



Area Planning Committee (Central and East Durham)

Date Tuesday 12 March 2013
Time 1.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Last Meeting held on 12 February 2013 (Pages 1 - 10)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) 4/13/00021/VOC - 85 Gilesgate, Durham, DH1 1HY (Pages 11 - 22)

Variation of condition no.1 (approved Plans) of planning approval 4/10/00451/FPA (Sub-division of existing dwelling to form one 4-bedroom dwelling and one 6-bedroom dwelling) to allow conversion of roof space to provide an additional two bedrooms.
 - b) PL/5/2010/0532 - Plot 1, Maple Crescent Garage Site, Seaham, SR7 7UT (Pages 23 - 30)

Private garage (retrospective).
 - c) PL/5/2012/0414 - 17, 18 & 19 Roxby Wynd, Wingate, TS28 5PN (Pages 31 - 40)

Change of use from public open space to residential curtilage including erection of fencing (partly retrospective).

- d) PL/5/2012/0437 - Eden Transport Ltd, Eden House, High Hesleden, TS27 4QF (Pages 41 - 60)
Residential development (outline) for 9 dwellings (resubmission).
- e) PL/5/2012/0303 - Land adjacent to road from High Hesleden to Monk Hesleden (Pages 61 - 74)
Erection of 5 stables, tack room, hay store and formation of access.
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Colette Longbottom
Head of Legal and Democratic Services

County Hall
Durham

4 March 2013

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

Councillor C Walker (Chair)
Councillor P Taylor (Vice-Chair)

Councillors J Bailey, A Bell, J Blakey, G Bleasdale, J Brown,
P Charlton, D Freeman, S Iveson, A Laing, R Liddle, J Moran,
J Robinson and B Wilson

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST DURHAM)

At a Meeting of **Area Planning Committee (Central and East Durham)** held in the Council Chamber, County Hall, Durham on **Tuesday 12 February 2013 at 1.00 pm**

Present:

Councillor P Taylor (Chair)

Members of the Committee:

Councillors A Bell, J Blakey, G Bleasdale, J Brown, P Charlton, S Iveson, A Naylor, R Liddle, J Moran and J Robinson

1 Apologies for Absence

Apologies for absence were received from Councillors C Walker, J Bailey, D Freeman and A Laing.

2 Substitute Members

Councillor A Naylor substituted for Councillor A Laing.

3 Minutes

The Minutes of the meeting held on 15 January 2013 were confirmed as a correct record and signed by the Chair.

4 Declarations of Interest

Councillors A Naylor and G Bleasdale advised the Committee that in relation to application PL/5/2012/0411 – Evergreen Caravan Park, Coast Road, Crimdon Dene, they had both been present when the original application had been considered and approved by the former Easington District Council.

The Solicitor advised that this did not constitute a prejudicial interest in the application, and therefore did not prohibit them from participating in that item of business as normal.

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

4a 4/12/01083/FPA – Land off Potters Bank, Durham

The Committee considered a report of the Senior Planning Officer regarding the erection of 22 dwellings with associated infrastructure and landscaping at land off Potters Bank, Durham (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members had visited the site earlier in the day and were familiar with the location and setting.

Mr B Corrigan, local resident, addressed the Committee. He advised the Committee that, in principle, he did not object to the proposed development, however he drew attention to one aspect of the development which gave him cause for concern, though he believed to be easily resolvable.

Mr Corrigan advised the Committee that the first proposed property on the development would have an overbearing impact on properties within The Orchard, which directly adjoined the development site. Members were advised that the land behind the Orchard rose rapidly. Mr Corrigan advised that rather than step up the developments gradually from existing ground level, the proposal for Plot 1 was to erect a 10 feet high retaining wall. This, he believed, would have an overbearing impact on existing properties, and furthermore was contrary to Policy H13 as it would have an adverse effect on residential amenity.

Mr Corrigan suggested that this issue could be resolved if the developer would agree to develop Plot 1 at existing ground level. He advised that the developer had felt it not possible to do this due to drainage issues, however Mr Corrigan believed that further issues could also be overcome by pumping into the main sewer or installing a septic tank.

As he had no further objections to the development, he called on the Committee to defer consideration of the application to allow the developer to resolve the issue, and then submit an amended application.

Councillor N Martin, local member, addressed the Committee. He advised the Committee that the adjacent development of Dickens Wynd was designed with a hammerhead, which suggested that there would be further nearby development in the future. This application was now before the Committee, and Councillor Martin believed that, contrary to the plans, it would have been desirable to have a footpath egress between the 2 developments which would have added to the connectivity of the area.

Councillor Martin objected to the suggestion within the officers report that the development site was sustainable and convenient for commercial services. He argued that was not the case, the site was not a central location, indeed it occupied a position on the periphery and there were no local shops and other commercial premises nearby.

He further expressed concerns regarding the fund for a play area and artwork to be allocated by the developer and where that money would be spent, he felt it should be allocated to the Nevilles Cross Division.

Councillor Martin concluded by sympathising with the concerns expressed by Mr Corrigan and supported his request to see the matter being deferred to allow the developer to resolve the issues raised.

Councillor Holland, local member, addressed the Committee. He echoed the comments of Councillor Martin, in that he had no objections to the principle of the development, however he did agree with the objection raised by Mr Corrigan. Furthermore he agreed with the objector that the issues were resolvable.

In referring to Condition 9 of the officers report, he queried where the requirement to have at least 10% of the total energy demand of the development to be from renewable sources, had come from.

Councillor Holland further commented that he believed planning policy U14 and U15 blighted the Planning Authority when determining applications.

Councillor Holland noted that Part 11 of the NPPF had been deemed relevant to the proposal, which was to enhance the natural environment, however he suggested that Part 10 would be more appropriately applied.

Mr Jordan, representing the applicant Charles Church Ltd, addressed the Committee. He advised Members that in terms of sustainability, he had been heavily involved in developing executive homes within Durham, and he could not think of a more sustainable location than the proposed development site. It had good links to local transport and was within an already built up area.

Mr Jordan continued that the location was a sensible site for such a development taking into account the natural shape of the site. From the offset, the developer had been keen to ensure minimal impact on existing properties. Whilst he acknowledged the concerns already expressed, he was confident that the current plans posed no adverse effect on neighbouring properties.

The Principal Planning Officer responded to all comments made as follows:

- Condition 9 – It was acknowledged that Part 10 of the NPPF should actually have been applied rather than Part 11, this would be amended with immediate effect.
- In response to the query from Councillor Holland regarding the 10% requirement for renewable energies, the Principal Planning Officer advised this requirement came from the Regional Spatial Strategy (RSS).
- It was stressed that currently the Council was experiencing something of a policy shift in relation to planning. There was the forthcoming emergence of the County Durham Plan alongside the decision by Central Government to abolish the Code for Sustainable Homes. An increase in building regulations would going forward largely take up the energy requirements of the Code. Whilst concerns from Councillor Holland were acknowledged, for the current time, the Planning Authority could only insist on what was permitted in accordance with the RSS as the most up to date development plan.
- Play Area – it was confirmed that the allocation would be spent within Nevilles Cross division.
- Dickens Wynd – it is preferred to see permeability throughout development schemes. The Principal Planning Officer did feel that the layout of the scheme would not lend itself to a private fenced off pedestrian link dissecting a private garden. Given the scale of the development, and good pedestrian

links along Pottersbank and bordering public footpath no further link was necessary.

- Sustainability – it was acknowledged that Nevilles Cross was devoid of some essential commercial features, however in the context of the city as a whole, it was a Greenfield site in a relatively dense residential area and was in accordance with the overall principles of sustainable development.
- In responding to the concerns raised by Mr Corrigan, the Principal Planning Officer advised that whilst the proximity to neighbouring properties was an initial concern, a lot of work had been done to improve this relationship. In accordance with saved policy Q8 of the City of Durham Local Plan, there was a required separation distances between properties of 13 metres The plans for the development had been reworked and now demonstrated a 35m separation distance, along with the setting back of the retaining wall and relocation of the garage which was felt to be an acceptable compromise.

Councillor Blakey expressed concerns to the suggestion that a septic tank should be installed on the site, she further expressed concerns about potential flooding. She acknowledged the concerns of the objector, she found the Plot 1 property to have an overbearing effect on the nearest neighbouring property. Councillor Blakey agreed that if Plot 1 were built on lower ground, the issue would be resolved.

Councillor Charlton drew attention to paragraph 89 of the report and requested that the requirement for the developer to submit a surface water drainage scheme to be agreed prior to commencement of development, be ensured.

Councillor Naylor queried why there had not been any objection from Northumbrian Water.

The Principal Planning Officer responded to the Committee as follows:

- In relation to bungalows, and housing for the elderly, this would be picked up within the emerging County Durham Plan and the possibility of a percentage allocation would be stipulated;
- He highlighted that Condition 8 to the application made requirements in relation to the surface water drainage scheme.
- Northumbrian Water were satisfied with the discharge rates and made no objections to the application.

Seconded by Councillor Bleasdale, Councillor A Bell moved that the application be approved with the amendment to Condition 9.

Resolved: That the application be approved, subject to the conditions outlined in the report, and with the amendment to Condition 9 of the report to replace Part 11 of the NPPF with Part 10.

4b 4/12/00913 – 81-82 New Elvet, Durham, DH1 3AQ

The Committee were informed that the application had been withdrawn by the applicant.

4c PL/5/2012/0457 – Blue House Farm, Hesleden Road, Blackhall

The Committee considered a report of the Planning Officer regarding the development of a dwelling (resubmission) at Blue House Farm, Hesleden Road, Blackhall (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site. Members of the Committee had visited the site earlier in the day and were familiar with the location and setting. He drew attention to paragraphs 47 and 48 of the report and the response received from environmental health. The Principal Planning Officer advised that on a single dwelling scheme, it was not deemed necessary to apply conditions to the application regarding matters such as noise and dust. It was therefore proposed that the conditions suggested by environmental health be added as informatives on the application, in respect of considerate construction and wheel washing. Whilst there was an appreciation that section 215 works could warrant future enforcement action, consideration should be given to staff resources, as such informatives were more appropriate in this matter.

Councillor R Crute, local member, addressed the Committee. He advised the Committee that the previous development of 3 houses at that site took in excess of 5 years to complete and caused inconvenience to nearby neighbours.

Whilst Councillor Crute did not object to the principle of infill on that site, he felt that enforceable conditions were appropriate to the application because of the impact of development. His views were supported by the local Parish Council and residents. As such, he suggested four enforceable conditions be attached to the application regarding a limit on operating hours, an on-site wheel cleansing facility, road cleaning and use of the roads outside of the site.

Members were advised that the roads surrounding the site were currently unadopted, which Councillor Crute advised made the situation for local residents worse. The highways were not wide enough to accommodate lorries parking in the area and such parking would potentially cause damage to pavements. Furthermore, mess would be created on the roads from construction vehicles and debris from the site could have an impact on drains.

Councillor Crute concluded by advising that he would be happy to support the development subject to his suggested enforceable conditions being attached to the application.

Mr Olaman, applicant, addressed the Committee. He advised the Committee that he had owned Blue House Farm for almost 30 years, having bought the property from the County Council. The site had been in a derelict state at that time, with a pig sty and several barns also on the site. Originally, Mr Olaman had demolished and removed most of the non functional buildings from the land.

Members were advised that a nine acre field next to the farm was rented from the Council by Mr Olaman each year and in the late nineties, he sold the field to a

developer. The developer was to go on to build 70 houses on that land, however the only way the development could commence was for drains to be run through Mr Olaman's existing land. Mr Olaman had agreed and in return the developer deviated from the original plans allowing him to maintain his existing access to the farm.

Mr Olaman advised that in 2002 he applied for planning permission to develop 5 properties. 2 were completed in a timely manner and sold within 12 months, though he made no profit. He then advertised the further 3 plots, and subsequently sold Plots 1 and 3, with a clause attached to Plot 1 to retain vehicular right over it but for the roadway to be constructed by the buyer.

Plot 2 was retained by Mr Olaman and he subsequently entered into a contract with the buyer of Plot 1 to build him a property at the same time as the other 2 plots. Mr Olaman advised that the development commenced in 2008 however in 2010 the developer went into liquidation, it therefore took a further two and a half years for his property to be completed. He advised that he had a road and a drive outside of his property which he used daily and at no inconvenience.

The Principal Planning Officer responded to all comments made as follows:

- In response to Councillor Crute's comments regarding the enforceable conditions, the Principal Planning Officer maintained that because of the size and nature of the site, informatives would be more appropriate than enforceable conditions. In respect of a wheel cleaning facility, Members were advised that would be more commonplace on a larger site.
- Unadopted highways – Members were advised that notification had been received earlier that day that a change had taken place in relation to the adoption of the drains, which meant that the roads could soon be adopted.
- In relation to the parking of wagons near the site, Members were advised that the Planning Authority could not condition because at the current time the roads were unadopted, therefore that matter would have to be subject to private legal action.

The Principal Development Management Engineer addressed the Committee. He advised that there had been a long delay in the adoption of the roads on Whindyke estate due to an issue with the adoption of the sewers. Members were advised that that issue had now been resolved, the bond had been called in which would allow minor works at Whindyke to be completed, following which the roads could then be adopted by the Highways Authority. This was anticipated to be completed by August 2013.

Having viewed the area at the site visit earlier that day, Councillor Charlton felt that the site did require attention and moved approval of the application, though felt that the enforceable conditions suggested by Councillor Crute, should be applied. The motion was seconded by Councillor Blakey.

Councillor A Bell referred to the entrance to the site which was currently in a poor condition. Having received confirmation from the Principal Planning Officer that the adoption of highways would not include that area, Councillor Bell enquired as to whether a further condition could be applied requiring the entrance to be up to the

adopted highway be brought up to an acceptable standard before anyone took up residence in the property.

The Principal Planning Officer advised that there were ongoing ownership issues and as such there would be a reluctance to apply any such condition. The first section of the road outside of the properties was not in the applicants ownership, and while the applicant could volunteer to develop and maintain the area of the entrance, it was uncertain as to what the legal rights over that area would be.

The Solicitor advised that the Committee could not insist that the works were necessary as part of the development, which was the primary test which should be applied. It was unlikely therefore, that such a condition could be imposed, and though the applicant might wish to give an assurance that the works would be done, he reiterated that it was unclear as to what his legal rights would be.

The Chair brought in Mr Olaman to address the issue. Mr Olaman produced an original document which set out that the owner of Plot 1 would create the road and driveway outside the 3 properties and then proportionally and collectively, the owners of Plots 1, 2 and 3 would contribute to the maintenance. All 3 would be proportionally liable with varying degrees of responsibility, but the construction was the responsibility of the owner of Plot 1.

The Solicitor therefore advised the Committee that while Mr Olaman had a right of access, he had no responsibility to develop and, as produced by the applicant, there were legal covenants which covered future maintenance. The applicant had no control and as such could not undertake upgrade works, Members were as such advised that it was not legally possible for any such conditions to be imposed.

Councillor Bell acknowledged that the entrance road was not part of the application, however felt that the Committee now had an opportunity, having seen the area, to address that problem. The Solicitor clarified that the area was a private shared driveway and the document produced by the applicant detailed the covenants in connection with the sale of the land.

In response to a query from the Committee, the Principal Planning Officer clarified that the land contamination issue was addressed at Condition 5 within the report. The condition required that the applicant address the land contamination issues and then submit evidence to the Council that an assessment had been done. Members were advised that this would normally be done in conjunction with officers from Environmental Health.

