Hilltop as a '*subsidiary part of Eggleston, to which it is well related both geographically and functionally*'. However, the LPA fundamentally disagrees with this for the following reasons set out. The applicant refers to a number of planning applications, in particular, reference is made to planning application 6/2013/0390/DM which granted planning permission for 'Erection of a detached dwellinghouse and garage' at Land adjacent to Cloud High, Hill Top. This site

is located approximately 50 metres to the northwest of the current application site so is within proximity. However, this application was determined over ten years ago and was assessed against the now superseded policies of the Teesdale Local Plan. In reviewing the Officer's Delegated Report, the application site was considered to be within the open countryside but an infill plot which complied with the Teesdale Local Plan at the time. The Officer's report did recognise Hilltop to be '*a subsidiary hamlet to Eggleston, which lies to the southeast, and has facilities including a church, village hall (including a post office service) and public house.*' However, based on an up to date Settlement Study which was carried out as part of the County Durham Plan, Hilltop is not identified as a settlement. Since the approval of the 2013 application, the Council have adopted the County Durham Plan and applications need to be assessed against the up-to-date development plan. Therefore, there has been a significant planning policy change between the planning policies used to assess 6/2013/0390/DM and the current proposal.

69. To conclude, as the site is located within the open countryside and not well related to a settlement, in principle the proposal gains no support from Policy 6 and is also contrary to Policy 10 of the CDP. Although not strictly necessary in such circumstances, further consideration of the remaining criteria of CDP Policy 6 is given below.

Locational Sustainability of the Site

70. Criterion p of CDP Policy 10 sets out that development must not be solely reliant upon unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport.
71. Criterion f of CDP Policy 6 sets out that development must have good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and level of service provision within that settlement.
72. CDP Policy 21 requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. At paragraph 110 the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken whilst paragraph 116 amongst its advice seeks to facilitate access to high quality public transport.
73. It is recognised that the NPPF at paragraph 83 sets out that development within one village may support services within a village nearby.
74. The County Durham Settlement Study 2018 is an evidence-based document which seeks to provide an understanding of the number and range of services available within the settlements of County Durham. In assessing this, the cluster of sporadic residential properties at Hill Top is not identified as a settlement, unlike Eggleston which is identified within the settlement study.
75. In considering the services and facilities within the area, it is recognised that the Moorcock Inn is located in close proximity to the site, which could provide some amenities and services for future residents. However larger settlements

provide more the widely used services and amenities such as schools, doctors and employment opportunities.

76. In relation to access to public transport, the Chartered Institute of Highways and Transportation 'Proving for Journeys on Foot' document contains suggested acceptable walking distances for pedestrians to access facilities and services. In terms of access to bus routes, a walk of 400 metres falls within the 'desirable' range as set out within this document. In relation to this proposal, the nearest bus stop to the application site is over approximately 730 metres to the southeast of the application site within Eggleston itself. Therefore, the nearest bus stop would be outside of the 400 metres 'desirable' distance range and would not comply with the Chartered Institute of Highways and Transportation 'Proving for Journeys on Foot' document and would result in substantial walking along the footway of the partially lit B6278 where there is a substantial level change.
77. Whilst there is not a bus stop within Hill Top, it is recognised that a bus service passes the site extending up to Middleton-in-Teesdale and down to Barnard Castle. The applicant has submitted a timetable for Service 73, however, this service only runs on a Wednesday. The practice of sustainable transport options would therefore not be fulfilled with a sole reliance of journeys by means of private motorised vehicle.
78. In conclusion, the application site is within the open countryside with evidence from the County Durham Settlement Study failing to identify Hill Top as a settlement. In addition, there are limited services and facilities within 400 metres of the application site which will inevitably lead to reliance upon the private motorised vehicle. Whilst recognising the limited contribution that the proposed dwellings could make to sustaining services within Eggleston, the site is not considered to be in a sustainable location and fails to comply with Policies 6, 10 and 21 of the County Durham Plan. This policy conflict and harm is required to be considered in the planning balance below.

