



## Area Planning Committee (North)

**Date** Thursday 28 September 2017  
**Time** 1.00 pm  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the Meeting held on 27 July 2017 (Pages 3 - 8)
4. Declarations of Interest (if any)
5. Applications to be determined by the Area Planning Committee (North Durham)
  - a) DM/16/03715/FPA - Land to the South of 1 Boyd St, Delves Lane, Consett (Pages 9 - 32)  
Demolition of existing buildings and erection of a Lidl store (Use Class A1) with associated car park and landscaping.
  - b) DM/17/02331/FPA - 13 Dunelm Close, Leadgate, Consett (Pages 33 - 40)  
Change of use of open space to garden.
  - c) DM/17/01667/FPA - 11 Park View, South Pelaw, Chester-le-Street (Pages 41 - 48)  
Erection of porch to front and two storey rear extension.
6. Appeal Update (Pages 49 - 54)
7. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration.

**Helen Lynch**  
Head of Legal and Democratic Services

County Hall  
Durham  
20 September 2017

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

Councillor I Jewell (Chairman)  
Councillor S Wilson (Vice-Chairman)

Councillors H Bennett, O Milburn, J Robinson, A Shield, L Taylor,  
K Thompson, S Zair, A Bainbridge, D Bell, L Boyd, A Hopgood,  
M McKeon, J Shuttleworth and M McGaun

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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 27 July 2017 at 2.00 pm**

**Present:**

**Councillor I Jewell (Chairman)**

**Members of the Committee:**

Councillors A Shield, L Taylor, K Thompson, S Wilson (Vice-Chairman), S Zair, A Bainbridge, D Bell, L Boyd, A Hopgood, M McKeon, J Shuttleworth and M McGaun

**Apologies:**

Apologies for absence were received from Councillors H Bennett, O Milburn and J Robinson

**1 Apologies for Absence**

Apologies for absence were received from Councillors H Bennett, O Milburn and J Robinson

**2 Substitute Members**

There were no substitutes.

**3 Minutes of the Meeting held on 29 June 2017**

The minutes of the meeting held on 29 June 2017 were conformed as a correct record and signed by the Chairman.

**4 Declarations of Interest (if any)**

Councillor A Shield declared an interest in Item 5a as former Board Member of Durham Villages Regeneration Committee.

Councillor D Bell declared an interest in Item 5a as a current serving Board Member of Durham Villages Regeneration Committee.

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

### **a 1/2013/0173 - Land to the south of Palmer Road, Dipton**

The Committee considered a report of the Senior Planning Officer regarding the proposed erection of 56 dwellings including some landscaping and infrastructure (amended scheme proposing omission of affordable housing provision and schools contribution (for copy see file of Minutes).

The Senior Planning Officer provided a detailed presentation which included photographs of the site and plans of the proposed layout. He advised that work had been undertaken regarding additional drainage works and should the application be approved, the condition relating to drainage would need to be updated.

He further advised that one objection had been withdrawn prior to the meeting and this was as a result of the developer working with residents.

Councillor Carr local Member, addressed the committee to speak in objection to the application. She referred to the previous decision noting that her major concerns related to the ecological impact on the nature reserve and the disturbance of protected species habitats. In addition the site was well used by school children walking to St Patrick's school and the fringes of the site also had other uses.

In conclusion she noted that although she was sad to see the loss of affordable housing she appreciated that it was difficult to refuse the application on the basis that the previous application had been approved.

Mr John McGee, local resident addressed the committee to speak in objection to the application. He commented that the photographs shown were out of date and there were some errors presented within the report.

Paragraph 2 of the report stated that the land was now unused, however had been used recently as a paddock, with the tenant having been given a 1 month notice to vacate. He further pointed out that paragraph 6 of the report stated that there would be only 54 units when in fact there would be 56.

He further commented that the County Durham Plan indicated that there was no demand for housing in this area.

Mr Partington, local resident addressed the committee to speak in objection to the application. He advised that in his opinion the benefits of the previous application had now been diminished. The proposed development did not include any open space or play space for children and the increase in cars and traffic would pose a danger to those children and other pedestrians. He also queried where the workforce would park whilst development was ongoing.