In response to a query from the Committee the Principal Planning Officer confirmed that the wall surrounding the site would be reduced in height as part of the highway improvement works. The Principal Development Management Engineer clarified this would be done to allow for the development of 2 parking bays on the site, the wall would be reduced to allow good visibility of the road from those bays.

The Solicitor clarified the conditions which were to be applied to the application. Two conditions would be applied relating to the operating hours on site during development, and the provision of a wheel cleaning facility on site.

The Principal Planning Officer advised that whilst the site may not be of sufficient size to accommodate a trough style cleaning facility, a hand jet wash may prove more appropriate.

In response to a query from Councillor A Bell, the Principal Development Management Engineer clarified that the site plans illustrated a widened entrance to the site with the existing wall to be completely removed at the point of entrance.

Resolved: That the application be approved subject to conditions detailed within the report and additional conditions considered necessary by the Committee (including specific conditions on operating hours and wheel cleaning facilities), with responsibility for the wording of the additional conditions delegated to the Principal Planning Officer.

4d PL/5/2012/0411 – Evergreen Caravan Park, Coast Road, Crimdon Dene, TS27 4BW

The Committee considered a report of the Planning Officer regarding the development of a dwelling (resubmission) at Blue House Farm, Hesleden Road, Blackhall (for copy see file of Minutes).

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site.

Mr Drummond, applicant, addressed the Committee. He began by advising that when the application had originally been considered and approved by the planning committee of the former Easington District Council, no restrictions had been applied in relation to the occupation of the property. The only consideration for the applicant when he made an application for the relocation of the dwelling in 2008, was for personal reasons and that application was subsequently withdrawn, though it was not a new application.

Mr Drummond pointed out that the caravan site was a retirement park as opposed to a seasonal holiday site, and as such the site did not require a managers dwelling, and he argued that while he was a company shareholder, his house was a separate entity which was removed from the site as a business.

Members were advised that when the application to relocate was under consideration in 2008, it was deemed to be contrary to PP17. Mr Drummond stated that in fact the only grounds for justification were exceptional circumstances and at that time there was no mention of tied occupancy.

When the original application had been approved, Mr Drummond acknowledged that there was a discussion and that ultimately he did agree to the proposed tie between the dwelling and the business, though he had not had an opportunity to seek legal advice.

Mr Drummond further advised that for as long as the planning permission was tied to the business, he was unable to obtain an approximate £15,000 VAT rebate paid

on the self build of the dwelling. He was also concerned about the future, as should he resort to selling the property, he felt his son would be unable to take the property on.

The Principal Planning Officer advised the Committee that the bungalow had originally occupied a more central location and was inextricably linked to the operation of the park, while the current site was much more isolated. Members were advised that when considering the application, regard must be given to current planning policy context and there was no information to allow for a dwelling outside of the site, without tying it in to occupancy.

The Principal Planning Officer did acknowledge that difficulties for the future, as set out by Mr Drummond, however the condition did allow for the future of the park.

Members were advised that the dwelling was inextricably linked to the park, it was the managers property and it should continue to be tied in to the business as managers accommodation. Furthermore, Members were advised that the condition satisfied and accorded with, planning policy.

Councillor A Bell felt that the issue was a difficult one to determine, especially as the Committee were not considering a new application. He agreed with the applicant that the site was more of an estate rather than a caravan park, and appeared to be more of a residential built up area. Councillor A Bell moved to support and approve the application. This motion was seconded by Councillor Bleasdale.

Councillor Bell clarified that the reasons for moving approval were that the site was a sustainable location and it was within an already built up area.

In response to a query from the Committee, the Principal Planning Officer clarified that in 2004 the property was not built and was relocated later to the outskirts of the site.

The Principal Planning Officer further clarified that should the current occupant retire, they would be allowed to remain in the property as the last employed person on the site. The property was seen as a family home, but also as a managers home.

Councillor Moran queried whether the request to remove the condition was for financial reasons. The Applicant responded advised that was not reason for the application and reiterated his earlier statement.

Councillor Iveson queried what would happen with the property should the caravan park be put up for sale. The Principal Planning Officer advised that the condition did allow for the manager to stay on in residence.

Seconded by Councillor Liddle, Councillor Moran moved approval of the officers recommendation.

Upon a vote being taken upon each motion, it was

Resolved:

That the application be approved.

4e 4/12/01139/FPA – 12 Coronation Avenue, Carville, Durham

The Committee considered a report of the Assistant Planning Officer regarding the erection of a single storey pitched roof extension to the side and rear, and a bay window to the front of the existing dwelling, at 12 Coronation Avenue, Carville, Durham.

The Principal Planning Officer gave a detailed presentation on the application which included photographs of the site.

Seconded by Councillor Charlton, Councillor Blakey moved that the application be approved.

Resolved: That the application be approved, subject to the conditions outlined in the report.

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	4/13/00021/VOC
FULL APPLICATION DESCRIPTION:	Variation of condition no.1 (approved Plans) of planning approval 4/10/00451/FPA (Sub-division of existing dwelling to form one 4-bedroom dwelling and one 6-bedroom dwelling) to allow conversion of roof space to provide an additional two bedrooms.
NAME OF APPLICANT:	Bill Free Homes
ADDRESS:	85 Gilesgate, Durham, DH1 1HY
ELECTORAL DIVISION:	Gilesgate Steven Pilkington Planning Officer
CASE OFFICER:	03000 263964 steven.pilkington@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

CONTEXT

1. The application site relates to the former Britannia Inn, which has been sub divided to provided residential accommodation over two separate residential units consisting of one 4-bed House of Multiple Occupation (HMO) and one 6 Bed HMO. The property is a prominent traditional two storey building situated on Gilesgate Bank located within the City Centre Conservation Area.
2. Surrounding the application site primarily residential dwellings are located, with the highway Gilesgate Bank to the front, along with an area of informal car parking.

PROPOSAL

3. Planning permission is sought to vary condition no.1 (approved plans) of planning approval 4/10/00451/FPA, to allow an additional two bedrooms in the development. This would result in one 4 bed HMO and one 8 Bed HMO. This condition also specifically limited the number of bedrooms that could be used in the property to 10.
4. Limited external alterations are proposed, including the provision on an additional window in the rear elevation and the provision of two velux roof lights in the rear roofslope. Internally a storage area in the roof space will be converted to provide an additional two bedrooms. No in-curtilage parking is provided within the development, while pedestrian access is taken off the public footpath on Gilesgate Bank.
5. This application is being reported to planning committee at the request of Councillor's Thomson and Southwell, the divisional councillor's for Gilesgate.

PLANNING HISTORY

6. Change of Use and conversion from Public House and managers flat to six bedroom residential dwelling – Approved in 2004.
7. Erection of 4 no. residential dwellings - application withdrawn in 2005.
8. Erection of 2 no. six bedroom dwellings with shared garden/amenity space. (Re-submission) – Refused 2005.
9. Change of use from public house to eight bed-roomed house, involving partial demolition with erection of single storey extensions to rear – Approved 2005.
10. Change of use and conversion of existing public house and associated residential accommodation to form 1 no. dwelling-house, with erection of single storey pitched roof extension to rear elevation – Approved. 2008.
11. Conversion of existing roof-space and 2 no. study rooms to create 4 no. additional bedrooms, totalling a 12 no. bed-roomed house in multiple occupation, including erection of 2 no. rooflights, and 1 no. additional window to the north elevation – Refused 2008.
12. The scheme that the applicant has externally implemented is that approved in 2005. An enforcement notice served by the Council to get the applicant to comply with the approved plans was not upheld by the Planning Inspectorate, both on technical grounds and on the basis that the property had been already physically subdivided into two separate units.
13. Sub-division of existing dwelling to form one 4-bedroom dwelling and one 6-bedroom dwelling - Approved by members 2010 following officer recommendation for refusal

PLANNING POLICY

NATIONAL POLICY

14. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
15. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
16. NPPF Part 1 – 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 of a low carbon future.

17. NPPF Part 4 – Promoting sustainable transport. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
18. NPPF Part 6 - Delivering a wide choice of high quality homes. To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
19. NPPF Part 7 – Requiring Good Design. 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 12 – Conserving and enhancing the historic environment. Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

REGIONAL PLANNING POLICY

21. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies by making Orders under Section 109 of the Localism Act 2011. Both the RSS and the stated intention to make the necessary Orders are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. The following policies are considered relevant;
22. Policy 1: North-east Renaissance seeks to deliver sustainable and inclusive economic prosperity and growth, and sustainable communities, capitalising on the Region's diverse natural and built environments, heritage and culture.
23. Policy 7: Connectivity and Accessibility seeks to reduce the impact of travel demand by promoting public transport, travel plans, cycling and walking, and making the best use of existing resources and infrastructure.
24. Policy 8: Protecting and Enhancing the Environment seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.
25. Policy 24: Delivering Sustainable Communities requires that all development within the Region should be designed and located to deliver sustainable communities. Proposals should assess the suitability of land for development and the contribution that can be made by design in relation to 16 detailed criteria, including concentrating development in urban locations, reducing need to travel, proximity to infrastructure, health and well-being, biodiversity and crime prevention/community safety.

26. Policy 32 – Historic Environment: Seeks to preserve and enhance the historic environment

LOCAL PLAN POLICY:

27. Saved Policy E6 – Durham City Conservation Area – Sets out the Council's aim to preserve the special character, appearance and setting of the Durham City Conservation Area by ensuring a high quality design
28. Saved Policy E21- Protection of the Historic Environment – requires development proposals to minimise adverse impacts on significant features of historic interest.
29. Saved Policy E22 – Conservation Areas – Sets out that the Authority seeks to preserve and enhance the character and appearance of the conservation area by ensuring that development proposals should be sensitive in terms of siting, scale, design and materials, where appropriate reflecting existing Architectural features.
30. Saved Policy CC1 – City Centre – Seeks to promote a mixture of uses within the City.
31. Saved Policy H2 – sets out that within the development limits, new housing development will be permitted providing the development is located on previously developed land.
32. Saved Policy H16 – Residential institutions and student halls of residence – Sets out that new residential development will be permitted within settlement boundaries providing they are well related to community facilities, provide sufficient amenity space and do not lead to a concentration of student accommodation that would affect the amenities of local residents.
33. Saved Policy Q1 – Design - Sets out that the layout and design of all new development should take into account the requirements of users including personal safety and crime prevention and the access needs of everybody including people with needs of disabilities.
34. Saved Policy Q6 – Identifies that all developments located on exposed sites will require landscaping to minimise any adverse visual impact.
35. Saved Policy Q8 – Residential Development – Sets out the standards that new residential developments should comply with.
36. Saved Policy T1 – General Transport Policy – Requires all developments to protect highway safety and/or have significant affect on the amenity of occupiers of neighbouring properties
37. Saved Policy T10 – Parking Provision – Seeks to limit the number of parking spaces as a property to encourage sustainable transport choices.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. Highways Authority – Consider that the formation of an additional two bedrooms at the property would intensify the parking demand, negatively impacting on the level of highway safety currently experienced due to the irregular parking arrangements.

INTERNAL CONSULTEE RESPONSES:

39. Environmental Health Officer – Offer advice on the requirements for HMO regulations.
40. Design and Conservation – Offer no objections to the proposed alterations.

PUBLIC RESPONSES:

41. The development has been advertised by means of individual notification letters and site notice. In total 6 objections have been received in relation to the application, as summarised below:-
- Previous commitments not to increase the number of bedrooms on site are not adhered to.
 - Increase in parking demand and congestion.
 - Loss of highway safety.
 - Impact on residential amenity.
 - Impact on character of residential area.
42. Two letters of support have also been received in relation to the application outlining the management procedures in place, while the adjoining resident of no.86 has confirmed that no issues have arisen in relation to blocking of parking spaces. The applicant's transport partners have also confirmed membership of relevant schemes.

APPLICANTS STATEMENT:

43. A car sharing scheme has been put in place since the approval of the previous application, which offers students the use of a car club, bike hire and free bus passes. It is however suggested that a more rigorous condition be attached to the approval certificate if required. It is also proposed to insert a clause in each new tenancy agreement stating that parking is limited in the area and that tenants will be prohibited from keeping more than one vehicle per dwelling.
44. A letter of support has been submitted from the adjoining property of no.86 Gilesgate, outlining that the site is well managed and that occupants do not block their property. Although cars in front of no.85 are occasionally double parked, there is no evidence to show that this is connected to the occupants of no. 85. The access into the development of 83-84 is not impinged and is controlled by a private clamping agreement, which regulates parking and access.
45. Attention is drawn to a recently approved development for 103-105 Gilesgate which granted permission for 14 bedrooms across 6 units, no parking is provided for this development. This demonstrates an inconstant approach by the Highway Authority.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at.

http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=MGGEE6BN5B000

PLANNING CONSIDERATIONS AND ASSESSMENT

46. Planning permission is sought to vary condition no. 1 of planning approval 4/10/00451/FPA through the submission of a section 73 application. In the determination of this type of application the Local Authority must have due regard to the development plan and other material considerations. However as set out in Circular 11/95 the original permission will continue to subsist whatever the outcome of the S.73 application and whilst the authority are primarily considering the matter of the conditions to be attached, the wider considerations affecting the original grant of planning permission are also relevant such as any change in circumstances or policy. However the approving of this application would in effect grant a new permission and would run in tandem with the original permission.

Principle of development

47. The principle of development has been established under the original permission which has been implemented in its entirety on site. However since the original decision was made in 2010 the National Planning Policy Framework (NPPF) has been introduced. This framework seeks to promote sustainable development and communities by concentrating development in urban locations, thereby reducing need to travel due to proximity of infrastructure, employment sites and community facilities. In assessing the proposed development against this sustainable development agenda, it is considered that the site performs well being located within easy access to Durham City Centre.
48. Overall it is considered that the location of a development of this nature is still considered acceptable in principle, subject to further detailed analysis of the scheme in line with the NPPF.

Highway Safety

49. Saved policies H9 and T1 of the Durham City Local Plan require that all developments protect highway safety and provide sufficient off street car parking, particularly in relation to HMO's. Significant objections have been raised in relation to this issue not only in this application but previous applications for the site. The area immediately in front of the application site is unregistered and therefore the applicant has no direct control over parking on this area, this area is also not classified as adopted highway.
50. In considering previous applications on the site the Authority has sought to balance the provision of parking spaces which could arise from an increased amount of parking demand, while appreciating the previous uses of the site. Planning permission was granted for the provision of 8 bedrooms on the site in 2005, a view was taken by both highways and planning officers that this would be the maximum acceptable given the lack of in-curtilage parking and the limited opportunity for on street parking. The highways officer also gave weight to the fact that the area outside of no.85 is outside the control of the Highways Authority and therefore parking could not be enforced. Subsequently objections for the provision of 10 bedrooms at the property were raised by the highways officer in respect of the 2010 planning application, which were reflected in the officer recommendation for refusal to committee; however this recommendation was overturned by members.

