



## Area Planning Committee (Central and East)

**Date** Tuesday 10 September 2013  
**Time** 1.00 pm  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 9 July 2013 (Pages 1 - 12)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) 4/12/01003/FPA - East Durham Cathedral Farm, Sherburn, Durham, DH6 1EY (Pages 13 - 30)

Part change of use of agricultural land and building for employment use (B2 and Office), for the keeping and breeding of horses, siting of cabins for office and storage use, formation of horse exercise areas and runs, enclosures and electricity line pole and engineering works to the landscape for drainage purposes (retrospective).
  - b) 4/13/00694/S106A - Former Ushaw Moor County Infants School, Temperance Terrace, Ushaw Moor, Durham, DH7 7PQ (Pages 31 - 38)

Cancellation of S106 requirements.
  - c) 4/13/00619/FPA - Finchale View Riding School, Pit House Lane, Leamside, Durham (Pages 39 - 48)

Erection of indoor riding arena and associated landscaping.

d) PL/5/2013/0302 - St Johns Square, Seaham (Pages 49 - 56)

Construction of car park & associated works.

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

2 September 2013

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

Councillor P Taylor (Chairman)  
Councillor A Laing (Vice-Chairman)

Councillors A Bell, G Bleasdale, J Clark, P Conway, M Davinson, K Dearden, D Freeman, S Iveson, C Kay, J Lethbridge, B Moir and J Robinson

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**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 9 July 2013 at 1.00pm**

**Present:**

**Councillor P Taylor (Chair)**

**Members of the Committee:**

Councillors G Bleasdale, J Clark, P Conway, M Davinson, K Dearden, D Freeman, C Kay, A Laing and G Mowbray.

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell, S Iveson and J Lethbridge.

**2 Substitute Members**

Councillor A Turner substituted for Councillor S Iveson.

**3 Minutes**

The Minutes of the meeting held on 11 June 2013 were confirmed as a correct record and signed by the Chair.

**4 Declarations of Interest**

There were no declarations of interest.

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

**5a 4/12/01048/FPA – Land to the South of Oakfield Crescent, Bowburn, Durham, DH6 5DF**

The Committee considered a report of the Senior Planning Officer regarding new vehicular access and erection of 43 dwellings consisting of 2, 3 and 4 bed units including associated boundaries, roads, paths and garages together with change of use of land to private garden for properties 7-15 Oakfield Crescent, at land to the south of Oakfield Crescent, Bowburn, Durham DH6 5DF (for copy see file of Minutes).

The Senior 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. It was reported that since the officers report had been published, a further 3 letters had been received, the majority of points related to issues already received in objection letters and subsequently addressed within the report. Some additional points were raised regarding indemnity insurance regarding flooding, that DCC are under obligation to maintain an existing site boundary and that recent development in Bowburn has not helped with a sense of community within the village. Furthermore, since the publication of the report, the Environment Agency had confirmed that they had no objections to the revised application documents and proposed use of field drain.

The local Parish Council had also responded to the application consultation, querying whether the revised plan was to cater for access for future school redevelopment, whether the access road would adequately protect drainage infrastructure and whether this drainage infrastructure would in itself affect school redevelopment plans.

Mr Reed, local resident, addressed the Committee. He was a resident of Oakfield Crescent and objected to the application for the following reasons:-

- He believed that the access road to the proposed development would prove dangerous as it was to be located on a bend of a main road;
- In relation to flooding issues he felt the current drainage system was inadequate and the introduction of 43 new dwellings would exacerbate the drainage structure of Bowburn;
- Committee were advised that there were no plans to connect the field drain to the Northumbrian Water network. The current system stopped at no.29 Oakfield Crescent and merely held water in the ground at that point;
- The fencing at Oakfield Crescent was the responsibility of the Council and as such the developer would not carry out any repairs or maintenance to the fence. He therefore queried whether the Council would request that any necessary repairs could be carried out;
- Mr Reed advised that several properties would lose their privacy as a result of the development and in quoting the Human Rights Act, he highlighted that 2 storey properties should not be built to the rear of bungalows;
- Mr Reed quoted legislation which set down a persons right to light. If a property had enjoyed a minimum of 20 years of light without interrupt, then that property's right to light became absolute. Members were advised that several properties in Oakfield Crescent had enjoyed that same right to light for 36 years and that the proposed development would threaten that right.

The Senior Planning Officer responded to the points raised as follows:-

- Drainage – The response from Northumbrian Water and Environment Agency to the consultation was reiterated. Specific rates had been stipulated which must be adhered to and Members were advised that the site was within flood risk zone 1 which was applied to areas at the lowest risk of flooding.
- Highways – The Highways Officer advised that the average speed on Crow Trees Lane was 47mph as such a 120metre visibility play would be the minimum requirement. The applicant was going to provide a 150metre

visibility splay which would be suitable for a road with a 50mph average speed.

- In relation to the field drainage Members were advised that this was not originally required by any of the internal or external consultees, however the applicant had voluntarily put forward the field drain plan. Furthermore it was a condition of the application that no development shall take place until details of the field drain were submitted, which must include a means of outlet such as a soakway or borehole tank.
- Boundary issues – A new fence was proposed as part of the application and where requests had been made for remedial work or for the retention of trees, those requests had been granted. Complaints about the state of the existing fence had been passed to Neighbourhood Services to address;
- Privacy and Light – Members were advised that in relation to privacy and light, the test which needed to be considered by the Planning Authority was one of amenity. Taking everything into account the application was deemed to be acceptable. The distance between all properties would be in excess of 20 metres and although some were marginally below the required 21 metres, the difference was considered negligible and not sufficient to recommend refusal of the application. In relation to the issue of light, the Solicitor clarified that the right to light was a matter for private law and was not of relevance to the planning committee. Should any property have acquired rights to light under the prescribed Act, then that was a private legal issue. In respect of the Human Rights issues raised by Mr Reed, the Solicitor clarified that having respect for family and private life was a qualified right and required balanced consideration. Providing that a balancing exercise was undertaken when considering the appropriateness of a planning application, then that decision would be HRA compliant.

Mr I Prescott, applicant, addressed the Committee. He reiterated to Members that no objections had been made by any of the statutory consultees. As part of the consultation the developer had facilitated a meeting at a local venue which had been well attended by local residents. Members were advised that two key concerns had been raised at that meeting relating to flooding and boundary issues.

In respect of concerns regarding flooding, Mr Prescott advised that as developers, Keepmoat had witnessed Northumbrian Water becoming increasingly defensive in respect of claims made against them and as a result were much more rigorous in their consideration of proposed developments. The developer had therefore held in depth discussions with both Northumbrian Water and the Environment Agency during the course of the consultation.

The Committee were advised that the run off would be no greater than the existing Greenfield run off via the extensive underground storage. Mr Prescott stressed that both Northumbrian Water and the Environment Agency had fully approved the drainage designs and as such the developer had every confidence in the proposals.

In an attempt to allay any concerns regarding run off from new gardens, the developer had included a field drainage system in the application to mitigate any potential issues. Mr Prescott clarified that the field drain would lead to a borehole

tank and was something which the developer had included in the application voluntarily.

In respect of concerns regarding boundaries, Members were advised that some residents had requested additional trees to be planted. Consideration of trees had been done on a plot by plot basis and letters would be sent to all residents to advise on the measures to be taken. The developer would legally transfer land containing trees into existing gardens and would also carry out any necessary maintenance to ensure that the trees would be transferred in good condition.

Councillor J Blakey, local Member, addressed the Committee. Members were advised that the local Members had been disappointed to be told the full extent of the plans only after boring had taken place on the site and that the development could have been determined under delegated powers without Member involvement.

Councillor Blakey advised that the drains were working to capacity with the existing dwellings and would be unable to cope with the proposed development.

In relation to the adjoining road, the local Members had campaigned for some time to have the speed limit reduced in order for street lights to be installed. Once the lights had been placed in situ it had been noted that two additional lights had been erected, Councillor Blakey queried whether they had been installed in anticipation of the access road for the proposed development.

Councillor Blakey suggested that a much greater splay would be required at the access to the development than as set out in the application, in order to match the speed limits.

Photographs were circulated to the Committee highlighting prolific flooding which had occurred in the area and Members were advised that the same area had flooded approximately four times due to the inadequate drainage system. In addition Councillor Blakey advised that new developments at other sites in the area had also had a major impact on the drainage system and had caused flooding issues.

In relation to the school, Councillor Blakey suggested that although there were no current plans to extend the school, the potential to extend must be taken into consideration. In the future, without the option to extend the premises, local children would be forced to go to schools outside of the village.

Councillor Blakey concluded by advising that there was insufficient local infrastructure to support the proposed development.

Councillor M Williams, local Member, addressed the Committee. He reiterated the objections made by Councillor Blakey and advised Members that as local Members they had been trying to resolve the drainage issues in the village since 2006 which had involved meeting with Northumbrian Water on several occasions. He advised that both the development site and the school field were prone to flooding and one consequence was that mud from those flooding incidents was washed into the gardens of neighbouring properties.

In addition Councillor Williams advised that the nearby pumphouse had always been prone to flooding over the years.

In conclusion, Councillor Williams reiterated the concerns put forward by Councillor Blakey in respect of speeding issues and street lighting.

The Senior Planning Officer responded to the points raised as follows:-

- Awareness of the Application – Committee were advised that notice of the application would have been published on the planning weekly list which was issued to all County Councillors;
- Members were advised that the application would not have been determined under officer delegation due to it being in respect of a major development, therefore would always have been brought to the Planning Committee to determine;
- Drainage & Flood Risk issues – although the significant concerns were acknowledged, the Senior Planning Officer reiterated that none of the statutory consultees had any objections to the application;
- Highways – The Highways Officer advised how the size of splays was calculated and he assured the Committee that the Highways Authority were confident and satisfied with the visibility splays as detailed in the application.

Members of the Committee expressed concerns about the application based on the past flood issues which had occurred in the area.

In response to a query from Councillor Conway, the Senior Planning Officer clarified that the Senior Drainage Officer had assessed the field drain plan and the results of the Flood Risk Assessment and had no objections to the application. The Senior Planning Officer also pointed out that Members must concentrate on the application site and development before them and would question weight that could be given to flooding in other areas of the village unless there is a certain link to this site. He further clarified that the 20% affordable housing to be developed as part of the application, met with the required standard.

Councillor Bleasdale advised of a similar development which had been built in the Seaham area where, over time, numerous issues started to occur in relation to water rising in the gardens and patios of the properties. The residents in that area were only able to go to the developer to assist with the issues and Councillor Bleasdale was concerned that similar issues could be experienced should the current application be approved. As such, Councillor Bleasdale moved that the application be refused.

In supporting the motion to refuse the application, Councillor Kay expressed concerns regarding the speed of vehicles travelling along the highway adjacent to the development site where the access to the development would be sited. He further expressed concerns regarding the radius of the bend on that highway and whether the diameter of visibility splay could actually be achieved.

Councillor Kay also expressed concerns regarding the separation distance between properties. He stated that the recommended separation distance of 21metres should be adhered to at all times.

In response to the concerns raised regarding separation distances, the Senior Planning Officer advised that Policy Q8 provided only a guideline. The difference was not be significant the Planning Authority would need to demonstrate why the minor difference in distance was deemed to be materially harmful.

Councillors Bleasdale and Kay clarified that the reasons for refusal were that the application contravened Local Plan Policies T1, Q8 and U10 and NPPF 10 on grounds of on site and offsite flooding, reduced separation distances and the unsuitability of the access onto Tail-upon-End Lane through oncoming vehicle speeds and visibility.