He further raised concerns relating to the environmental impact of development and the potential for water logging.

Mr Prescott, Keepmoat Homes, addressed the committee to support the application. He advised the committee that a lot of discussions had been undertaken with County Ecologists and any issues had been mitigated against. In addition Northumbrian Water Limited had approved the drainage scheme. It was further reported that the further field drainage and landscaping provided would lead to an 87% reduction in water run-off.

He further advised that the scheme was not viable in 2013 due to the large 106 contribution required by the education department.

With regard to the 106 agreement, Councillor Wilson asked what basic requirements were being met and what the anticipated ecological impact would be on the habitat. The Senior Planning Officer advised that the development would have an effect on the protected newt species however the 106 monies would allow for mitigation on the lower part of the site.

In addition he advised that there would be upgrades to the kick-a-bout with goal posts and footpath upgrades.

Regarding the changes to the previously approved application, Councillor Hopgood commented that the housing market hadn't changed that much since 2013 to justify the addition of two homes, the withdrawal of £300,000 106 monies and the withdrawal of 8 affordable homes. In addition she commented that it was disappointing to hear the local member say that the committee would have to approve the application because of the decision made by this committee in 2013.

The Chairman allowed Mr Prescott some more time to clarify the position. Mr Prescott advised that since 2013 which was the back end of the recession, build costs had increased by 28% along with increases in materials and sub-contractors also being seen. These additional costs now meant that the provision of affordable homes and any higher 106 contribution would make the scheme unviable.

Further discussion ensued regarding affordable homes and it was noted that the Derwentside Local Plan did not have a policy in place for the provision of affordable housing. Councillor Hopgood commented that she was unhappy with the disparities in local plan policy and added that in her opinion affordable housing provision should be proportionate to the size and scale of development.

Councillor Thompson added that on the basis that there would be no provision for affordable housing and that the 106 contribution had been significantly reduced, he could not support the application.

The Senior Planning Officer in referring to Paragraph 14 of the NPPF noted that given the current state of the County Durham Plan and policies contained within the Derwentside Local Plan being out of date, each scheme must be assessed on its own merits. Decisions should however lean in favour of those sites where deemed acceptable. With regard to expectations of profit, spatial planning had advised that profit within a parameter of 13/15% was acceptable.

At this point the Solicitor provided some advice to the committee regarding the issues raised, noting that members would have to determine whether the lack of

provision of affordable homes would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF.

Further discussion and debate took place regarding local plan policies and assessment of housing need. Councillor McGaun added that he felt that members could not make an informed decision on the application given that local plan and housing supply policies were so out of date. The Solicitor advised Councillor McGaun that if he felt he was unable to make an informed decision on the application, then he should abstain from the vote. Following further clarification from the Solicitor, Councillor McGaun confirmed he felt able to adequately assess the application

Councillor Hopgood subsequently **MOVED** that the application be refused on the grounds that that the lack of affordable housing provision is an unacceptable adverse impact of the scheme, which significantly and demonstrably outweighed the benefits of the proposal contrary to paragraph 14, 47 and 50 of the NPPF.

Councillor Shuttleworth **SECONDED** the proposal.

Councillor Wilson asked whether the previous application had placed much weight on the level of 106 contribution to be provided. The Solicitor advised that when the application was determined in 2013, the council were not in a situation where a planning balance test would need to be applied.

Following a vote being taken it was

**Resolved:** That the application be refused on the grounds that that the Local Planning Authority considers that the lack of affordable housing provision is an unacceptable adverse impact of the scheme, which significantly and demonstrably outweighs the benefits of the proposal contrary to paragraph 14, 47 and 50 of the NPPF.

**b DM/17/01683/FPA - Site of former Ouston County Infant School, Cromarty, Ouston**

The Committee considered a report of the Senior Planning Officer regarding proposals for the construction of 16 new build bungalows and associated footway and landscaping (for copy see file of Minutes).

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

Mr S Jackson, addressed the committee to speak in support of the application. He advised that proposals presented a high quality bungalow scheme which would be built under an affordable housing programme on a shared ownership basis. In addition the homes would not be restricted to elderly residents.