51. This new application seeks permission for 12 bedrooms, 4 more than officers and the Highways Authority originally deemed as acceptable. However this is a new application and therefore the Authority is required to look at the issues afresh, particularly in the intervening two year period since the original decision was made, while weight still needs to be given to previous decisions.
52. As highlighted in assessing the application particular consideration needs to be given to policies T1 and H9 of the Local Plan, these seek to ensure that development would not generate traffic that would be detrimental to highway safety and/or have a significant effect on the amenity of the occupiers of neighbouring properties. This also needs to be balanced against policy T10, which seeks to limit off street car parking for sustainable development objectives. After visiting the site and reviewing responses received it is clear that there is a conflict within the area stemming from the lack of parking facilities. This is exacerbated at the application site through use of irregular hard standing areas and access routes as parking spaces, which are not in any specific person's ownership and are not classified as adopted highway.
53. In considering this matter, consultation has been held with the Highway Authority, the statutory consultee in these matters. In appraising the suitability of the scheme, the Highways Authority identify that at present it is apparent that uncontrolled, irregular parking causes a degree of inconvenience and annoyance to local residents through the restriction of access and double parking. The Highway Authority also advise that this 'irregular parking' does affect highway safety by making it difficult for motorists to manoeuvre on and off the highway, while restricting access to adjacent properties. The view is taken that the intensification of the use, through the addition of two extra bedrooms at the property would put further pressures on parking demand in the area and worsen the existing situation. The Highways Authority therefore object to the scheme.
54. The applicant has submitted a substantial amount of supporting information outlining policies and procedures that have been put in place since the 2010 approval. These principally amount to the membership of the common wheels car club and the provision of bus passes and bikes, while discouraging students to bring cars. However while these initiatives are welcomed and encouraged, it is apparent that even with these in place, there is still a parking problem at the site. It is therefore considered that on balance adding a further two bedrooms has the potential to worsen the existing situation. It is also considered unlikely that additional mitigation over and above those already implemented would remove the existing and future parking demand at the property and address the current situation. It is also beyond the control of the Local Planning Authority, or Highways Authority to enforce conditions of leases or private agreements.
55. Reference has been made to the lack of a documented highways objection in a 2008 application for 12 bedrooms in the property. At the time it was considered that the proposed travel plan would mitigate any further parking demand generated at the property. However in further dialogue with the case officer, concerns were raised regarding the effectiveness of this travel plan and subsequently the application was refused on highway safety grounds. As highlighted above a similar travel plan has been implemented on site which does not appear to have mitigated the impacts of the development.
56. The applicant also draws further reference to a recent approval at 103-105 Gilesgate for the provision of 14 bedrooms across 6 separate units, to which the Highway Authority raised no objections. However each application must be assessed on its

own merits, while there are some distinctions between the scheme relating to the layout of surrounding roads and the number of adjacent residential properties. A balanced view was also taken given the benefits of bringing the Listed Building back into use in that case.

57. Overall in weighing up the proposed development against the above policy context, and the existing pressures on the site, it is considered that the provision of an additional two bedrooms would intensify the parking demand for the property, negatively impacting on the level of highway safety outside the site. The scheme is therefore considered to be contrary to policies T1 and H9 of the Local Plan

Residential Amenity

58. Saved Policy H9 of the Local Plan sets out that the conversion of properties for student accommodation/HMO's will only be permitted where the scheme protects the amenity of neighbouring residents and there are adequate amenity areas provided at the property. The policy expands upon this by stating that adverse effects on the amenities of other properties include noise, disturbance and infringement of privacy.
59. In the previous applications relating to the development particular consideration was given to the potential impact on the residential amenity experienced by neighbouring residents. Concerns were raised that the increase in bedrooms would impact on the amenity of these residents through the intensification of the use, principally through the use of the vannel access and the adjoining habitable rooms which would increase noise disturbance.
60. In considering the submitted plans, visiting the site and reviewing the correspondence received, concerns are again raised by officers that the increase in the number of bedrooms at the property could have a negative impact on the levels of amenity experienced by neighbouring residents. This is principally through the comings and goings and transfer of noise generated by an increased occupation. Although the Environmental Health Unit have offered comment regarding HMO legislation no assessment has been given on the potential impact on residential amenity. However in appraising the scheme, while it is appreciated that the existing use may have operated without significantly impacting the neighbouring residents amenity, it is considered that the further intensification of the property has the potential to adversely impact on the levels of residential amenity expected to be enjoyed by neighbouring residents. This is a balanced judgment but it is considered that the scheme fails to satisfy policy H9 of the Local Plan in this respect.

Character and setting of the Conservation Area

61. Policies 8 and 32 of the Regional Spatial Strategy of the North East of England, require that all developments are sympathetic to their surroundings while seeking to preserve or enhance conservation areas. Saved polices E6, E21 and E22 of the Local Plan also seek to preserve the setting, appearance and character of conservation areas, particularly Durham City Centre. The National Planning Policy Framework also seeks to conserve or enhance heritage assets in a manner appropriate to their significance. These policies are underpinned by the statutory duty in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
62. In this instance the heritage assets can be identified as the Durham City Conservation Area and the existing building which is considered a non-designated

heritage asset. The original scheme represented a significant improvement and enhancement of the existing building and Conservation Area in this location. Accordingly given the sensitivity of the site the views of the Council's Design and Conservation Officer have been sought on the proposed external alterations. In appraising the scheme it is advised that the alterations would not have an impact upon the conservation area or existing building given that they would be located to the rear elevation away from public views and are minimal in nature

63. Overall it is considered that the development would preserve the setting and character of the Durham City Conservation Area, in accordance with policies E6, E21 and E22 of the Durham City local Plan and policies 8 and 32 of the RSS.

CONCLUSION

64. The proposed scheme has been considered against the policies of the development plan as identified above. Although a balanced decision, it is considered that the proposal would fail to conform to these policies as the increase in number of bedrooms within the property has the potential to affect highway safety by increasing parking demands at the property and making it difficult for motorists to manoeuvre on and off the highway. It is also considered that this increased parking demand would further add to the inconvenience and annoyance of local residents through the restriction of access and double parking. Further to this, on balance it is considered that the additional two bedrooms has the potential to further reduce the level of amenity enjoyed by neighbouring properties through increased comings and goings and noise transfer.
65. While the mitigation measures put in place are encouraged, it is apparent that they do not address the short comings in the parking provision at the property. There are no material planning considerations, which indicate a decision should be otherwise and therefore the application is recommended for refusal.

RECOMMENDATION

That the application be **Refused** for the following reasons;

1. The intensification of the use would increase parking demand for the property which has the potential to further adversely impact on the level of highway safety experienced at the site while adding to the inconvenience and annoyance of local residents through the restriction of access and manoeuvrability on and off the highway, contrary to policies H9 and T1 of the Durham City Local Plan.
2. The intensification of the use is considered likely to adversely impact upon levels of amenity that adjacent residential dwellings can reasonably expect to enjoy, through increased coming and goings and noise transfer, contrary to the objectives of saved Policy H9 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

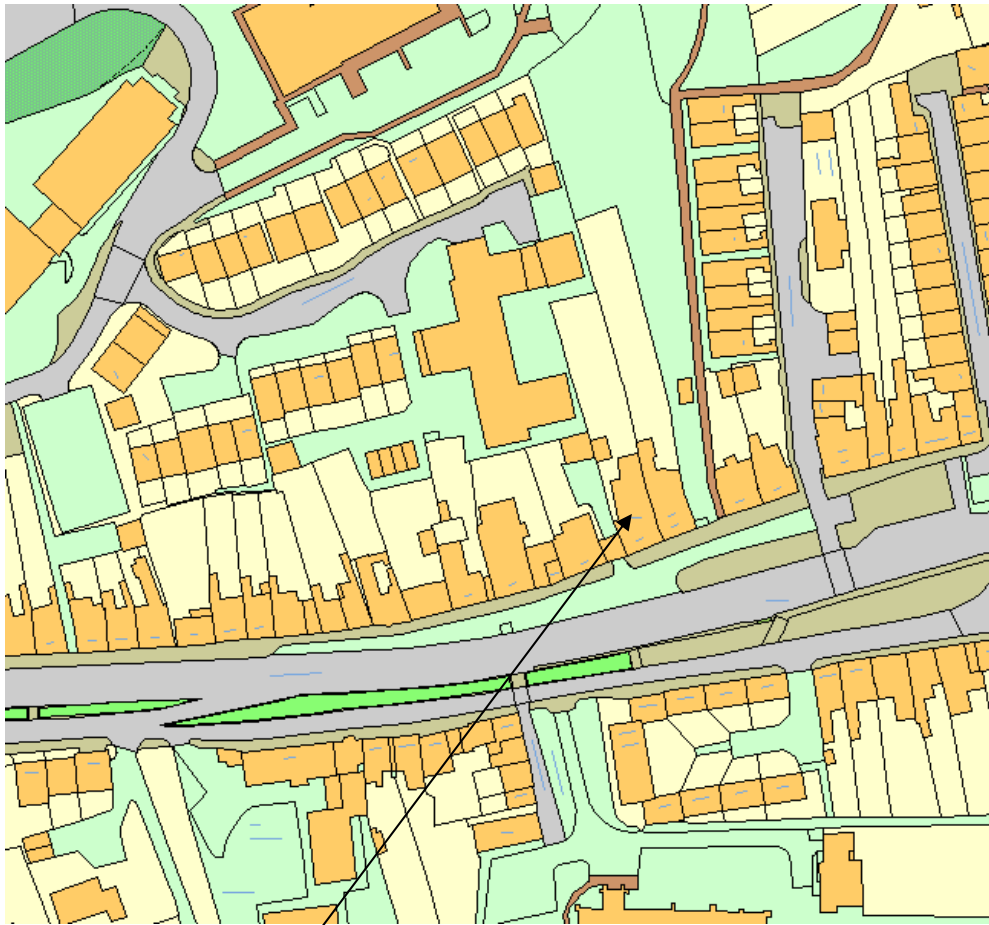
66. In dealing with the application, the local planning authority has taken a pragmatic approach, appraising the supporting information submitted alongside the application, without prejudice from previous applications determined. The applicant has been kept informed on the progress of the application as consultation responses have

been received and has been given the opportunity to discuss the content of these. The decision has been made within the 8 week target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework

BACKGROUND PAPERS

Application file, including historic applications,
Consultation responses,
Objections Received,
The City of Durham Local Plan 2004,
Regional Spatial Strategy (RSS),
The National Planning Policy Framework (NPPF)

Committee Report - Version 6 – Effective 1.02.13



Application Site



Planning Services

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.
 Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.
 Durham County Council Licence No. 100022202 2005

Comments

Date 28th February 2013

Scale 1:1250

This page is intentionally left blank

Planning Services

COMMITTEE REPORT**APPLICATION DETAILS**

APPLICATION NO:	PL/5/2010/0532
FULL APPLICATION DESCRIPTION	PRIVATE GARAGE (RETROSPECTIVE)
NAME OF APPLICANT SITE ADDRESS	MR S MADELEY PLOT 1 MAPLE CRESCENT GARAGE SITE SEAHAM SR7 7UT
ELECTORAL DIVISION CASE OFFICER	Dawdon Allan Fenwick 03000261957 dmcentraleast@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL**SITE:**

1. The application site relates to an existing parcel of land situated within the residential estate of Parkside dedicated to accommodating and siting detached garages and vehicle hard standings. It is located off the cul-de-sac of Maple Crescent. At present, the land comprises of a number of concrete hard standings, one timber garage plus an electrical sub-station as well as the garage to which this application relates.

PROPOSAL:

2. Full planning permission is sought for the retention of a detached private concrete sectional garage. The garage occupies an area of land known as Plot 1, Maple Crescent Garage Site, Seaham and lies between the perimeter fencing of an existing electrical substation and the boundary fence of an adjacent neighbouring property 26, Maple Crescent.
3. This application is presented to Committee in response to a request from County Councillor Walker following concerns raised to him by a local resident

PLANNING HISTORY

4. 87/514: Construction of 3no Garages: Approved 07/09/1987

PLANNING POLICY

NATIONAL POLICY:

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'
7. The following elements are considered relevant to this proposal:
8. Part 7 - 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.

The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

REGIONAL PLAN POLICY

9. The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
10. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies by making Orders under Section 109 of the Localism Act 2011. Both the RSS and the stated intention to make the necessary Orders are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. No RSS policies are considered relevant to this application.

LOCAL PLAN POLICY:

District of Easington Local Plan

11. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local

economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.

12. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
13. Policy 73 - Extensions or alterations to existing dwellings, requiring planning permission, will be approved provided that there are no serious adverse effects on neighbouring residents, the proposal is in keeping with the scale and character of the building and the proposal does not prejudice road safety or result in the loss of off street parking.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

14. Parish Council: No response
15. NEDL: No response

INTERNAL CONSULTEE RESPONSES:

16. Asset Management: As landowner they are not prepared to seek removal of the garage
17. Highways: The proposal would be deemed to be acceptable from a highways point of view
18. Legal Services: All of the issues that have been raised to date are land management issues which are not material to the merits of the planning application

PUBLIC RESPONSES:

19. A site notice was posted adjacent to the application site. In addition, eight neighbour notification letters were sent to residential properties in the vicinity of the application site
20. Four letters of objection have been received from the resident of the adjacent neighbouring property 26, Maple Crescent situated to the southwest of the application site
21. The issues raised include encroachment of the garage upon the garden curtilage of the adjacent property, proximity of the garage to the adjacent electrical substation and the overall width of the garage

APPLICANTS STATEMENT:

22. The Local Planning Authority requested the Applicant to provide a statement in support of their application. However at the time of preparing this report, no statement was received

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 <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=111590>.

PLANNING CONSIDERATION AND ASSESSMENT

DETAILED PLANNING CONSIDERATION:

23. The main planning considerations that are relevant to this application are:

- Design and Scale;
- Highways;
- History;
- Objection

DESIGN AND SCALE

24. Policy 35 of the Local Plan suggests the design and layout of development will be required to: '(ii) reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials' and '(iv) have no serious adverse affect on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation'. Similar considerations are included within the National Planning Policy Framework and in particular Part 7: Requiring Good Design. Members will determine this application against the intentions and policies of the NPPF and current Local Plan.
25. In the first instance, the garage has been sited adjacent to an existing detached timber garage of a similar design and footprint as is hereby proposed, within a designated and well established parking area used for the garaging and parking of vehicles belonging to the residents within the surrounding residential area. Indeed, the precedent for such a development has already been set, in principle, by the adjacent detached private garage. Therefore, it is considered the visual impact of the detached garage will be minimal given its relationship to the adjacent and existing detached private garage and vehicle hard standings.
26. It is considered the detached garage is both modest in term of its size and footprint, typically associated with accommodating a vehicle, and occupies an area of existing hard standing to which it was allocated. In turn, the detached garage also benefits from a shallow pitched roof. Whilst it is acknowledged the ridgeline of the detached garage is higher than that of the existing boundary fence of the adjacent neighbouring property 26, Maple Crescent situated to the southwest of the application site, its ridgeline is lower than that of the adjacent electrical substation.
27. The garage also respects the established building line of the adjacent substation and lines through with the solid gable elevation of an adjacent neighbouring property 105, Fern Crescent situated to the north of the application site so as to be unobtrusively sited within the street scene. In turn, the garage is almost 10m from the nearest corner point of the original solid gable wall of the adjacent neighbouring

property 26, Maple Crescent. It is important to note that this adjacent neighbouring property also benefits from an existing integral side garage (91/76: Private Garage: Approved 02/04/1991). Therefore, the visual impact of the detached garage is considered to be minimal given the combination of distance to gable elevation, existing boundary treatment, juxtaposition and orientation of the application site.

HIGHWAYS

28. Durham County Council, Highway Development Management have confirmed the garage has been erected on a dedicated garage site with the benefit of an acceptable driveway to the front and an acceptable vehicular access crossing within the public footway to access onto the unclassified estate road of Maple Crescent, Seaham.