Landscaping and Visual Impact

79. CDP Policy 6 sets out that development must not result in the loss of open land that recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for.
80. CDP Policy 10 under the general design principles states that development in the countryside must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for;
81. CDP Policy 38 states that the North Pennines Area of Outstanding Natural Beauty (AONB) (renamed National Landscape) will be conserved and enhanced. In making decisions great weight will be given to conserving landscape and scenic beauty. Any other development in or affecting the AONB will only be permitted where it is not, individually or cumulatively, harmful to its special qualities or statutory purposes.
82. 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. Development affecting Areas of Higher Landscape Value 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.

83. 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.
84. The application site is within the Area of Higher Landscape Value with the North Pennines Natural Landscape (previously Area of Outstanding Natural Beauty) lying directly to the north.
85. The landscape at Hill Top is characterised by scattered pattern of development with small clusters or a string of wayside dwellings of single or small terraced houses, in the most part, of distinctive local vernacular and of a modest scale, with development separated by agricultural fields. The pastoral fields between the existing built form to the west of the B6278 and in particular the proposed application site makes an important contribution to the character of the Hill Top and provides framed, panoramic views out across the attractive countryside of Teesdale and into Lunedale towards Mickle Fell. The site has been historically undeveloped from the 1st Edition OS c.1856 to the present day, has landscape and amenity value, is an important large gap between the buildings in the north and south that provided important views out to the surrounding open countryside.
86. The Council's Landscape Team have been consulted on the application. They comment that the proposal would harm key views out of the hamlet affecting a number of sensitive recreational and road receptors, most notably, the users of the footpath along the B6287 that forms the northern boundary of the site, customers of the Moorcock Inn and travellers. Although there may be some diversity in the street scene, the location, scale and design of the properties is not reflective of the existing pattern of traditional residential development and they would be seen as an incongruous feature that would neither relate to nor reflect the local context within which they would be situated.
87. The proposal would cause harm to the character, quality and distinctiveness of the local landscape by the development of an historic parcel of open land that makes an important contribution to the character of the area. It is considered that the effects of the development would be significant at local level. In respect of the AHLV, its special qualities relate primarily to its representativeness and condition interests on account of individual elements and the overall landscape structure being generally intact and in good condition leading to its high scenic qualities. It is considered that the proposal would not conserve or enhance these special qualities, contrary to CDP Policy 39. It is unlikely this harm could be reduced through design changes or additional mitigation. The proposal would also cause harm to the intrinsic character, beauty and tranquillity of the countryside which would fail CDP Policy 10 (l) and would result in the loss of open space which contributes to the character of the locality which cannot be adequately mitigated or compensated for and therefore would fail CDP Policy 6 (c) in this regard.

88. Overall, it is considered that the proposal would conflict with Policies 6, 10, 29 and 39 of the County Durham Plan and Parts 12 and 15 of the NPPF. This policy conflict and associated harm needs to be weighed in the planning balance.

Scale/Design

89. CDP Policy 6 requires development to be appropriate in terms of scale, design, layout and location to the character, function, form and setting of, the settlement.
90. CDP Policy 10 under criterion o) requires new development in the countryside, by virtue of their siting, scale, design and operation to not impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for.
91. 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, CDP 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.
92. 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.
93. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 131 of the NPPF also states that good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable in communities.
94. The site is not located within a conservation area and contains no designated heritage assets, however as set out above, the site is located within and AHLV and also adjacent the boundaries of the North Pennines Natural Landscape.
95. The surrounding area is characterised by modest, rural vernacular style houses that are simplistic and traditional in their size, form, proportions, fenestration and detailing. The surrounding dwellings have an active street frontage, being built tight up to the pavement edge or roadside, or where this is not the case, there is a front garden or undeveloped paddocks enclosed by stone walls. This generates a consistent building line to the street and reinforces a sense of linear enclosure that contributes to part of the rural character to the area.
96. In comparing this proposal against the design of the previously refused planning application, the size and scale of the dwellings has been reduced with fenestration changes alongside the inclusion of an attached single storey garage results in a simpler design approach. The dwellings would be

constructed from Natural Slate with Random Rubble stone for the walls which is an appropriate material palette for the development. The Case Officer has discussed the proposal with the Design and Conservation Team and on balance, given the mixed vernacular form of the surrounding houses in terms of their position, style, size and scale, the design of the proposal is acceptable and would accord with CDP Policy 29.