**Resolved:** That the application be refused.

**5b 4/13/00308 – Land adjacent to 67 Front Street, Pity Me, Durham DH1 5DE**

The Committee considered a report of the Planning Officer regarding the development of 5 no. new dwellings at land adjacent to 67 Front Street, Pity Me, Durham DH1 5DE (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.

It was reported that since the officers report had been published comments had been received from local Members, Councillor A Hopgood and Councillor M Simmons.

Councillor Hopgood was against the development based on the density of the development on a small area, and that she felt the garden sizes for 5 bedroom dwellings, would be insufficient.

Councillor Simmons also objected to the application for the following reasons:-

- There is not enough space on the site for the proposed screen or to allow trees to grow
- Mature tree planting to the north of the site is covered by a Tree Preservation Order. Construction work would necessitate the roots of these trees being damaged, otherwise the roots of the trees would be under the proposed dwellings.
- The development site is very small for 5 dwellings – cannot see how they will have much or any garden area.
- As family houses they are not on large enough plots of land.



- The proposed development is too dense on such a small site.
- The design of the proposed dwellings is out of keeping with the surrounding area – the proposed development is on a prominent site with old style terraced housing next to it.
- The proposed development is too close to a very busy road network, with the nearby Arnison Centre also generating a lot of traffic.

Councillor Wilkes, local Member, addressed the Committee. Members were advised that he was also opposed to the application.

Councillor Wilkes clarified that residents and local Members were not objecting to any development on the site, the objections were simply in relation to the scale of the proposed development and its impact on the surrounding area and future users. He suggested that 3 or possibly even 4 terraces on the site may have been appropriate, however it was felt that 23 bedrooms worth of family dwellings on an area the size of some gardens, was inappropriate.

In respect of landscaping, Councillor Wilkes stated that the original application from 2011 which determined that the land could be developed, was for the erection of one dwelling house. That application had been approved by Committee with an applicant statement that landscaping was integral to the application, as confirmed by officers.

Councillor Wilkes advised that Policy Q5 of the Durham City Local Plan 2004 stated that all new development which would have an impact on the visual amenity of the area in which it was located, would be required to incorporate a high standard of landscaping in its overall design and layout.

Members were advised that the current application provided completely insufficient landscaping and reference was made to the concerns raised by the Landscaping Officer. Councillor Wilkes advised that those concerns should be acknowledged and the area should be considered in the context that it was formerly an area of veteran woodland right on the boundary of the greenbelt.

Councillor Wilkes advised that the application had been due to be considered at the previous meeting of the Committee however was withdrawn due to concerns he had raised about the lack of proper information in relation to the issue of impact upon trees adjacent to the site which were covered by preservation orders.

In that withdrawn report, Councillor Wilkes highlighted that the Landscaping Officer had stated the number of dwellings should be reduced to avoid pressure on the preserved trees and to allow for a comprehensive landscape scheme to be undertaken.

Councillor Wilkes suggested that view could not have changed as there was no comprehensive landscaping scheme.

As such, his first reason for refusing the application was that it was in breach of Policy Q5 in that it did not incorporate a high standard of landscaping in its overall design and layout and also was in breach of Policies E14, E15 and E16 in relation to the protection of preserved trees, nature conservation and landscaping.

The Committee were advised that a report by the Council's Tree Officer referred to British Standard 5837-2012. It indicated that the roots of the main preserved tree adjacent to the site would have to be cut to carry out the proposed development. However, further to that, the report contained no detail as to how the soil system would be enhanced to take into account the likely damage to the root system, as was a requirement under BS 5837 5.3b.

In addition to that, Councillor Wilkes advised there was an inference that the proportion of the root protection system which would be impacted was not sufficient to warrant concern about damage to the tree. However he felt that failed to take into account the following:

1. In order to build a house foundations were required which would extend out further than the final visible area. In effect more of the tree root system would have to be dug out otherwise the house and steps could not be built;
2. There was no guarantee that the tree root system did not extend further than that of a normal tree. This was because almost all the tree roots must grow into the site and to the south and west as the north easterly side of the site was a cliff face. Tree roots would grow out to where they could and it was therefore probable that more of the roots would be destroyed by the development;
3. In stating that only a small proportion of the roots were affected, Councillor Wilkes felt the reports completely overlooked the fact that the roots which collected water for the tree were at the outer edge of the tree root protection area. It was therefore highly possible that up to half of the water gathering roots could be destroyed by the development.

Members were advised that the same British Standard referred to by the Tree Officer referred to the constraints posed by existing trees. Section 5.2.1 stated that above ground constraints could arise from the current height and spread of a tree, as well as characteristics such as branch drop, honeydew drip, density of foliage. Such attributes according to 5.2.2 could "significantly affect potential land use or living conditions, including the effect of the tree on daylight and sunlight."

Councillor Wilkes felt it was clear that such impacts would occur in relation to the proximity of that tree to the proposed development, yet that was not explained in either the Council or the private company's report, nor was it mentioned in the planning report.

He believed that the likely impact upon the occupants of that property would be detrimental to their amenity in terms of branch drop, honeydew drip, shading, moss, algae and other such issues. He also queried whether the occupants would be able to secure sufficient insurance cover.

Councillor Wilkes stated that all those points raised made the development in breach of Policies E10 and Q8.

Councillor Wilkes raised concerns about 5 bedroom dwellings being developed without any garden space. A small back yard, he felt, did not demonstrate that the properties would have the amenity value required for a 5 bedroom dwelling. He felt this to be a prudent point given that the children living in the dwellings would need somewhere to play given the proximity to the A167, the Pity Me roundabout and Front street with numerous cars travelling on it every day.

Policy Q8 stated that the development should be appropriate in scale, form, density and materials to the character of its surroundings. The proposed development consisted of four and five bed properties whereas the terrace properties along Front Street were all 2 and 3 bedroom. As such the proposed dwellings could not be considered to be in character to the surroundings in their scale.

Councillor Wilkes advised that the density on the site was in excess of 53 dwellings per hectare. When considering the number of bedrooms and the likely number of residents, he suggested that was significantly higher than adjacent properties.

He pointed out that the County Durham Plan, in policy 35, recommended densities on the periphery of villages of 30-50 dwellings per hectare. The proposed development clearly exceeded the top end of that recommendation.

In summary, Councillor Wilkes requested that the Committee refuse the application on the basis of the following points:-

1. That the proposed development of 3 x 5 bed and 2 x 4 bed houses on the restrictive site represented an overdevelopment of the site as the proposal failed to provide adequate private garden areas and was inappropriate in terms of scale, density and character, contrary to Policies Q8 and E10 of the City of Durham Local Plan 2004. Furthermore that it was in breach of Policy Q1 in failing to take into account the layout and design requirements of users.
2. That in relation to the overdevelopment of the site, the development was in breach of Policy Q5 in failing to incorporate a high standard of landscaping in its overall design and layout and would have a detrimental impact on the visual amenity of both the area and the users. Furthermore that the proposals were in breach of Policy H14 in failing to improve and create more attractive residential areas and to improve the environment of existing residential areas.
3. That the impact of development upon the preserved trees was too great and was in breach of Policy E14 in its effect on existing trees, in breach of Policy E16 in failing to protect and enhance nature conservation and failed in its ability to provide sufficient new trees and landscaping due to its overdevelopment as encouraged in Policy E15.

The Principal Planning Officer responded to the points raised as follows:-

- Whilst acknowledging that the dwellings were large, Committee were advised that physically the design was acceptable;

- Density – the proposed dwellings were terraced and so by their very nature, would be compact. In terms of footprint the density did not differ to the adjacent properties;
- Garden Space – the proposed garden space was approximately 12m deep, although would be partly on a slope. However the design of the gardens was not untypical and was deemed to be adequate;
- County Durham Plan – The Committee were advised that the County Durham Plan was not in force at this time;
- Multiple Occupation – The requirements of the NPPF were that some changes of use had to be applied for by way of an application to the Planning Authority. Should the Committee wish to restrict the C3 use class from being amended to a C4 use class in the future, a condition could be attached to the permission not to change the use class without referral back to the Council;
- Trees – The Planning Authority was satisfied that the Tree Officer had no objections to the proposed development, though it was acknowledged that the report had been previously deferred due to there being outstanding arboriculture issues which had since been clarified.

The Council's Landscape Architect addressed the Committee. She confirmed that there had been initial concerns relating to the damage to the Ash tree currently on the site. Several reports had since been done in relation to that tree and assessments had been carried out on the root protection area. It had been concluded that there would be some slight damage.

Members were advised that there would be a 10.54m root protection zone which lay in natural ground, and that zone did not actually reach the neighbouring road.

It was unlikely that the tree would have a symmetrical root flow, but the authority had to adhere to the root protection area based on diameter of the tree at breast height. Members were advised that the canopy of the tree did not overhang the roof of the end property at the current time.

In relation to the soil, the Committee were advised that it was completely natural ground so taking any action may prove detrimental.

In response to a query from a Member regarding the enforcement of a condition restricting change of use, the Principal Planning Officer advised that should a condition be attached and in the future that should be ignored by the developer, it would be up to the Planning Authority becoming aware of the situation and then taking appropriate enforcement action. Alternatively the developer could apply to the Planning Authority to have the condition lifted.

Councillor Kay queried whether the parking arrangements for the dwellings adhered to relevant guidelines. The Highways Officer clarified that currently the Highways Authority had a maximum standard of 1.5 parking bays per property. However Cabinet were due to consider a report which recommended a minimum standard of 2 parking bays per property. The proposed development included 11 parking bays for 5 dwellings so was within both the current and the proposed standards.

Councillor Freeman found the application to be overdevelopment of the site and out of character with the surrounding area. Furthermore he felt there was insufficient garden space for family homes.

Seconded by Councillor A Laing, Councillor G Bleasdale moved that the application be granted. Upon a vote being taken in was:-

**Resolved:** That the application be approved subject to the conditions detailed within the report.

**5c 4/12/00997/FPA – Land at Rowan Court and The Oaks, Esh Winning, Durham**

The Committee considered a report of the Senior Planning Officer regarding the demolition of remaining dwellings on site and redevelopment with the erection of 78 no. dwellings on land at Rowan Court and The Oaks, Esh Winning, 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 were advised that since the report had been published all matters relating to the design/layout of areas proposed for shared surfacing had been clarified, as such the last sentence of paragraph 45 of the report could be disregarded.

The Committee were advised that currently, house prices within Esh Winning were at an absolute low, as such the applicant had come forward to advise that they would struggle to deliver the affordable housing requirement. Overall, the predicted values which the properties could be sold for once developed, would be approximately £250,000 less than initially estimated. As such, taking into consideration market values and other key factors, the site was now deemed to be unviable at the current time. However, by bringing the application forward for consideration at this time, would allow the applicant to obtain an EPS license from Natural England because the development proposal would result in the complete loss of 2 bat roosts and disturbance to the small number of bats identified as living in 2 of the properties identified for demolition.

Members were advised therefore that should the application be approved, the site would not be developed immediately.

Seconded by Councillor A Laing, Councillor G Bleasdale moved approval of the application.

**Resolved:**

That the application be approved subject to the conditions detailed within the report.

**5d PL/5/2013/0145 – Dalton Park, Murton SR7 9HU**

The Committee considered a report of the Senior Planning Officer regarding the erection of a retail building (A1 use class) at Dalton Park, Murton SR7 9HU (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 were advised that the report should actually reflect that the application sought full planning consent for 1590sqm of non food retail unit, as opposed to the printed 1589sqm.

