



Area Planning Committee (North)

Date Thursday 28 July 2016
Time 2.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 30 June 2016 (Pages 1 - 10)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
 - a) DM/16/00759/FPA - 1A Arcadia, Ouston, Chester-le-Street
(Pages 11 - 20)
Change of use from shop (use class A1) to restaurant and takeaway (mixed use A3 and A5) and erection of awnings.
 - b) DM/16/00760/AD - 1A Arcadia, Ouston, Chester-le-Street (Pages 21 - 26)
Erection of two illuminated signs and awnings.
 - c) DM/16/01816/FPA - St Marys Roman Catholic Primary School, Pemberton Road, Consett (Pages 27 - 36)
Erection of a MUGA (multi-use games area), with associated fencing, gates and path.
 - d) DM/16/01811/FPA - Hollydene, North Lodge, Chester-le-Street
(Pages 37 - 48)
New bungalow with integral garage within existing house curtilage and new access for existing dwelling.
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
20 July 2016

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

Councillor C Marshall (Chairman)
Councillor I Jewell (Vice-Chairman)

Councillors B Armstrong, H Bennett, P Brookes, J Cordon,
J Maitland, O Milburn, J Robinson, K Shaw, A Shield, L Taylor,
O Temple, K Thompson, S Wilson and S Zair

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**DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (NORTH)**

At a Meeting of the **Area Planning Committee (North)** held in the Council Chamber, County Hall, Durham on **Thursday 30 June 2016 at 2.00 pm**

Present:

Councillor C Marshall (Chairman)

Members of the Committee:

Councillors B Armstrong, P Brookes, J Cordon, O Milburn, J Robinson, A Shield, L Taylor, O Temple, K Thompson, S Zair, J Blakey and M Davinson

Apologies:

Apologies for absence were received from Councillors H Bennett, I Jewell, J Maitland, K Shaw and S Wilson

Also Present:

Councillor O Johnson

1 Apologies for Absence

Apologies for absence were received from Councillors H Bennett, I Jewell, K Shaw and S Wilson

2 Substitute Members

Councillor J Blakey for K Shaw
Councillor M Davison for I Jewell

3 Minutes of the Meeting held on 19 May 2016

The minutes of the meeting held on 19 May 2016 were confirmed as a correct record and signed by the Chairman.

4 Declarations of Interest (if any)

- i) Councillor Milburn declared an interest in Item 5c DM/16/00905/FPA as she was a local ward member.
- ii) Councillor Marshall declared an interest in Item 5c DM/16/00905/FPA as he had worked with the applicant and the planning department on the revised application.

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

a DM/15/03222/FPA - Land To The West Of Briardene, Cadger Bank, Lanchester

The Committee considered a report of the Senior Planning Officer regarding an application for a residential development comprising of 52 dwellings with new access and associated works on land to the West of Briardene Cadger Bank, Lanchester (for copy see file of minutes).

The Senior Planning Officer provided a detailed presentation of the application which included photographs of the site and a plan of the proposed site layout. Members had undertaken a site visit the previous day and with such were familiar with the site and its surroundings.

Mr M Wardle, Lanchester Parish Council was in attendance to address the Committee in objection to the application. He advised that he and the Parish Council endorsed the recommendation of the officers noting that the issue of the location of the scheduled ancient monument was also extremely important. He further made reference to the objection letter which had been submitted and highlighted the main areas of concerns within, such as; the site being outside the development limit of the village, negative impact upon the landscape, highways safety and the impact on issues of speeding already identified on Cadger Bank, concerns regarding surface water drainage and the impact of further flooding on the village of Lanchester. He further made reference to the Lanchester Neighbourhood Plan and the heritage assets identified within.

The Chair then welcomed Mr M Gladstone to the meeting who was also in attendance to address the Committee in objection to the application on behalf of Lanchester Partnership and the Campaign to Protect Rural Lanchester. He advised that almost all residents of Lanchester were opposed to this development. He then went on to highlight the many disadvantages that the development would cause including; increased risk of flooding – because of the vulnerability of Lanchester to flood the drainage design of the recent Newbiggen Lane application was based on a theoretical once in 100 years storm plus 30%, however this application proposed a much smaller drainage system based on a once in 30 years storm and there were therefore concerns that if, during a major rainstorm, the capacity of the system is exceeded that the excess water would be diverted away from the village. This proposal would not allow for this diversion of water and instead excess water would gush down into Alderdene Burn, from where it would likely flood Front Street.

The second issue related to provisions for pedestrians. He commented the only access to the proposed estate was at the top of a very steep hill. None of the residents of Briardene walk to the village shops. The steepness of the site itself would necessitate flights of steps on the paths within it, ruling out the use of prams and pushchairs. Therefore not meeting sustainability criteria.

The third issue raised related to drainage outfalls and the potential this could have on ecology and the wildlife habitat. Mr Gladstone further commented that approval

of the application could set a precedent for further development around the perimeter of Lanchester further damaging the area. In summary he added that the harm to the heritage that would be caused by this development outweighed the supposed benefit bringing additional disadvantages as previously outlined.

The Chair then welcomed Ms A Ward who was in attendance to address the committee in support of the application on behalf of Barratt / David Wilson Homes. She made reference to the SHLAA which previously identified the site as suitable for housing development for an estimated 95 houses in the Preferred Options Plan, 2012. At this time the site was considered to be suitable and sustainable.

She further added that many of the land allocations were not deliverable and the council had identified that there was a need for a 5 year land supply and a continuing need for homes to come forward. In addition she highlighted that Lanchester had an aging population and a lack of local spend.

It was further reported that the development would consist of a mixture of properties including 10 affordable homes.

Regarding the archaeology of the site she advised that there was no above ground features and geophysics had identified that the below ground archaeology did not cover the site in question. She added that the site was not critical to the appreciation of the scheduled monument.

In conclusion she commented that the development would not harm the heritage asset and would bring benefits to the village of Lanchester such as investment and a boost to local shops and improvements to footpaths.

The Senior Planning Officer in responding to the objectors comments advised that drainage issues would not address the existing flooding problems of Alderdene Burn. In addition he advised that at present the Neighbourhood Plan did not hold any status at this present time. With regard to comments made regarding precedent, he further advised members that each application should be considered on its own merits.

In referencing the SHLAA process, the Senior Planning Officer advised that the assessment was an evolving process and issues regarding archaeology and eventual designation had resulted in the site being classified as unsuitable for development in the updated 2013 SHLAA update. Further reference was made to the classification of the site and its scheduled designation.

The Chairman then invited Dr D Mason, Principal Archaeologist to provide some further information regarding the findings of the geophysical surveys. The Principal Archaeologist advised that the geophysical surveys had changed our understanding of Roman Lanchester adding that the site was one of the best preserved sites in the country. In addition to boundary ditches and property settlement boundaries being identified, 1.5 metres of fort walls protruded from the ground at certain points of the site. In conclusion he advised that the site was currently totally free of modern development. He further added that the extension of

a modern village to the boundary of a Scheduled Ancient Monument would harm a currently tranquil site and would in effect suburbanise the area.

Councillor Robinson in referencing the Matthew Taylor Report asked for some clarity regarding the expansion of villages. In response the Senior Planning Officer advised that Lanchester had been expanded and did now have strong modern elements throughout the village. He further pointed out that the decision had to be made within the current framework of the Derwentside Local Plan and the NPPF and not within the wider government.

As a point of clarity the Solicitor, Planning & Development advised that the Matthew Taylor report held no weight in determination of the application.

Councillor Shield added that a lot of the focus had been around the scheduled ancient monument but there was a clear encroachment into the countryside contrary to the Local Saved Plan. He furthermore concurred with the comments made by councillors and **MOVED** that the application be **REFUSED** on the grounds as listed within the report.

Councillor Cordon **SECONDED** that the application be **REFUSED**.

Councillor B Armstrong added that she liked all the things offered by the developer however it was clear that this was the wrong site and the wrong place for this development.

Councillor Davinson asked for some clarification regarding figures highlighted within the report, specifically paragraph 121 regarding the New Homes Bonus. The Senior Planning Officer advised that the figure within the report should read £46,000 not £460,000.

Following a vote being taken it was **Resolved**:

That the application be **REFUSED** on the grounds as listed within the report.

b DM/16/00871/OUT - Land To The South Of And Including No. 7 The Paddock, Lanchester

The Committee considered a report of the Senior Planning Officer regarding outline planning permission for residential development (C3) of up to 14 dwellings with all matters reserved except access, including demolition of no.7 The Paddock on Land to the South of and including No.7 The Paddock, Lanchester (for copy see file of minutes).

The Senior Planning Officer provided a detailed presentation on the application which included photographs of the site and a plan of the proposed layout. Members had also visited the site the previous day and with such were familiar with the location and layout.

Mr M Wardle, Lanchester Parish Council addressed the Committee, to speak in objection to the application. He reported that the development was a clear incursion

into a well vegetated site with mature trees. The site fell on a significant slope and with such would be difficult to screen being visible from Ford Road which was a key local access route through the village. In overall terms he considered the site to be of high landscape value and any development would spoil the balance of the current estate and disrupt the quiet cul-de-sac. The development would also impact upon traffic flows on already difficult roads.

In conclusion he added that the self-build element could lead to an extended period of disruption for residents and overall was considered to be unnecessary development. He therefore urged the committee to refuse the application.

Councillor Ossie Johnson, Local Ward Member addressed the Committee and advised that he was in attendance to represent the views of Lanchester residents. He added that the proposed site was outside of the development limit and would require a chain saw to be taken to a protected tree belt. In addition a perfectly good bungalow would have to be demolished and many residents felt that the proposals were wholly inappropriate.

He further went on to comment that the proposals were not considered sustainable. All schools in Lanchester were full and the current traffic and parking issues would further be exacerbated. A current parking scheme was to be introduced in Lanchester and additional bollards were to be installed. He added that the current infrastructure was creaking and the village was already swamped. Any further development would add to these already difficult issues.

In conclusion he asked that Members consider Ford Road and the impact additional traffic would have on this already busy road. He further added that he considered the proposal to be urban sprawl and with such urged members to refuse the application.

The Chair welcomed Mr J Yates who addressed the Committee in objection to the application on behalf of the residents of No.8 The Paddock. He advised that there was a presumption in favour of sustainable development and referred to policies which were locally rooted and based. He added that there were very strong views amongst residents regarding the loss of amenity and privacy from the removal of trees.

In conclusion he further made reference to legal conveyancing and added that the self-build element could grow to be real nuisance with timings of the builds varying.

Mrs Anderson, local resident, addressed the Committee in objection to the application. She advised that her property No.6 The Paddock backed on to the proposed development and adjacent to the proposed road. She added that there was currently in excess of 55 houses available in Lanchester, including 3 self-build plots. The Paddock falls within Lanchester conservation area with a number of mature healthy trees protected by TPOs. Mature oak trees would also be at risk and well as potentially weakening the soundness of the pines which could cause an unstable tree belt.