97. There are concerns regarding the parking and hard standing which is considered to dominate the frontage of the dwellings, which would not be characteristic of the rural setting. However, on balance, considering the use of high-quality materials and the improvements on the overall design of the dwellings themselves, the concerns regarding the parking and hardstanding would not warrant the refusal of the application on design grounds. A planning condition could be used to control the exact material for the hardstanding which could soften its impact.
98. Overall, on balance, the design of the dwellings is considered to accord with Policies 6 (d) and 29 of the County Durham Plan. The application has addressed the previous reason for refusal in this respect.

Highway Safety/Access

99. 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, CDP Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Criterion e) of CDP Policy 6 requires development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. Criterion q) of CDP Policy 10 does not permit development in the countryside where it would be prejudicial to highway safety.
100. Specifically, the NPPF sets out at Paragraph 114 sets out that appropriate opportunities to promote sustainable transport modes shall be taken up and that safe and suitable access should be achieved for all users. In addition, Paragraph 115 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
101. The development proposes two access points to serve the development separately from the B6278. An in-curtilage driveway/parking area would be provided in front of the properties, with space for up to 4 vehicles each.
102. The Highway Authority has reviewed the application and advise that there are no objections to the development from a highway safety point of view.
103. Overall, subject to conditions, the proposals are not considered to adversely affect highway safety and would accord with Policies 6, 10, 21 of the County Durham Plan and Part 9 of the NPPF.

Ecology

104. NPPF Paragraph 186 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.
105. CDP Policy 43 sets out that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts while 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.
106. In this respect the application is supported by a Preliminary Ecological Appraisal which assessed the likely presence of protected species or habitats on the site concluding that the development would have a low risk to protected species and their habitats on the site. Plans have been submitted to demonstrate that the scheme will deliver a biodiversity net gain (BNG) through the enhancement of the existing pastureland through native planting. The Councils Ecology Officer has reviewed this information and has advised that undertaking these enhancements on the land to the immediate south of the application (land within the applicants ownership) would deliver a biodiversity net gain on the site. A planning condition could be imposed requiring the submission of a landscaping plan to assert the exact species which will be planted as part of the scheme.
107. Therefore, using planning conditions, a biodiversity net gain can be achieved on the site to comply with Policies 41 and 43 of the County Durham Plan.

Nutrient Neutrality

108. Under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regs), the Local Planning Authority must consider the nutrient impacts of any development proposals on habitat sites and whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality. In this respect Natural England have identified that the designated sites of the Teesmouth & Cleveland Coast Special Protection Area/Ramsar (SPA) is in unfavourable status due to excess Nitrogen levels within the River Tees.
109. In this instance the development proposes the formation of 2 additional dwellings, which although would be served by means of a package treatment plant, would ultimately give rise to additional loading of Nitrogen into the Tees catchment. Given the advice provided by Natural England, it is likely that in combination with other developments, the scheme would have a significant effect on the designated SPA/RAMSAR sites downstream both alone and in-combination. The Habitat regulations therefore require the Authority to make an 'Appropriate Assessment' of the implications of the development on the

designated sites in view of the sites conservation objectives. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest (IROPI) and the necessary compensatory measures can be secured.

110. Nutrient Neutrality advice is provided by Natural England, including the provision of a Neutrality Methodology. This requires a nutrient budget to be calculated for all types of development that would result in a net increase in population served by a wastewater system including residential development that would give rise to new overnight accommodation. In utilising the nutrient budget calculator produced by Natural England, even when using a package treatment plant with a high level of efficiency in removing Nitrogen, mitigation is identified as being required to achieve Nutrient Neutrality. In this instance, the applicant has confirmed they would purchase Nutrient Neutrality Credits from Natural England to mitigate for 2.33kg TN/year nitrates.
111. Natural England have advised that at this time, there is a limited supply of credits mitigation credits available, and demand is outstripping supply. Therefore, whilst the purchase of credits is an acceptable means of mitigation there is a high risk that credits could not be secured before a permission expires. It is therefore considered that it would not be appropriate to secure the purchase of credits by condition and the lack of secured mitigation would form a reason for refusal, despite the mitigation strategy being acceptable.
112. Therefore, the proposal will fail to accord with Policies 41 and 43 of the County Durham Plan and Paragraph 188 of the NPPF. The Local Planning Authority cannot also satisfy itself under its obligations under the Conservation of Habitats and Species Regulations (2017).