Furthermore Condition no. 2 of the application should refer to AL(D)102 as opposed to Floor Plan: Non Food Area AS(D)102.

Seconded by Councillor G Bleasdale, Councillor A Laing moved that the application be granted.

**Resolved:**

That the application be approved subject to the conditions detailed within the report.

**5e PL/5/2013/0194 – Hulam Farm, Hutton Henry TS27 4SA**

The Committee considered a report of the Planning Officer regarding the erection of an agricultural building at Hulam Farm, Hutton Henry TS27 4SA (for copy see file of Minutes).

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

Seconded by Councillor Laing, Councillor Mowbray moved approval of the application.

**Resolved:** That the application be approved subject to the conditions detailed within the report.

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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**APPLICATION No:** 4/12/01003/FPA

**FULL APPLICATION DESCRIPTION:** Part change of use of agricultural land and building for employment use (B2 and Office), for the keeping and breeding of horses, siting of cabins for office and storage use, formation of horse exercise areas and runs, enclosures and electricity line pole and engineering works to the landscape for drainage purposes (retrospective)

**NAME OF APPLICANT:** Mr P Johnson

**ADDRESS:** East Durham Cathedral Farm Sherburn Durham DH6 1EY

**ELECTORAL DIVISION:** Sherburn

**CASE OFFICER:** Henry Jones  
Senior Planning Officer  
03000 263960  
henry.jones@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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Site:

1. The application relates to land known as East Durham Cathedral Farm situated off Lady Piece Lane which connects Sherburn Village and High Pittington.
2. The application site comprises predominantly of open grassed land separated in areas by means of enclosures. An access point is located in the far north east of with a long hardsurfaced track leading past a section of equestrian training track, outdoor equestrian exercise area and circular exerciser and beyond a main large building and adjacent smaller portacabin storage buildings. Bordering the site to the west there lies a watercourse Coalford Beck.

Proposal:

3. The submitted planning application comprises of several elements and is largely retrospective in nature with the main elements of the application having already been implemented and which this planning application seeks to regularise and gain the necessary formal planning permission for.
4. The main building located on the site gained planning permission in October 2010 for use for agricultural purposes. This building has now been altered internally from that planning permission with the building now housing stables, an area dedicated as an

engineering business office, an area dedicated for the works and fabrication for an engineering business, storage areas, toilets as well as hay and agricultural storage. The application therefore seeks planning permission for the change of use for the keeping and breeding of the horses and for the running of a B2 and B1 business enterprise.

5. Adjacent to the main building, portacabins are sited which are utilised for a combination of storage and further office accommodation. An open horse exercise enclosure has been formed together with a circular horse exerciser and close to the access to the application site an electricity pole has been erected. Retrospective planning permission is sought for these elements.
6. Engineering works and remodelling of land between the main building and site entrance has occurred, the applicant stating that this has related to efforts to improve drainage from the land and a land drainage system part installed. Atop of this land a circular equestrian training track is proposed this element has not been wholly implemented.
7. In addition on the ground immediately adjacent to Coalford Beck a vast amount of landscape removal has occurred within an area which is designated as a local site of nature conservation as defined within the Local Plan. It is indicated on submitted plans that a replacement landscape scheme would be proposed in this area.
8. The application is before planning committee as the development constitutes a major development.

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## **PLANNING HISTORY**

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9. In 2010 planning permission was granted for the erection of an agricultural building including retrospective consent for new gates, along with parking area and access track along eastern edge of field.

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## **PLANNING POLICY**

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### **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'.
12. The following elements are considered relevant to this proposal;
13. *NPPF Part 1 – Building a Strong and Competitive Economy*. The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.



14. *NPPF Part 2 – Ensuring the vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
15. *NPPF Part 3 – Supporting a Prosperous Rural Economy.* Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
16. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. *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.
18. *NPPF Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
19. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
20. *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, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at:*

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

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

21. *Policy E7 Development in the Countryside* advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
22. *Policy E8 Changes of Use in Countryside* advises that in order for such proposals be acceptable such buildings should be of permanent or substantial construction, any interest intrinsic to the building is retained, unsightly buildings are improved; no significant adverse effect on the character and appearance of the countryside, amenity of neighbouring occupiers or highway safety would result.

23. *Policy E14 Trees and Hedgerows* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
24. *Policy E15 Provision of New Trees and Hedgerows* states that the Council will encourage tree and hedgerow planting.
25. *Policy E16 Protection and Promotion of Nature Conservation* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
26. *Policy E18 Sites of Nature Conservation Importance* seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
27. *Policy EMP16 Employment in the Countryside* sets out the circumstances in which the Council will support proposals that create employment in the countryside.
28. *Policy EMP17 Farm Diversification* sets out the criteria against which proposals for farm diversification will be considered and these include the impact upon the character of the countryside, that the site can be served by roads capable of accommodating increased traffic and that there is no compromise to the openness to the Green Belt.
29. *Policy T1 Traffic – General* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
30. *Policy T10 Parking – General Provision* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
31. *Policy T21 Safeguarding the Needs of Walkers* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
32. *Policy R16 Equestrian Facilities* states that the establishment of such facilities in the countryside will be permitted where proposals in the green belt are consistent with Policy E1; adequate grazing land is available; new commercial establishments where

trekking facilities are needed are in close proximity to existing bridleways and other types of commercial establishments allow for adequate exercise of horses; establishments are sufficiently close to existing residential accommodation to allow proper supervision at all times; facilities are of an appropriate scale and design no harm to nature conservation assets result.

33. *Policies Q1 and Q2 General Principles Designing for People and Accessibility* states that the layout and design of all new development should take into account the requirements of all users.
34. *Policy Q5 Landscaping General Provision* sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
35. *Policy Q6 Structural Landscaping* advises that all new development located on the outer edge of settlements or exposed sites will be required to include peripheral structural landscaping within the site in order to minimise any adverse visual impact of the proposal.
36. *Policy Q7 Industrial and Business Development* seeks to promote an attractive image of the District and thereby stimulate inward investment through the provision of well-designed buildings which are appropriate to their designation.
37. *Policy U8a Disposal of Foul and Surface Water* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
38. *Policy U9 Watercourses* states that development which may affect watercourses will only be permitted provided that they do not result in flooding or increase flood risk elsewhere; or they do not result in the pollution of the watercourse; or they do not adversely affect nature conservation interests; or they do not adversely affect the visual appearance of the landscape; and their environmental impact is properly assessed.

*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=494>

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

39. The Highway Authority have raised no objections to the development provided that the 6m access radius shown on proposed plan is implemented.
40. Natural England have raised no objections to the proposal, advice is provided on measures of biodiversity enhancement.
41. Northumbrian Water have raised no objections to the development.

42. The Environment Agency have raised no objections to the development though have advised that there is a requirement to ensure that the proposed drainage which will result in a concentration of flows from the field created by a single discharge point does not cause scour issues to the beck.
43. Sherburn Parish Council have objected to the application stating that when the building on site was granted planning permission objections had been raised with regards to its unsuitability and that it then immediately housed an engineering business. Such a business is considered unsuitable in a rural location and that the site has been turned into an industrial estate with no animals having ever been sited on the land. The land remodelling suggests a car park is being created, objection is raised to the landscape removal impacts on wildlife habitats. A request for a Committee site visit is made. The Parish state that they have no confidence in the proposed stud farm enterprise materialising in the same manner the previous agricultural business did not. The claims that the industrial estate rent for the engineering business could not be paid is disputed given the amount of money that will have been spent on this site. Requests for enforcement action and to return the site to the countryside are made.
44. Pittington Parish Council have also commented on the application and refusal of the application is requested on the grounds of the introduction of an engineering business into the countryside location and the impact the development has so far had upon the countryside and biodiversity.

#### **INTERNAL CONSULTEE RESPONSES:**

45. Landscape have commented on the landscape removal previously implemented and have stated that this has created an eyesore. A compensatory scheme is necessary and this is required to be more detailed than has been submitted thus far.
46. Ecology have stated that should planning permission be granted then a condition requiring compliance with the recommendations of the extended phase 1 habitats survey must be attached.
47. The Spatial Planning Team have raised objections to the submitted planning application considering that whilst some support in principle can be found for the equestrian facility in the countryside and change of use of the building for business purposes the provision of portacabin buildings and the paraphernalia of development at the site is considered harmful to the character and appearance of the countryside and demonstrates that the correct balance between the social, economic and environmental sustainability issues has not been met. With regards to the equestrian facility it is considered that the applicant should demonstrate an acceptance of the equestrian use will not create pressure for a new dwelling on site in the future.
48. Officers have consulted with the Council's Drainage and Coastal Protection Engineer following the receipt of comments from the Environment Agency who advised on the requirements for the applicant to apply for consent for discharge into the beck and a need for the discharge rate to be controlled so as to prevent the prospect of scour as advised by the Environment Agency.
49. Environmental Health have assessed the proposal in relation to potential statutory nuisance and have raised no adverse comments having regards to matters of noise, odour and light.

#### **PUBLIC RESPONSES:**

50. A total of 3 no. letters of representation have been received with regards to the application. One letter of support has been received consider that the applicant will improve the appearance of the land and correctly look after the site. One letter has been received querying whether the Council have been able to negotiate the provision of a public right of way across the land to Pittington.
51. A letter of objection has been received from the then Cllr Carol Woods which raises the same concerns as Sherburn Parish Council which are summarised above.

**APPLICANTS STATEMENT:**

52. The application has been supported by a design and access statement and planning statement. The supporting documentation explains that the engineering business was formally based at Belmont Industrial Estate but that the rent costs proved too high, necessitating the move to East Durham Cathedral Farm. Predominantly administrative work occurs at the site though some engineering and fabrication works do occur, the majority though occurs offsite at contractors sites.
53. The applicant states that they are keen to develop an enterprise for the keeping and breeding of horses and this accounts for the stabling within the main building, outdoor arena, exerciser and proposed track. The remodelling of the land has occurred to improve the drainage at the site. The swaths of landscaping removed it is stated was undertaken by the previous land owner just prior to the applicant purchasing this neighbouring land. The applicant states that the intention is to reseed and replant these sections of the land.
54. The proposal is considered against the provisions of the Local Plan and NPPF and is considered to be in accordance with this guidance.

*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://217.23.233.227/WAM/showCaseFile.do?action=show&appType=planning&appNumber=4/12/01003/FP>  
[A](#)

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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

### The Principle of the Development

56. The application effectively consists of differing elements with planning permission effectively sought in part for an engineering business and a business for the keeping and breeding of horses and a continued agricultural element.
57. Any intention to continue grazing on the land and use of the main building for agricultural storage has essentially already been established under the previous planning permission. The key considerations are therefore the remaining two enterprises and their associated development.