Regarding the loss of privacy she added that loss of these trees and would be detrimental to her privacy and her currently uninterrupted vista of the open countryside could be potentially blocked by any development.

With regard to the self-build aspect she commented that construction could take years with no guarantees that work would be completed or the safety of the site being monitored. The development was a commercial venture and with such was not being proposed in the best interests of Lanchester or the sites green field status.

In conclusion she advised that although officers were reporting that the development would have no impact upon the village, this could not be known as only the residents would experience the disruption and harm first hand. She therefore urged members to refuse the application.

Mr J Taylor, NLP Planning Consultants, addressed the Committee in support of the application. He advised that the development proposed a small scale expansion of the cul-de-sac and was well related to the character of the village. He noted that Lanchester had enviable services and the site was only a short ten minute walk to the village, comparable to other properties in the village. He further commented that the addition of new properties would bring a welcome boost to the village shops.

Regarding the location he added that the site laid outside the buffer zone of the archaeological site and through a well-designed and careful planting scheme there would be no harmful impact. The applicant had worked tirelessly with Planning Officers to lessen the impact on protected trees.

With regard to comments made relating to drainage he advised that an onsite storage tank would hold excess surface water and would provide a positive solution.

In conclusion he added that the application proposed a low density development and although there was a self-build aspect it was considered to be sensitive to the area.

The Senior Planning Officer added that the NPPF was quite clear and policy H07, relating to the development limit had been considered carefully. Regarding sustainability he advised that the 500m walk into the village was quantified. In referring to comments made about site specifics, it was noted that there would be absolute control over the development through reserved matters.

He further added that it was appreciated that the loss of trees was of deep concern although should be balanced against the overall benefits of the scheme.

Councillor Thompson commented that he would like a statement regarding New Homes Bonus going forward and where the council currently stood in respect of this. He furthermore added that he would MOVE that the application be REFUSED.

As a point of clarification the Solicitor, Planning and Development advised that the New Homes Bonus was not relevant to the decision unless it had been identified how the money was to be spent, which it had not. .

Councillor Cordon commented that he was delighted that he was not a neighbour and he was horrified about the development proposals. He considered the impact upon residents and the amenity considerable. Furthermore he added that building work and noise could potentially lead to years of disruption for residents.

Councillor Blakey in referring to the circulated plan asked what was meant by communal management. In response the Senior Planning Officer advised that the 106 agreement did have communal elements attached. He further made reference to the implementation of the road into the development and how this could be controlled and enforced.

Councillor Shield in referencing the spatial policy added that there had to be a certain level of subjectivity. He noted that H07 was out of date and only held limited weight. He therefore concluded that a level of interpretation would be required. He furthermore made reference to a recent decision overturned by the County Planning Committee on the basis of encroachment into the countryside. He therefore suggested that the application was in breach of EN1, EN2, EN6, EN9 and EN11. He therefore **SECONDED** that the application be **REFUSED**.

The Solicitor, Planning and Development in referencing comments made regarding the end date of works advised that planning permission never came with an end date and the risks discussed applied to all developments. With regard to refusal she furthermore advised that policies relating to encroachment were out of date and therefore if members were minded to refuse the application the particular harm should be identified.

Councillor Temple added that although he understood the feeling of residents, the committee must not lose sight of what we are and consider how an Inspector would view the application if sent to appeal. He therefore concluded that he would support the application with a heavy heart.

In response to comments made Councillor Cordon added that he accepted the advice of the Legal Officer however considered the community impact of the development and the potential delays in construction to be far greater of concern and added that members must consider the application from a human perspective.

The Senior Planning Officer advised that refusal on the basis of plot build was unacceptable as construction conditions could be attached and were considered to be reasonable.

Councillor Thompson further commented that he questioned the role of the committee if members were expected to rubber stamp everything that the officer recommended.

The Chair added that if members were minded to refuse the application that they should put a valid case forward as to why this did not meet sustainability criteria.

Councillor Armstrong added that she concurred with Councillor Johnson's comments and agreed that the sustainability of the village is what should be considered.

Councillor Brookes commented that he hadn't heard enough to say that the site was not sustainable.

Following lengthy discussion Councillor Shield added that the application should be refused on EN1, preventing urban sprawl, the slope of development, the works which would be required to be down to trees currently protected by TPOs.

Following a vote being taken it was Resolved:

That the application was **REFUSED** on the grounds that:

- i) The proposal encroaches into the open countryside causing harm to the environment and protected trees contrary to policies EN1, EN2, and EN11 of the Derwentside Local Plan 1997.

At this point Councillors Davinson, Taylor and Zair left the meeting.

c DM/16/00905/FPA - Stanfield House, Joicey Square, Stanley

The Committee considered a report of the Senior Planning Officer regarding the conversion of a former care home to 14 residential 1 bed flats, 3 training rooms, 15 office suites and café at Stanfield House, Joicey Square, Stanley (for copy see file of minutes).

The Senior Planning Officer provided a detailed presentation on the application which included photographs of the site and a plan of the proposed layout.

The Chair advised that he did have a personal connection with this site and noted that it had been a blight in Stanley for some time. He furthermore commented that he was happy to see a valid application brought forward for consideration and was a testament to the way First Point Training had worked with the community and officers to resolve previous issues.

Councillor Cordon asked whether the properties would be market accommodation. In response the Senior Planning Officer advised that there was no communal element and all properties were for sale or let.

Councillor Shield in referencing the 2013 application asked whether the number of properties had now been reduced. He also asked whether there were any concerns regarding parking during the day whilst the café and training rooms were in use. In response the Senior Planning Officer advised that time restraints had been placed on the conditions of the application in order to mitigate and alleviate parking issues. In addition cycle parking would also be provided.

Councillor Milburn added that the application had been a drawn out procedure, however all parties were now onside and neighbours were happy with proposals. She therefore **MOVED** that the application be **APPROVED** subject to the conditions as detailed in the report.

Councillor Blakey asked whether there would be an opportunity for members to revisit this application in the future to learn from it. In response the Senior Planning Officer advised that where possible members would be taken to sites where approval had been granted alongside regular site visits.

Following a vote being taken it was **Resolved:**

That the application be **APPROVED** subject to the conditions as listed in the report.

6 Appeals Update

The Committee considered a report of the Team Leader, North which provided an update regarding appeals determined (for copy see file of minutes).

Resolved:

That the content of the report be noted.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/00759/FPA
FULL APPLICATION DESCRIPTION:	Change of use from shop (use class A1) to restaurant and takeaway (mixed use A3 and A5) and erection of awnings
NAME OF APPLICANT:	Jace Dashamir
ADDRESS:	1A Arcadia Ouston Chester-le-Street DH2 1RF
ELECTORAL DIVISION:	Pelton
CASE OFFICER:	Nick Graham Planning Officer Telephone: 03000 264 960 nicholas.graham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is comprised of 1A Arcadia, Ouston, a two storey end of terraced building with a dual pitch roof. The last known use of the site was as a convenience store (use class A1).
2. The site is located within a parade of shops with residential flats above. Other residential properties surround the site. The parade of shops includes another takeaway, dog groomers and hairdressers.
3. To the west of the site is a small piece of recreational land, with approximately eight non-designated parking spaces; no designated car parking spaces are within the curtilage of the site. Ouston Junior School lies further to the west, approximately 100 metres away. The closest bus stops lies at the Red Lion public house approximately 400 metres from the site, with six-time hourly services to Chester-le-Street and twice hourly services to Newcastle and Gateshead.

The Proposal

4. Permission is sought for the change of use of the building from a shop (use class A1) to a mixed use restaurant and hot food takeaway (use classes A3 and A5). The restaurant plan submitted indicates up to 50 covers could be accommodated, whilst the proposed operating hours would be 12noon – 11.30pm Monday to Friday, 12noon – 12midnight Saturday, and 12noon – 10.30pm Sundays and Bank Holidays. All works at the building are proposed to be internal, with minimal external changes proposed, aside from awnings, the insertion of a side window, and an external flue

and extraction system to the rear. The flue would be a metal material, would protrude approximately 40cm beyond the roof plane, and would be a 'capped' design on the eastern roof plane of the building. The extraction system would continue through the centre of the upstairs flat to reach the flue. A separate application seeking Advertisement Consent for the two illuminated signs and awnings is found at application DM/16/00760/AD which is considered elsewhere on the agenda.

5. The application is presented to Committee at the request of the Divisional Member.

PLANNING HISTORY

6. There is no relevant planning history at the site.

PLANNING POLICY

NATIONAL POLICY:

7. 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.
8. 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'.
9. 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.
10. The following elements of the NPPF are considered relevant to this proposal;
11. *NPPF Part 1 – Building a Strong, Competitive Economy* – reinforces the Government's commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – 'significant weight' is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.
12. *NPPF Part 3 – Supporting a Rural Economy* – requires planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development, supporting all types of business and enterprise, promoting development and diversification of agricultural and rural business and supporting tourism and leisure activities that benefit rural businesses, communities and visitors whilst respecting the character of the countryside.
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. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.

LOCAL PLAN POLICY:

14. *Policy R18 – Retention of Existing Local Shops* – in Local Retailing Centres, the change of use away from use class A1 will not be permitted unless the proposals would not affect the predominant retail function of the shopping area; alternative facilities are available within reasonable walking distance for residents who live within the pedestrian catchment area of the existing shop; or a retail use is no longer economically viable or required by the local community.
15. *Policy R19 – Food and Drink* – these uses will be considered appropriate in principle within the boundaries of Local Retailing Centres and where there is no detrimental impact on the amenity of the occupants of residential properties in terms of noise, fumes, smell, lighting, activity levels or hours of operation; no overriding highway objections; provision made for waste disposal; no adverse impact on the rural character of the countryside; and satisfies other policies in the plan.
16. *Policy T15 – Access and Safety Provisions in Design* – Development should have safe access to classified roads, should not create high levels of traffic exceeding capacity, have good links to public transport, make provision for cyclists and service vehicles and have effective access for emergency vehicles.

RELEVANT EMERGING POLICY:

17. *The County Durham Plan* – Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP. In the light of this, policies of the CDP can no longer carry any weight.

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>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

18. The *Highways Engineer* has noted the site benefits from an existing parking layby nearby which serves visitors to the businesses at Arcadia, and the parking arrangement for the proposal is considered acceptable. Further detail was requested with respect to the head clearance for the awnings. This was subsequently provided and exceeded the requirements of the Engineer.

INTERNAL CONSULTEE RESPONSES:

19. The *Environmental Health Officer* originally requested additional information with respect to hours of operation, the type of food prepared the proposed extraction system, and the link between the ground floor use and the upstairs flat. This was subsequently provided by the applicant and the Officer confirmed no concerns regarding noise or vibration levels given the proposed siting of the extraction system, and subject to the occupancy of the flat being linked to the business, and the hours of operation not exceeding 12noon – 11pm. On this basis no objection has been raised in terms of the Environmental Health impact, and the development is not considered to have the potential to cause a Statutory Nuisance.