HISTORY

29. It would appear the hard standing to which this application relates has been tight up to the garden curtilage of 26, Maple Crescent for a number of years. It is unclear why this has occurred when all of the remaining nine garage plots have been set in approximately 1.0m from the perimeter of the Council owned garage site. However, this is a fact which is clearly evident when looking at historic maps such as the Ordnance Survey based location plan.
30. It would appear this boundary was hedged for a number of years. An application previously submitted to and determined by the former District of Easington Council during the 1980's suggests this boundary clearly benefited from a hedge (87/514: Construction of 3no Garages: Approved 07/09/1987). This would therefore imply a boundary fence was erected at a later stage.
31. Indeed, the current resident of 26, Maple Crescent contacted the former District of Easington Council and in particular its Assets and Property Management approximately seven years ago with the intention of replacing a boundary fence abutting the Council owned garage site. At the time it was noted "...that the fence has suffered severe vandalism and it is your intention to replace the same". The Asset and Property Management Officer who dealt with the informal enquiry also confirmed, "...I would have no objection to the new fence being located adjacent to the existing fence". This would appear to suggest a boundary fence has been erected sometime between 2005 and 2010.
32. However and for reasons unknown, the Local Planning Authority was never consulted on such a matter to establish whether formal planning permission was required or not. Therefore, the Local Planning Authority find it difficult, if not impossible, to comment upon the position of the existing fencing and is also unable to confirm with any degree of certainty that the replacement fence was erected in the correct place.

OBJECTION

33. It is acknowledged four letters of objection have been received from the resident of an adjacent neighbouring property 26, Maple Crescent situated to the southwest of the application site. It is suggested the detached garage has been erected too close to the perimeter fence of the adjacent electrical substation, whilst at the same time, the resident also believes the detached garage is too wide for the hard standing on which it sits. In turn this has led to the alleged encroachment of the detached garage

over the garden curtilage of the adjacent neighbouring property, through the overhanging of the rainwater guttering.

34. As members will be aware, part of the application process involves a statutory consultation process with the appropriate statutory consultees who are invited to comment upon relevant planning applications. In this particular instance, the Local Planning Authority has not received any comments from NEDL following their consultation. It is therefore assumed NEDL has no objection to the retention of the detached garage in its present location and as a result this would also appear to suggest the detached garage does not have a detrimental impact upon the substation or its associated fencing. Planning officers agree with this.
35. The Local Planning Authority acknowledge the concern of the resident with particular regard to the rainwater guttering along the southwest facing side elevation of the detached garage overhanging the boundary fence of the adjacent neighbouring property. In accordance with statutory requirements, the Applicant has formally served notice upon the appropriate landowners to enable this application to be presented to Committee. Members will be aware, whilst such a requirement validates an application and also mitigates any possible threat of mal-administration, it is ultimately a civil issue between landowners in such instances of boundary disputes.
36. Following a lengthy period of consideration, recent indications from Durham County Council, Asset Management are that whilst they have allowed the boundary fence to be placed on Council land, that land remains in Council ownership. In addition, they are not prepared as land owner to seek removal of the detached garage. In these circumstances, there are considered to be no planning issues arising in respect of any doubts over the lawfulness of the boundary fence given the length of time it has been in place and its general acceptability. Furthermore, the detached garage must be considered on its merits as submitted, as there is no intention of the Council as landowner to seek its relocation. A decision on this planning application has been previously delayed pending Asset Management's consideration, as an intention to require relocation of the garage would have had significant implications for any planning permission granted.

CONCLUSION

37. The detached garage is considered acceptable in terms of design, location and materials. Furthermore, it is considered that the overhanging of the guttering does not have sufficient detrimental impact on the amenities of the adjacent property to justify refusal of this application. As a result, it is considered the proposed development is in keeping with the appearance, character, design and scale of other developments in the vicinity and does not have a detrimental impact upon the amenities of the surrounding area or the wider setting. It is therefore considered the proposal is an acceptable form of development and accords with Policies 1, 35 and 73 of the current Local Plan and Part 7 of the NPPF.

RECOMMENDATION

That the application be **APPROVED** unconditionally

REASONS FOR THE RECOMMENDATION

1. The development was considered acceptable having regard to the following development plan policies:

DISTRICT OF EASINGTON LOCAL PLAN	ENV35 - Environmental Design: Impact of Development
DISTRICT OF EASINGTON LOCAL PLAN	GEN01 - General Principles of Development
DISTRICT OF EASINGTON LOCAL PLAN	HOU73 - Extensions and/or alterations to dwellinghouses
NATIONAL PLANNING POLICY FRAMEWORK	Part 7 - Requiring Good Design

2. In particular the development was considered acceptable having regard to consideration of issues of residential and visual amenity plus highway safety
3. The stated grounds of objection concerning the retention of the private garage and its associated rainwater guttering are not considered sufficient to lead to reasons to refuse the application given the proposed development is in keeping with the appearance, character, design and scale of the street scene and will not have a significantly detrimental impact upon the amenities of the adjacent property.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



Durham County Council
 Received
 - 5 NOV 2010
 Planning Services
 Easington Area Office

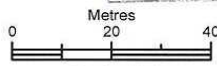
Produced 05.11.2010 from the Ordnance Survey National Geographic Database and incorporating surveyed revision available at this date. © Crown Copyright 2010.

Reproduction in whole or part is prohibited without the prior permission of Ordnance Survey.

Ordnance Survey, the OS Symbol and OS Sitemap are registered trademarks of Ordnance Survey, the national mapping agency of Great Britain.

The representation of a road, track or path is no evidence of a right of way.

The representation of features as lines is no evidence of a property boundary.



Scale 1:1250

Supplied by: **Durham County Council**
 Serial number: 00096700
 Centre coordinates: 442092.25 547859.5

Further information can be found on the OS Sitemap Information leaflet or the Ordnance Survey web site:
www.ordnancesurvey.co.uk

Easington Area Office	
Garage Site	
Maple Drive	
Seaham SR7 7UT	

Planning Services

COMMITTEE REPORT**APPLICATION DETAILS**

APPLICATION NO:	PL/5/2012/0414
FULL APPLICATION DESCRIPTION	CHANGE OF USE FROM PUBLIC OPEN SPACE TO RESIDENTIAL CURTILAGE INCLUDING ERECTION OF FENCING (PARTLY RETROSPECTIVE)
NAME OF APPLICANT	A TURNBULL
SITE ADDRESS	17, 18 & 19 ROXBY WYND, WINGATE, TS28 5PN
ELECTORAL DIVISION	
CASE OFFICER	Laura Eden 03000263980 dmcentraleast@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

Site:

1. The application site relates to a rectangular piece of land measuring approximately 5 metres wide by 47 metres long, situated to the west of 17, 18 and 19 Roxby Wynd and located between the their former rear fence line and a public footpath. The land was formerly completely open, was grassed and planted with trees.

Proposal:

2. Retrospective planning permission is sought for the change of use of the open space to private garden.
3. No.18 Roxby Wynd has already enclosed additional land to the rear of their property with a close boarded timber fence around 1.8 metres high. The plans indicate a tree stump within the new garden area.
4. No.17 Roxby Wynd proposes to erect a fence to enclose additional land as part of their domestic curtilage. The rear fence line would run in line with the adjoining neighbour at no.18 for 4.3 metres before it would splay at an angle in a southeasterly direction. It would then attach to a section of fencing proposed to project 2.5 metres out from the original rear fence line of the property set in slightly from the neighbour's hedge at no.11 Ingram Way.

5. No. 19 Roxby Wynd have not erected any form of enclosure however they have planted various trees and shrubs that run parallel with the existing path to the side of the property and that form the new boundary to the plot.
6. The application is referred to committee at the request of both local divisional members, Cllr O'Donnell and Cllr Maslin.

PLANNING HISTORY

7. The Council originally owned the land that the houses in the estate are now built on, the application site and the larger area of open space to the west. When the land was sold to the housing developer a restrictive covenant was placed on the areas of open space that prohibits any development taking place. There are however legal options for seeking to remove or vary such matters and these are in any event private law issues.
8. Furthermore, there was also an application of a similar nature to the one currently under determination that was withdrawn in September 2012 due to concerns relating to the lack of clarity in the submitted plans (PL/5/2012/0260).

PLANNING POLICY

NATIONAL POLICY:

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'
11. The following elements are considered relevant to this proposal:
12. Part 7 - 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.

The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

REGIONAL PLAN POLICY

13. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end*

date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

14. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies by making Orders under Section 109 of the Localism Act 2011. Both the RSS and the stated intention to make the necessary Orders are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. However, none of the RSS policies are considered relevant to this application.

LOCAL PLAN POLICY:

District of Easington Local Plan

15. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
16. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
17. Policy 73 - Extensions or alterations to existing dwellings, requiring planning permission, will be approved provided that there are no serious adverse effects on neighbouring residents, the proposal is in keeping with the scale and character of the building and the proposal does not prejudice road safety or result in the loss of off street parking.
18. Policy 92 - Amenity open space will be protected unless development would enable enhancement of the remaining play space or alternative provision of equal or enhanced benefit is provided.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

19. Parish Council – Object to the development as want the land to remain as open space.
20. Cllr O'Donnell and Cllr Maslin – Object to the application on the grounds of the covenant that restricts development on this land and the field adjacent to it. They wish to see the land remain as open space and recreational land for the benefit of the whole estate.

INTERNAL CONSULTEE RESPONSES:

21. Highways – No objection raised
22. Trees – The Council has maintained the trees in the estate. One tree in particular had been badly pruned and was diseased. It was considered that the only option was to remove the tree in the interests of health and safety. There is the option to place a Tree Preservation Order on the remaining trees.

PUBLIC RESPONSES:

23. The application was advertised by means of a site notice and neighbour notification letters – Five letters of objection have been received from local residents concerned about the retrospective nature of the development, the loss of open space, that trees have been removed from the site and if allowed further trees could be lost, land ownership issues, the restrictive covenant, the content of the emerging Local Plan and setting a precedent for development. In addition, an eleven signature petition has been received objecting to the development.

APPLICANTS STATEMENT:

24. We have lived at this address since the estate was built in 1999, the land in question has been anything but correctly maintained, grass and shrubs neglected over a long period of time an accumulation of litter, beer cans, pop cans, rubbish and fly tipping, kids making a nuisance by climbing trees and invading our privacy, is all we have experienced over the 14 years, by enclosing this area we have eliminated all the problems but not only that but we have raised the quality of the area. in line with how the estate should look. I myself have already enclose the area with quality fencing which blends well into the original fencing within the estate, my next door neighbour has boarded his ares with shrubs which look very nice.
25. We have followed all the correct channels prior to our adverse possession application, we approached land registry in Durham City, we asked if they could give us the title of who owns the land which they did it was Alexander Developments we explained to our knowledge that the company did not exist after being sold off a few years ago how ever further research showed the did have an address in Manchester, a planning application was sent to the land owners Alexander Development (NE Ltd) and they did not reply to the application, following this we are now in the planning application stage which is on going.

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 <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=120763>

PLANNING CONSIDERATION AND ASSESSMENT

26. The main planning issues in the determination of this planning application are: -
 - Principle of Development
 - Residential Amenity
 - Visual Amenity
 - Trees
 - Other issues raised by the objectors

Principle of Development

27. Policy 92 of the local plan states that amenity open space will be protected from development except in two specific circumstances that relate to the enhancement of the remaining space or alternative replacement provision being made. The proposal currently put forward would not meet either criteria therefore if approved would technically signify a departure from the local plan. It is acknowledged that public open space would normally be protected from development in accordance with the relevant policy however it is important to assess the harm that such a development would cause. Normally the view has been taken that applications could potentially be looked upon favourably unless the enclosure would detract significantly from the amenity of the area, it would represent a piecemeal development rather than a comprehensive application from a group of properties and would establish a precedent that could cumulatively lead to a more substantial reduction in public open space in the area.
28. In the circumstances it is not considered that the development would have a significant adverse impact on amenity that would justify refusal. It is acknowledged that this would not be in strict accordance with policy 92 however in light of specific site circumstances that will be outlined in more detail later in the report it is considered that the principle of development is acceptable. Whilst it does therefore represent a minor conflict with the development plan policy, there are other material considerations which outweigh that.

Residential Amenity

29. Policy 35 and 73 of the local plan aim to ensure that development does not adversely affect the amenity of the people living in the vicinity of the development. These policies are in accordance with the NPPF as it too seeks to secure a good standard of amenity for all existing and future occupants of land and buildings.
30. The closest property affected by the development is 11 Ingram Way, whose front elevation would face the side fence of no. 17 Roxby Wynd. There is in the region of 12 metres between the frontage of 11 Ingram Way and the proposed new opposing fence line at 17 Roxby Wynd. Initially it was considered that the development had the potential to be overbearing and dominant to the neighbouring property as the fence line was originally intended to project straight out to the footpath. Amended plans were therefore submitted showing the fence line splaying away from the neighbouring property that has helped to maintain the open aspect that they are currently accustomed to. Any impact on outlook from 11 Ingram Way is now considered to be at an acceptable level with the amended fence line.

Visual Amenity

31. Alterations to properties are required to reflect the scale and character of the area if they are to be in accordance with policies 35 and 73 of the Easington Local Plan. These policies are not considered to conflict with the general principles of the NPPF and in particular Section 7 dealing with good design as proposals need to respect neighbouring properties and the local area more generally.
32. Due to the size of the application site it is not considered that the open space represented a usable space for residents of the estate especially when they can use the larger field adjacent, although it did contribute to the overall visual amenity of the

area. Furthermore, although some modern residential estates are characterised by pockets of open space/landscaping strips running through the development this is not the case in Roxby Wynd. Being separated from the main area of open space by a public footpath, this is the only amenity strip within the surrounding streets that could reasonably be enclosed as garden extensions therefore its loss would not be considered to conflict with the overall intention for the original estate or general open plan principles. Notwithstanding this, it is acknowledged that the application site occupies a visually prominent position at the entrance to Roxby Wynd and can be viewed uninterrupted across the adjacent open space.

33. As no. 19 Roxby Wynd have not erected a fence, instead opting to plant various shrubs and bushes to mark the new boundary line, more than half the original length of the open space retains a largely open plan feel. The additional planting undertaken is considered to improve the overall visual appearance of the area. Additionally, although no. 18 has already enclosed additional land and no.17 proposes to do so the developments are set back around 25 metres from the main estate road therefore their impact is significantly lessened. It would bring the fence line closer to the public footpath but this is not considered to adversely impact on users of the footpath. It is therefore not considered that the change of use to garden land adversely impacts on visual amenity to the extent that would justify refusal of the application. To ensure this remains the case it is recommended that a condition removing future permitted development rights in relation to enclosures is imposed should members be minded to grant approval. This would ensure that no further fences are erected without the consent of the Local Planning Authority therefore protecting the currently open feel around no.19 and safeguarding against the additional enclosure of land around no.17 to the detriment of the amenities of the occupier of 11 Ingram Way.

Trees

34. The existing trees that lie within the original housing application site (97/586) are afforded protection by virtue of condition 9 of that approval that states the existing trees and hedges on site shall be retained and not felled, lopped or topped without the express consent of the Local Planning Authority. It further goes on to add that any trees that are removed without consent shall be replaced with trees of a similar species and size.
35. As part of the previously withdrawn application (PL/5/2012/0260) the tree officer assessed the proposal and noted that some of the trees were suffering from a decay fungus. They were considered to be suffering significantly and their disease was of an advanced stage therefore felling them in the interests of health and safety was considered to be the only option available. On that basis they were removed. Objectors have referred to trees being removed at the site however these appear to relate to the ones that the tree officer agreed should be removed in the interests of health and safety.
36. In terms of the current application the tree officer does not offer any objection to the scheme. He does note that there is an opportunity to place a Tree Preservation Order (TPO) on the trees and is currently in the process of surveying all the trees within original housing site boundary to ascertain which ones are worthy of such protection. It is hoped that this work will be completed and a TPO in place by the time the application is considered at committee. This would mean that if works were proposed to undertaken to any of the protected trees this could not be done until such time as a formal application had been submitted and approved. It is considered

that the trees do contribute to the amenity value of the area and it would be beneficial to see them retained therefore this formal protection is welcomed.