Councillor Wilson added that the application seemed pretty straight forward and the development would provide what was needed in the area. He therefore **MOVED** that the application be approved subject to the conditions listed in the report.

Councillor Shuttleworth **SECONDED** the proposal.

Councillor Shield added he agreed that this was a much needed development. He also agreed that although the garden sizes were small this was subjective, noting that not everyone wanted large gardens to maintain.

Councillor Hopgood added that she agreed with comments made and noted that the £16k contribution for enhancements to open space was welcomed. In addition she was extremely happy to hear that all the properties would be affordable.

Following a vote being taken it was

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

**c DM/17/01128/FPA - Ponds Court, Genesis Way, Consett**

The Committee considered a report of the Senior Planning Officer regarding the proposed erection of a 65 bedroom hotel with function suite, Managers Flat, parking and landscaping (for copy see file of Minutes).

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

Councillor A Watson, local Member (Consett North), addressed the committee to speak in support of the application. He commented that this hotel was a great investment for Consett and a statement of confidence in the area. The proposed hotel would be good for the economy and would bring jobs and wealth for the area.

Councillor D Hicks, local Member (Consett South), addressed the committee to speak in support of the application. He reiterated the comments already made adding that a hotel was greatly needed in the Consett area. He further commented that there was good public footpath links to the town centre and would do businesses in the area the world of good.

Mr G McGill, Applicants Agent addressed the committee to speak in support of the application. He advised that the interest shown in the Consett area was a testament to the towns ongoing regeneration and the proposals for a hotel in Consett went some way to putting it on the map for both Leisure and Tourism.

He went on to thank officers for their support during the application process adding that their advice and guidance had resulted in a better standard of proposed development.

Further reference was made to consultation which had taken place and support which had been shown for the development. Comments received regarding the protection of amenity had been addressed and mitigated against.

Original proposals had been for a smaller hotel however this had been increased due to the confidence in the market and the suitability of a larger hotel.

Negotiations were still underway regarding the hotel chain who would operate the hotel, however it was noted that it would not be a budget hotel. A mid-range offering was more likely.

In conclusion he advised that the hotel in the long term would contribute to economic activity in the area and would go some way in retaining young people in the area.

Councillor Wilson commented that he could only see the positive impacts of the development and felt that objections had been mitigated against. He therefore **MOVED** that the application be approved.

Councillor Shuttleworth added that Consett was a boom town and agreed that the hotel would be a good thing for the area and would encourage further business to the area. He therefore **SECONDED** the proposal.

Councillor Shield commented that as a member local to the area he would have liked to have moved the application for approval. He did however note that the application did accord with the local plan and NPPF.

Following a vote being taken it was

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

## **6 Appeal Update**

The Committee received an update from the Senior Planning Officer regarding an appeal against refusal of outline planning permission for residential development (C3) (all matters reserved except access) including the demolition of No.7 The Paddock at the Paddock, Lanchester, Durham (DM/16/00871/OUT).

The report confirmed that the Appeal had been allowed by the Planning Inspectorate.

**Resolved:**

That the content of the report be noted.

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/16/03715/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Demolition of existing buildings and erection of a Lidl store (Use Class A1) with associated car park and landscaping.
<b>NAME OF APPLICANT:</b>	Lidl UK GmbH
<b>ADDRESS:</b>	Land to the South of 1 Boyd St, Delves Lane, Consett
<b>ELECTORAL DIVISION:</b>	Delves Lane
<b>CASE OFFICER:</b>	Colin Harding, Senior Planning Officer, 03000 263945 <a href="mailto:colin.harding@durham.gov.uk">colin.harding@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### Site