EXTERNAL CONSULTEE RESPONSES:

20. None.

PUBLIC RESPONSES:

21. Neighbours have been consulted by way of direct notification, and a site notice was posted on Arcadia. Ninety six letters of objection and a petition with 86 signatures have been received. The majority of the objectors have requested for their correspondence not to be made public in any way, however these are largely consistent with the comments made by objectors who have not made this request. The objections are as follows -

-The increase and generation of traffic would not be suitable for the residential type road, which is already in poor condition combined with extra traffic from Ouston Junior and Infants School. Road safety would also be of some concern.

-Adequacy of parking is also of some concern as there is only parking bays for residents at Arcadia flats/shops – where would the customers of the said property be parking? Along the only road in and out of the estate; I hope not because of all problems that would incur.

-Being on a residential estate which is inhabited mainly by elderly residents, the expected noise and disturbance caused by customers if the said property coming and going possibly late at night would be of great concern to most of the residents. These residents are of retirement age who wish to live in a quiet and peaceful environment. Also looking at the plans there is a bar inside the said property; this would add to the problem.

APPLICANTS STATEMENT:

22. The partners of the proposed business presently run a successful Italian restaurant in central Newcastle and each have many years' experience in running similar family orientated businesses, involving their own families and encouraging a regular family prioritised customer base.
23. The menu provided is extensive traditional Italian cuisine including top end a-la-carte fish and meat dishes, the expected pizza and pasta selection, and a surprisingly interesting selection of healthy traditional vegetable and salad dishes.
24. The interior would be simple and clean with a slight rustic Italian character, creating a warm, comfortable and welcoming environment.

25. Kitchen and extraction installations would be top specification and with the proposed internal route would have minimal visual impact on the surrounding area and residents. Odour control has been fully addressed with the top specification of the proposed extraction system.
26. Having worked on similar installations in similarly sensitive locations of combined residential and commercial aspects, we can assure all parties that existing problems regarding odour pollution have previously been fully resolved with the installation of the same system proposed to this scheme.
27. We do feel that the proposal would provide an exciting facility to the local community both practically and visually, would create a facility for social interaction, and would stimulate and encourage local people to use the adjacent group of retail businesses.
28. This proposal is for the extension of an existing successful family run business which would without doubt provide a great, positive and exciting facility to the local residents. The business would be ran by good families with good values and a smile for everyone.
29. You just can't have enough sunshine and smiles in your life.

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://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

30. 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 surrounding area, impact on neighbouring amenity and privacy, and access and highway safety.

Principle of development

31. The application site is located within the defined settlement boundary of Ouston and Urpeth, as designated on the Chester-le-Street District Local Plan Proposals Map. It is however noted the site is out with the area classed as a Local Retailing Centre on the Proposals Map, which supports commercial uses only within such areas. The most relevant, which can be attributed some weight in the decision making process is Local Plan Policy is R19. This policy prescribes where food and drink outlets would be acceptable in principle and the environmental factors that would need to be taken into account.
32. The first strand of Policy R19 of the Chester-le-Street District Local Plan directs new food and drink (A3 uses) to Chester-le-Street Town Centre, established Local Retailing Centres, or as part of local shopping provision in new housing or mixed-use development. In this instance, although it is considered that the site is within a parade of shops that would likely have been built for the residents of the newly built estate at Ouston in the 1970s and it continues to function as such, this would have been prior to the Local Plan period. Therefore, the first strand of Policy R19 does not apply and no support can be given to the proposal in principle by virtue of its location geographically outside of the areas noted above. Nevertheless, the second strand of

Policy R19 would apply, and this is considered further in the neighbouring amenity section.

33. It is noted the proposal would facilitate the re-use of an existing dis-used building, with minimal alterations including a slightly altered shopfront and window to the gable end, and flue and extraction systems to the rear. The re-use of an existing building is noted as one of the twelve planning principles within Paragraph 17 of the NPPF. The proposal would also result in much needed investment in the premises with a scope for job creation, strongly supported by Paragraphs 18 and 28 of the NPPF.
34. Policy R18 sets out a requirement for the change of use away from A1 uses for Village Shops, which the proposal site is also considered to fall under. Under this Policy, it must be demonstrated either; alternative facilities are available within reasonable walking distances for nearby residents, the facility is no longer viable, or the proposal would not affect the predominant retail function of the shopping area.
35. The application form indicates the unit has been empty since January 2015, whilst it is noted a convenience store is located at the petrol station on Ouston Lane, approximately 350 metres away from the application site. It is therefore considered there is an adequate facility within a reasonable walking distance for residents, and the proposal is considered to accord with Policy R18 of the Chester-le-Street District Local Plan.
36. It is also noted the site is located within approximately 150 metres of Ouston Junior School, to the west. A Judicial Review decision (reference CO/7061/2009) relating to a hot food takeaway near a school (the Cable Street case) noted that health eating and proximity to a school was capable of being a material planning consideration. In this instance, given the school is a Junior School, it is not considered likely students would leave the site for lunch and as such limited weight can be afforded to this issue.
37. Given all of the above, in principle the proposal is not supported by the first strand of Policy R19 of the Local Plan which sets out where such uses are acceptable in principle. As a 'town centre use' proposed to be located away from such a centre, the proposal derives no support from the development plan in terms of its location in principle. However, as a re-use of an existing building it does derive some support from the NPPF and it accords with policy R18. This is however subject to the amenity of neighbouring residents, highway safety, and waste management all being to a satisfactory manner, which is further outlined below,

Impact on neighbouring amenity

38. The second strand of Policy R19 of the Local Plan outlines what material considerations new food and drink uses should be assessed against, and is considered to be compliant with the NPPF. One of these is that a proposal should not have a detrimental impact upon the amenity of residential properties from noise, fumes, smell, lighting, activity levels or hours of operation. Paragraph 123 of the NPPF states that development should avoid noise that would give rise to significant adverse impacts upon health and quality of life. Additionally, the NPPG outlines how Local Planning Authorities should assess such impacts, including that potential pollution and other environmental hazards, which might lead to an adverse impact on human health, are accounted for in the consideration of new development proposals.
39. The Council's Environmental Health Officer has commented upon the proposals, noting the proposed extraction and ventilation system is acceptable, as the ground floor business and upper floors residential accommodation would be linked. It is

considered appropriate to condition the occupier of the upstairs flat is directly linked to the business below as part of any approval granted. The proposed hours of operation have also been queried however from an Environmental Health perspective, were these to be limited to 12noon – 11pm daily, the Environmental Health Officer would not be opposed to the proposal and would not consider a Statutory Nuisance would be created.

40. It is acknowledged the proposal site is surrounded by residential properties, and the proposal would undoubtedly have an effect on the amenity of neighbouring properties by virtue of its use and operating hours. A neighbouring unit within the parade of shops is also a hot food takeaway, with operating hours of 5pm to 10.30pm daily. This unit operates without restrictions on operating hours and could in theory operate 24 hours a day as a hot food takeaway.
41. Nevertheless, it is considered the proposal would increase the number of comings and goings to the area, with customers visiting the restaurant and collecting takeaways, and potentially deliveries of hot food. It is noted from the ground floor plan, the restaurant would have in excess of 50 covers, which if full, would increase the numbers of customers to the area substantially based on the previous use.
42. The supporting text of Policy R19 states that within “residential locations...hot food takeaways and other class A3 uses will be considered unacceptable because of the likely detriment effect of smell and general disturbance to residents.” Although the nearby residents live within an urban environment, the site is not located in a town centre or edge of town centre location where there might be a reasonable expectation of noise and activity later into the evening.
43. In this instance, although the Environmental Health Officer has raised no objection in regard to a Statutory Nuisance at the site, there is considered to be a detrimental impact to the amenity of neighbouring properties, by virtue of the increase in late evening noise, disturbance and general activity, including people visiting the premises, smoking outside the premises on Arcadia, and slamming of car doors late into the evening seven days a week.
44. It is noted that although the threshold for a Statutory Nuisance is higher than the ‘residential amenity’ test employed under planning, it is still considered the proposal would lead to an unacceptably harmful effect on the living conditions and amenity of these residents. In particular, the properties located within closest proximity to the site, at Arcadia, Arisaig, Aberdeen, and Aberfoyle, would be subject to the greatest impact. This would be further exacerbated by the other takeaway which is already located at Arcadia, adding to the noise and disturbance to these residents particularly.
45. Based upon the above, the proposed use as a restaurant and hot food takeaway is considered to bring adverse impacts upon the quality of life and amenity of neighbouring nearby residents.

Visual impact upon the surrounding area

46. Policy R11 of the Local Plan requires new commercial properties to have shop frontages in keeping with the character and appearance of the surrounding area, being proportionate to the host building. The application does not propose significant alteration to the frontage of the property, asides from the proposed awnings which are considered acceptable. It is noted the illuminated signs are covered within the advertisement consent application. It is therefore considered the proposed changes to the shopfront accord with Policy R11 of the Chester-le-Street District Local Plan.

Highway safety and access

47. Policy T15 of the Local Plan requires new development to respect the safety of other highway users. The application site falls within an area earmarked for local shopping provision, and given the non-designated provision of parking to serve the shop units, no objection has been raised from the parking aspect from the Highways Engineer. The applicant has clarified the head clearances for the proposed awnings and these are deemed acceptable as they exceed the standards.
48. It is considered likely cars would be displaced from the designated parking areas to nearby residential streets, to the detriment of residential amenity, however more broadly the proposal is considered to be in accordance with Policy T15 of the Chester-le-Street District Local Plan.

CONCLUSION

49. Proposed as a mixed-use A3 restaurant and A5 hot food takeaway, the change of use would take place within a predominately residential area that would re-use vacant commercial premises, whilst the proposed awnings are considered an acceptable and appropriate addition to the premises frontage. The re-use of the vacant building and job creation add weight in favour of the proposals, whilst the highways and parking arrangement and Environmental Health statutory requirements are considered to be met. However, the impacts on the amenity and quality of life of nearby residents of a hot food takeaway being located in close proximity are considered to significantly outweigh the aspects in favour of the development.
50. As such, the proposal is considered to be contrary to Part (i) of Policy R19 of the saved Chester-le-Street District Local Plan on the basis of an unacceptable impact upon the amenity of neighbouring residents.

RECOMMENDATION

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

1. The proposed restaurant and hot food takeaway is considered to have an adverse impact upon the amenity of nearby residential properties through disturbance brought by late evening noise, disturbance and general activity. The proposal is therefore contrary to Point (i) of Policy R19 of the saved Chester-le-Street District Local Plan and Paragraph 123 of the NPPF.