Residential Amenity

113. 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.
114. 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.
115. A Residential Amenity Standards Supplementary Planning Document (SPD) has been adopted by the Council, which recommends that dwellings should benefit from private, usable garden space of at least 9 metres long. In considering this, each of the dwellings have a private amenity space which complies with the required 9 metres distance set out in the Residential Amenity Standards SPD.
116. The Residential Amenity Standards SPD also sets out the following separation distances for new development to comply with:-

- 'A minimum distance of 21.0m between habitable room windows, where either dwelling exceeds single storey, and a minimum of 18.0m between habitable room windows and both dwellings are single storey.
 - Where a main facing elevation containing a habitable room windows is adjacent to a gable wall which does not contain a habitable room window, a minimum distance of 13.0m shall be provided where either dwelling exceed single storey or 10.0m where both dwellings are single storey.'
117. In regard to this, to the northeast and southwest of the application site are open fields. Predominantly the windows for each of the dwellings are sited on the northeast and southwest elevation. Given this existing relationship, the windows to the front and rear elevations will have an outlook over the open fields and would not cause any issues in terms of overlooking.
118. The nearest residential properties to the development are 'Cloud High' to the northwest and 'Hill Top Cottage' to the southeast. The nearest dwelling to 'Cloud High' will be approximately 21 metres away from this residential property. It is recognised that 'Cloud High' has several windows which face towards the application site and concerns have been raised by a member of the public regarding this. However, these windows would face towards one ground floor window serving an bathroom (where a planning condition could be utilised to require this to be obscurely glazed) and one first floor window which would serve a bedroom. Whilst there would be a first floor window of a habitable room facing towards windows of 'Cloud High', given the separation distance of 21 metres, this would be acceptable under the requirements of the Residential Amenity Standards SPD. Therefore, whilst the concerns raised in relation to overlooking are acknowledged, the proposal would meet the requirements of the Residential Amenity Standards SPD and therefore, the proposal would be acceptable in terms of the residential amenity of 'Cloud High' to the northwest of the application site.
119. In considering the impact upon 'Hill Top Cottage' to the southwest, there would be a separation distance of approximately 24 metres between the side gable of the closest dwelling and Hill Top Cottage. This separation distance would exceed the separation distances required by the Residential Amenity SPD and would be acceptable in terms of the residential amenity. In addition, the gable of the proposed dwelling would have two first floor dormer windows serving en-suite bathroom which could be conditioned to be obscurely glazed as well as serving a bedroom and there would be a ground floor window to serve a non-habitable room as a secondary window. Given this relationship, the proposal would be acceptable in terms of amenity upon 'Hill Top Cottage'.
120. Concerns have been raised about the impact of the proposal upon the 'Moorcock Inn' to the east of the application site, especially in regard to the impact of the development upon its patio and its light. In considering this, the Moorcock Inn is located across the road from the application site and the proposal for another residential dwelling in this setting is not considered to cause amenity concerns in relation the Moorcock Inn. It is accepted by Officers that the views of the application site from the Moorcock Inn will change, but maintaining a view is not a material planning consideration.
121. In terms of the amenity of future occupiers, the dwellings would provide four bedrooms and would be compliant with the Nationally Described Space

Standards (NDSS) which requires a 4-bedroom 8 person dwelling to have a 124m² gross internal floor area. House Type 1 would be 191.3m² and House Type 2 would be 167.2m². The dwellings would comply with NDSS.

122. Overall, the proposals are considered to provide a good standard of amenity for existing and future residents, according with Policy 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.

Drainage

123. 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.
124. 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.
125. The site is not located within a flood zone. Information has been submitted to show that the foul water will be dealt with via a package treatment plant. No details have been submitted in relation to surface water. However, the details of the drainage for both foul and surface water can be controlled by a planning condition which would be reasonable in this case to request additional information and detail to be submitted to demonstrate compliance with CDP Policies 35 and 36, it considered likely that surface water could be adequately attenuated before being discharged.
126. Therefore, the application, through the use of planning conditions, can ensure that acceptable foul water and surface water drainage is secured on the site to comply with Policies 35 and 36 of the County Durham Plan.