1. The application site measures 0.8ha in area and is located to the west of Delves Lane., and lies approximately 400m from Consett Town Centre. The site most recently comprised a scrapyard, although this use has now ceased. From the mid-nineteenth century, the site formed part of Crookhall Colliery, hosting first the Latterday Saints Pit (also known as Delves Pit) until 1913, and then subsequently the Victory Pit from 1921 until its closure in 1963. Evidence of this previous use remains on site in the form of derelict cottages, and a large stone building fronting onto Delves Lane itself. This building most likely incorporated the colliery offices, and also includes an arched entrance which is possibly a later addition. Within the site itself, there is also remaining evidence of the winding house. The majority of the remainder of the site is semi-reclaimed grassland or bare ground, although the western part of the site takes the form of dense scrub, which forms part of the large area of scrub and open space beyond the western extent of the site, and also includes informal pedestrian and cycle routes.
2. To the north of the site lies open grassland and scrub, which lies to the rear of houses on Boyd Street, and beyond this land runs the C2C Cycle Route. The eastern boundary of the site is formed by Delves Lanes itself, beyond which lies retail premises in the form of B&M Bargains. To the south lies Delves Lane Industrial Estate, which hosts a number of businesses including Bescol Motors, GT Engineering and Elddis Transport.
3. There are no statutory or locally designated landscapes or ecological sites that would be affected by the proposals, the closest being over 2km away. No recorded public rights of way are contained within or adjacent to the application site, Footpath No. 42 (Consett) being the closest, and located over 100m away on the eastern side of Delves Lane.

## Proposal

4. Planning permission is sought for the erection of a retail food store that would provide 1,234sqm of internal floor space. The building would be orientated broadly north to south, on the western part of the plot with the store frontage facing into towards Delves Lane, to the east. 131 parking spaces are proposed within the site.
5. The main store building would measure approximately 70m in length (north to south) by 35m in depth, with a flat roof profile that would have a maximum height of 7m, falling to 5.5m at the rear. The building would be rendered white with occasional grey render vertical pillars to eastern and southern elevations. The main entrance would feature floor to ceiling glazing along with a projecting canopy feature.
6. The proposed development would take access from Delves Lane. A vehicle loading and servicing area would be provided to the north side of the building. Landscape planting is proposed around the perimeter of the site, particularly the western boundary, to the rear of the store.
7. This application is being reported to the North Planning Committee as it is classed as a major development.

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## **PLANNING HISTORY**

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### RELEVANT PLANNING HISTORY

8. There is no relevant planning history.

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## **PLANNING POLICY**

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### NATIONAL POLICY

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
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. The following elements of the NPPF are considered relevant to this proposal;
11. *Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

12. *Part 2 - Ensuring the Vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
13. *Part 4 – Promoting sustainable transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
14. *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.
15. *Part 8 – Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
16. *Part 10 – Climate Change.* Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
17. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
18. *Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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

Derwentside District Local Plan (1997) (DDLDP)

19. *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.

20. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access/exit, adequate provision for service vehicle manoeuvring, access for emergency vehicles and access to the public transport network.
21. *Policy TR3 – Cycling* – Requires cyclists' needs to be taken into account when considering proposals for new traffic management, road improvements and new developments. Permission will only be granted if safe and convenient access and cycle parking facilities such as racks or wall bars are provided.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Derwentside District Local Plan)*

#### **RELEVANT EMERGING POLICY:**

22. 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 (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

23. *Highway Authority* – Raise no objection, advising that the submitted Transport Assessment is considered sound. The site access has been relocated and redesigned during the application process, and now meets junction standards. Additional parking within the site has been now incorporated in accordance with parking standards.
24. *Drainage and Coastal Protection* – Raise no objection provided the development is carried out in strict accordance with the submitted revised drainage strategy document entitled "Addendum Report". Officers advise that they would like to see permeable paving added as a source control where possible within the car parking areas. Within the surface water management of the site permeable paving would provide a better treatment stage than road gullies alone.
25. *Northumbrian Water* – Raise no objection provided the development is carried out in strict accordance with the submitted revised drainage strategy document entitled "Addendum Report" and a condition restricting flow rates via the proposed sewer connections.
26. *The Coal Authority* – Originally objected to the proposed development as the building would be located above a pair of known mineshafts. Following the receipt of an amended layout, this objection has now been withdrawn.