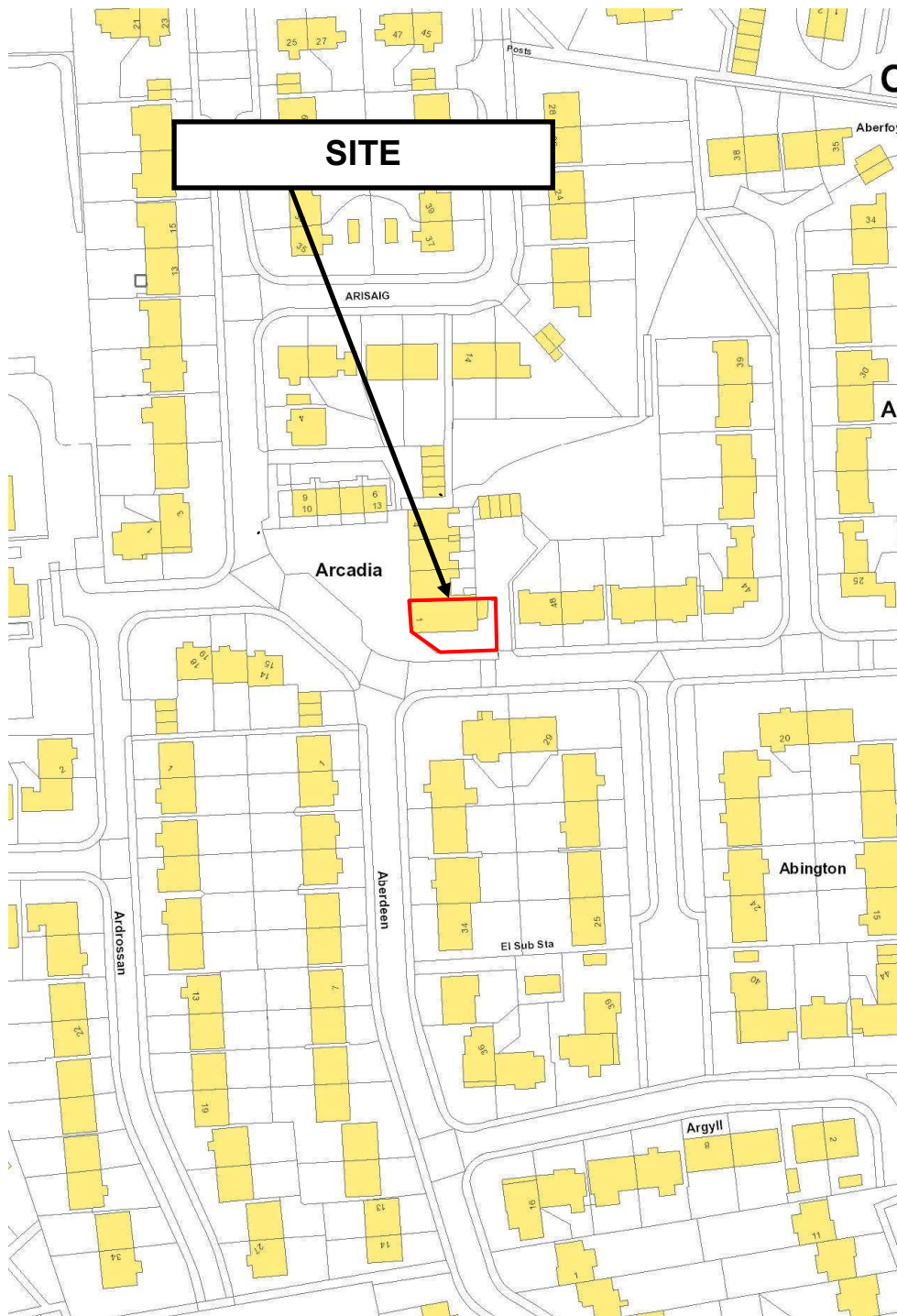
STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the decision to refuse the application were unable to seek solutions with the applicant in order to resolve those matters which failed to deliver high quality sustainable development in accordance with the NPPF, due to the form of development being unacceptable in principle.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)

- National Planning Practice Guidance Notes
- Chester-le-Street District Local Plan (saved Policies 2009)
- Statutory consultation responses



Planning Services

1A Arcadia, Ouston, Chester-le-street, DH2 1RF

Application Number DM/16/00759/FPA

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Comments

Date 28th July 2016

Scale 1:1250

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/00760/AD
FULL APPLICATION DESCRIPTION:	Erection of two illuminated signs and awnings
NAME OF APPLICANT:	Jace Dashamir
ADDRESS:	1A Arcadia Ouston Chester-le-Street DH2 1RF
ELECTORAL DIVISION:	Pelton
CASE OFFICER:	Nick Graham Planning Officer Telephone: 03000 264 960 nicholas.graham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is comprised of 1A Arcadia, Ouston, a two storey end of terraced building with a dual pitched roof. The last known use of the site was as a convenience store (use class A1), and previously had fascia signage to the front and side of the building.
2. The site falls within a residential area, with properties surrounding the site. The site is located within a parade of four shops, including another takeaway, dog groomers and hairdressers. Residential properties are located above the units, including at the application site.

The Proposal

3. Advertisement consent is sought for the erection of two illuminated fascia signs to the front and side elevations of the building, and the erections of awnings protruding above the front and side of the building. The proposal for the change of use and operational development of the awnings is under consideration in a separate application; reference DM/16/00759/FPA also on the agenda.
4. The application is presented to Committee at the request of the Divisional Member.

PLANNING HISTORY

5. There is no relevant planning history at the site.

PLANNING POLICY

NATIONAL POLICY:

6. Both the NPPF and the Advertisement Regulations 2007 stipulate that advertisements should be subject to control only in the interests of amenity and public safety, taking into account the provisions of the development plan where material, and any other relevant factors.

LOCAL PLAN POLICY:

7. There are no relevant policies in the Chester-le-Street District Local Plan relating to advertisements outside Conservation Areas.

RELEVANT EMERGING POLICY:

8. *The County Durham Plan* – Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP. In the light of this, policies of the CDP can no longer carry any weight.

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>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

9. None.

INTERNAL CONSULTEE RESPONSES:

10. None.

EXTERNAL CONSULTEE RESPONSES:

11. None.

PUBLIC RESPONSES:

12. Neighbours have been consulted by way of direct notification, and a site notice was posted on Arcadia. Ninety six letters of objection and a petition with 86 signatures have been received. The majority of the objectors have requested for their correspondence not to be made public in any way and of the public objections, none of the correspondence relates directly to this application, and instead relates to the matters associated with the change of use in application reference DM/16/00759/FPA.

APPLICANTS STATEMENT:

13. The partners of the proposed business presently run a successful Italian restaurant in central Newcastle and each have many years' experience in running similar family orientated businesses, involving their own families and encouraging a regular family prioritised customer base.
14. The menu provided is extensive traditional Italian cuisine including top end a-la-carte fish and meat dishes, the expected pizza and pasta selection, and a surprisingly interesting selection of healthy traditional vegetable and salad dishes.
15. The interior would be simple and clean with a slight rustic Italian character, creating a warm, comfortable and welcoming environment.
16. Kitchen and extraction installations would be top specification and with the proposed internal route would have minimal visual impact on the surrounding area and residents. Odour control has been fully addressed with the top specification of the proposed extraction system.
17. Having worked on similar installations in similarly sensitive locations of combined residential and commercial aspects, we can assure all parties that existing problems regarding odour pollution have previously been fully resolved with the installation of the same system proposed to this scheme.
18. We do feel that the proposal would provide an exciting facility to the local community both practically and visually, would create a facility for social interaction, and would stimulate and encourage local people to use the adjacent group of retail businesses.
19. This proposal is for the extension of an existing successful family run business which would without doubt provide a great, positive and exciting facility to the local residents. The business would be ran by good families with good values and a smile for everyone.
20. You just can't have enough sunshine and smiles in your life.

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://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

21. Both the NPPF and the Advertisement Regulations 2007 stipulate that advertisements should be subject to control only in the interests of amenity and public safety, taking into account the provisions of the development plan where material, and any other relevant factors.

Amenity

22. The proposed fascia signs follow a standard design in terms of size and material, and would be sited within a parade of shops, where these sorts of signs are expected. It is noted an illuminated fascia sign would be located on the gable end of the property, however as this would be a sited a minimum of 22 metres from the closest residential property at Abington, it is not considered this would be of an adverse effect to the amenity of neighbouring properties. Given the above, the amenity of neighbouring properties is not considered to be adversely affected

23. The Highways Engineer has confirmed the required head clearance for the awnings as part of application reference DM/16/00759/FPA, and this distance has been exceeded as detailed in the submitted plans. Therefore, the scheme is not considered to have an adverse impact on highway and public safety.

CONCLUSION

24. The proposal is acceptable in terms of amenity and public safety, and as the advertisements are located within a shopping parade in Ouston, the proposal is considered appropriate. The signs are therefore considered acceptable and in accordance with Paragraphs 67-68 of the NPPF.

RECOMMENDATION

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

1. This consent to display the advertisements is for a period of five years from the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Circular 03/07 Town and Country Planning (Control of Advertisements) (England) Regulations 2007, and Paragraphs 67-68 of the NPPF.

2. The development hereby approved shall be carried out in strict accordance with the following approved plans unless otherwise agreed in writing with the Local Planning Authority:

Site Location Plan and Sign Details	6 April 2016
Site Plans	7 March 2016
Plans and Elevations	7 March 2016
Floor Plans	7 March 2016

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Circular 03/07 Town and Country Planning (Control of Advertisements) (England) Regulations 2007, and Paragraphs 67-68 of the NPPF.

3. Any advertisements displayed and any site used for the display of advertisements shall be maintained in a condition which does not impair the visual amenity of the site.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Circular 03/07 Town and Country Planning (Control of Advertisements) (England) Regulations 2007, and Paragraphs 67-68 of the NPPF.

4. Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Circular 03/07 Town and Country Planning

(Control of Advertisements) (England) Regulations 2007, and Paragraphs 67-68 of the NPPF.

5. Where any advertisement is required under these Regulations to be removed, its removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Circular 03/07 Town and Country Planning (Control of Advertisements) (England) Regulations 2007, and Paragraphs 67-68 of the NPPF.

6. No advertisement is to be displayed without the permission of the owner of the site or any person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Circular 03/07 Town and Country Planning (Control of Advertisements) (England) Regulations 2007, and Paragraphs 67-68 of the NPPF.