58. Objection from the two Parish Councils and former Local Councillor include objection to the principle of the development, particularly considering the location of the engineering business to be unsuitable at the rural location. The Spatial Policy Team have considered the application and have stated that some support for the principle of both the equestrian facility and engineering business can be found particularly within the part 3 of the NPPF which supports rural enterprises. However, reference is made to the content of Policy E8 of the Local Plan regarding changes of use of buildings in the countryside and the Spatial Policy Team point out that this policy considers that major extension work should not be necessary. The siting of portacabins on the land is made reference to and that this is contrary to the provisions of this policy.
59. The Spatial Policy Team refer to Policy R16 of the Local Plan as the key policy with regards to the horse breeding business and point out that a key consideration is whether residential accommodation is sufficiently close to allow proper supervision.
60. With regards to Policy R16 officers consider that the horse breeding business accords with its provisions in principle. Adequate grazing land is available for the number of stables housed within the building, a horse exerciser exists and further track proposed. With regards to the issue of proximity to the residential accommodation to allow for adequate supervision, the applicant is not living on site though does reside approximately 3 miles away in Durham. The site contains CCTV surveillance equipment and alarm systems which the applicant states are linked direct to his telephone. The applicant has not suggested any need for him to reside on site to aid with the business venture. Officers appreciate the potential for abuse with business ventures in rural locations and subsequent efforts to form residential accommodation. However, equally any future effort to site a residential property on the land would have to be fully justified. In addition the demonstration that up until now no greater supervision than exists to adequately supervise the site is a material consideration for a future application. Changes to permitted development rights afforded to changes of use which came into effect 30<sup>th</sup> May 2013 which permit changes from office use to residential development are recommended for removal via condition on any approval so that the Local Planning Authority retains control over the acceptability of such a change in the future.
61. Officers agree with the Spatial Planning Team that there is a degree of conflict with Policy E8 of the Local Plan given that additional portacabins are sited on the land to provide additional storage and office accommodation. Policy EMP17 of the Local Plan also relates to farm diversification proposals and considers that changes of use where consistent with Policy E8 of the Local Plan are acceptable in principle.
62. However, the NPPF is very supportive of rural enterprise and commits at paragraph 28 to “support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings”. In addition when considering the suitability of businesses outside established and more central areas paragraph 25 states that the sequential approach to site selection should not be applied to applications for small scale rural offices or other small scale rural development and this adds further weight to the potential suitability of smaller business enterprises in a range of locations.
63. It is acknowledged, however, that the site does lack in some sustainability credentials given its degree of isolation, particularly with regards to the engineering operations which are housed within the building. A particularly large-scale engineering operation at this location would not be sustainable and for this reason

should planning permission be granted officers consider a condition should be attached limiting the floorspace attributed to this use.

64. Officers consider that the NPPF is essentially offering strong support to business enterprise in rural locations provided that other impacts such as visual impacts are acceptable. Other key considerations are considered elsewhere in this report but officers consider that with the support of the NPPF in particular in mind, objection in principle to the office, general industrial and horse breeding enterprise should not be raised. However, it is considered appropriate to restrict the amount of the main building dedicated to engineering works having regards to the sustainability credentials of the site and also remove permitted development rights for enlargements and alterations to this element of the development.

#### Impacts Upon the Character and Appearance of the Area

65. Policies E8, R16 and EMP17 of the Local Plan seek to ensure that changes of use in the countryside, new equestrian facilities and farm diversification proposals have an acceptable impact upon the character and appearance of the area. Policy Q7 advises on the need for suitably designed industrial and business developments. Part 7 of the NPPF advises on the importance of good design within development proposals.
66. Public and Parish Council responses to the application raise objections over visual impact whilst the Spatial Planning Team has also raised concern with particular reference to the use of portacabins.
67. The main building situated at the site has previously been granted planning permission and so the visual impact of this building to which the change of use partly relates is essentially established.
68. With regards to the portacabins sited on the land officers acknowledge that generally speaking these are not well designed buildings nor welcomed on sites. They are utilitarian in appearance often a temporary or stop gap measure and officers would not dispute a better designed solution to provide extra storage or office accommodation could have been produced.
69. However, equally once outside of the application site and in the longer distance views neither are the portacabins particularly prominent or jarring. Furthermore a landscape scheme which can be conditioned on any approval, can also be implemented to better screen and reduce impact further still.
70. The remaining physical works within the application namely horse exerciser, exercise runs, enclosures and electricity pole officers consider are also not so significant features in the landscape to be obtrusive or unsightly in their own right.
71. Previously, significant landscape removal has occurred on the land immediately adjacent to Coalford Beck and this area is a local wildlife site and designated under Policy E18 of the Local Plan as a site of nature conservation importance. Undoubtedly the previous landscape works has essentially decimated this particular area and this is again picked up in the Parish Council and public responses as well as referred to in the comments of the Council's ecology and landscape teams. Such works had they formed part of application before occurring, would certainly have been considered in conflict with Policy E18.

72. Policy E18 advises that where development works must occur in these areas (or in this instance have simply been undertaken) then commensurate measures must be taken to minimise the adverse effects associated with the scheme and reasonable effort is made by appropriate habitat creation or enhancement in the vicinity to compensate for any unavoidable damage. The sentiments have again reiterated by the landscape and ecology teams.
73. The application has been accompanied by a schematic landscape planting plan and reference to replanting is made within the supporting documentation. The detail submitted in itself is not sufficient. However, a more detailed and appropriate landscape proposal to reinstate that lost and indeed improve the entirety of the appearance of the site can be resolved via condition on any approval.
74. The access route to the site incorporates sets of high gates and boarding, the applicant considers are required for security purposes. Officers consider that these gated entrance arrangement is somewhat inappropriate in a rural location, lower and more sympathetic farm access gates would be better. However, due to the distance at which the entrance enclosures are sited from the highway they do not in their own right require planning permission.
75. In conclusion officers consider that the associated portacabins, enclosures, exerciser and proposed exercise track have an acceptable impact upon the character and appearance of the area and that they are not so jarring or obtrusive to warrant refusal of the application. The previously undertaken landscape removal adjacent to the beck has significantly harmed a locally designated site of nature conservation and this impact is unacceptable. Equally the applicant has submitted an indicative replanting scheme and a condition can seek to ensure that a fully developed landscape proposal is implemented that not only mitigates the harm already undertaken in this area but also improves the character and appearance of the site overall.

#### Highway Safety

76. Policy T1 of the Local Plan seeks to ensure that all development is acceptable in terms of highway safety whilst Policy T10 seeks to limit parking provision in development to promote sustainable transport choices and reduce the land take of development. Policies E8 and EMP17 also require any changes of use and farm diversification proposals to be appropriate from a highway safety perspective. Part 4 of the NPPF also seeks to promote sustainable transport choices.
77. The main access to the application site previously formed part of the original planning permission for the erection of the main building. Consideration should be had to suitability of that access with the changes that have occurred in the use and function of the site.
78. The Highway Authority have raised no objections in principle to the use of the access for the functions of the site now sought. However, this is on the condition that the 6m access radius shown on proposed plan is implemented and officers can ensure this via condition.



79. Officers have previously noted that a second access has been formed farther to the south east and the applicant has not applied for its retention under this application. Officers have discussed the matter with the agent and requested the Highway Authority visit the site. Concerns have been raised by the Highway Authority with regards to the visibility of this access and this matter is to be pursued separately from this application.

### Flood Risk and Drainage

80. Part 10 of the NPPF in part advises on flood risk information requirements on applications and the criteria when determining applications and this is further supported by the technical guidance note that accompanies the NPPF. Policy U8A of the Local Plan advises on surface and foul water disposal and Policy U9 relates to development watercourses.

81. Sections of the site immediately adjacent to the watercourse Coalford Beck lie within flood zones 2 and 3. However, the sections of the site farther east where the buildings are sited and track proposed all lie within flood risk zone 1, essentially the least vulnerable to flooding. The application has been accompanied by a flood risk assessment, however and this also provides details on the field drainage works. The flood risk assessment considers that the development subject to the application does not involve the development of significant additional areas of hardsurfaced land reducing any potential increase in impact. The application is not considered within the flood risk assessment to alter the natural drainage characteristics of the land and the land drainage network would assist in draining the near surface soils but would not increase the overall run-off from the site. The drainage system proposed also incorporates an attenuation basin.

82. The Environment Agency have been consulted on the application and no objections have been raised though they have stated that there is a requirement to ensure that the proposed drainage which will result in a concentration of flows from the field created by a single discharge point does not cause scour issues to the beck. Having regards to the comments of the Environment Agency, officers have contacted the Council's drainage and coastal protection engineer who have advised on the requirements for the applicant to apply for consent for discharge into the beck and a need for the discharge rate to be controlled so as to prevent the prospect of scour as advised by the Environment Agency. Officers consider a condition can be applied to any planning permission to resolve the final discharge and drainage solutions.

83. The application is also accompanied by detail of a package treatment plant that will handle foul sewerage. Again in the consultation with the Environment Agency no objections have been raised. Northumbrian Water have raised no objections to the development.

84. Overall officers do not raise objections to the development proposal on the grounds of matters of flood risk or drainage.

### Ecology

85. Policy E16 of the Local Plan seeks to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through Part 11 of the NPPF most notably at paragraphs 118 and 119. The application site in part encompasses a site of nature conservation importance to which Policy E18 of the Local Plan relates.

86. 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.
87. 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. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species licence 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 licence being granted. The 2010 Regulations contain three "derogation tests", which are that the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment; there must be no satisfactory alternative; and favourable conservation status of the species must be maintained.
88. Landscape clearance works have previously occurred. The ecological description of this local wildlife site makes reference to plant species only not animals or indeed protected species. Equally, however, the presence of protected species at the time of those works occurring could not be ruled out. Equally an assessment at this stage cannot effectively prove if those works caused any harm to protected species or not.
89. However, an assessment of the situation more presently can be made to inform on the ecological value. The applicant has supplied an extended phase 1 habitat survey. This report finds no evidence of bird nesting activity, Great Crested Newts, reptiles, bats or water voles. A possible otter track was found though this was not confirmed and the site is not considered to support suitable holt or resting place for otters. Similarly the grassland onsite provides some suitable badger foraging opportunities and a form of mammal burrow was found however, there was no evidence to suggest badgers were actually using the site.
90. No evidence of any other protected species were found at the site. As a result there is no need for a detailed consideration against the "derogation tests".
91. Natural England have raised no objections to the proposal but state that consideration should be had to biodiversity enhancements. The Councils Principal Ecologist has considered the development and the submitted phase 1 habitat survey and the advice provided is that should the application be approved then the recommendations within the habitat survey should be conditioned. These recommendations comprise of avoidance of the bird breeding season, checking for badgers, management of invasive weeds, replanting and enhancement of the floodplain mire habitat. These recommendations can be conditioned and the replanting proposals incorporated into a wider compensatory landscaping scheme having regards to Policies E16 and E18 of the Local Plan.

#### Other Issues

92. The engineering operations within the main building in particular have the potential to generate noise and this can pose amenity issues for residents. Policy E8 of the Local Plan advises that changes of use of buildings in the countryside must not affect the amenity of neighbouring residents. However, due to the isolation of the application site and building within which the works occur, officers do not consider

that the noise or disturbance would affect residents. The content of the objections received do not make specific reference to noise issues. It should be noted that Environmental Health have raised no adverse comments on the proposal in relation to noise though have stated that having regards to the potential for a statutory nuisance which is not a planning matter. The Local Planning Authority should be considered with matters of amenity not statutory nuisance.