Objections to the development

37. The main cause of concern for local residents, the Parish and local members appears to relate to a restrictive covenant on the application site and the field adjacent that prohibits development from taking place. It is acknowledged that development has taken place without this covenant being removed however this is a private civil matter for the applicant to resolve. Likewise, it is also known that the application site is not within the ownership of the applicant however from a planning perspective the ownership certificates have been signed correctly. The planning application needs to be assessed against the relevant development plan and determined on that basis. The aforementioned concerns relate to legal issues that are outside the planning realm therefore it would not be appropriate to refuse the application on this basis.
38. It is noted that the majority of the works contained within this application have already been completed however the current planning system allows retrospective submissions to seek to regularise unauthorised works.
39. It is not considered that if approved this decision would set a precedent for future development of a similar nature. As already stated there are no other similar areas within the estate that could be brought forward for development and regardless each application has to be assessed on its individual merits. Further although it is noted that the field adjacent to the development may be allocated as a potential future housing site in the new emerging Durham Local Plan this is considered to be a separate matter and not related to the determination of this development. Approval of this proposal would not be considered to undermine the Local Planning Authority's position on the larger adjacent area of open space.

CONCLUSION

40. To conclude, it is not considered that the development has a significant adverse impact on either visual or residential amenity to an extent that would warrant refusal of the application. By imposing conditions relating to the removal of permitted development rights and potentially placing a Tree Preservation Order on the existing trees it is considered that the open plan feel to this area of the development can remain as well as protecting existing trees. Furthermore, the additional shrubs and bushes planted along the boundary of no.19 are considered to enhance the area. The main cause of objection to the scheme relates to a restrictive covenant and landownership issues which are legal matters that would need to be resolved outside the planning process.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; Design and access statement and location plan received 13/11/2012, Drg. no. G716/2A received 19/12/2012 and application forms received 08/02/2013

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies 1 & 35 of the District of Easington Local Plan.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 or any order revoking or re-enacting that Order, no fences, gates or walls, other than those expressly authorised by this permission shall at any time be erected without the grant of further specific planning permission from the Local planning authority.

Reason: In order that the Local planning authority may exercise further control in this locality in the interests of visual and residential amenity in accordance with saved policies 1 and 35 of the District of Easington Local Plan.

REASONS FOR THE RECOMMENDATION

1. The development was considered acceptable having regard to the following development plan policies:

DISTRICT OF EASINGTON LOCAL PLAN	ENV35 - Environmental Design: Impact of Development
DISTRICT OF EASINGTON LOCAL PLAN	GEN01 - General Principles of Development
DISTRICT OF EASINGTON LOCAL PLAN	HOU73 - Extensions and/or alterations to dwellinghouses
DISTRICT OF EASINGTON LOCAL PLAN	REC92 - Protection of Amenity Open Space
NATIONAL PLANNING POLICY FRAMEWORK	Part 7 - Requiring Good Design

2. In particular the proposal was considered acceptable having regard to consideration of issues of the principle of development, residential amenity, visual amenity and trees.

3. The stated grounds of objection concerning the retrospective nature of the development, the loss of open space, that trees have been removed from the site and if allowed further trees could be lost, land ownership, the restrictive covenant, the content of the emerging Local Plan and setting a precedent for development were not considered sufficient to lead to reasons to refuse the application because the development was considered to be in accordance with the relevant planning policies and the remaining matters are not considered to be planning related.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001
- National Planning Policy Framework

- Consultation Responses



Planning Services

CHANGE OF USE FROM PUBLIC OPEN SPACE TO RESIDENTIAL CURTILAGE INCLUDING ERECTION OF FENCING (PARTLY RETROSPECTIVE) at 17, 18 & 19 ROXBY WYND, WINGATE TS28 5PN PL/5/2012/0414

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005

Comments

Date 2 August 2011

Scale 1:3500

Planning Services

COMMITTEE REPORT**APPLICATION DETAILS**

APPLICATION NO:	PL/5/2012/0437
FULL APPLICATION DESCRIPTION	RESIDENTIAL DEVELOPMENT (OUTLINE) FOR 9 DWELLINGS (RESUBMISSION)
NAME OF APPLICANT SITE ADDRESS	MR A CRACKNELL EDEN TRANSPORT LTD, EDEN HOUSE, HIGH HESLEDEN, TS27 4QF
ELECTORAL DIVISION CASE OFFICER	Blackhalls Barry Gavillet 03000261958 dmcentraleast@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL**Site:**

1. This application site is 1.1 hectares in size and is located on the edge of the settlement of High Hesleden, a village in the south eastern corner of the former District of Easington. The site is just outside of the settlement boundary as identified in the District of Easington Local Plan and therefore is technically classed as being in the countryside.
2. The site is currently occupied by 'Eden Transport Ltd' which operates as a transport depot and haulage business. Much of the surface area of the site is covered with a concrete hardstanding for use by heavy goods vehicles and accommodates various warehousing, storage and maintenance buildings; as such the site is previously developed and is brownfield land.
3. The site slopes gently from north to south and is currently accessed from Mickle Hill Road which is the main road running through the village. It is bound to the north by Mickle Hill Road, to the east by Fillpoke Lane, to the south by agricultural fields and to the west by residential properties.

Proposal:

4. This application seeks outline approval for 9 dwellings and detailed approval for the means of vehicular access. All other detailed matters such as scale, layout, appearance and landscaping would be dealt with by a further application for reserved matters should this outline application be approved. As the application site

is 1.1 hectares, the density of the development would be very low at 8.1 units per hectare.

5. The access to the site would be off Fillpoke Lane to the east and would involve its re-alignment in order to create an adequate visibility splay.
6. The applicant states that the current haulage business needs to expand and therefore intends to move to a more appropriate site on an industrial estate. However, the relocation would incur significant costs and therefore it is intended to market the site as a small residential development, enabling the business to relocate and expand whilst removing an inappropriate business from the village.
7. This application is being reported to committee as it is classed as a major planning application.

PLANNING HISTORY

8. PL/5/2011/0328 – Residential development. Withdrawn.
9. 92/877 – Residential development. Refused.

PLANNING POLICY

NATIONAL POLICY:

10. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
11. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'

The following elements are considered relevant to this proposal:

12. Part 1 - 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 of a low carbon future.
13. Part 4 - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

14. Part 6 - To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
15. Part 7 - 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. Part 10 - Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
17. Part 11 - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

REGIONAL PLAN POLICY

18. The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008, sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.
19. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies by making Orders under Section 109 of the Localism Act 2011. Both the RSS and the stated intention to make the necessary Orders are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. The following policies are considered relevant:
20. Policy 2 - Seeks to embed sustainable criteria through out the development process and influence the way in which people take about where to live and work; how to travel; how to dispose of waste; and how to use energy and other natural resources efficiently.

21. Policy 4 - National advice and the first RSS for the North East advocated a sequential approach to the identification of sites for development, recognising the need to make the best use of land and optimize the development of previously developed land and buildings in sustainable locations.
22. Policy 7 - Seeks to promote the need to reduce the impact of travel demand particularly by promoting public transport, travel plans, cycling and walking, as well as the need to reduce long distance travel, particularly by private car, by focusing development in urban areas with good access to public transport.
23. Policy 8 - Seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.
24. Policy 33 - Seeks to enhance and protect internationally and nationally important sites and species, developing habitat creation whilst seeking to reduce the spread of, and eliminate, invasive species

LOCAL PLAN POLICY:

District of Easington Local Plan

25. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
26. Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
27. Policy 18 - Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
28. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
29. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
30. Policy 37 - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

40. Parish Council – objection. Residents of the village are strongly opposed to building of any kind and the site is not sustainable.
41. Natural England – no objections.
42. Northumbrian Water – no objections subject to a surface water drainage scheme being submitted in order to ensure there is no increase in flood risk.
43. Environment Agency – no objections subject to conditions ensuring any contaminated land is appropriately removed before the development is occupied.

INTERNAL CONSULTEE RESPONSES:

44. Planning Policy – no objections. Replacing the haulage business with a small residential development would improve residential amenity in the village and would allow the business to relocate to an appropriate location and create further employment. These considerations outweigh the policy conflict.
45. Highways Officer – the proposed access to the site is acceptable and the development would result in the reduction in traffic movements particularly from heavy goods vehicles.
46. Landscape Officer – no objections subject to an appropriate landscaping scheme. The proposals would improve the visual amenity of the area.
47. Ecology Officer – no objections subject to appropriate ecological mitigation being conditioned.
48. Archaeology Officer – no objections subject to a condition requiring a field assessment before development commences.
49. Tree Officer – no objections subject to appropriate provision of tree and hedgerow protection during development.
50. Environmental Health – no objection subject to conditions requiring a contaminated land assessment and any necessary remediation measures being implemented, and a restriction on construction hours in the interests of residential amenity.

PUBLIC RESPONSES:

51. The application has been advertised by way of a press notice, site notices and letters to individual residents. 31 letters of objection have been received from nearby residents as a result of the consultation exercise. The main areas of concern are that the proposal is contrary to policy and is in an unsustainable location for residential development as there are no community facilities nearby. In addition, there are concerns that the proposal would lead to an increase in traffic on an unsuitable road and that the proposed access to the site is dangerous. Other areas of concern include that the proposed dwellings would be unaffordable, that the development would increase flood risk, that the site has archaeological potential and that there would be a negative impact on the character of the village.

52. A letter of objection has also been received from the County Councillor for the area which echoes the concerns of residents and states that local residents should be able to decide the future of the village through the adoption of a Neighbourhood Plan.

APPLICANTS STATEMENT:

53. The land subject of the application is classified as 'brownfield' land where, in the planning balance, development is to be preferred over greenfield sites. By contrast, several of the sites identified in the Council's latest SHLAA are currently 'greenfield'.
54. The Design and Access Statement submitted with the application shows how a housing scheme might be successfully incorporated into the site. The design concepts have taken account of:
- the setting and appearance of the existing village
 - site constraints
 - advice from the Highways Department
 - consultations with the Parish Council.
55. Importantly, and in the light of community consultation and feedback, the original proposal for 19 dwellings has been significantly diluted to only 9 houses.
56. In this way the proposal represents a successful solution to the enhancement of this part of High Hesleden, as supported by the response of the professional advisors in the Area Planning Policy Team.
57. The publication of the National Planning Policy Framework (NPPF) in March 2012 has provided a new starting point for the determination of planning applications and appeals. Crucially, the current proposal will contribute in a positive manner to the three key criteria (economic, social and environmental) set out in Paragraph 7 of NPPF.
- Approval of this scheme would help facilitate relocation of the transport depot to a more sustainable location (the **economic dimension**) where the prospect of growth and additional employment can be more realistically achieved without burdening the village of High Hesleden.
 - The provision of a small number of additional houses will not 'swamp' the village but will help maintain its viability and those of its few amenities, as well as providing opportunities for those who wish to live in this rural setting without the adverse amenity-related impacts associated with the current operations (the **social dimension**).
 - The relocation of the transport depot and replacement with housing will mean that, both visually, and in terms of traffic/noise reduction and highway safety improvements, the ambience of this part of High Hesleden will be significantly enhanced by the proposed development (the **environmental dimension**).
58. In short, the benefits to accrue from approval of this scheme are:

- It will replace commercial transport depot and all its associated disadvantages with a wholly compatible residential land use.
 - It will rid the village of several large and generally unattractive industrial / commercial buildings.
 - It will remove from the pastoral village environs the high level of HGV movements through the village and the associated parking, manoeuvring and servicing of such vehicles at the site.
 - It will result in an improved junction design (supported by the County Council as Highways Authority) that will provide a 'traffic-calming' measure and increased safety for both residents and through traffic.
 - It will allow the commercial activity to relocate to a better site (on an industrial estate within the County Council's administrative area) where the potential for expansion and further job creation will be a much better prospect.
 - This, in turn, means that any concern about further growth of a potential bad neighbour activity in close proximity to houses will not be an issue for residents of High Hesleden.
59. Perhaps those who argue simply that the scheme conflicts with planning policy fail to appreciate the wider picture of the benefits to accrue. In the 'planning balance' the proposal not only justifies an acceptable departure from extant policy but, in reality, also underscores what good planning is all about.
60. Accordingly, in light of the supporting evidence submitted by the applicant, it is respectfully requested that planning permission be granted for the proposed development.

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 <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=121084>

PLANNING CONSIDERATION AND ASSESSMENT

61. Local planning authorities must determine planning applications in accordance with the statutory Development Plan, unless material considerations indicate otherwise. If the Development Plan contains material policies or proposals and there are no other material considerations, the application should be determined in accordance with the Development Plan. Where there are other material considerations, the Development Plan should be the starting point, and other material considerations should be taken into account in reaching a decision.
62. In this instance, given that the application seeks outline approval with access being the only detailed matter, the main relevant considerations are the relevant planning policies and highways issues. Of particular relevance are the accordance with the saved policies from the District of Easington Local Plan, the Regional Spatial Strategy (RSS), the emerging County Durham Plan (CDP) and the Governments recently published National Planning Policy Framework (NPPF). Other material considerations include the benefits arising from the relocation of the business, ecology and trees, flood risk, archaeology and the concerns raised by local residents.

63. The key planning policy issues arising from this proposal which require due consideration in the determination of the application are the sustainability of the location for residential development and the degree of accord with planning policies.
64. This application site is located outside of, but immediately adjacent to the existing settlement boundary for High Hesleden. In terms of the saved policies in the District of Easington Local Plan, Policy 3 is most relevant. Policy 3 stipulates that in order for proposals beyond settlement limits to be approved there must be significant justification within other policies to warrant consent. The proposal is contrary to saved Local Plan Policy 3 as it is beyond settlement boundaries as defined in the District of Easington Local Plan. Consequently, there would need to be other 'material considerations' to warrant a decision which is not in accordance with adopted policy.
65. The RSS sets out the broad development strategy to 2021 and beyond. It identifies broad strategic locations for new housing developments so that the need and demand for housing can be addressed in a way that reflects sustainable development principles.
66. The locational strategy for the north east region, enshrined in Policy 6 of RSS, aims to support the development and redevelopment of the two city regions (Tyne & Wear and Tees Valley). This will be achieved by concentrating the majority of new development and house building in the key conurbations, main settlements and regeneration towns, whilst allowing development appropriate in scale within secondary settlements. The locational strategy acknowledges the need to ensure the success of the region's housing market restructuring initiatives, the reuse of previously developed land and a reduction in the need to travel to access work, services, and facilities.
67. The RSS recognises that in County Durham, the towns in the regeneration areas continue to be the main focus for development and recognises the importance of ensuring that the function and vitality of these places is protected and enhanced.
68. As part of the on-going production of 'The County Durham Plan' (CDP), a 'Settlement Study' has been carried out. This study looks at the amenities possessed by the settlements across County Durham, including public transport, public and private services, and access to jobs. The findings indicate that High Hesleden is a group 6 settlement (hamlet). Residents in these types of settlement commonly need to travel to workplaces, schools and other frequently-used facilities. The conclusion which can be drawn from this is that the village is not well served by services and facilities, and therefore would usually be classed as an unsustainable location for residential development.
69. In terms of the NPPF, this advises that there should be a presumption in favour of sustainable development. The overriding message is that new development that is sustainable in terms of the environment and the economy should go ahead without delay. It carries a presumption in favour of sustainable development and notes that housing applications should be considered in the context of this presumption.
70. Paragraph 55 of the NPPF notes that local planning authorities should avoid new isolated homes in the countryside unless there are special circumstances which would justify approval. In this regard, development of the haulage depot site would

constitute re-use of previously developed (brownfield) land and would lead to an enhancement to the immediate setting of that area of the village by replacing the haulage business with a small housing development. The policy also notes that housing should be located where it will 'enhance or maintain' the vitality of rural communities. For instance where there are groups of smaller settlements such as, in this instance, High Hesleden, Hesleden, Castle Eden and Blackhall, development in one village may support services in a village nearby.