Ground Conditions

127. 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.
128. In this regard, the Council's Contaminated Land Team have been consulted and they confirm there is no requirement for a land contamination condition on the scheme.

129. Therefore, based on the comments from the Contaminated Land Team, the proposal is considered to comply with Policies 32 and 56 of the County Durham Plan and NPPF Paragraph 189.

Sustainable Construction

130. CDP Policy 29 requires new development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable water and prioritising the use of local materials.
131. No information in relation to this has been provided. However, it is understood that the site is within the gas network and in the event of an approval of the application, a conditional approach can be adopted to secure the submission of this information to show how the proposal would comply with this policy requirement, including the use of renewable energy and carbon reduction measures.
132. CDP Policy 27 states that any residential and commercial development should be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable, developers should provide appropriate infrastructure to enable future installation.
133. According to the OFCOM availability checker, the site has access to broadband in accordance with Policy 27 of the County Durham Plan.

Other Issues

134. CDP Policy 14 states that the development of the best and most versatile agricultural land, will be permitted where it can be demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. NPPF Paragraph 174 states that LPAs should recognise the economic and other benefits of the best and most versatile agricultural land and where significant development of agricultural land is demonstrated to be necessary, local planning authorities should seek to use areas of poorer quality land in preference to that of a higher quality. Best and most versatile agricultural land is classified by the NPPF as grades 1, 2 or 3a.
135. A site-specific agricultural land classification has not been submitted in support of the application. However, the application site is identified as 'Grade 4' in DEFRA broad Agricultural Land Classification which identifies the land as 'Poor' under the standards. Therefore, whilst the concerns regarding the loss of agricultural land area acknowledged, there would be no loss of best or most versatile agricultural land.
136. To the immediate northeast of the application site there is a Roman Road with the Council's Archaeology Team having no objection to the development in this location.

CONCLUSION

137. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material consideration indicate otherwise. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan, permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate the plan should not be followed.
138. In this instance the area of Hill Top has not been identified in the County Durham Settlement Study as a settlement and is more considered a sporadic grouping of dwellings in the countryside and therefore development is not supported by CDP Policy 6. The development does not comply with any of the exceptions set out under CDP Policy 10 for development within the countryside, nor does it comply with any other specific policy in the plan which would allow for development in a rural location.
139. It is identified that there are limited services and facilities within proximity of the application site with a reliance upon private means of motorised to access services and amenities further afield, transport due to limited bus routes and connections, The site is therefore not considered a sustainable location for development contrary to Policies 6, 10 and 21 of the County Durham Plan. The application has not addressed the previous reason for refusal in this respect.
140. In terms of design, on balance, the improved design of the dwellings alongside the use of high-quality materials is considered to outweigh the concerns regarding the dominance of parking and hard standing to the front of the dwellings. This results in the proposal being acceptable in regard to Policies 6 (d) and 29 of the County Durham Plan. The application has addressed the previous reason for refusal.
141. The application would also cause harm to the character, quality and distinctiveness of the local landscape and would not conserve or enhance the special qualities of the Area of Higher Landscape Value which would fail to comply with Policies 6, 10 and 39 of the County Durham Plan. The application has not addressed the previous reason for refusal in this respect.
142. In relation to nutrient neutrality, whilst the purchase of credits is an acceptable means of mitigation, there is a high risk that credits could not be secured before a permission expires. It is therefore considered that it would not be appropriate to secure the purchase of credits by condition and the lack of secured mitigation would form a reason for refusal, despite the mitigation strategy being acceptable. The proposal will fail to accord with CDP Policies 41 and 43 and Paragraph 188 of the NPPF. The Authority cannot also satisfy itself under its obligations under the Conservation of Habitats and Species Regulations (2017).
143. The development would not impact on highway safety or residential amenity and would be acceptable in regard to the ground conditions.
144. It is recognised housing in villages can support services in other nearby villages, particularly in rural areas. The development would also result in a temporary

economic uplift during construction and provide housing choices in the locality. However, these benefits are not considered sufficient to outweigh the policy conflict and harm identified above.

145. The current proposal, whilst it has addressed the previous concerns in regard to the design of the development, would not overcome the reasons of refusal of the previously planning application in regard to the principle of the development, the locational sustainability and the impact of the development upon the landscape. Accordingly, the application is recommended for refusal.