93. Remaining points of objection received from the consultation exercise state that they have no confidence in the proposed stud farm enterprise materialising in the same manner the previous agricultural business did not and the claims that the industrial estate rent for the engineering business could not be paid is disputed given the amount of money that will have been spent by the applicant on this site.
94. Officers can appreciate the concern over the potential for the site to change use given that the originally approved use for the site was altered shortly afterwards. However, the use before the Local Planning Authority under this application is that which must be considered at this stage. If a further unauthorised change of use occurs then this matter would again have to be considered on its own merits at that time.
95. Officers also appreciate the point raised that the amount of money spent at the site would be significant and does pose questions over the claims made that previous rent could not be afforded. However, the assessment of the application must again focus upon the merits of the change of use that has occurred and if the change of use is considered acceptable then the scheme can be supported, or if not then it can be refused. However, officers do not consider that the application could simply be refused because the reasons for the move sound unconvincing.
96. A comment has been received asking whether the provision of a public right of way across the land to Pittington can be provided. Officers had previously approached the applicant but a further formalised footpath has not formed part of the proposal submitted. The applicant has submitted a letter stating that two existing public footpaths provide for such a route including via the roadside. Potentially however, this matter can be discussed or pursued again, separate to the planning application and involving officers within the Public Rights of Way Team.

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## **CONCLUSION**

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97. The development subject to this planning application is predominantly retrospective. Aspects of the development are in some conflict with Local Plan Policies namely Policies E8 and EMP17 as additions to the existing building in the form of portacabins have been sited to provide appropriate levels of accommodation.
98. Furthermore previous landscape removal within a designated local wildlife site has caused harm to this area contrary to Policy E18 of the Local Plan.
99. However, the changes of use to form the office and engineering works place and for the keeping and breeding of horses are in their own right considered acceptable uses of land at the site having particular regards to the content of the NPPF.
100. The harm caused to the landscape and wildlife site as a result of land remodelling and landscape clearance can be mitigated and compensated for through replacement and replenishment schemes which officers consider conditions can

address. No objections are raised having regards to other key material planning considerations and as a result approval of the application is recommended.

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## **RECOMMENDATION**

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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 and details:

Gated Entrance EDCF\_012 received 31<sup>st</sup> January 2013  
Container EDCF\_015 received 20<sup>th</sup> December 2012  
Pole Mounted Transformer EDCF\_24 Rev A dated December 2012  
Horse Exerciser EDCF\_017 Rev B received 20<sup>th</sup> December 2012  
Container used as office EDCF\_016 received 20<sup>th</sup> December 2012  
Proposed Layout of existing building EDCF\_011 Rev B received 31<sup>st</sup> January 2013  
Plan of Site EDCF\_013 Rev C received 20<sup>th</sup> December 2012  
Proposed Land Drainage 3796-C-D1-01 dated February 2013-05-30  
Site Plan EDCF\_020 received 31<sup>st</sup> October 2012  
Plan of Site EDCF\_022 Rev B received 31<sup>st</sup> October 2012  
Proposed Location of Storage EDCF\_019 received 31<sup>st</sup> October 2012

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to relevant Policies E7, E8, E14, E15, E16, E18, EMP16, EMP17, T1, T10, T21, R16, Q1, Q2, Q5, Q7, U8A, U9 of the City of Durham Local Plan 2004

3. Notwithstanding any details of materials submitted within the application no further works on the circular horse exercise track shall be implemented until details of the surface material treatment for said track has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the area having regards to Policies E7, E17 and R16 of the City of Durham Local Plan.

4. The development hereby approved shall be carried out in accordance with a scheme of landscaping and habitat creation to be submitted to the Local Planning Authority within a period of 3 months from the date of this permission. Said scheme shall incorporate but not be restricted to a scheme for replanting adjacent to Coalford Beck and shall incorporate the principles and recommendations on replanting as described within section 5.2 of the submitted Extended Phase 1 Habitat Survey by Delta-Simons Environmental Consultants received 11<sup>th</sup> July 2013. Full details of species, sizes, numbers and densities of all planting/habitat creation shall be provided within the submitted scheme. The scheme shall include maintenance procedures and management methods to ensure its

establishment and retention in perpetuity. The works agreed to shall be carried out within the first planting season following the written approval of the scheme by the Local Planning Authority.

Reason: In the interests of visual amenity and compensatory habitat and landscape provision having regards to Policies E16, E18, Q5 and Q6 the City of Durham Local Plan.

5. No further development on site shall commence until precise details of the siting of the proposed attenuation pond as shown on plan 3796-C-D1-01 and full details of the discharge rates of the drainage discharge point to Coalford Beck have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of flood risk and to prevent damage to an existing watercourse having regards to Policies U8A and U9 of the City of Durham Local Plan.

6. The area of the main building dedicated for use for the engineering business operations comprising of welding, fabrications and similar and associated activities shall be restricted to the 131.5m<sup>2</sup> floor area as annotated as “machinery” on building layout drawing EDCF\_011 Rev B.

Reason: To define the consent and restrict the scale and nature of the engineering business activities on the site having regards to the sustainable credentials of the site having regards to Policies E8 of the City of Durham Local Plan and Part 3 of the NPPF.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within class J Part 3 of Schedule 2 (changes of use) of the said Order shall be carried out.

Reason: To permit the Local Planning Authority further control over the acceptability of changes of use of office accommodation to residential accommodation within the locality having regards to Policy E8 of the City of Durham Local Plan and Part 6 of the NPPF.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within classes A, B, C and D of Part 8 of Schedule 2 (changes of use) of the said Order shall be carried out.

Reason: To permit the Local Planning Authority further control over the acceptability of enlargements or alterations to industrial uses within the locality having regards to Policy E8 of the City of Durham Local Plan and Part 3 of the NPPF.

9. No development shall take place unless in accordance with the recommendations detailed within the section 5.2 of the submitted Extended Phase 1 Habitat Survey by Delta-Simons Environmental Consultants received 11<sup>th</sup> July 2013.

Reason: To conserve protected species and their habitat in accordance with Policy E16 of the City of Durham Local Plan 2004 and Part 11 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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101. Officers have held meetings with the applicant and kept them continually updated with progress on the planning application. Equally officers have discussed the application with those interested with in its consideration and sought to answer their queries in regards to the proposal.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documentation

City of Durham Local Plan 2004

National Planning Policy Framework

Internal consultee responses

Public responses

Responses from statutory and other consultees

Planning Circular 11/95



**Planning Services**

Part change of use of agricultural land and building for employment use (B2 and Office), for the keeping and breeding of horses, siting of cabins for office and storage use, formation of horse exercise areas and runs, enclosures and electricity line pole and engineering works to the landscape for drainage purposes (retrospective)

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**Date** 10<sup>th</sup> September 2013

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	4/13/00694/S106A
<b>FULL APPLICATION DESCRIPTION:</b>	Cancellation of S106 requirements
<b>NAME OF APPLICANT:</b>	Gleeson Homes and Regeneration
<b>ADDRESS:</b>	Former Ushaw Moor County Infants School Temperance Terrace Ushaw Moor Durham DH7 7PQ
<b>ELECTORAL DIVISION:</b>	Deerness
<b>CASE OFFICER:</b>	Henry Jones Senior Planning Officer 03000 263960 <a href="mailto:henry.jones@durham.gov.uk">henry.jones@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site comprises of the former Ushaw Moor County Infants School. The school has previously been demolished and a redevelopment scheme comprising of the erection of 29 no. dwellings has commenced with the dwellings to the site frontage largely complete.
2. The site is located within the settlement boundary of Ushaw Moor towards the western end of the village. Terraced properties are located to the north, east and west of the site with the St Lukes Church building also adjacent to the west. To the south lies Cockhouse Lane and beyond open countryside and fine views are available from the application site towards the south over the Deerness Valley. The village centre, which is a designated local centre within the Local Plan is within close proximity just over 200 metres to the east.

#### The Proposal

3. This proposal is not an application for planning permission. It is a submission to seek approval of the Local Planning Authority for the cancellation of the S106 obligations which would thereafter be agreed by a legal deed.
4. The S106 agreement relates to planning permission reference 11/00823/FPA for the erection of 29 no. dwellings, formation of access and associated works. The legal agreement requires the payment of £29, 000 towards the provision or enhancement of

play/leisure facilities and £8, 551 towards the provision of public art resulting in a total of £37, 551.

5. This application is being referred to committee for Members consideration of the merits of the cancellation proposal.

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## **PLANNING HISTORY**

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6. Planning permission for the redevelopment of the former school site was granted following planning committee in March 2012.
7. Previous planning history relates only to minor developments when the site was utilised as a school including the provision of new enclosures and demountable classroom units.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

8. 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.
9. 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’
10. The following elements are considered relevant to this proposal;
11. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
13. *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.
14. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change.

Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.

15. *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, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
16. *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.

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at:*

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

#### **LOCAL PLAN POLICY: (City of Durham Local Plan 2004)**

17. *Policy E14 - Trees and Hedgerows* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
18. *Policy E16 - Protection and Promotion of Nature Conservation* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
19. *Policy H3 - New Housing Development within the Villages* allows for windfall development of previously developed sites within the settlement boundaries of a number of specified former coalfield villages across the District, provided that the scheme is appropriate in scale, design location and number of units.
20. *Policy H12 - Affordable Housing* seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
21. *Policy H12A – Type and Size of Housing* states that the type and size of dwellings will be monitored with where appropriate negotiation with developers to provide the right housing types and sizes to ensure balance.

22. *Policy H13 - Residential Areas – Impact upon Character and Amenity* states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
23. *Policy T1 - Traffic – General* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
24. *Policy T10 - Parking – General Provision* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
25. *Policy R2 - Provision of Open Space – New Residential Development* states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
26. *Policy Q3 - External Parking Areas* requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
27. *Policy Q5 - Landscaping General Provision* sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
28. *Policy Q8 - Layout and Design – Residential Development* sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
29. *Policy Q15 - Art in Design* states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area
30. *Policy U5 - Pollution Prevention* seeks to control development that will result in an unacceptable impact upon the quality of the local environment.
31. *Policy U8a - Disposal of Foul and Surface Water* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
32. *Policy U11 - Development on Contaminated Land* sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

*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:*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

33. None

### **INTERNAL CONSULTEE RESPONSES:**

34. The Council's Valuation Officer within Asset Management has previously assessed the development appraisal presented within this submission and also compared it with an original development appraisal submitted prior to the planning permission being granted. The main differences relate to the increased costs within the more recent appraisal relating to site works such as retaining walls, foundations and muck shifts. On the basis of the development appraisal submitted the scheme is unviable.

### **PUBLIC RESPONSES:**

35. None

### **APPLICANTS STATEMENT:**

36. The submission has been accompanied by a supporting statement. The statement explains that the original costs anticipated before purchase of the site were underestimated. Significant additional works have been necessary at the site for instance increased retaining walls and removal of relic foundations. Other factors such as increased costs for service installations, highway works, slow sales and site theft are cited.
37. The applicants also point at the wider community benefits that the development would bring, commitments to local labour and community initiative schemes.
38. Cancellation of the S106 requirements is therefore requested on viability grounds.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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39. This proposal is not an application for planning permission. It is a request that the S106 financial contributions applicable to a development are removed which, if accepted, would be formalised via a legal deed. Ordinarily such a request to alter a S106 agreement would be sought via an application under S106A of the Town and Country Planning Act, however, as this S106 agreement is not 5 years old such an application cannot be made.
40. As a result, the only matter for consideration is the acceptability of the proposed cancellation of the S106 agreement having regards to the viability arguments put forward and also the need for those S106 contributions.
41. Policy R2 of the Local Plan relates to recreational and amenity space in new, major residential developments and essentially seeks on site provision or where considered appropriate financial contributions towards off site improvements via a S106 agreement.