71. In planning policy terms, it is considered that this proposal conflicts with the development plan in respect of policy 3 of the District of Easington Local Plan and is not considered to be a sustainable location for residential development given the lack of community facilities in High Hesleden. However, when determining applications of this nature, Local Planning Authorities should consider any other material planning considerations as well as conformity with the current Plan. Therefore, officers have gone on to consider whether there are material considerations capable of outweighing this conflict.

Highways Issues

72. The Proposed access and re-alignment of Fillpoke Lane is acceptable from a highways point of view. The resultant arrangement at the C81 Mickle Hill Road/Fillpoke Lane junction is seen as a significant improvement on the unsatisfactory layout that exists at present.
73. The proposed residential development is small in scale and as such traffic generation would be deemed to be negligible. A typical private house generates an average of in the order of 4 outbound and 4 inbound vehicle movements per day. The proposed 9 dwellings would therefore generate approximately only 36 outbound and 36 inbound vehicle movements per day. It can be seen that the daily and weekday peak hours vehicle trip generation associated with the 9 dwellings is low and in the peak hours would equate to one vehicle movement being generated on average every 7.5 minutes.
74. The resultant residential 72 two way vehicle movements would be less than the 100 two way vehicle movements referred to in the Planning Statement, the latter of which would include a significant number of heavy goods vehicles in view of the site's current use as a transport depot. The removal of the heavy goods vehicle traffic from this settlement associated with the site's current use would be seen as a positive outcome of the proposals from the Highway Authority's point of view.

Benefits arising from the relocation of the business

75. Though the proposal is technically contrary to local plan policy 3, if the site in question were not in its present use (an unusual use in this type of location, which would normally be considered a 'bad neighbour' use adjacent to a residential area) and was for example greenfield land, then the case for housing development would undoubtedly be diminished.
76. However the proposal to relocate the haulage business to a more appropriate location and to improve the area through smallscale development for residential use demands a different debate.
77. Firstly, the removal of the haulage business from the village and its replacement with 9 dwellings (which would be restricted to 9 by a planning condition), in the opinion of

Highways Officers is likely to result in a reduction in traffic movements including those of large haulage vehicles. As concluded by the Highways Officer, the resultant residential vehicle movements are likely to be considerably less than the existing vehicle movements, the latter of which includes a significant number of heavy goods vehicles. In view of the site's current use as a transport depot, the removal of the heavy goods traffic from this settlement would be seen as a positive outcome of the proposals from the Highway Authority's point of view.

78. Secondly, the relocation of the business, which would be secured through a legal agreement, would not only remove a 'bad neighbour' use from the village but would also allow the business to relocate to a more sustainable site on an industrial estate in the area, giving the opportunity for expansion and employment creation. Furthermore, if the business increased its operations from the current site or if the business was sold on, it could potentially result in a far worse situation in terms of traffic movements, noise and disturbance than currently exists, to the detriment of the village.
79. It is important to highlight that the previous proposal from 2011 identified in the Planning History section, which involved 19 dwellings was withdrawn as it was considered disproportionate to the level of local service provision. However the current proposal has reduced the number of dwellings to 9 and therefore results in much less, if any amenity impact to the existing community, especially considering that the site is located at the edge of the settlement, adjacent the two main roads which access the village. On the contrary it is considered that the development would result in an improvement to residential amenity.
80. To summarise the benefits of the business relocation, consent would primarily achieve the relocation of the haulage firm to a more appropriate, sustainable location on an industrial estate. This would mean that haulage vehicles would not need to access the village, negotiating narrow country roads to do so and would result in a reduction in traffic movements. A more appropriate location will enable the firm to expand and create more jobs in doing so, another important benefit. The amenity impact relating to the comings and goings of haulage vehicles in the village would be removed, the scaled down residential proposal would have a minimal amenity impact given its edge of settlement location and it would also replace a present 'bad neighbour' use with a use in keeping with the residential character of the rest of the settlement.

Ecology and Trees

81. The presence of a European Protected Species (EPS) such as bats is a material planning consideration. The Conservation of Habitats and Species Regulations 2010 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
82. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and also consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.

83. As the nature of the site could mean that a protected species may be disturbed by the proposed development, the applicant has submitted a habitat survey which has been assessed by the Council's ecology officers. The survey has found that no protected species would be adversely affected by the proposed development, ecology officers concur with this conclusion. Given that there is no requirement to obtain a licence from Natural England then there is no need for the LPA to apply the derogation tests in order to fulfill its obligations under the Conservation of Habitats and Species Regulations 2010.
84. Notwithstanding the above, a condition will be required which would ensure mitigation measures are carried out including the provision of habitat creation. Subject to this mitigation, it is considered that the proposals would be in accordance with saved policy 18 of the Local Plan and part 11 of the NPPF.
85. In addition to the above, it is noted that there are a number of mature trees and hedgerows around the boundary of the site. Given the proximity of the proposed development it is considered that a further condition should be imposed which requires these hedgerows and trees to be protected during construction.

Flood Risk

86. Both Northumbrian Water and the Environment Agency have been consulted as part of the application process. No objections have been raised by either subject to a surface water drainage scheme being submitted in order to ensure there is no increase in flood risk. Subject to this condition it is not considered that the development would lead to any additional flood risk than that which already exists and therefore the proposals would accord with part 10 of the National Planning Policy Framework.

Archaeology

87. This proposal is slightly over 1 hectare, and lies close to the centre of the village of High Hesleden, almost certainly of medieval origin. Whilst part of the development area is likely to have been the tofts (plots of land behind the settlement) the frontage onto the road does have potential for the remains of buildings (crofts) to survive.
88. The history of the surrounding area is quite poorly understood which makes it difficult to assess the overall sensitivity of the site at this stage. Therefore a condition should be imposed which requires the developer to submit the results of a field assessment in support of any future reserved matters applications.
89. Subject to this condition it is considered that the proposals would accord with part 12 of the National Planning Policy Framework which seeks to protect sites with archaeological potential.

Concerns raised by local residents

90. As noted above, 31 letters of objection have been received from nearby residents along with objections from a local councillor and Parish Council as a result of the consultation exercise.

91. The main areas of concern are that the proposal is contrary to policy and is in an unsustainable location for residential development as there are no community facilities nearby. This has been acknowledged, however it is considered that other material planning considerations relating to this small scale residential proposal outweigh this conflict.
92. In addition, there are concerns that the proposal would lead to an increase in traffic on an unsuitable road and that the proposed access to the site is dangerous. As discussed above, the Highways Authority has stated that the proposed re-alignment of Fillpoke Lane would be an improvement on the current layout and that the proposal would result in a decrease in traffic, particularly from heavy goods vehicles.
93. Other areas of concern include that the proposed dwellings would be unaffordable. Although desirable, there is no planning policy requirement, nor would it be viable to insist on affordable housing provision on sites of this scale. In addition, a small development of executive type housing would contribute toward a more mixed community and is likely to generate less traffic than a higher density, affordable housing development.
94. In terms of flood risk, both Northumbrian Water and the Environment Agency have been consulted as part of the application process and no objections have been raised subject to conditions.
95. In terms of archaeological potential, Archaeology Officers have assessed the proposals and have no objections subject to conditions requiring a field assessment.
96. Finally, there are concerns that there would be a negative impact on the character of the village. This view is not shared by officers who consider a small scale, low density residential development to be far more appropriate than a haulage business which generates more traffic, including that by heavy goods vehicles, and which has the potential to create a more serious impact on residential amenity in terms of noise and disturbance, traffic generation and other pollutants should it wish to expand in its current location.
97. All of the issues raised by residents have been fully assessed either within this report or during the planning application process. The objections are not considered to outweigh the benefits of the proposal or give rise to grounds for refusal of planning permission.

CONCLUSION

98. It is acknowledged that under normal circumstances, this application site would be considered an unsustainable location for residential development. However, it is considered in this instance that there are other material planning considerations and special circumstances which outweigh the conflict with the development plan and national policy.
99. Specifically, it is considered that replacing the haulage business with a small residential development of low density would reduce traffic movements, particularly from heavy goods vehicles and therefore improve residential amenity in the village. It would also allow the business to relocate to an appropriate, sustainable location on an industrial estate, to expand and create further employment. These special circumstances are considered to outweigh the policy conflict and therefore, subject to

a legal agreement securing the relocation of the business before commencement of the development, and conditions including limiting the development to a maximum of 9 dwellings, officers recommend approval of planning permission.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions and subject to the entering into of a Section 106 agreement to secure the provision of:

- i. The relocation of Eden Transport Ltd to a site within County Durham before commencement of the development.

Conditions:

1. Approval of the details of the appearance, landscaping, layout and scale of the development (hereinafter called "the reserved matters") shall be obtained in writing from the Local planning authority before any development is commenced.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. Application for approval of reserved matters shall be made to the Local Planning Authority before the expiration of three years beginning with the date of this permission and the development must be begun not later than the expiration of two years from the approval of the reserved matters, or in the case of approval on different dates, the date of approval of the last of the reserved matters to be approved.

Reason: Required to be imposed pursuant to Section 92 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

3. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References; Site and location plans as existing - 47045460/100/01 Rev A, Proposed access and re-alignment of Fillpoke Lane - 47045460/100/02 Rev A.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies 1 & 35 of the District of Easington Local Plan.

4. No development shall commence until a detailed landscaping scheme has been submitted to, and approved in writing by, the Local Planning Authority. No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above. 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 interests of the visual amenity of the area and to comply with saved policies 1 and 35 of the District of Easington Local Plan.

5. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with saved policies 1 and 35 of the District of Easington Local Plan.

6. No development shall take place unless in accordance with the mitigation detailed within section 6 of the Phase 1 habitat survey and ecological risk appraisal (URS Scott Wilson, September 2011).

Reason: To conserve protected species and their habitat in accordance with part 10 of the National Planning Policy Framework and saved policy 18 of the District of Easington Local Plan.

7. Prior to the commencement of development an Arboricultural Implications Assessment and Tree Constraints Plan shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, no construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges as indicated on the approved dimensioned tree protection plan as to be retained are protected in accordance with BS.5837:2012.

Reason: In the interests of the visual amenity of the area and to comply with saved policies 1 and 35 of the District of Easington Local Plan.

8. No development shall commence until a scheme for the provision of surface water drainage works has been submitted to and approved in writing by the Local planning authority. The drainage shall be completed in accordance with the details and timetable agreed.

Reason: To ensure the discharge of surface water from the site does not increase flood risk in accordance with part 10 of the National Planning Policy Framework.

9. The development hereby permitted shall not be commenced until:
 - a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site

investigation works/Quantitative Risk Assessment . Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority if identified as being required following the completion of the desk-top study.

- b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority.
- c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority.
- d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme.
- e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material shall be agreed with the Local Planning Authority

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risks to workers, neighbours and other offsite receptors in accordance with part 11 of the National Planning Policy Framework.

10. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document that has been submitted to, and approved in writing, by the local planning authority. The strategy shall include details of the following:
- i. Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
 - ii. Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.
 - iii. Post-fieldwork methodologies for assessment and analyses.
 - iv. Report content and arrangements for dissemination, and publication proposals.
 - v. Archive preparation and deposition with recognised repositories.
 - vi. A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.
 - vii. Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.
 - viii. A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The development shall then be carried out in full accordance with the approved details.

Reason: To comply with paragraph 135 and 141 of the National Planning Policy Framework.

11. Prior to the development being occupied, a copy of any analysis, reporting, publication or archiving required as part of the approved mitigation strategy as secured by condition 10, shall be deposited at the County Durham Historic Environment Record.

Reason: To comply with paragraph 141 of National Planning Policy Framework to ensure that the information generated becomes publicly accessible.

12. Notwithstanding the details submitted, this permission relates to a maximum of 9 dwellings on the site.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with parts 4 and 7 of the National Planning Policy Framework and saved policies 1 and 35 of the District of Easington Local Plan.

13. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external 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 interests of the appearance of the area and to comply with saved policies 1 and 35 of the District of Easington Local Plan.

14. Prior to the commencement of the development details of means of enclosure shall be submitted to and approved in writing by the Local planning authority. The enclosures shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate.

Reason: In the interests of the visual amenity of the area and to comply with saved policies 1 and 35 of the District of Easington Local Plan.

15. In relation to the development hereby permitted, no machinery shall be operated, no development shall be carried out and no construction traffic shall enter or leave the site outside the hours of 0800 hours to 1800 hours Mondays to Fridays, 0800 hours to 1300 on Saturdays and not at all on Sundays or Bank Holidays.

Reason: In the interests of residential amenity and to comply with saved policies 1 and 35 of the District of Easington Local Plan.

16. Before the occupation of any dwellings hereby approved, the proposed access and re-alignment of Fillpoke Lane shall be completed and available for use in accordance with plan reference 47045460/100/02 Rev A.

Reason: In the interests of highway safety and to comply with saved policy 36 of the District of Easington Local Plan.

REASONS FOR THE RECOMMENDATION

1. The development was considered acceptable having regard to the following development plan policies:

DISTRICT OF EASINGTON LOCAL PLAN	ENV03 - Protection of the Countryside
DISTRICT OF EASINGTON LOCAL PLAN	ENV18 - Species and Habitat Protection
DISTRICT OF EASINGTON LOCAL PLAN	ENV35 - Environmental Design: Impact of Development
DISTRICT OF EASINGTON LOCAL PLAN	ENV36 - Design for Access and the Means of Travel
DISTRICT OF EASINGTON LOCAL PLAN	ENV37 - Design for Parking
DISTRICT OF EASINGTON LOCAL PLAN	GEN01 - General Principles of Development
NATIONAL PLANNING POLICY FRAMEWORK	Part 1 - Building a strong, competitive economy
NATIONAL PLANNING POLICY FRAMEWORK	Part 10 - Meeting the challenge of climate change, flooding and coastal change
NATIONAL PLANNING POLICY FRAMEWORK	Part 11 - Conserving and enhancing the natural environment.
NATIONAL PLANNING POLICY FRAMEWORK	Part 4 - Promoting sustainable transport
NATIONAL PLANNING POLICY FRAMEWORK	Part 6 - Delivering a wide choice of high quality homes
NATIONAL PLANNING POLICY FRAMEWORK	Part 7 - Requiring Good Design
REGIONAL SPATIAL STRATEGY	Policy 2 - (Sustainable Development)
REGIONAL SPATIAL STRATEGY	Policy 33 - (Biodiversity and Geodiversity)
REGIONAL SPATIAL STRATEGY	Policy 4 - (Sequential Approach)
REGIONAL SPATIAL STRATEGY	Policy 7 - (Connectivity and Accessibility)
REGIONAL SPATIAL STRATEGY	Policy 8 - (Protecting and Enhancing the Environment)
2. In particular the development was considered acceptable having regard to consideration of issues of the development plan and other material planning considerations including the relocation of the haulage business, the scale of the development, highways issues, ecology, archaeology and flood risk.
3. All of the issues raised by residents have been fully assessed either within this report or during the planning application process. The objections are not considered to outweigh the benefits of the proposal or give rise to grounds for refusal of planning permission.