7. No advertisement shall be sited or displayed so as to obscure or hinder the ready interpretation of any road traffic sign, railway sign or aid to navigation by water or air, or so as to otherwise render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

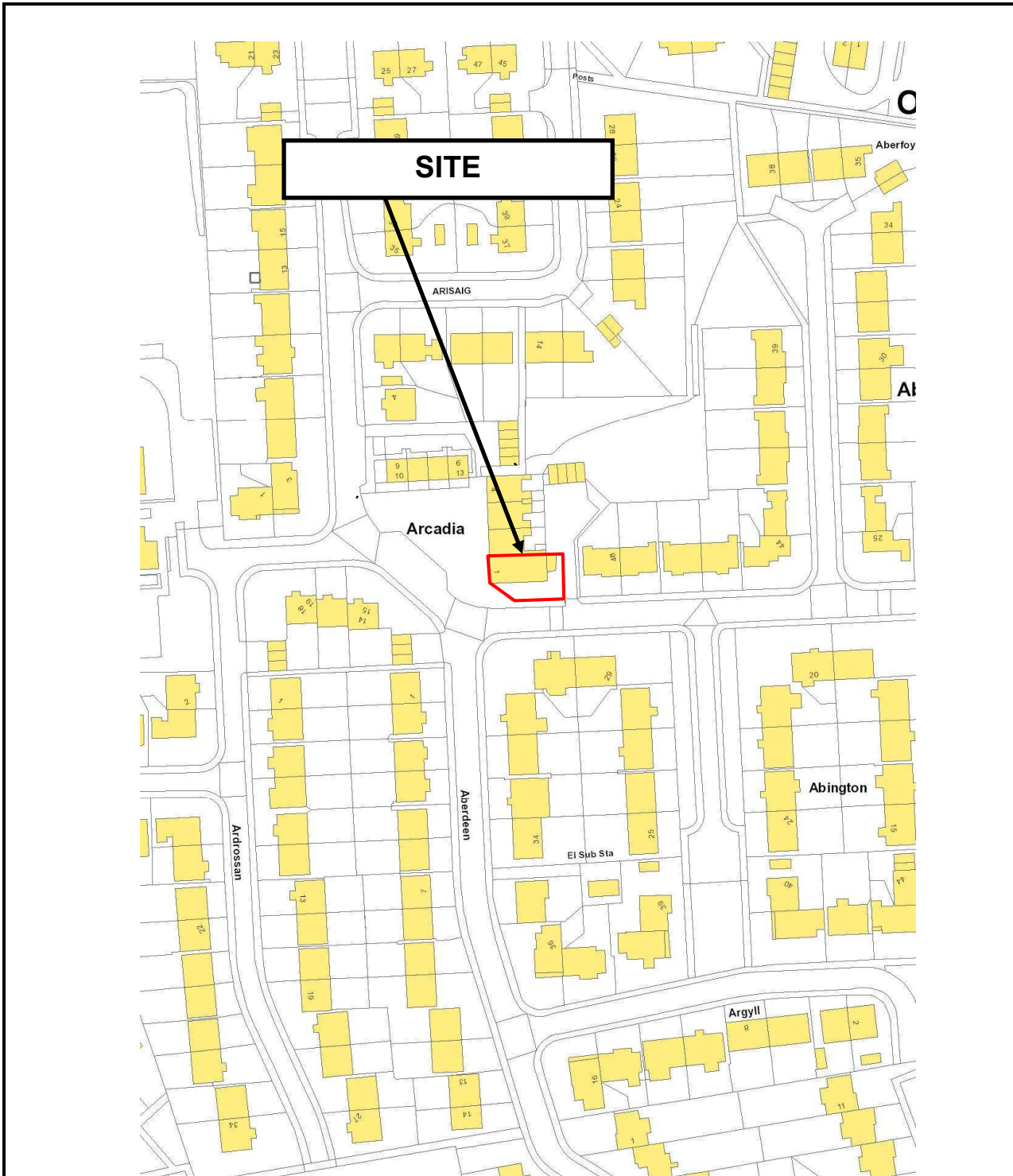
Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Circular 03/07 Town and Country Planning (Control of Advertisements) (England) Regulations 2007, and Paragraphs 67-68 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- Statutory consultation responses



Planning Services

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1A Arcadia, Ouston, Chester-le-street, DH2 1RF

Application Number DM/16/00760/AD

Comments

Date 28th July 2016

Scale 1:1250

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01816/FPA
FULL APPLICATION DESCRIPTION:	Erection of a MUGA (multi-use games area), with associated fencing, gates and path
NAME OF APPLICANT:	Charles Mercer St Marys Roman Catholic Primary School
ADDRESS:	Pemberton Road Consett DH8 8JD
ELECTORAL DIVISION:	Benfieldside Nick Graham Planning Officer
CASE OFFICER:	Telephone: 03000 264 960 nicholas.graham@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is comprised of St Mary's Roman Catholic Primary School. The site falls within a residential area in Bridgehill, to the west of Consett town centre. The school is located on Pemberton Road which acts as one of the gateways to Consett. Residential properties are located to the west, north and east, whilst open countryside lies to the south.
2. The site's playing fields are bounded by thick vegetation and trees to the west bounding Pemberton Road, which act as a natural buffer to the site. The closest properties which can view the playing fields of the school are located at Highridge, approximately 150 metres to the east.

The Proposal

3. Permission is sought for the erection of a MUGA (multi-use games area) within the playing fields to the south of the school buildings, along with associated fencing and gates and a path leading to the facility. The MUGA would measure 20 metres x 30m metres with recessed goals at both ends. The surrounding fencing would measure just over 3 metres in height, and would be powder coated a dark green. A path is also proposed linking the school playing yard to the MUGA. Two marked out sports pitches would be unaffected by the proposal. The proposed MUGA would be used by the school as an alternative play provision, including during periods of inclement weather, for school lessons, breaktimes and after school clubs which are all already taking place at the site.

4. A vehicular access is noted from Pemberton Road, however it is understood this is used approximately 6 times per year for grass cutting machinery only, and this would continue to be the case as part of this proposal. No additional vehicular access is proposed.
5. The application is presented to Committee at the request of the Divisional Member.

PLANNING HISTORY

6. 1/2007/0416/60795 – Erection of security fence - Approved
7. 1/2009/0190/67550 - Extension to create new classroom within existing courtyard - Approved

PLANNING POLICY

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. 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.
11. The following elements of the NPPF are considered relevant to this proposal;
12. *NPPF Part 1 – Building a Strong, Competitive Economy* – reinforces the Government's commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – 'significant weight' is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.
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. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.

14. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities.

LOCAL PLAN POLICY:

15. *Policy GDP1 – General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account ‘designing out crime’ and consideration of drainage.
16. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

RELEVANT EMERGING POLICY:

17. *The County Durham Plan* – Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP. In the light of this, policies of the CDP can no longer carry any weight.

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>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

18. The *Highways Engineer* has noted the application is acceptable in principle, however a designated bus drop off and pick up area should be provided for pupils and staff using and visiting the MUGA. The access from Pemberton Road is noted as being for maintenance purposes only, and does not appear to be intended for vehicular access over the public highway to park near the MUGA.

INTERNAL CONSULTEE RESPONSES:

19. The *Drainage and Coastal Protection Officer* has noted the site is not at risk of flooding during storm conditions, and the commitment to provide a soakaway for discharging surface water is in line with the principles as set out in the County Durham Surface Water Management Plan. The developer should provide a drainage strategy statement with particular reference to sustainable drainage solutions, infiltration test results, and drainage design calculations and layout.

20. The *Environmental Health Officer* has noted in principle should the use relate to that already on site, and not a significant intensification of use, then it is unlikely to result in an increased likelihood of impact. The main issues with MUGAs is use by adults into the evening and therefore should it be used at a similar time to the school and existing functions, it is likely to be part of the current noise climate and therefore noise is unlikely to be an issue. More generally, MUGAs due to their construction can add a few noise issues which were not there previously, such as the impact of a ball hitting the fencing. This advice is given on the assumption there is no floodlighting provided and that the use will cease at 5pm-6pm in the evening.

EXTERNAL CONSULTEE RESPONSES:

21. *Northumbrian Water* has commented noting insufficient information has been provided in regard to surface water management, in order for them to assess the capacity to treat flows from the development. A condition is recommended as part of any approval granted in relation to the disposal of surface water.
22. *Sport England* has commented noting the proposal relates to the provision of a new facility on an existing playing field. The application details that the playing field has been used to set out two junior football pitches, and goes on to show that the pitches could still be accommodated in the main, unaffected part of the playing field. The proposed MUGA will be used for curriculum PE lessons and informal play / recreation, and will offer the school an alternative for outdoor sport during inclement weather. Given the above assessment, no objection is raised to the application as it is considered to broadly meet the exceptions of Sport England's policy on planning applications.

PUBLIC RESPONSES:

23. Neighbours have been consulted by way of direct notification, and a site notice was posted on Pemberton Road. Eight letters of objection have been received, and the following points have been raised:

-Parking at the site and surrounding streets is chaos; no specific parking has been provided for the MUGA facility. We would like written assurances that if this facility is passed it would never be used by the general public or hired to private sports clubs as it would cause congestion to nearby streets into the evenings and weekends.

-It is difficult for nearby residents to access or leave their drives; this has been reported to the school and the police who have had to intervene on a number of occasions and warn offending drivers. The parking problems will now extend into evening and weekends which is completely unacceptable.

-There are speeding issues on Pemberton Road and a 20mph speed limit is requested for the safety of all. The access is placed on a dangerous part of Pemberton Road. There is no pavement on part of Pemberton Road which is dangerous for children. A risk assessment is requested into traffic safety.

-It is hoped a visitor car park on-site is provided and the facility would only be used by St Mary's School pupils. It is expected a covenant is put in place preventing future change of use to include persons other than pupils of the school.

-If the MUGA is approved noise levels will increase at evening and weekends, jeopardising the peaceful life of residents. People leaving and returning to vehicles, vehicles parked on the roadside, and property values would all be at detriment to the residential amenity of neighbours.

-The Council has responsibilities under Protocol 1, Article 1 of the Human Rights Act, in that a person has the right to peaceful enjoyment of all of their possessions, including their home and land. Additionally, Article 8 stipulates a person has the substantive right to respect for their private and family life.

-Would the site be supervised during opening hours to prevent anti-social behaviour?