42. Similarly, Policy Q15 of the Local Plan relates to art in design and where on site provision is not being provided requires developers to provide a financial contribution towards off site provision.
43. The NPPF advises that planning obligations should only be sought where necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development.
44. The previously agreed contributions are considered to meet these NPPF requirements. The latest evidence available with regards to open space within the Durham Open Space Needs Assessment (OSNA) demonstrates that within the Ushaw Moor/New Brancepeth ward there is inadequate provision of park and garden space, semi-natural greenspace and allotments.
45. Paragraph 173 of the NPPF stresses the importance of viability as a material planning consideration and that sites should not be subject to such a scale of obligations and policy burdens that their ability to be developed viably is threatened. To ensure viability, the costs of any requirements likely to be applied to development, such as requirements infrastructure contributions or other requirements should, when taking account of the normal cost of development and mitigation, provide competitive returns to a willing land owner and willing developer to enable the development to be deliverable. Paragraph 160 also advises that Local Planning Authorities must consider the needs of businesses and any changes in circumstances and require LPAs to work closely with the business community to understand their changing needs and identify and address barriers to investment, including a lack of housing, infrastructure or viability.
46. Advice has been sought from the Council's Valuation Officer within Asset Management who has considered both the original and last submitted development appraisal and made comparisons between the two. Effectively on the basis of the latest development appraisal submitted the scheme is considered unviable the valuation officer.
47. On a development of this nature it would be expected that a developer would demand a 20% profit of the development value of the site and this matches the profit developer has stated would be expected within this development through their development appraisal. Such a profit is not considered excessive it aligns with the Local Authorities assumptions contained within the Affordable Housing & CIL Development Viability Study. A competitive profit for a developer is to be factored into the consideration of the viability of a scheme and is effectively a cost to be taken out of the gross development value of the site and is a factor which can affect the ability of a development to pay for planning contributions. Once the amount paid for the site and development costs are taken from this 20% profit expectation then only around a 1% profit is actually being achieved.
48. With the advice within the NPPF in mind such a figure is not considered to constitute an adequate return. Although the policy requirements and OSNA evidence base support the requirements for the financial contributions, the redevelopment of the site itself does bring its own regeneration benefits within a struggling market area.
49. The developer will still be hoping that from this point to the completion of the development that through marketing and/or changes in the market that an improved return could still be made. However, as LPA we cannot bank on this subjective market uplift but look at the snapshot of the situation shown within the development appraisal.
50. Given the content of the development appraisal and with the advice of the NPPF in mind cancellation of the S106 requirements via a legal deed is recommended.

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## **CONCLUSION**

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51. This proposal seeks to gain approval from the Local Planning Authority for the cancellation/removal of the S106 planning obligations on planning permission 11/00823/FPA involving a financial contribution of £37,551 to be later formally agreed by a legal deed.
52. In support of this request a development appraisal has been submitted and is considered to demonstrate that the development is not providing a viable scheme with a competitive return. Although the S106 requirements are considered reasonable/necessary requests having regard to policy guidance and the latest evidence bases the redevelopment of the site itself brings benefits to the village and it is considered acceptable that the S106 is cancelled to ease the economic problems/burdens at the site.
53. As a result approval of the cancellation request is recommended.

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## **RECOMMENDATION**

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That the **S106 requirements are cancelled** via a legal deed

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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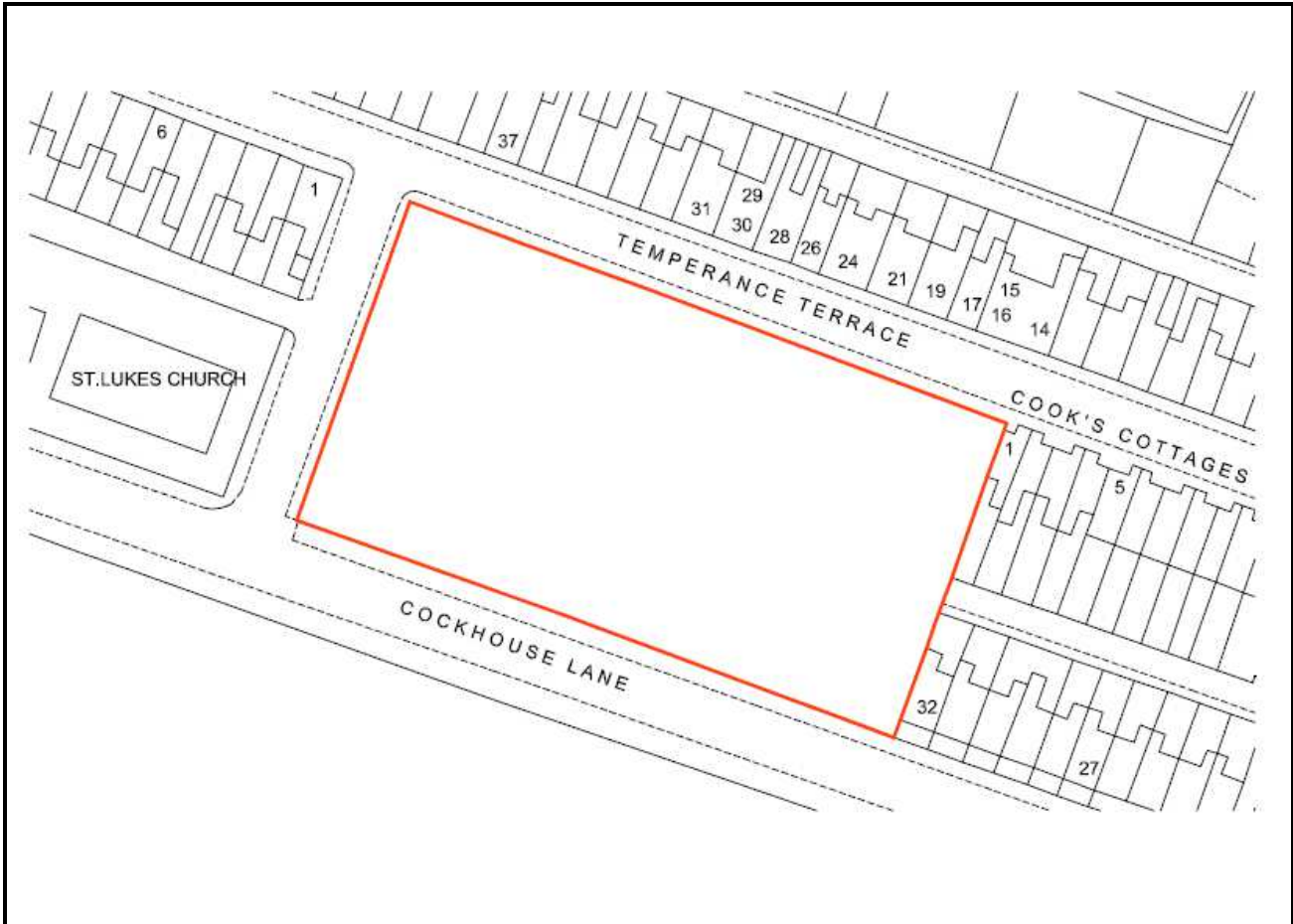
The applicant has been informed on the progress of the planning application and discussions/correspondence held on the submission. The proposal has been brought to planning committee at the earliest possible date for a decision.


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## **BACKGROUND PAPERS**

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Submitted supporting documentation  
City of Durham Local Plan 2004  
National Planning Policy Framework  
Internal consultee responses  
Affordable Housing & CIL Development Viability Study



 <p><b>Durham</b> County Council</p> <p><b>Planning Services</b></p>	<p>Cancellation of S106 requirements</p>	
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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION NO:	4/13/00619/FPA
FULL APPLICATION DESCRIPTION:	Erection of indoor riding arena and associated landscaping
NAME OF APPLICANT:	Mrs Susan Mordey Finchale View Riding School
ADDRESS:	Pit House Lane Leamside Durham
ELECTORAL DIVISION:	Sherburn
CASE OFFICER:	Steven Pilkington, Planning Officer, 03000 263964, <a href="mailto:steven.pilkington@durham.gov.uk">steven.pilkington@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The application site is located within the North Durham Green Belt to the north of the village of Leamside. The site is surrounded by open fields to the north, east and west of the site while residential dwellings are located to the south west. Access to the site is provided off Pithouse Lane which serves an existing stable building which has a lawful use as a livery and riding school.
2. It is proposed to erect an indoor riding arena measuring 29 m in width by 49m in length, a pitched roof at a height of 9m, 4.5m to eaves, is proposed. The building will represent an expansion of an existing equestrian business on site. It is proposed that the building will be constructed from steel profile sheeting, coloured Jupiter Green, while a landscaping bund is proposed to the southern elevation.
3. This application is being reported to Planning Committee at the request of the Local Councillor Guy the Ward Councillor for the Sherburn area.

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### PLANNING HISTORY

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4. Change of use of land and buildings from livery yard to use as livery yard and riding school – Approved 2008
5. Erection of building containing 8 stables, 2 isolation units, tractor store, tack room and secure store, creation of horse arena, erection of two field shelters, erection of muck heap, creation of parking area, demolition of existing kitchen and garage to side of existing dwelling and erection of single storey extensions to front and rear and creation of associated access in connection with proposed livery business – Approved 2006

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### PLANNING POLICY

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## NATIONAL POLICY

6. 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.
7. 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’ .
8. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
9. The following elements of the NPPF are considered relevant to this proposal;
10. 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.
11. NPPF Part 3 – Supporting a prosperous rural economy. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
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 8 – Promoting Healthy Communities. The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible, Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. NPPF Part 9 - The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
15. 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.

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

16. Saved Policy E1 – *Durham City Green Belt* - Sets out that within the defined Green Belt the construction of new buildings is considered inappropriate unless it is for agricultural or forestry activities, essential sport and recreation facilities, replacement of an existing dwelling and the re-use conversion of an existing building.
17. Saved Policy E7 – *Development Outside Settlement Boundaries* – Seeks to limit new development in the open countryside
18. *Saved Policy E16 – Nature Conservation* – Seeks to ensure that mitigation measures to minimise unacceptable adverse effects on identified nature conservation interests that cannot be avoided.
19. Saved Policy EMP17 – *Farm Diversification* – Sets out that where planning permission is required for farm diversification (including the change of use of farmland) development proposals should have an acceptable effect upon the amenity, character or appearance of the countryside, protect the amenity of neighbouring land users and be accessible by satisfactory access arrangements.
20. Saved Policy R16 – *Establishment of equestrian facilities* – Identifies that the establishments of equestrian facilities in the countryside will be permitted provided that the facilities are of an appropriate scale and do not detract from the landscape.
21. *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.
22. *Saved Policy Q5 – Landscaping* – Requires that development proposals provide a high standard of landscaping on site.
23. *Saved Policy U8a – Disposal of foul and surface water* – Development should include satisfactory arrangements for the disposal of foul and surface water.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

24. Highways – Offer no objections to the scheme

#### **INTERNAL CONSULTEE RESPONSES:**

25. Coal Authority – Withdraw a previous objection following a revision to the siting of the building.

26. Landscape – Raise no objections to the scheme, advising that the building would have an acceptable visual impact on the wider green belt subject to the detailing of a landscaping mound as indication on the submitted site plan..
27. Northumbrian Water – Raise no objections following the submission of amended plans.
28. Rights of Way Officer – Considers that an adjacent Public Right of Way would be unaffected.
29. Environmental Health Officer – Offers no objections
30. Drainage Officer – No Response Received
31. Energy Officer – Verbally advised that a condition should be attached to require energy reduction.