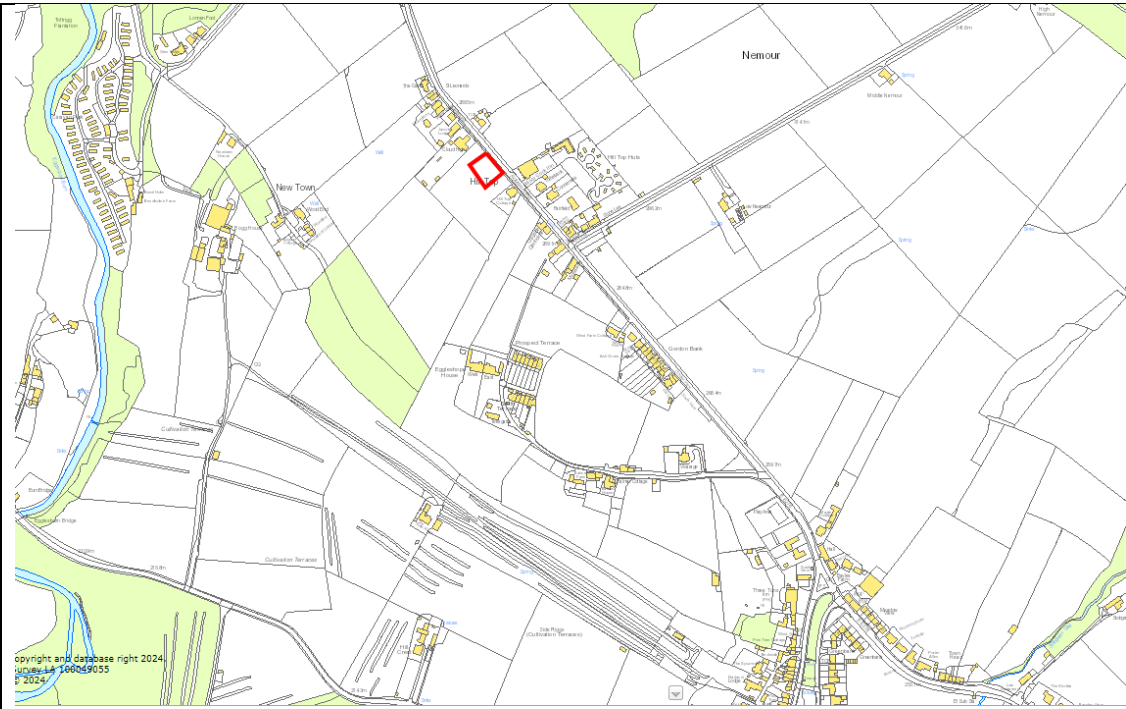
RECOMMENDATION

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

1. The application site is located within the countryside away from any established settlement and does not comply with any of the exceptions set out in Policy 10 of the County Durham Plan for development on such a location and is not permitted by any other specific policy in the County Durham Plan. In addition, the site is in unsustainable location with a reliance upon private motor vehicles to access of services and facilities. The development is therefore considered to conflict with Policies 6, 10 and 21 of the County Durham Plan and Parts 5 and 9 of the National Planning Policy Framework.
2. The development would result in the loss of an historic parcel of open land which positively contributes to the character of the local area and wider landscape. The development does not conserve or enhance the special qualities of the Area of Higher Landscape Value and is considered contrary to Policies 6, 10, 29 and 39 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.
3. The development has not provided evidence that it could mitigate its impacts in respect of Nutrient Neutrality and therefore, adverse impacts on the Teesmouth & Cleveland Coast Special Protection Area/Ramsar (SPA) cannot be ruled out in regard to nitrates. The development would fail to comply with Policies 41 and 43 of the County Durham Plan, Part 15 of the National Planning Policy Framework and the Authority cannot also satisfy itself under its obligations under the Conservation of Habitats and Species Regulations (2017).

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Residential Amenity Standards Supplementary Planning Document (January 2023)
Parking and Accessibility Supplementary Planning Document (October 2023)
Statutory consultation responses
Internal consultation responses
External consultation responses



<p>Planning Services</p>	<p>Erection of 2no. residential dwellings and associated works</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2024</p>	<p>Comments</p>	
	<p>Date:</p>	<p>12th March 2024</p>

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