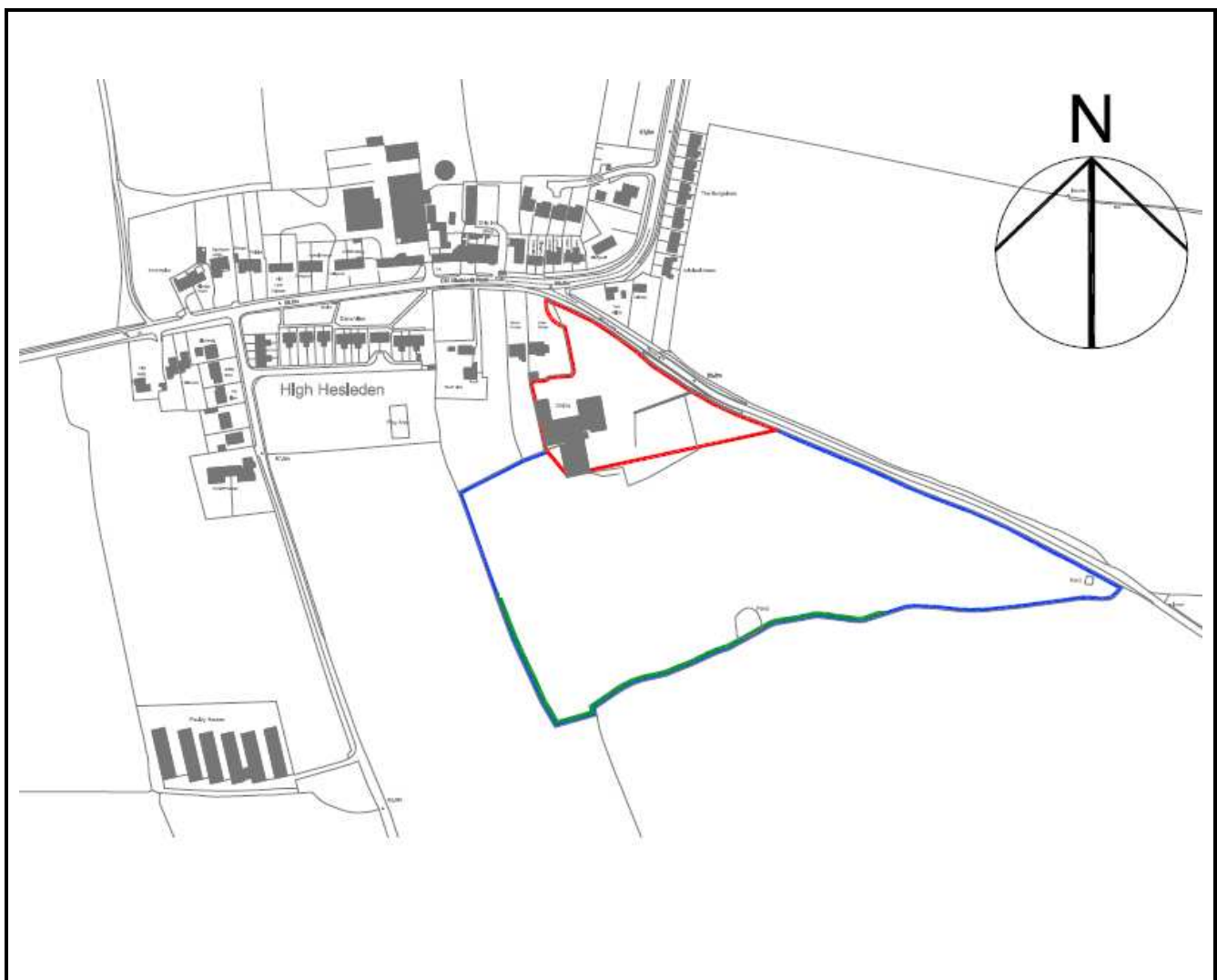
STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant and nearby residents in a positive and proactive manner based on seeking solutions to problems arising during the application process. The decision has been made within the target provided to the applicant on submission and in compliance with the requirement in the National Planning Policy Framework to promote the delivery of sustainable development.

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- Design and Access Statement
- North East of England Plan Regional Spatial Strategy to 2021 (RSS) July 2008
- District of Easington Local Plan 2001

- National Planning Policy Framework
- Consultation Responses





Planning Services

Proposed: **RESIDENTIAL DEVELOPMENT (OUTLINE) 9 DWELLINGS (RESUBMISSION) at EDEN TRANSPORT LTD EDEN HOUSE, HIGH HESLEDEN, TS27 4QF. PL/5/2012/0437.**

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.

Comments

Date 12th March 2013

This page is intentionally left blank

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	PL/5/2012/0303
FULL APPLICATION DESCRIPTION:	Erection of 5 stables, tack room, hay store and formation of access
NAME OF APPLICANT:	Mr J O'Connor
ADDRESS:	Land adjacent to road from High Hesleden to Monk Hesleden
ELECTORAL DIVISION:	Blackhall
CASE OFFICER:	Henry Jones 03000 263 960 Henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Site:

1. The application site relates to a field of 3.24 hectares located to the eastern side of the road which leads from High Hesleden to Monk Hesleden. The road bounds the site to the west with adjacent fields to the east and north. To the south of the application site lies the Haswell to Hart countryside walkway, formerly the location of a railway line. A mixture of hedgerow and fencing enclose the site.
2. The application site is located beyond any settlement boundary within the countryside, the countryside walkway to the south is designated as a wildlife link and this walkway also marks the commencement of a designated area of high landscape value.

Proposal:

3. The application seeks the erection of an L-shaped single storey building comprising of 5 stables, a tack room and hay store. The building would be sited in the north western corner of the field comprising the application site.
4. The proposed building would be served by a new access road and a hardstand apron would be located to the front of the stable building. The plans propose to construct the building with a blockwork and rendered finish, with bark coloured lightweight roof tiles and timber stable doors. The proposed stable block would be a total of 21.9m in length, 6.04m at its widest point with a ridge height of 4.4m.
5. This application is being referred to Committee at the request of the Local Divisional Member.

PLANNING HISTORY

6. A planning application for the erection of 15 stables, a barn, associated access and hardstanding was withdrawn in 2012.
7. Although not part of the application site, planning permission was granted for the erection of a stable block of a similar scale to that proposed within this application on a neighbouring field to the east in December 2011.
8. An application also on nearby land south of Dene View, High Hesleden for the change of use of land for equestrian purposes and erection of stable block has just been received.

PLANNING POLICY

NATIONAL POLICY

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.

The following elements are considered relevant to this proposal:

10. *NPPF Part 1 – Building a Strong and 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 of a low carbon future.
11. *NPPF Part 4 – Promoting Sustainable Transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
12. *NPPF Part 7 – Requiring Good Design.* 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.
13. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

14. *NPPF Part 11 – 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 and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>

REGIONAL PLANNING POLICY

15. *The North East of England Plan - Regional Spatial Strategy to 2021 (RSS) July 2008* sets out the broad spatial development strategy for the North East region for the period of 2004 to 2021. The RSS sets out the region's housing provision and the priorities in economic development, retail growth, transport investment, the environment, minerals and waste treatment and disposal. Some policies have an end date of 2021 but the overall vision, strategy, and general policies will guide development over a longer timescale.

16. In July 2010 the Local Government Secretary signalled his intention to revoke Regional Spatial Strategies with immediate effect, and that this was to be treated as a material consideration in subsequent planning decisions. This was successfully challenged in the High Court in November 2010, thus for the moment reinstating the RSS. However, it remains the Government's intention to abolish Regional Spatial Strategies by making Orders under Section 109 of the Localism Act 2011. Both the RSS and the stated intention to make the necessary Orders are material planning considerations and it is a matter for each Planning Authority to decide how much weight can be attached to this stated intention, having regard to the evidence base which informs the RSS. The following policies are considered relevant:

17. *Policy 2 - Sustainable Development* seeks to embed sustainable criteria through out the development process and influence the way in which people take about where to live and work; how to travel; how to dispose of waste; and how to use energy and other natural resources efficiently.

18. *Policy 4 - The Sequential Approach to Development* National advice and the first RSS for the North East advocated a sequential approach to the identification of sites for development, recognising the need to make the best use of land and optimize the development of previously developed land and buildings in sustainable locations.

19. *Policy 7 - Connectivity and Accessibility* seeks to promote the need to reduce the impact of travel demand particularly by promoting public transport, travel plans, cycling and walking, as well as the need to reduce long distance travel, particularly by private car, by focusing development in urban areas with good access to public transport.

20. *Policy 8 - Protecting and Enhancing the Environment* seeks to promote measures such as high quality design in all development and redevelopment and promoting development that is sympathetic to its surroundings.

21. *Policy 11 – Rural Areas* states that planning proposals, should support the development of a vibrant rural economy that makes a positive contribution to regional prosperity, whilst protecting the Region’s environmental assets from inappropriate development.
22. *Policy 31 – Landscape Character* seeks to protect statutorily protected landscapes, promote landscape management plans and initiatives at a national, regional and local level, have regard to landscape character assessments and utilise character based planning tools inform and promote high quality development.
23. *Policy 33 - Biodiversity and Geodiversity* requires planning proposals to ensure that the Region’s ecological and geological resources are protected and enhanced to return key biodiversity resources to viable levels.
24. *Policy 35 - Flood Risk* promotes a proactive approach to reducing flood risk and advises that risk should be managed with regards to tidal effects, fluvial flooding and flooding from surface water runoff.

LOCAL PLAN POLICY:

23. *Policy 1- General Principles of Development* states that due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
24. *Policy 3 – Protection of the Countryside* states that development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
25. *Policy 7 – Protection of Areas of High Landscape Value* states development which adversely affects the character, quality or appearance of Areas of High Landscape Value (AHLV) will only be allowed if the need outweighs the value of the landscape and there is no alternative location within the County.
26. *Policy 16 – Nature Conservation Importance, Local Nature Reserves and Ancient Woodlands* states that development which adversely affects a designated Site of Nature Conservation Importance/Local Nature Reserve/ancient woodland will only be approved where there is no alternative solution and it is in the national interest.
27. *Policy 17 – Identification and Protection of Wildlife Corridors* states that development which adversely affects a wildlife corridor/link will only be approved where compensatory features are provided.
28. *Policy 18 – Species and Habitat Protection* states that development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
29. *Policy 35 – Design and Layout of Development* states that the design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

30. *Policy 36 – Design for Access and Means of Travel* seeks to ensure good access and encourage alternative means of travel to the private car.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=7534>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

31. The Highway Authority have raised no objections to the proposed development subject to the proposed access being constructed in accordance with the requirements of Section 184(3) of the Highways Act and subject to improved sight visibility splays to at least 2.4m x 90m. Any hedgerow within these splays would have to be reduced in height and maintained at a height of 900mm regularly throughout the year.
32. The Environment Agency have raised no objections to the development.
33. The Parish Council have commented on the application and understand that this is the third application for stables in the immediate area and that an approval could lead to a precedent being set for more stable developments. Concerns are raised that if this application was approved then residential development would follow and reassurance is sought that any breaches of planning would be robustly enforced by the Local Planning Authority. Concerns are raised over the suitability of the lane for an access to the development despite the comments raised by the Highway Authority. The Monk Hesleden Parish Plan is quoted and this states that residents are opposed to newbuild. Reference is made to the NPPF and the guidance on protecting the Green Belt. The Parish Council have also stated that it is understood that a temporary shelter has also been erected on the land.

INTERNAL CONSULTEE RESPONSES:

34. Ecology have supplied two responses to the application. Within the first response no objections were raised to the application in principle and the contents of the submitted Great Crested Newt Risk Assessment report though the working method statement should be conditioned on any approval. Further comments were received with regards to the potential impact upon the wildlife link as the visibility splay sought by the Highway Authority would require the removal of hedging/landscaping adjacent to the Haswell to Hart walkway. Ecology stated that should the visibility splay require only minor pruning this would be acceptable but if more substantial tree removal was necessary then objection would be raised as the habitats need protection and connectivity retained.

PUBLIC RESPONSES:

35. Five letters of representation have been received from local residents in relation to the development. The Local Divisional Member has also raised objections with regards to the application supporting the views of local residents and also stating that any proposed upkeep of hedges as required to provide a visibility splay may cause problems in terms of public safety and cost to the Council.

36. The objections raised relate in part to highways implications with the increase in traffic from the comings and goings and tending to the horses of concern. Emphasis is placed on how narrow the road serving the proposed development is and reference is made to recent increases in traffic in the area as a result of the house building on the old brewery site Castle Eden and the popularity of a nearby animal farm. It is not clear from the application exactly how the site would be used or where the horses would be exercised. Concern is raised that the proposed stable block could be the first step towards a residential development.
37. Concerns are raised that the area is becoming “saturated” with stable developments and there is more than enough to serve the local community already. Objection is raised to the cumulative affect of the development with the approved stables and poultry sheds nearby. Objection is raised to the impact on the beauty and tranquillity of the area. The application site forms part of a larger field a section of which has been sold off. Granting planning permission in this instance could lead to a precedent of similar developments on other small fields.
38. A further public response has been received, understood to be from the owner of the adjacent field to the north, who has stated that they would raise no objections to the necessary trimming of hedges on their land in regards to any visibility splay requirements.

APPLICANTS STATEMENT:

39. The application has been accompanied by a supporting statement.
40. The statement explains that the proposed development is sought solely for the use of the applicant and his family. Additional grazing land is not currently being sought by the applicant though in the future the applicant may seek to rent more land for this purpose. As the stables are not manned the applicant would be looking to attend the site twice a day to tend to the horses.
41. The proposed stable building itself is to be constructed of rendered blockwork with lightweight roofing tiles and timber, stained stable doors.

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 <http://planning.easington.gov.uk/portal/servlets/ApplicationSearchServlet?PKID=119581>

PLANNING CONSIDERATIONS AND ASSESSMENT

42. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, impact upon the character and appearance of the area, impacts on highway safety, ecology and flood risk.

The Principle of the Development

43. The Local Plan does not contain a saved policy specifically relating to stables for personal use. The application site is located within the countryside. Policy 3 of the Local Plan seeks to protect the countryside from inappropriate development. Generally speaking the policy considers that development within the countryside, beyond settlement boundaries is unacceptable except in certain exceptional

circumstances. However, the policy justification does state that within the countryside some forms of recreational development can be appropriate and stables for personal use can reasonably be considered as such.

44. The NPPF nor the RSS contain any specific policies relating to the development of stables for personal use in the countryside. However, the NPPF advises where the development plan is absent, silent or relevant policies are out-of-date, planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
45. Objection from the Parish Council includes reference to the need to protect the Green Belt and that the Monk Hesleden Parish Plan is opposed to new development. The application site is, however, not located within the designated Green Belt but simply the countryside so Green Belt policy does not apply in this instance. With regards to the Parish Plan though it is appreciated that this may include opposition towards new development in Monk Hesleden, a planning application must be considered with appropriate weight attributed to the Statutory Development Plan and all material planning considerations. The Monk Hesleden Parish Plan is not part of the Statutory Development Plan.
46. Officers therefore consider objection in absolute principle to the development of stables in the areas could not be sustained, the acceptability of the proposal resting with the detailed impacts of the development.