#### **PUBLIC RESPONSES:**

32. Neighbouring residents have been notified by individual notification letters and site notice, 1 letter of objection has been received in relation the visual impact of the building on the surrounding landscape.

#### **APPLICANTS STATEMENT:**

33. The development will relate to an expansion of existing operations on site which provide riding lessons including dressage and jumping and would allow the continuation of this on a year round basis, less dependant on weather. The size of the building is necessary so that exercise and lessons are not restricted to walking.
34. Specific consideration has been given to the appearance of the building, where it is proposed that it would be coloured Jupiter Green, helping it blend into the landscape. A landscaping mound is also proposed which would again reduce the impact of the building.
35. A public consultation was held prior to the submission of the application, where local residents were invited to view a model of the scheme to where no adverse comments were made.

*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://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application\\_detailview.aspx?caseno=MP9MJ3BN08Y00](http://publicaccess.durhamcity.gov.uk/publicaccess/tdc/DcApplication/application_detailview.aspx?caseno=MP9MJ3BN08Y00)

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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36. 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 principal material planning considerations raised relate to the principle of development, impact on the visual amenity and openness of Green Belt, impact on amenity of neighbouring residents, highways safety and ecological interests.

The Principle of Development

37. The application site is located within the open countryside and within the North Durham Green Belt, as defined in the Durham City Local Plan Proposals Map. Saved policy E1 of the Local Plan seeks to limit inappropriate development within the Green Belt to protect its purpose, visual amenity and openness. Policy E1 considers all development is inappropriate unless it is for agricultural purposes or essential sport and recreation facilities which preserve the openness of the Green Belt. This principle of resisting inappropriate development within the Green Belt is also embodied within the NPPF while highlighting that the provision of appropriate facilities for outdoor recreation is acceptable providing that it preserves the openness of the Green Belt.
38. Saved Policy R16 of the Local Plan recognises the need to provide for the growth in horse riding as a leisure pursuit, identifying that facilities should be located so that they are accessible from urban areas while requiring all new facilities to have an acceptable impact on the open countryside. In addition to seeking to prevent inappropriate development within the Green Belt the NPPF seeks to support existing businesses including the diversification, this is replicated in saved policy EMP17 of the Local Plan which also recognises the importance of established employment and businesses within the countryside.
39. In assessing the proposed scheme against the above policy context, it is considered that the development would represent an expansion and further investment in an established rural enterprise which provides a recognised sporting and recreational function within close proximity to Durham City. The development is therefore not considered to be 'inappropriate development' within the Green Belt as defined by saved policy E1 of the Local Plan and part 9 of the NPPF . Providing that the development preserves the openness and visual amenity of the Green Belt as assessed in detail below, the development is considered acceptable in principle

#### Impact on openness and visual amenity of Green Belt

40. As set out above the application site is located within the North Durham Green Belt, which in this location is characterised by open fields of agricultural appearance, bordering on to the settlement limits of Leamside. In considering the impact of the development on the Green Belt consultation has been held with the Council's Landscape Officer who has appraised the impact of the development on the surrounding landscape, namely on the openness of the Green Belt in this location.
41. The Landscape Officer advises that the building will preserve the openness of the Green Belt in this location as the building will only be briefly visible from Station Road (within the settlement limits of Leamside), where it raises up and crosses a railway line. It is however advised that any visual impact of the arena would be mitigated through the introduction of an undulating landscape mound and the proposed colour which would help the structure blend into the wider landscape. The Landscape Officer also considers that when viewed from Pit House Lane the proposed building would have limited visibility due to existing mature hedgerows, its colour and as the building would be set against the backdrop of higher ground. When viewed from the wider Green Belt to the north of the site the building would be seen against the existing backdrop of Leamside, again against higher land and would not create an incongruous feature or appear to represent an incursion into the wider Green Belt.
42. One letter of objection has been raised from a local resident outlining concerns regarding the potential impact of the building and the cumulative impact of a second large building in the area (located off Cocken Road, adjacent the A1(M)). Consideration has been given to this matter, however given the separation distance of 450m, the screening provided by mature hedgerows and the embankment of Cocken Road the buildings would not be seen in the same context. Any cumulative impact is therefore considered to be minimal and the

resultant visual impact acceptable. The proposed barn will also have a softer appearance, due to its colour and landscaping, than the erected building.

43. Overall after visiting the site, considering the submitted plans and taking into account the views of the Landscape Officer, it is considered that the proposed development would have an acceptable impact on the openness, character and visual amenity of the surrounding Green Belt and Open Countryside. It is however recommended to control the details of the landscaping area, the proposed materials and final colour of the building while restricting the erection of external lighting.

#### Impact on amenity of adjacent landusers

44. Saved policy EMP17 requires that proposals which involve farm diversification should not have an adverse effect upon the amenity of the occupiers of nearby properties. The proposed development would be located approximately 40m east of the residential property of no.12 Pithouse Lane. Given the proximity and scale of the proposed building the outlook of this property will be reduced. However after visiting the site, it is considered that although the outlook would be reduced, a significant overbearing effect or shading effect would not arise, particularly in considering the proposed landscaping scheme which will help soften and screen the appearance of the development. This reduced outlook is therefore not considered sufficient to warrant refusal of the application.
45. The proposed scheme also has the potential to increase the noise and smells generated from the site. However after reviewing the development in this context the council's Environmental Health Unit raise no objections to the scheme and advise that the scheme is unlikely to lead to any nuisance.

#### Highway Safety

46. The application site is currently served by an access taken off Pithouse Lane, these access arrangements are proposed to remain unchanged, to which the Highways Authority raise no objections.

#### Ecology

47. Paragraph 11 of the NPPF and policy E16 of the Local Plan requires Local Planning Authorities to take into account, protect and mitigate the effects of development on Biodiversity Interests. In this instance after visiting the site and noting the existing intensive equestrian uses on site, including the presence of two ménages, vehicle hardstanding and grazing land it is considered unlikely that there would be any loss of habitat for species especially protected by law. Therefore overall it is considered the granting of Planning Permission would not constitute a breach of the Conservation Habitats,& Species Regulations 2010

#### Other Issues

48. The proposed building is located in close proximity to existing coal mining features and hazards. The Coal Authority previously objected to the location of the building due to the location to these features and the lack of a risk assessment. However following the receipt of amended plans altering the siting of the proposed building away from these identified features the Coal Authority have removed their objection. It is therefore considered unlikely that the building would be affected by potential unstable land.
49. Saved policy U8a of the Local Plan requires consideration be given to issues regarding flooding particularly from surface water run off. No details have been submitted in relation to the proposed means of drainage from the site, including foul drainage. In order to

address this issue it is recommended to place a condition on approval requiring a scheme to deal with wastewater and surface run off utilising soakaways where appropriate. The site lies outside of Flood Zones 2 and 3.

50. The development is classed as a 'major application' based on the floor area of the development. The NPPF seeks to minimise energy consumption and incorporate renewable technologies within the site. However after discussing the matter with the council's Sustainable Energy Officer it is considered that given the nature of the development it would not be appropriate to apply the same energy reduction standards and target as a more commercially intensive building, provided more general improvements are made through the scheme. A condition detailing this is set out below.

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## **CONCLUSION**

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51. The proposed scheme has been assessed against the policy documents identified above. It is considered that the proposal conforms to these policies, as the scheme will have an acceptable impact on the visual amenity, character and openness of the wider Green Belt, while not significantly impacting on the amenity of neighbouring residents and highway safety. There are no material planning considerations, which indicate a decision should be otherwise and therefore the proposal is recommended for approval.

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## **RECOMMENDATION**

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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- Imposition to be required 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:-  
Proposed Elevations, Received 1<sup>st</sup> July 2013  
Proposed Layout, Received 9<sup>th</sup> August 2013

*Reason:- In order to define the consent and to accord with saved policies, E1, E7, R16, T1 and Q5 of the Durham City Local Plan*

3. Notwithstanding any description of the materials in the application, no development shall be commenced until samples or precise details of the materials to be used in the construction of any external surface of the development hereby approved including external walls and roofs of the building have been submitted to, and approved in writing by, the Local Planning Authority. The development shall be carried out in accordance with the approved details.

*Reason: In order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity of the Green Belt in accordance with the provisions policies E1 E7, R16, and Q5 of the Durham City Local Plan.*

4. The hereby approved development shall be carried out in accordance with a scheme of landscaping to be submitted to, and approved in writing by the Local Planning Authority prior to the commencement of any development on site, the scheme shall provide and detail for:-

- The formation of a landscaping bund.
- The planting of trees and / or shrubs (including species, sizes, numbers and densities) to reinforce the proposed landscaping bund,
- Full details of any hard standing proposed making provision for permeable surfacing
- The retention and protection of existing vegetation on site.

The works agreed to shall be carried out within the first planting season following completion of development of the site and shall thereafter be maintained for a period of 5 years following planting.

*Reason: In order to ensure the satisfactory appearance of the development upon completion, in the interests of visual amenity of the Green Belt in accordance with the provisions policies E1 E7, R16 and Q5 of the Durham City Local Plan.*

5. Notwithstanding the submitted information and prior to works commencing a detailed scheme for the disposal of foul and surface water shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details thereafter.

*Reason: In the interest of the adequate disposal of foul and surface water in accordance with Policy U8a of the Durham City local Plan.*

6. Notwithstanding the submitted information, no external lighting units shall be erected on the building unless otherwise agreed in writing by the Local Planning Authority.

*Reason: in the interests of the visual amenity, character and openness of the Green Belt, in accordance with policies E, E7 and R16 of the Durham City Local Plan*

7. Prior to the commencement of the development a scheme to minimise energy consumption shall be submitted to and approved in writing by the Local planning Authority. Thereafter the development shall be carried out in complete accordance with the approved scheme prior to first occupation and retained as such while the building is in existence.

Reason - In the interests of sustainable construction, and efficient use of resources in accordance with part 10 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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52. 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 within the 8 week 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.