APPLICANTS STATEMENT:

24. Residents raise the issue of illegal parking, both on footpaths and nose to tail, along with speed which is often in excess of the legal limit. Whilst the school sympathises fully with resident's concerns, and is fully supportive of any possible actions to alleviate these issues, it must be noted that these are pre-existing problems which are out of the schools jurisdiction. The construction of a MUGA will in no way exasperate the problem as its proposed use would not increase the volume of traffic at the times the resident's site in their statements.
25. The school recognises its duty to promote active and healthy lifestyles for all the children in its care. The proposed MUGA would allow for an enhanced P.E. curriculum and better use of the Sports Grant Premium, which OFSTED look at very closely. The simplest core function of any school is to provide the very best educational experiences for the children; due to the location of St Mary's and the regular inclement, and often adverse, weather conditions the school faces the P.E. curriculum could be described as narrow and condensed as opposed to broad and balanced. The instillation of the proposed MUGA, which is an all-weather pitch, would ensure that this area of the national curriculum could be taught to all pupils, all year, irrespective of the weather. A net consequence of this would be fitter, healthier and happy children. The main purpose of the MUGA is to enhance the quality of what the children have access to at St Mary's. Every child has the right to enjoy both active and passive play, segregated appropriately where possible, high quality P.E. lessons, and due to overwhelming parental demand due to the nature of modern living, a range of extended extra-curricular activities both sporting and non-sporting.
26. The proposed MUGA would be situated inside of the school grounds and would therefore be surrounded by pre-existing secure perimeter fencing and established security protocols; there is no evidence to suggest that such systems are anything but robust with zero recorded instances of anti-social behaviour. The MUGA would have its own secure fencing and locked gates making entry 'doubly difficult'. In addition the MUGA is in no way visible from the public footpath, or from many residents' homes, due to the fact that dense trees and foliage shield the rear facet from view. With this in mind the opportunity for any 'opportune' anti-social behaviour has been minimised to the lowest possible level. As part of the site managers duties a full perimeter check is already conducted daily, with the proposed site incorporated, so in the unlikely event of any trespassers being identified, action to remove them from the premises would be as quick and efficient as they are now – however, again it must be stated recorded incidents are zero.
27. It has been suggested that the proposed MUGA would be in breach of the Human Rights Act, Protocol 1, Article 1 as it would reduce peaceful enjoyment of possessions including the home and other land. In fact the erection of the proposed MUGA would have the polar opposite effect. Currently the yard, primarily for recreational use, closest to the resident's homes, and the one which generates the highest noise level, is one of active play through the use of balls and resulting 'high energy games'. The proposed MUGA would be located approximately 30 metres back from this yard, and with its purpose being multi-use would reduce the existing

yard to an area of passive play. This subsequent shift in use would see a reduction in noise levels during school hours and therefore help to further enhance resident's peaceful enjoyment of their possessions, including the home and other land. As previously mentioned the proposed site has a surrounding area of established, and mature, dense tree and foliage; this area would provide a natural sound proofing system and help to reduce any resulting noise. However, it must be noted that the school currently has capacity for 210 children to enjoy active play on the school field; the erection of the proposed MUGA, within this said area, would not alter these numbers so again the noise level pre and post MUGA would be identical.

28. The school recognises how misconceptions surrounding access arrangements to the MUGA have arisen. To clarify the access sited on the plan is only open to maintenance vehicles, for example grass cutting equipment and DCC contractors. This pre-existing and already established access route would only be used for maintenance issues; under no circumstances would cars be parked on the school field or be allowed access via these gates for any activities relating to the use of the proposed MUGA. Existing school control systems require all visitors to report to the main entrance and then be accompanied on site; adhering to established systems will ensure security is not breached, potential for anti-social behaviour is eradicated and the sited 'extremely hazardous manoeuvre' would not be taking place. Again any traffic management concerns sited by the residents are pre-existing problems which the school has no jurisdiction over.
29. In relation to outside schools using the facilities such provision already exists and currently takes place on the school playing fields and yards; inter school competition and partnership is an important part of any schools sporting provision. When the existing facilities are used for school sporting activities they never exceed the operational opening hours of the school; the site manager has the entire school secure and locked up for 6:30pm prompt every day. It is envisaged that the proposed MUGA would work in line with the pre-existing timings. The school does not have a business plan and has no desire to invite various bodies onto the site through leasing. The proposed MUGA is for school use. However, it must be made clear that inter school competition, sometimes taking place after school is considered school use; it would be unrealistic to propose a cut off time of 4:30pm for example, as logistics of travel and setting up would leave little time for the actual sporting activity to occur. In addition, the proposed plan has no floodlights included – this combined with the geographical location in Consett, means that despite being an all-weather pitch, lack of natural light and severe adverse weather prevents the facilities from being used all year in an after school capacity.
30. Finally, the school wishes to further highlight the fact that a pre-existing traffic issue is a completely separate issue to the impact of the proposed MUGA. The school currently has a Bronze Level Traffic Plan Award pending thus showing commitment to sustainable travel and trying to alleviate congestion; the school welcomes partnership with the residents on a solution to this issue but again highlights it is a separate issue. If the proposed MUGA is refused planning permission 210 children will still be dropped off and collected from school in various modes of transport. If the proposed MUGA is granted planning permission 210 children will still be dropped off and collected from school in various modes of transport. To conclude erecting the proposed MUGA will, as outlined, be of benefit to the children's lives, and despite suggestions to the contrary, in no way exasperate traffic issues or driving standards.

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://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

31. 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 on neighbouring amenity and privacy, access and highway safety, and drainage.

Principle of development

32. The application site is located on the playing field within the curtilage of the school site. Policy GDP1 of the Derwentside District Local Plan permits new development when criteria relating to design, landscape, neighbouring amenity, and flooding are met. These are explored in detail below.

Visual impact upon the surrounding area

33. By virtue of the proposal's siting, it would not be visible from Pemberton Road. The main public viewpoint would be from Highridge, Phoenix Court, and Braemer Court, approximately 150 metres to the east of the site. Given the size of the proposal, and considering the fencing would be a dark green blending with the boundary vegetation, the visual impact upon the surrounding area is considered to be minimal and the proposal would accord with this part of Policy GDP1 of the Local Plan.

Impact on neighbouring amenity

34. Concerns have been raised from neighbouring properties with respect to the potential for the facility to generate additional noise, above and beyond what already takes place at the site. The applicant has confirmed the facility would only be used as alternative provision for existing students during the school day and as part of after-school clubs, particularly in times of inclement weather when the grassed area would be unsafe or impractical to use. The facility would not be used to host additional events outside of existing school hours, asides from after school clubs, therefore there would be no increased impact at evenings or weekends. A condition restricting the use to the school day and after-school clubs is recommended as part of any approval granted. It is also noted the facility would be sited approximately 75 metres from the closest residential property at Bridgehill Farm Cottages and any noise would be heard against the general background noise that a school and pupils would usually generate.

Drainage

35. Due to the nature of the facility, groundwater infiltration will be lost. Therefore, a request has been made from both the Council's Drainage Officer and Northumbrian Water for appropriate conditions relating to surface water drainage and particularly its run-off. Such conditions are considered appropriate as part of any approval granted and would accord with this part of Policy GDP1 of the Local Plan.

Highway safety and access

36. Concerns have been raised from several residents with regards to the parking issues that currently exist at the school, and the knock-on impact to surrounding streets and residents. The concerns of residents are noted however it is not the requirement of this planning application to resolve an existing situation and in determining the

application account can only be taken of any additional impacts, above and beyond the current arrangement.

37. It is acknowledged the MUGA would have the potential to increase capacity at the site for additional out-of-school clubs and events. However, as outlined above the applicant has confirmed the operating hours of the facility would not differ from the existing arrangement and this would be secured via condition. Given these circumstances and the fact that the proposal would not result in an increase in the number of people using the site, the request of the Highways Engineer for a bus drop off and pick up area is not considered to be a reasonable request, and would not meet the tests for a planning condition.
38. The applicant has confirmed the access from Pemberton Road would remain as existing, with bi-monthly access for grass cutting and construction vehicles only. It is considered appropriate to attach a prohibitive condition preventing other vehicles from using this access without the prior approval of the Local Planning Authority.
39. A representation has requested a risk assessment into traffic is carried out, whilst another requests a 20mph speed limit outside of the school. Neither of these requests are considered to be material to the decision-making process given the site's use in terms of intensification would be unchanged. The proposal is therefore considered to meet the requirements of Policy TR2 of the Local Plan.

CONCLUSION

40. The proposed MUGA would be used as an alternative play provision, including during periods of inclement weather, and would not result in an intensification of use at the school site. The two marked out sports pitches would remain, whilst the facility itself is seen as beneficial to the students by virtue of its all-year-round use. The proposal is not considered to have an adverse impact upon the surrounding area or residential amenity, the intensification of use and the level of vehicles attracted to the school would be unchanged, whilst conditions relating to hours of operation, drainage and access are all considered appropriate.
41. As such, the proposal is considered to be in accordance with Policies GDP1 and TR2 of the saved Derwentside District Local Plan and the application is recommended for approval subject to a condition restricting the times that the facility may be used.

RECOMMENDATION

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

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

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

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

Site Plan

7 June 2016

Location Plan

7 June 2016

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GDP1 and TR2 of the saved policies of the Derwentside District Local Plan, 2009.

3. Prior to the commencement of development, a Drainage Strategy statement, including sustainable drainage solutions, infiltration test results, the disposal of surface water, and drainage design calculations and layout, shall be submitted to, and approved in writing by, the Local Planning Authority. The approved details shall be implemented thereafter.

Reason: In the interests of surface water drainage and to accord with Policy GDP1 of the Derwentside District Local Plan and the NPPF

4. The MUGA hereby approved shall not be open and available for use: before 8.30am or after 6.30pm Monday to Friday; nor at any time Saturdays, Sundays and Bank Holidays.

Reason: In order to control any disturbance from the use within the local area and to accord with Policies GDP1 and TR2 of the Derwentside District Local Plan.

5. The access route, as shown on 'Layout Plan 73401-2', shall be used for grass cutting and construction vehicles only, and shall not be used for general purpose access to the site.

Reason: In the interests of highway safety and to accord with Policy TR2 of the Derwentside District Local Plan.