## INTERNAL CONSULTEE RESPONSES:

27. *Spatial Policy* – Raise no objections, advising that the DDLP is silent with respect to retail development. Referring to the Retail and Town Centre Study (2009 and 2013 update) and the town centre boundaries within this, the application has been identified as being an out of centre retail development. It has therefore been considered against the sequential and impact tests detailed in Paragraphs 24 to 27 of the NPPF. This assessment has concluded that sequentially and in terms of impact on the town centre, the proposal is acceptable. Given the DDLP is silent a planning balance test is required by the case officer. It is highlighted that in terms of retail tests the application would not have a significantly adverse impact on the town centre. In addition, there are regeneration benefits.
28. *Design and Conservation* – Raise no objection. The existing colliery arch is considered to be a non-designated heritage asset, and officers consider the retention of it should be explored alongside the viable delivery of the scheme. The application should be determined in the context of Paragraph 135 of the NPPF and the substantial harm as a result of the loss of a non-designated heritage asset should be balanced against public benefits of the scheme, and the significance of the asset.
29. *Archaeology* – Raise no objection, subject to a condition requiring a watching brief due to the previous use of the site as a colliery. However, it is also suggested that consideration be given to dismantling the archway, and re-erecting it somewhere on site.
30. *Environment, Health & Consumer Protection (Land Contamination)* – No objections are raised. The submitted ground investigation has been considered is agreed with, however a condition is recommended as gas monitoring has not yet been finalised.
31. *Environment, Health & Consumer Protection (Air Quality)* – No objections are raised. It is advised that the operational phase of the development is unlikely to have a significant adverse impact upon air quality, however a dust management plan should be secured for the construction phase.
32. *Environment, Health & Consumer Protection (Noise Action Team)* – Raise no objections in principle, however it is considered that the submitted noise report does not adequately assess the impact of potential 24 hour deliveries, and that they should be restricted until adequate monitoring has taken place.
33. *Landscape* – No objections are raised. The revised layout presents a landscaped frontage to Delves Lane an improvement on the original scheme.
34. *Landscape (Arboriculture)* – No objections are raised. Trees within the site do not warrant preservation orders and removal will be required to facilitate development. Woodland to the north and west must be retained and protected throughout development.
35. *Ecology* – No objections are raised. The ecological impacts of development are the loss of brownfield and scrub habitats, the ecological impacts of the development have been effectively mitigated for through the provision of Section 106 Planning Obligation that will provide Durham County Council with £8000 to deliver ecological enhancements to Local Wildlife Sites within the local area. The off-site ecological mitigation ensures that the development meets the biodiversity requirements of the NPPF.

36. *Travel Planning* – No objections are raised, however it is advised that the submitted travel plan requires refinement and this can be secured by means of a condition. Sufficient cycle stands have been provided.
37. *Climate Change and Sustainability* – Offer no objections, but highlight that the moving of the Lidl store away from the town centre is inherently less sustainable, and further raises concerns that no sustainability statement has been submitted in order to demonstrate compliance with Part L of Building Regulations.

#### **PUBLIC RESPONSES:**

38. The application has been advertised by means of individual notification letters, site notice and press notice. No representations from local residents have been received.
39. *Cllr Malcolm Clarke (Delves Lane Division)* – Requests that planning permission is granted only subject to a condition ensuring that the road facing brick archway relating to the former colliery is retained in full.
40. *Laura Pidcock (Member of Parliament for North West Durham)* – Indicates that although the development is welcomed, there needs to be a guarantee with regards to the preservation of the cultural and historic heritage of the site. It is requested that the proposed development is only approved subject to a condition that requires the retention of the existing archway.
41. *Durham Constabulary* - No objections are raised and the crime risk assessment for the development is considered to be low. However, the importance of enclosing the car park by means of a well thought out landscaping scheme is highlighted, in order to deter youth congregation. It is also noted that the proposed 2m fencing would not offer any level of security.

#### **APPLICANTS STATEMENT:**

42. The Lidl proposal on Delves Lane in Consett is in accordance with National Policy and the Development Plan and there are no other material considerations that indicate planning permission should not be forthcoming. The development proposals constitute sustainable development for the following reasons:
  - The proposal comprises the development of a vacant, undeveloped and underused site ;
  - The proposal will result in the re-use of previously developed land which represents sustainable development;
  - The proposal will improve customer choice and enhance the shopping experience for shoppers within this area of Consett and the neighbouring area;
  - The proposals full comply with both the sequential and retail impact tests set out within the National Planning Policy Framework;
  - The impact analysis demonstrates that the proposal will not have any significant adverse impact on the vitality and viability of Consett town centre.
  - The development proposal will provide a contemporary building design that will be complimentary to the visual character of the surrounding area;
  - A number of economic benefits will be provided as a result of the new store, including Lidl's continued investment in the area and commitment to providing jobs and training for the local community;
  - New landscaping will be provided surrounding the site and providing a high level of visual amenity; and