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## **BACKGROUND PAPERS**

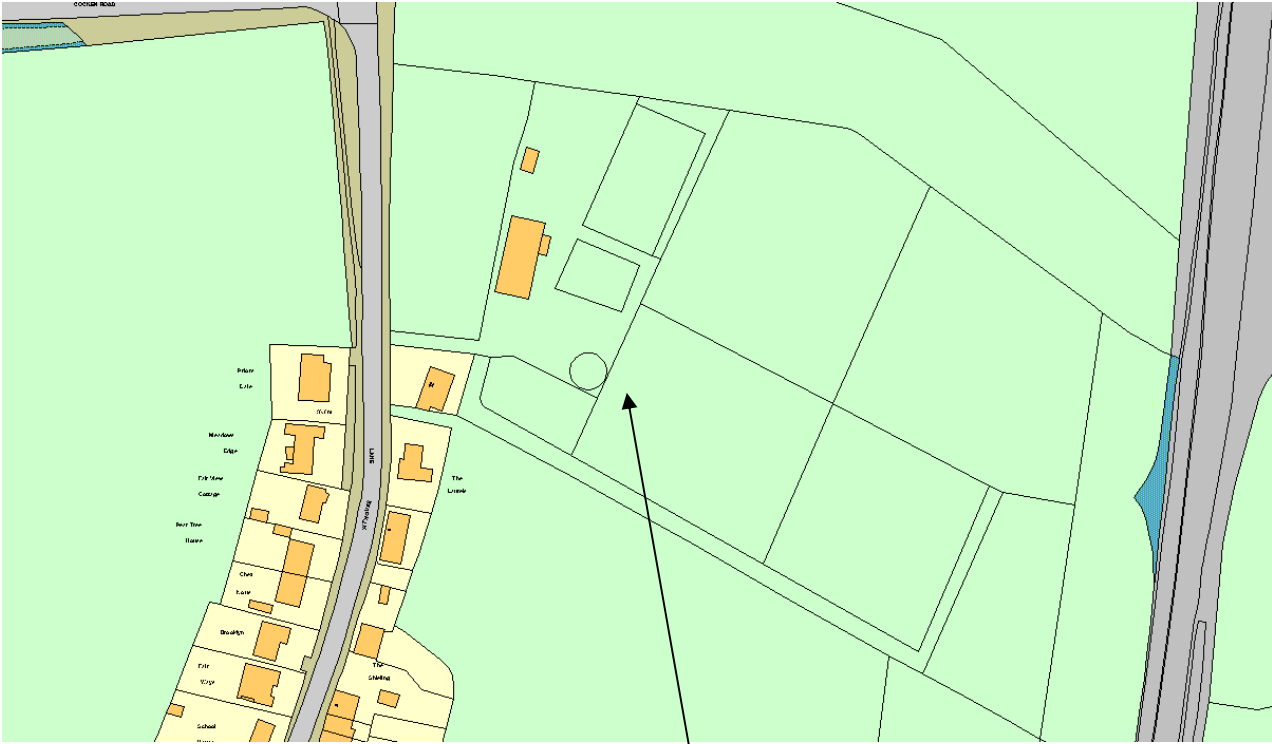
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Submitted Application Forms, Plans and supporting documents  
 National Planning Policy Framework  
 Response from Highway Authority



Response from Landscape Officer  
Response from Environmental Health  
Response from Public Rights of Way Officer  
Response from Coal Authority

Committee Report - Version 8 – Effective 25.6.13



Application Site



**Planning Services**

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**Comments**

**Date** 29 August 2013

**Scale** 1:2500

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION NO:	PL/5/2013/0302
FULL APPLICATION DESCRIPTION	CONSTRUCTION OF CAR PARK & ASSOCIATED WORKS
NAME OF APPLICANT	DURHAM COUNTY COUNCIL
SITE ADDRESS	ST JOHNS SQUARE, SEAHAM
ELECTORAL DIVISION	Dawdon
CASE OFFICER	Laura Martin 03000261960 dmcentraleast@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application relates to a cleared site following the demolition of Caroline House and Seaham Library. The works form part of the wider regeneration of the St John's Square area, which has included the new Durham County Council Customer Access Point and Primary Care Centre.

#### The Proposal

2. Full planning permission is sought for the formation of a car parking area, associated lighting and landscaping. The proposal would consist of approximately 1950m<sup>2</sup> of new tarmac area, including the proposed access via the existing entrance on Shelley Street and would provide a total of 95 car parking spaces, 6 of which would be classified as disabled and 2 of which would be electric car charging points.
  3. The existing informal car park has around 28 car parking bays, none of which are designated as disabled.
  4. The application is brought before members of the Planning Committee as the development falls within the major development category.
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### PLANNING HISTORY

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PLAN/2007/0479 Redevelopment and erection of a multi-use public service building  
Approved 8 Oct 2007

PLAN/2008/0487 Multi Use building for library, café and office Approved 2 Sept 2008

PL/5/2009/0137 Demolition of clinic and magistrate court and erection of a Primary care centre Approved 23 June 2009.

## **PLANNING POLICY**

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### **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 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.
9. 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.
10. 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>*

### **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 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
14. Policy 37 - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).
15. Policy 101 - Peterlee and Seaham town centres will be protected and promoted as the main retailing centres. Permission will be granted for further town centre uses and the improvement of the town centre through redevelopment and environmental and transport infrastructure improvements.

*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>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

16. Parish Council- No response

### **INTERNAL CONSULTEE RESPONSES:**

17. Design and Landscape section- request conditions relating to surface treatment, landscaping and street furniture. No objections are raised.
18. Highways Authority- Welcome the application and raise no objections.
19. Environment Agency- No response at time of report completion- members will be updated accordingly.
20. Northumbria Water- No response at time of report completion- members will be updated accordingly.

### **PUBLIC RESPONSES:**

21. The application was advertised by means of Press and Site notice, and a further 40 letters of notification were sent to neighbouring properties within the area. No letters of representation have been received in respect of the above development.

### **APPLICANTS STATEMENT:**

22. Regeneration & Economic Development support the proposed planning application for the re-use of the former Caroline House site and creation of additional car parking at St John's Square, Seaham.
23. In recent months within the direct vicinity of the Square, there have been significant congestion issues in and around the residential streets of Caroline, Sophia and Shelley St respectively. This has resulted in a number of conflicts with residents and users/employees of the Job Centre and Seaham Contact Centre.

24. Mitigation through a parking solution will not only alleviate the above concerns but also provide an accessible western route into the primary retail area of the Town Centre through a series of short and long stay parking facilities.
25. The construction will bring forward the final phase of redevelopment of St Johns Square and provide Seaham and East Durham with a critically important public service hub.

*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=124762>*

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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26. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
27. The main considerations in regard to this application are impact upon the highway network and impact upon residential and visual amenity.

### **Impact upon the Highway network**

28. There has been a very large amount of re-development within the direct vicinity of the proposed car parking area with very limited new car parking. It has now become apparent that the existing car parking in the area is unable to cope with the current demand and this has led to congested car parking areas, which often cause disruption to the adjacent residential properties on Sophia Street and Shelley Street.
29. Whilst it is acknowledged that Policy 37 of the Easington Local Plan states that design and layout of development should seek to minimise car parking it is considered that in order to ease congestion in and around the town centre and to avoid any further impact upon residential amenity that an increase in parking provision would be acceptable upon this occasion. Policy 101 does make provision for this in relation to town centre uses and improvements to transport infrastructure. Furthermore, the Highway Authority have been consulted upon the application and welcome the increase in provision due to the issues outlined above. Therefore it is considered that there would be no adverse impact upon the existing highway network.

### **Impact upon residential and visual amenity**

30. As previously noted the adjacent residential streets due to the increase in development surrounding the site have suffered significant disruption from additional on-street parking and traffic utilising the area. It is considered that the designated car parking areas would help to resolve such issues and help to improve the current level of residential amenity at the site.
31. In respect of visual amenity, the area is currently in a very poor state and no works have been carried out since the demolition of the library and Caroline House. Hoarding fencing currently surrounds the site and the area is generally visually unattractive. It is considered that the creation of the car parking with associated landscaping would tidy the area up and would create a more attractive public realm

for shoppers and users of the Contact Centre. As part of any approval at the site any street furniture, lighting and surface treatments would be conditioned to ensure a high quality development and to enhance the visual amenity of the area.

32. It is therefore considered that the increase in car parking provision at the site would not only assist with the regeneration of the area but would enhance the overall shopping and employment provision in the area and would help to retain/attract further redevelopment to the area.

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## **CONCLUSION**

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33. In conclusion it is therefore considered that the proposed development would have positive impacts upon the current levels of visual and residential amenity and upon the highway network at the site, given the proposed location of the works and the current levels of car parking provision. Therefore as a result it is considered that the proposed development would be in accordance with the intentions of the District of Easington Local Plan and in particular policies 1, 35, 36, 37 and 101 as well as Parts 1, 4 and 7 of the NPPF.

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## **RECOMMENDATION**

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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; No. Wider location plan, Design and Access statement and Drawing No. MHD611\_01 Proposed site layout all received 30 July 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. 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.

4. 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.

5. Prior to the commencement of the development details of any proposed street furniture shall be submitted to and approved in writing by the Local planning authority. Thereafter the street furniture shall be laid out and available for use in accordance with the submitted and approved plans.

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. Details of the height, type, position and angle of external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the development hereby permitted being brought into use. The lighting shall be erected and maintained in accordance with the approved details.

Reason: In the interests of the amenity of nearby residents and the appearance of the area in accordance with Policy 35 of the Easington Local Plan.

7. Prior to the commencement of the development details of the surface treatment and construction of all hardsurfaced areas shall be submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 1 and 35 of the Easington Local Plan.

8. Prior to being discharged into any watercourse, surface water or soakaway system, all surface water drainage from parking areas and hardstandings shall pass through an oil interceptor designed and constructed in accordance with a scheme to be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure proper drainage of the site in accordance with Policy 1 and 35 of the Easington Local Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to support this application have, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.



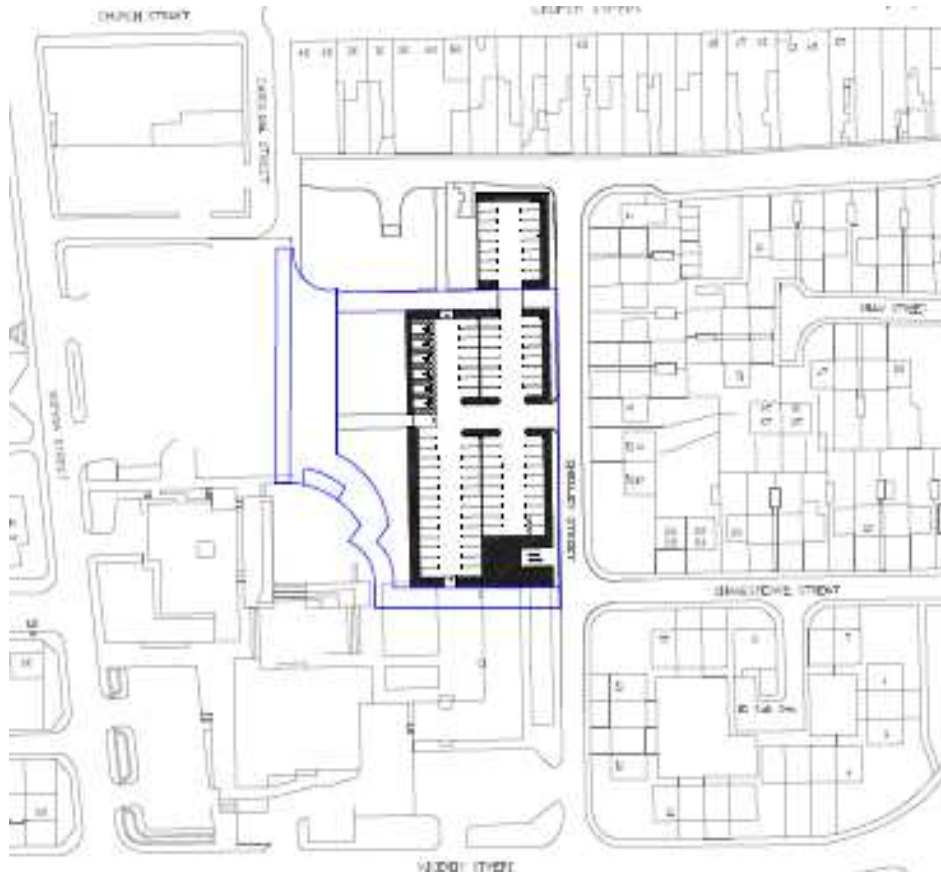
(Statement in accordance with Article 31(1) (CC) of the Town and Country Planning (Development Management Procedure) (England) (Amendment No. 2) Order 2012.)

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## **BACKGROUND PAPERS**

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- 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 CONSTRUCTION OF CAR PARK & ASSOCIATED WORKS at ST JOHNS SQUARE, SEAHAM PL/5/2013/0302**

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**Comments**

**Date** 10 September 2013

**Scale** 1:1250