6. No floodlights shall be installed at the MUGA without the approval of the Local Planning Authority.

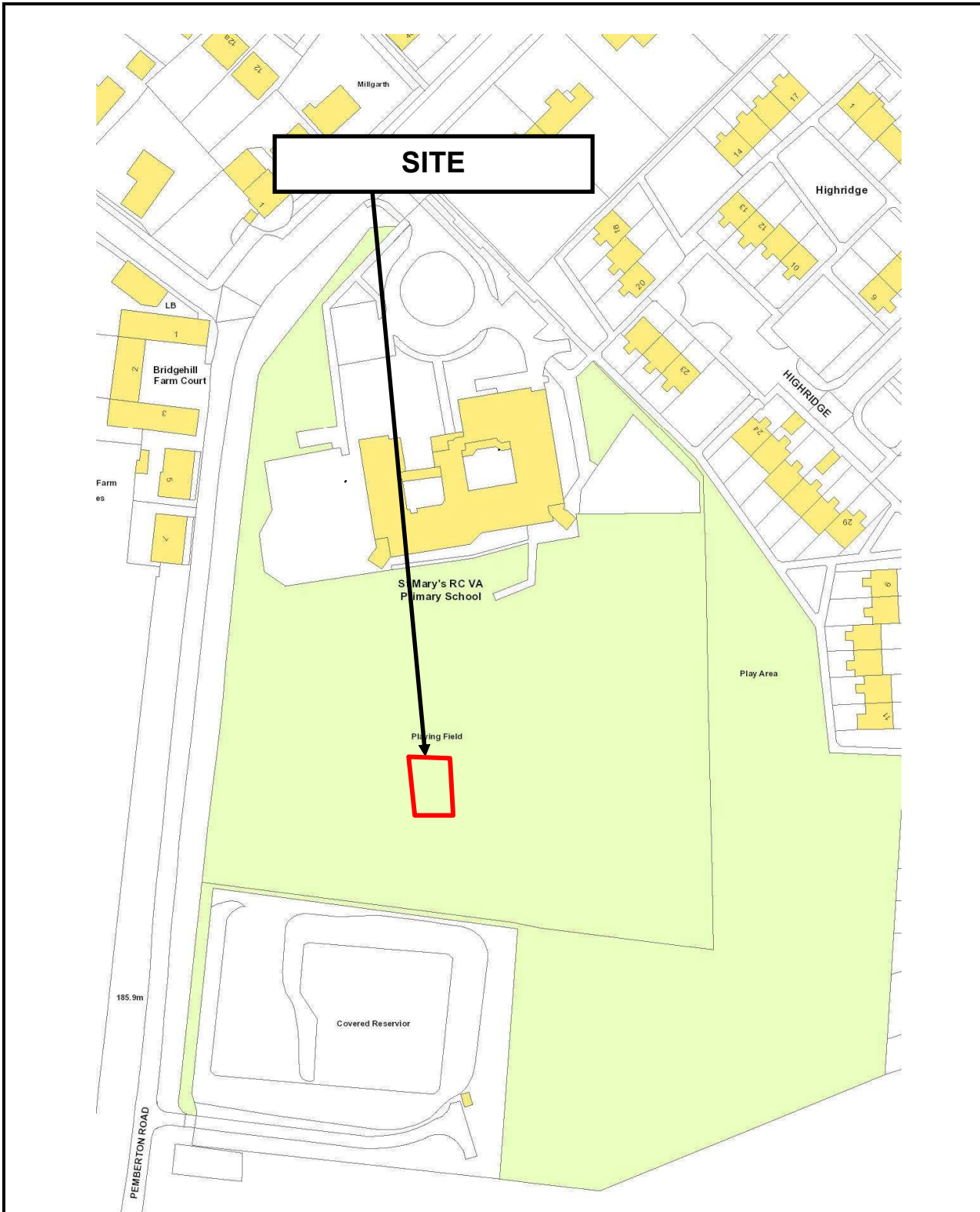
Reason: In the interests of neighbouring amenity and to accord with Policy GDP1 of the Derwentside District Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- Derwentside District Local Plan (saved Policies 2009)
- Statutory consultation responses



Planning Services

St Marys Roman Catholic Primary School,
Pemberton Road, Consett, DH8 8JD

Application Number DM/16/01816/FPA

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Comments

Date 28th July 2016

Scale 1:1250

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01811/FPA
FULL APPLICATION DESCRIPTION:	New bungalow with integral garage within existing house curtilage and new access for existing dwelling.
NAME OF APPLICANT:	Mr and Mrs P May
ADDRESS:	Hollydene, North Lodge, Chester-le-Street, DH3 4AZ
ELECTORAL DIVISION:	North Lodge Louisa Ollivere Planning Officer
CASE OFFICER:	Telephone:03000 264 878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms the western part of the residential curtilage of a detached house called Hollydene which is located on a private road of dwellings known as North Lodge. North Lodge is situated to the north of Chester-le-Street Town Centre and is to the east of the A167. Access to the site is taken from the private access road that leads to the A167. Surrounding the application site are other detached dwellings and a number of mature trees that are protected under a group Tree Preservation Order.

The Proposal

2. Detailed planning permission is sought for a 3 bed bungalow with an integral double garage and for the extension of the existing driveway to serve the new property. A new access driveway to the existing dwelling of Hollydene is also proposed. The new dwelling would have a northern orientation. The materials proposed for the dwelling are a mixture of brick and ivory coloured render with interlocking grey tiles for the roof which is to be hipped. Outline planning permission was granted for a dwelling and garage in 2013 and is shortly to expire. The site has had the benefit of Planning Permission since 2008.
3. The application is reported to Committee due to the applicant being a County Councillor.

PLANNING HISTORY

4. An outline application for the erection of 1 no detached dwelling with garage (all matters reserved except access and landscaping) was approved in 2008 (08/00207/OUT).
5. In 2011 planning permission was granted to extend the time limit for implementation of the outline application (2/11/00017/EOT).
6. In October 2013 outline planning permission was granted for one dwelling with a garage and some matters reserved (2/13/00233/OUT).

PLANNING POLICY

NATIONAL POLICY:

NATIONAL PLANNING POLICY FRAMEWORK

7. In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the draft National Planning Policy Framework (NPPF). The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve ‘core principles’ that should underpin both plan-making and decision taking, the most relevant of these in this instance being:
8. NPPF Part 4 – Promoting Sustainable Transport - notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
9. NPPF Part 6 – Delivering a wide choice of high quality homes. Housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area.
10. 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. Planning policies and decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
11. NPPF Part 11 – Conserving and enhancing the natural environment. The planning system should contribute to and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where

possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.

12. 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.

<http://planningguidance.planningportal.gov.uk/>

NATIONAL PLANNING PRACTICE GUIDANCE:

13. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
14. Design -The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
15. Natural Environment - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
16. Tree Preservation Orders and trees in conservation areas - A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the: cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

17. The following section details the saved policies in the Chester-le-Street Local Plan thought most relevant to the consideration of this application:
18. Policy NE11: Tree preservation and planting- Identifies the requirement to take into account protected trees on site particularly those protected by Tree Preservation Orders.

19. Policy HP6 – Residential development within settlement boundaries- Identifies that residential developments within the defined Chester-le-Street Area will only be permitted provided the site is classed as previously developed land and fulfils the general criteria of policy HP9.
20. Policy HP9 – Residential Design Criteria –Sets out the criteria to which all residential developments should comply to, including adequate privacy levels, satisfactory levels of amenity space and satisfactory access arrangements.
21. Policy HP10 – Backland Development – Sets out that Backland development will only be permitted where a satisfactory vehicular access can be provided, the amenity of both new and existing properties can be safeguarded and the proposal is in keeping with the scale and character of the existing development.
22. Policy T15 – Access and safety considerations in design – Identifies that development proposals should provide safe access to the site, should not create levels of traffic which would exceed the capacity of the local road network while providing safe movement for pedestrians.
23. Policy T17 – General Transport Policy – Sets out that all new developments should have regard to and be consistent with the provision of a safe and accessible transport network by reducing the reliance on the private car, and encouraging cycling and walking as an effective means of transport.

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>

EMERGING POLICY:

24. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP. In the light of this, policies of the CDP can no longer carry any weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. Highways Officer: No objections.
26. Northumbrian Water: Advise that a public sewer crosses the site and may be affected by the development and that they would not permit a building over or close to their apparatus and advise that the sewer may need to be diverted or the development relocated or suitable protection measures may be required prior to the commencement of the development.

INTERNAL CONSULTEE RESPONSES:

27. Landscape Officers: No objection but advise that there is a need for protective fencing to be erected around the trees to be retained and that the two trees that are to be removed shall be replaced with the same species within a suitable location.
28. Ecology Officer: No objection.

PUBLIC RESPONSES:

29. Neighbouring land owners and occupiers have been consulted and this has resulted in no letters of objection or otherwise.

APPLICANTS STATEMENT:

30. The new bungalow for Mr and Mrs May has been designed to take advantage of its south-west facing setting within their established large garden without compromising the amenity and privacy of the existing house and its neighbours.
31. The design has taken account of the existing sewer and culvert which cross the site to the east of the proposed bungalow. The existing house at Hollydene will have a new, independent access from North Lodge, retaining the existing access for the new bungalow. The existing trees to the north-western boundary will form an attractive back-drop to the new bungalow, retaining the existing site's privacy and enclosure.

PLANNING CONSIDERATIONS AND ASSESSMENT

32. 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 effect of the proposal on, firstly, the creation of sustainable patterns of development in the area, having regard to local and national planning policies and, secondly, the impacts upon neighbouring residential amenity, and whether the proposal is acceptable in terms of the impacts upon the character of the area, impacts upon trees and ecology, highways safety, and whether appropriate drainage can be achieved.

Principle and the General Policy Context

33. Policy HP6 of the Chester-Le-Street Local Plan only permits residential developments within the defined settlements limits of Chester-le-Street providing the site is classed as previously developed land and meets the criteria of other policies of the plan. The land under consideration is garden land and is not therefore classified as previously developed, however since the date of the Local Plan (adopted 2003) National Policies within the NPPF promote a more flexible approach to land supply to ensure sustainability. The NPPF recognises that priority should be given to reusing land that has been previously developed however unlike policy HP6 Paragraph 53 of the NPPF does not restrict the development of Greenfield sites such as gardens unless such development would cause harm to the local area. As Policy

HP6 of the Chester-le-Street Local Plan is not fully compliant with the NPPF this will affect the weight to be given to any conflict with it.

34. Given the age of the Plan and housing supply figures that informed it when it was adopted in 2003, the housing supply policies do not reflect an up to date objective assessment of need. At present the Council is unable to demonstrate a five year supply of deliverable sites based on objectively assessed need (OAN) in accordance with paragraph 47 of the National Plan Policy Framework.
35. Where Local development Plans are silent or out of date such as this proposals must be considered against Paragraph 14 of the NPPF. Paragraph 14 of the NPPF states that there is a 'presumption in favour of sustainable development', which should be seen as a golden thread running through both plan making and decision taking. For decision-taking this means:
 - approving development proposals that accord with the development plan without delay; and
 - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
 - (i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
 - (ii) specific policies in the Framework indicate development should be restricted.
36. As there are no specific policies in the Framework that indicate the development should be restricted the assessment must be based only on criterion (i) of paragraph 14 of the NPPF.
37. The NPPF aims to boost the supply of housing and requires that housing applications are considered in the context of the presumption in favour of sustainable development. The NPPF states that everyone should have the opportunity to live in high quality, well designed homes, which they can afford, in a community where they want to live. This means: increasing the supply of housing, delivering a wide choice of high quality homes that people want and need, widening opportunities for home ownership; and creating sustainable, inclusive and mixed communities, including through the regeneration and renewal of areas of poor housing.
38. Paragraph 49 of the NPPF states that housing developments should be considered in the context of the presumption in favour of sustainable development. The NPPF identifies the three dimensions of sustainable development. New development is expected to perform an economic, a social and environmental role and paragraph 8 makes it clear that sustainable development consists of a combination of all three elements.
39. In terms of the economy whilst the construction of the dwelling would support the local economy, because of its scale the proposal brings limited benefits other than to those employed in the construction of new dwelling and those benefits would be likely wherever the dwelling were located and they do not therefore materially weigh in favour of the development.
40. From an environmental perspective the development performs acceptably in respect of paragraph 53 of the Framework. The development of this garden land subject to conditions in relation to tree replacement and sustainable drainage would not result in harm to the local area given the limited loss of trees, the size of the garden land that would remain and given the varying sizes and scales of properties in the area.