- The proposal will provide off-site ecological mitigation to deliver additional biodiversity improvements.
43. It is noted that the Council asked if the existing archway could be retained. As previously outlined with the Council, this option has been explored by Lidl but due to the technical complexities associated with a significant supporting structure required, it was unfortunately deemed unfeasible. However, Lidl are willing to provide either a historic information board to include the keystone or allow someone to take ownership of the dismantled archway to be erected elsewhere off site.
44. To summarise, the proposed scheme adopts the principles of sustainable development, in relation to social, economic and environmental factors. The proposal has demonstrated through various technical reports that the scheme complies with relevant policy as set out within the NPPF and the Development Plan. Therefore, the application should be supported.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=OGZFMPGDK3U00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, design and impact upon the surrounding area, impact on heritage assets, access and highway safety issues, residential amenity, flooding and drainage, ecology and other issues.

### Principle of Retail Development

46. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Derwentside District Local Plan (DDLPL) remains a statutory component of the development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.
47. With regards to this, DDLPL policies relating to retail development have now expired, and effectively the development plan is now silent in this respect. Paragraph 14 of the NPPF states that where a development plan is absent, silent and/or out-of-date, that permission should be granted unless any adverse impacts of doings so would significantly and demonstrably outweigh the benefits of the development, or specific policies of the NPPF indicate that development should be restricted.
48. Although the DDLPL originally designated a town centre boundary for Consett, the relevant retail policies have not been saved, and therefore can carry no weight in the decision making process. Town centre boundaries are fundamental in the decision

making process for proposals of this type. Notably Paragraph 23 of the NPPF identifies the need to define the extent of town centre boundaries in the Plan making process.

49. In the absence of a saved town centre boundary policy, reference should be made to the Council's Retail and Town Centre Study (R&TCS). This was originally produced in 2009 and updated in 2013. The study defined town centre boundaries alongside Primary and Secondary frontages. The defining of these boundaries aligns with Paragraph 23 of the NPPF and therefore can be used to assess the application and establish whether the site is in centre, edge of centre, or out of centre. Using the boundaries defined within the Retail and Town Centre Study, the application site is 'out of centre'.
50. Paragraph 24 of the NPPF states that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses (food retail is defined by Annex 2 of NPPF as a main town centre use). It goes on to state that applications for main town centre uses should be located in town centres, then in edge of centre locations and only if suitable sites are not available should out of centre sites be considered.
51. In addition to the sequential test, the NPPF also states that when assessing applications for retail, leisure and office development outside of town centres, an impact assessment should be required. LPAs should require an impact assessment if the development is over a proportionate, locally set threshold. Where there is not a locally set threshold, the NPPF gives a default threshold of 2,500sqm.
52. The NPPF goes on to state that an impact assessment should consider the impact of the proposal on existing, committed and planned public and private investment in a centre or centres within the catchment area and also the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area.
53. Paragraph 27 of NPPF states that where an application fails to satisfy the sequential test, or is likely to have a significant adverse impact on town centres, it should be refused. Consequently, Paragraph 27 is considered to be a restrictive policy for the purposes of Paragraph 14 of the NPPF.

#### The Sequential Test

54. The applicant has provided a sequential assessment that concludes that there are no sequentially preferable sites. This has looked at sites within Consett town centre and also on the edge of Consett town centre. The following sites have been considered and dismissed for various reasons:
  - Existing Lidl store, Victoria Centre, Consett;
  - Vacant plot on the corner of Genesis Way and Ponds Court;
  - Land off Park Road;
  - Land at the former Belle Vue Swimming Pool on Ashfield Road, and
  - Vacant plot adjacent to Consett Medical Centre off Station Road.
55. The site of the existing Lidl store is located at the Victoria Centre within Consett town centre. This provides a gross area of 1,460sqm. The applicant has recognised that this does not meet the requirements of the retailer, and therefore consideration has been given to the potential to extend. Due to the constraints of the site this is considered to not be a viable option. It is accepted that the site is constrained and to provide a unit that would meet the operator's requirements on the site would require significant

redevelopment which site ownership issues along with the nature of the site, would not allow.