Impact upon the Character and Appearance of the Area

47. Policies 1 and 35 of the Local Plan seek to ensure that the scale, design, appearance and layout of new development is appropriate and respects the locality within which it would be sited. Policy 1 specifically seeks to protect landscape character, trees and hedgerows. The justification to Policy 3 of the Local Plan emphasises that the countryside is a finite resource and that there is a need to safeguard the character and appearance of this asset. In addition, Policy 7 relates specifically to areas of high landscape value and Policies 16 and 17 cover county wildlife links which border the site to the south.
48. With regards to areas of high landscape value the protection of the character and landscape quality of these areas is the overriding consideration in an assessment of any development proposals within these areas. Proposals should, therefore, be sympathetic to these designated areas and should seek to retain existing landscape features and to incorporate elements to enhance the landscape quality of the area. Development adversely impacting upon a wildlife link is only acceptable where there are adequate compensatory features proposed.
49. Policies 8 and 31 of the RSS also seek to ensure that development is suitably sympathetic and respects the landscape whilst parts 7 and 11 of the NPPF seek to encourage good design and the conservation and enhancement of the natural environment.
50. Some public objection to the proposed development relates to the impact upon the character and appearance of the area with concern raised at the cumulative impact of this proposal in conjunction with other developments in the vicinity including the recently approved stable block on adjacent land, though this has not been developed thus far.

51. This application is a resubmission of a previously withdrawn application proposing a much larger stable building to which officers raised objection. This revised proposal seeks planning permission for a smaller building though it is still of significant scale being over 21m in length and 6m in width at the widest point. The proposed stable building would have a rendered blockwork finish with roof shingles. The proposed siting of the stable block is in the far north of the application site and situated close to the roadside. The proposed building would be situated in a prominent location, hedging does exist at the roadside but otherwise there is an absence of any other landscape features and mature boundaries to help screen the proposed building effectively. Similarly the proposed stable building is isolated from any other buildings, the field and those immediately adjacent do not contain agricultural or other buildings that a new stable building of this size could potentially sit alongside and more appropriately assimilate into the landscape.
52. Officers consider that a building of the scale proposed set in the location proposed would be a prominent and obtrusive feature thereby harming the character and appearance of this particular part of the countryside.
53. Officers have noted that in December 2011 planning permission was granted for a stable block of not dissimilar scale and design on land nearby to the south west at High Farm, Hesleden. However, this proposal, benefited from a far more appropriate siting, utilising an established and mature landscaped boundary in the south-eastern corner of the site.
54. Matters regarding highways issues are handled separately within the following section of this report. However, it is a requirement of the Highway Authority that visibility splays are provided in the interests of safety. Any hedging, trees or other landscaping within the visibility splays would have to be cut back and maintained at a height of 900mm. The visibility splays would essentially cover any landscaped areas 90m either side of the access.
55. The visual impact of this is of concern to officers. On the plans originally submitted with the application, access would be located approximately 40m south of the northern edge of the application site. A 90m distance in a southerly direction would extend beyond the southern boundary of the site and require significant removal/cutting back of vegetation to the sides of the Haswell to Hart walkway. The impact of such widespread cutting back of vegetation would be significant.
56. As a result of these concerns officers invited the applicant to supply amended plans this time relocating the access farther north so that the amount of landscaping to be lost to the visibility splay south of the access could be reduced. The applicant duly provided amended plans and highlighted the southerly and northerly points of the 90m visibility splays. Although the impact of the vegetation removal would be reduced from the originally submitted plans it is still considered that the amount to be lost would be significant and harmful. The visibility splay would still encroach into the more heavily vegetated areas immediately adjacent to the Haswell to Hart walkway and encroach into the northern section of the designated area of high landscape value.
57. Policy 7 seeks to protect these areas of value and development likely to adversely affect the character, quality or appearance of these areas will only be permitted if it meets a need that outweighs the value of the landscape and there is no alternative location within the county.

58. Officers consider that the harmful impact would be significant and it is not considered that there are any merits regarding or exceptional circumstances applying to the development of stables for personal use that would outweigh this harm.
59. The impact of and potential future upkeep issues for removal of landscaping and hedging through the visibility splays was raised as an objection the Local Divisional Member.
60. As a result officers object to the impact of the development upon the character and appearance of the area. The stable block itself, by reason of its size and siting would be a prominent and obtrusive feature with an absence of mature landscape features or neighbouring buildings to help assimilate the development into the landscape. The harm would be exacerbated further due to the need for visibility splays to be created in the interests of highway safety. The resultant loss of landscaping, particularly to sections of the Haswell to Hart walkway would be harmful to the appearance of the designated Area of High Landscape Value and the appearance of this recreational asset. The development is therefore considered contrary to the requirements of Policies 1, 3, 7 and 35 of the Local Plan, Policy 8 of the RSS and Part 7 of the NPPF.

Highways Issues

61. Much public opposition to the proposed development relates to matters of highway safety. Several respondents make reference to the narrow road which would provide access for the development and that there has been recent increases in traffic in the area as a result of developments such as the old brewery site at Castle Eden and nearby animal farm.
62. Policy 36 of the Local Plan seeks to ensure that all developments are served by a safe and adequate means of access. Part 4 of the NPPF seeks to promote sustainable transport options.
63. The Highway Authority has been consulted on the application and no objections in principle are raised with regards to the impact of the comings and goings of vehicles from the site, cumulative impact with existing traffic levels or the nature of the access road which the site would gain access from.
64. Improved site visibility would be required, however, through the creation of 2.4m x 90m visibility splays. The detrimental visual impact of such a splay is discussed elsewhere within this report.
65. However, in terms of the acceptability of the scheme with regards to highway safety officers do consider that no harm would occur through the development subject to the provision of an adequate access and visibility splay.
66. The degree of public concern is noted and the road off which the development would be accessed is a relatively narrow country lane. However, comings and goings for a development of the scale proposed would be relatively low and would not lead to such an increase in traffic that would be demonstrably harmful to highway safety.

Ecology

67. Policies 1 and 18 of the Local Plan seek to ensure that development does not unacceptably harm wildlife, protected species and their habitats. The application site lies adjacent to a wildlife link and policy 17 of the Local Plan states that development that would adversely affect a wildlife link will only be approved where adequate compensatory features are provided. The aim of protecting and minimising impacts upon biodiversity is replicated through Part 11 of NPPF.
68. Under the requirements of the Conservation of Habitats and Species Regulations 2010 it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England.
69. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Where there is likely to be a disturbance to protected species case law has established that local planning authorities must consider whether the applicant might obtain a protected species license from Natural England. This requires an examination of the derogation provisions. The Local Planning Authority must not usurp the functions of the licensing authority in this regard. It is for Natural England to decide licensing applications; the local planning authority must only be satisfied that there is a possibility of a required license being granted.
70. The application has been accompanied by a Great Crested Newt (GCN) risk assessment. This concluded that the nearest pond sited 140m from the site had only average potential to contain GCNs and that the development works would be undertaken on land considered unsuitable GCN habitat. As a result, the report concluded that no further survey work would be required and a European Protected Species License from Natural England would not be required. Ecology have raised no objections to the conclusions of the report though have stated that the working method statement should be conditioned on any approval. No objections are therefore raised with regards to the impact of the development upon the protected GCNs. As there is unlikely to be a disturbance to a European Protected Species (GCN) and therefore no need for a Licence to be obtained, there is no need to apply the derogation tests.
71. However, further consideration must also be given to the impact that the visibility splays necessary for highway safety would have on the designated wildlife link at the Haswell to Hart walkway. As previously explained the 2.4m x 90m visibility splay would encroach into the wildlife link and would necessitate the removal and cutting back of trees, hedging and landscaping. Officers consulted the ecology officer further on this matter who responded stating that substantial tree and landscaping removal was required then objection is raised to the impacts upon the wildlife link, the habitats and connectivity therein.
72. Officers share these concerns. Policy 17 of the Local Plan states that development that would adversely affect a wildlife link will only be approved where adequate compensatory features are provided. Officers consider that the wildlife link would be harmed, the amount of landscaping lost would be detrimental to the designated habitat and connectivity therein contrary to the requirements of this policy, Policy 1 on the general principles of development and the content of Part 11 of the NPPF.

Flood Risk

73. Policy 35 of the RSS relates to flooding and seeks a proactive approach to reduce flood risk. Part 10 of the NPPF in part advises on flood risk information requirements on applications and the criteria when determining applications.
74. As the application site extends to over 1 hectare the application required the submission of a flood risk assessment. This assessment concludes that there is no need for any specific flood risk mitigation at the site with perceived risk of flooding for the proposed stables very low. The Environment Agency have been consulted on the submitted flood risk assessment and no objections have been raised.
75. As a result no objections are raised with regards to the development and the risk of flooding.

Other Issues

76. It has been raised to the attention of officers that a temporary shelter has been erected on the application site. Officers have conducted a site visit and viewed the structure. The structure would not appear a genuine chattel such as a field shelter that does not require planning permission. A letter has been sent to the applicant's agent in relation to this, though officers consider that this matter and absence of planning permission for the structure on site should be handled as a separate matter to this planning proposal.
77. Some public concerns are expressed that the development would lead to future residential development on the land and requests are made that enforcement of any unauthorised residential development would be undertaken by the LPA. Ultimately, the LPA must determine the application which is before them and should planning permission be granted and there is any deviation from that which would require planning permission then an enforcement case can be opened on the unauthorised development.
78. One respondent has queried that it is not clear where the horses to be stabled would be exercised. It is understood from the design and access statement submitted within the application and discussions with the agent that the horses are to be kept and grazed on the land with further land potentially sought for rent at a later date. In terms of where the horses may be exercised when trotting out etc outside of the application site, this is not explained within the application documents but officers do not consider that such information is required to accompany an application and weight should not be attributed to the absence of this information.

CONCLUSION

79. The application proposes the erection of a 5 bay stable block with associated tack room and hay store and the provision of a new vehicular access to serve it.
80. Officers consider that the proposed stable block building by reason of its size and siting would appear as a prominent and obtrusive feature in the landscape harmful to the character and appearance of the area. The visual harm of the development would be further compounded by the degree of landscaping lost through the formation of the necessary visibility splays to ensure highway safety, particularly the impact upon the Hesleden to Hart countryside walkway which is part of a designated Area of High Landscape Value. Furthermore officers object to the impact of the

necessary visibility splays upon habitats within the Hesleden to Hart walkway a designated wildlife link.

81. As a result refusal of the application is recommended.

RECOMMENDATION

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

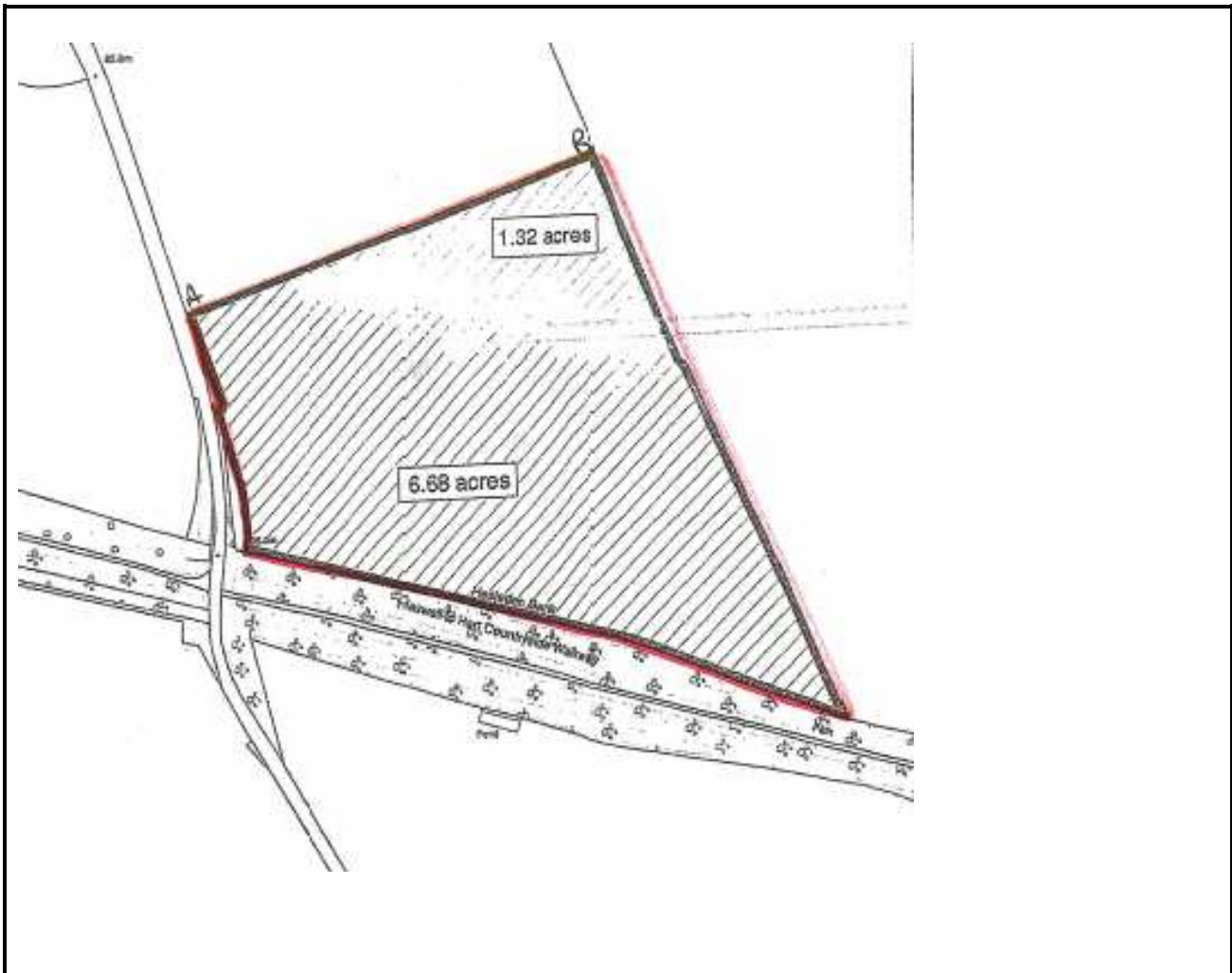
1. The proposed stable block by reason of its size and siting would appear as a prominent and obtrusive feature in the landscape, harmful to the character and appearance of this particular part of the countryside. The necessary formation of 2.4m x 90m visibility splays to provide adequate visibility for the development would exacerbate this detrimental impact with the substantial removal of landscaping including along the Haswell to Hart countryside walkway designated within the Local Plan as a wildlife link and an area of high landscape value. As a result, the application is considered contrary to the requirements of Policies 1, 3, 7 and 35 of the District of Easington Local Plan, Policy 8 of the RSS and the content of Part 7 of the National Planning Policy Framework.
2. The necessary formation of 2.4m x 90m visibility splays to provide adequate visibility for the development would result in the substantial removal of landscaping including along the Haswell to Hart countryside walkway designated within the Local Plan as a wildlife link. The loss of trees and hedging would be detrimental to the wildlife habitats and the connectivity of habitats within the wildlife link contrary to Policy 17 of the District of Easington Local Plan and Part 11 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

Discussions have been held with and letters issued to the applicant's agent regarding the issues that have arisen during the course of the determination of the application. Suggestions have been made to amend the development proposal with the view of seeking to reduce the detrimental impact of the development.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
District of Easington Local Plan
Regional Spatial Strategy
National Planning Policy Framework
Internal consultee responses
Public responses
Response of the Highway Authority
Response of the Environment Agency
Response from the Parish Council
Planning Circular 11/95



Planning Services

5 STABLES, TACK ROOM, HAY STORE AND FORMATION OF ACCESS

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.

Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.

Durham County Council Licence No. 100022202 2005

Date 12th March 2013

This page is intentionally left blank