In addition the proposed dwelling would follow the loose linear pattern of existing developments and replicate similar spacing between dwellings along the North Lodge streetscape respecting the character of the area.

41. The proposal also performs acceptably in so far as being sustainably located in relation to both the environmental and social dimensions of sustainable development. The development site is close to a secondary school and a pub and a main bus route linking Chester-le-Street to Durham and Newcastle/Gateshead (380m to bus stop) and is also within walking distance of a main employment site (Drum Industrial Estate) and to Chester le Street Town Centre. Given these transport links and distances to a range of community facilities, jobs, key services and infrastructure it is unlikely that there would be a reliance on the private motor car for every journey from the dwelling site.
42. In terms of the social role of housing the benefits arising from the proposal for one dwelling in terms of the supply of housing would be a benefit, albeit a very modest one.
43. Bearing the above in mind it is not considered that the limited adverse impacts in terms of the loss of two trees would outweigh the social and economic benefits of a new dwelling on this site in accordance with the policies of the Framework. It is also noted that the development of the site for a dwelling has been considered acceptable previously on three occasions and there is still an extant permission for the site. Whilst national policy has evolved since these planning decisions as detailed above the general policy position has not altered significantly in respect of this development proposal. Therefore the development is acceptable in principle.

Design and Impact upon the character of the area

44. The Chester-le-Street Local Plan contains policies which control the erection of additional dwellings within the curtilage of residential properties, namely HP10 (Backland Development) and HP9 (Residential Design Criteria).
45. These policies set out that all new residential developments should respect the scale and character of existing development in the locality and relate well to the surrounding area and street pattern. In considering the scheme against the above policy criteria and material considerations, it is considered that, in line with the previous decisions, the impact of the proposed dwelling would be acceptable. This is primarily due to the size of the site which would allow for a development that can assimilate into its surrounding streetscape in terms of size, scale, form, design and spacing.
46. Overall it is considered that notwithstanding the changes to national policy since the approval of the original application back in 2008 that the erection of a dwelling in this location would have an acceptable impact on the visual amenity and character of the surrounding area. Whilst the dwelling is of a good standard of design it is still considered expedient to control the materials used in the construction of the dwelling and to remove the permitted development rights, to further control the appearance of the development.

Residential Amenity

47. Policy HP9 and HP10 of the Local Plan require that developments protect the amenity of neighbouring residents and that of the host property. Further guidance is also offered in appendix I of the Local Plan setting out minimum separation distances between properties.

48. The proposed development would exceed the standard minimum separation distances. It is also considered that the development would not give rise to a loss of amenity for neighbouring residents and would provide sufficient amenity space for future occupants. The proposal is therefore considered to comply with Policies HP9 and HP10.

Impact upon Protected Trees

49. Surrounding the proposed dwelling are a number of mature trees protected by a Group Tree Preservation Order. Policy NE11 of the Local Plan sets out that development should take into account existing trees on site, particularly protecting the long terms interests of valuable trees. The application is supported by a tree survey and tree constraints plan that identify that two Yew trees will be required to be removed to facilitate the development. Landscape Officers do not object to their removal. It is therefore considered that with conditions requiring the erection of protective fencing during construction and the replacement of the trees with yew trees in another location that the development would accord with this local plan policy. Given the close proximity of protected trees it is considered that permitted development rights should be removed in relation to extensions and outbuildings to prevent pressure for their removal in the future or potential impact upon the trees in future.

Impacts upon ecology

50. Part 11 of the NPPF seeks to minimise impacts on biodiversity. Whilst two trees are to be removed the Ecology Officer has not raised any concerns in respect of ecology and therefore it is considered sufficient in this instance to attach an informative in relation to inspecting affected trees for bats, birds, roosts and nests in order that should any bats be found the works cease until further advice is obtained from Natural England and if any bird nests are found that works are restricted during the bird nesting season.

Highways and Accessibility

51. Policy HP9 and HP10 of the Local Plan require that all new developments provide a separate and satisfactory means of access to the wider highway network. The proposed dwelling would utilise and extend the existing access and a new access would be created for the existing dwelling. This is encouraged by Policy HP10 and the Highways Officer raised no objections to the application therefore the access and parking arrangements are considered acceptable.

Drainage Issues

52. Section 10 of the NPPF requires Local Planning Authorities ensure that developments do not result in an increase in flood risk off site. The drainage to a mains sewer would be contrary to the requirements of the County Durham Surface Water Management Plan and Building Regulations as drainage to SUDS or a soakaway should be investigated before choosing this option. Therefore the proposed drainage arrangements are not considered to be acceptable and it is recommended that a condition is imposed to require details of surface water drainage to be submitted to and approved in writing by the local planning authority prior to the commencement of any development on the site. The imposition of such a condition will ensure that the site is drained in accordance with the Council's Surface Water Management Plan.

Other issues

53. It is noted the Northumbrian Water has drawn attention to the close proximity of a sewer to the dwelling. It is considered appropriate to attach an informative to advise of the need for the applicant to obtain formal approval from Northumbrian Water for the construction. The granting of planning permission does not give consent or permission to build over or close to Northumbrian Water assets.

CONCLUSION

54. The proposed detailed application for a dwelling and garage has been considered against the policies identified above. It is not considered that the conflict with policy HP6 and the limited adverse impacts in terms of the loss of two trees would outweigh the otherwise general compliance with Local Plan Policy and social and economic benefits of a new dwelling on this site which would accord with the policies of the Framework. Therefore in accordance with Paragraph 14 of the NPPF planning permission should be granted and a condition should be attached to ensure satisfactory surface water drainage for the site.

RECOMMENDATION

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

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

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

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

Location Plan	3/06/2016
1049/PL/002 Rev E	3/06/2016
1049/013	3/06/2016
1049/012	3/06/2016
1049/015	3/06/2016
1049/014	3/06/2016

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with policy HP10 of the Chester-le-Street Local Plan.

3. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010.

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

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

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

Reason: In the interests of the visual amenity of the area and to comply with Policy NE11 of the Chester-le-Street Local Plan.

4. The two trees to be removed are to be replaced with two Yew trees the location of which shall be agreed in writing by the Local Planning Authority following the submission of a plan identifying the proposed positions.

Reason: In the interests of the visual amenity of the area and to comply with Policy NE11 of the Chester-le-Street Local Plan.

5. Notwithstanding the provisions of Class A,B,C and E of Schedule 2 part 1 and Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking or re-enacting that Order) details of any enlargement , improvement or other alteration to the dwelling(s) hereby approved and any buildings, including sheds, garages, and glass houses to be erected within the curtilage of the dwellinghouse shall be submitted to and approved by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control details of any future development on the site in the interests of protected trees to comply with policy NE11 of the Chester-le-Street Local Plan.

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

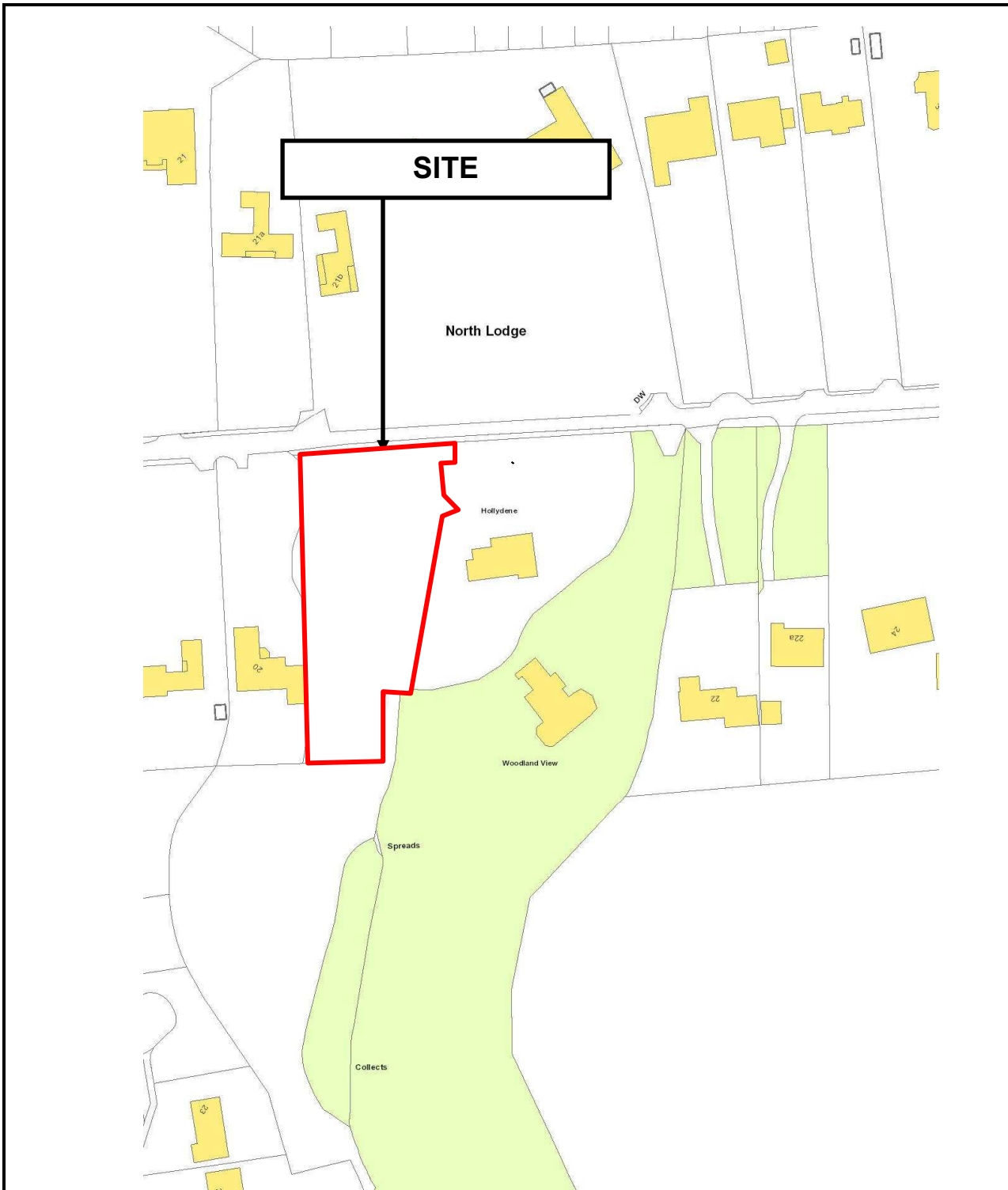
Reason: In the interests of the adequate disposal of surface water in accordance with Section 10 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the recommendation to approve the application has sought to actively engage as appropriate with the applicant to secure a positive outcome in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

Chester-le-Street Local Plan (saved policies 2009)
National Planning Policy Framework, March 2012
National Planning Practice Guidance



Planning Services

Hollydene, North Lodge, Chester-le-Street, DH3 4AZ

Application Number DM/16/01811/FPA

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Comments

Date 28th July 2016

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