56. The sites at Genesis Way/Ponds Court and adjacent to Consett Medical Centre (both edge of centre), have both been dismissed by the applicant for being too small. The applicant's conclusions on both of these potential sites are accepted. Neither would be able to accommodate the Lidl store proposed by the applicant in terms of its size 2,470sqm (Gross Internal).
57. The site at Land of Park Road has been identified as a potential site but again has been dismissed by the applicants due to issues over topography. In addition the applicant has suggested that the site is unavailable citing a history of housing planning permissions that have lapsed. The site's availability would preclude the site for development and therefore the applicant's conclusions on the site are accepted.
58. Finally, the site of the former Belle Vue swimming pool has also been identified. This has been dismissed by the applicant as unavailable. This site has been identified for housing development and in addition the access is unlikely to be suitable for a new food store.
59. Having undertaken an assessment of sites within Consett town centre and also on the edge of Consett town centre it is considered that the sequential test is adequately met in this instance.

#### The Impact Assessment

60. The proposed development falls above the national impact threshold of 2500sqm (2,566sqm) and the applicant has therefore provided an impact test. The applicant has considered impact on town centre vitality and viability, and also impact on existing committed and planned public and private investment.
61. In terms of committed and planned public and private investment, the applicant has concluded that the proposed foodstore would not have an impact. This view is accepted, as there are no proposed in-centre schemes that this application would adversely impact upon.
62. The impact on town centre vitality and viability also requires scrutiny. The applicant has stated that the intention is for the company to decamp from its current in-centre store and move to an out-of-centre location. This would therefore create an empty town centre unit which is a direct short term adverse impact of the proposed development. It is however, acknowledged that this existing site does not meet Lidl's operational requirements, and this is recognised in the acceptance of the sequential test.
63. For the purposes of the impact test, the applicant has considered the prospect of a similar retailer occupying the unit made vacant. Whilst there is a degree of uncertainty within these conclusions, this provides a reasonable basis for assessment.
64. Having regards to the conclusions of the impact assessment, in the context of these assumptions, it is considered that the majority of impact would be felt by stores that are currently based outside of the defined town centre boundaries. This is based on the principle of "like effects like" and the applicant's conclusions that the greatest impact would be felt by the edge-of-centre Aldi store, as well as to a lesser extent by Tesco and Morrison's (also edge-of-centre), are considered to be reasonable. It is also agreed that the impact on these would not be significant, considering the new store would continue to fulfil the same role that it has historically, albeit, a slightly more enhanced role.

65. In terms of town centre stores, accepting there is a degree of uncertainty over the impact that the proposal would have on the long term functioning of Lidl's existing unit, it is considered that the impact on Consett town centre would not be significantly adverse. The town centre has a limited range of convenience retailers within the town centre and it is considered that these are likely to continue to fulfil their complementary role to the larger food retailers within the town. Finally, it is also worth noting the relative performance of Consett town centre and the low levels of vacancy that are evident.
66. It is therefore considered that the impact assessment is adequately met in this instance.

#### Conclusion on Retail Policy Assessment

67. The proposal is considered to pass the sequential test, and further, would not have a significant adverse impact upon Consett Town Centre. As a result, Paragraph 27 of the NPPF does not indicate that permission should be refused in this instance, and further that the presumption in favour of sustainable development contained with Paragraph 14 of the NPPF remains engaged.

#### Design and Impact upon the Surrounding Area

68. The site, in its current state is a largely derelict former colliery site so redevelopment of it, from a visual impact perspective would improve the appearance of the immediate area in a positive manner, any impacts upon heritage assets notwithstanding.
69. Design improvements during the course of consideration of the application have seen a re-alignment of the building, with it now fronting towards Delves Lanes from the rear of the site, as opposed to presenting a side elevation, as originally proposed.
70. Although of a relatively standard, utilitarian design, the proposed store is not considered to be unattractive and demonstrates a simple quality commensurate with other large modern retail developments. Consequently, the proposed store building is considered to be of a suitable design and appearance and of a suitably high quality in design that it is considered to accord with DDLP Policy GDP1, which is considered to be consistent with NPPF and can continue to be afforded significant weight, and Part 7 of the NPPF.
71. In terms of landscaping, a comprehensive scheme is proposed. This would see significant planting to the west and north of the proposed store, with further perimeter planting to the eastern and southern boundaries, around the extent of the car park and service yard. Landscape Officers have raised no objections to the proposed development in this regard, subject to a planning condition ensuring the proposed landscaping scheme is implemented.
72. Overall, the re-development of the site would address an otherwise largely derelict site within Delves Lane. The proposed building would be fit for purpose and the development overall would be a positive addition to the local streetscene by regenerating the application site. The proposal would therefore be considered to accord with DDLP Policy GDP1 and Part 7 of the NPPF.

#### Impact upon Heritage Assets

73. In terms of the heritage context of the application site, it does not lie within a Conservation Area, nor are there any Listed Buildings within the vicinity. However, the site has its own historical context as a former colliery, and some of the buildings that remain upon the site are considered to be non-designated heritage assets. These

would be lost in their entirety as a result of this development. Representations received from elected community representatives indicate that these remnants of the former colliery use of the site are of significant cultural value to the local community.

74. NPPF Paragraph 135 states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement is required having regard to the scale of any harm or loss, and the significance of the heritage asset. DDLP Policy GDP1 sets out that development should meet high quality standards of design and protect the landscape and historic features of the surrounding area. This Policy is considered to be compliant with the NPPF, which also requires that development contributes to and enhances the natural and local environment under Parts 11 and 12, while Part 7 states that good design is a key aspect of sustainable development and is indivisible from good planning. Significant weight can therefore be afforded to DDLP Policy GDP1 in this respect.
75. The application site currently contains remnants of buildings associated with the former colliery and coke works use of the site. At the northern end of the site is a row of derelict single-storey cottages. These structures are believed to date to between 1896 and 1921, and may have been associated with the later phase of use of Delves Colliery which closed in 1913. The applicant's heritage statement concludes that due to their condition, their lack of architectural merit, lack of historical significance, or communal value, that these structures cannot be considered to be significant historic assets. This is a view which is shared by the Council's Design and Conservation officers.
76. A large single storey building occupies almost the entire street frontage of the site. The building backs onto Delves Lane, and is of a mixed stone and brick construction. Many of the original openings have been filled, and the original roof has been removed and replaced with corrugated metal sheeting. The building appears to have been constructed between 1921 and 1939, and was associated with the former Victory Pit which closed in 1963, serving as the colliery offices. The distinctive archway entrance was likely added after the initial construction of the building, as is evidenced by the incorporation of different building materials and construction techniques.
77. The submitted heritage statement considers that the elevation of this building that fronts onto Delves Lane has little aesthetic appeal, is not representative of the building's original function, and has also suffered from modifications over time. It also considers that the archway is a redeeming feature, but acknowledges that this may not even be contemporary to the original building, or perhaps even its original function. It contends that any significance that this building has is local, and historical, as Victory Pit drove the expansion of Delves Lane in the early 20<sup>th</sup> Century, and therefore forms an important part of local history. However, the connection to the past use of the site is diminished by the lack of other surviving structures of the colliery complex.
78. The submitted heritage statement also highlights that other surviving examples of buildings of this function and date can be found both regionally and nationally, and that on the whole these examples are in better condition. Such examples can be found in the form of Easington Colliery pay office, Beamish pay office, and Woodhorn Colliery offices in Northumberland. The heritage statement concludes overall that the surviving colliery building on the site has little overall significance.
79. Design and Conservation Officers have considered the content of the submitted heritage assessment, and find that following further work carried out during the application process that it is objective, and well balanced, and draws reasonable conclusions with regards to the significance of the structures. They have advised that

the archway related to the colliery offices constitutes a non-designated heritage asset, and opportunities to retain it in some meaningful form should be explored within the viable delivery of the redevelopment scheme, as viewed shared by the County Archaeologist. If the loss of the archway is unavoidable, then this loss of significance should be weighed against the public benefits of the redevelopment scheme in accordance with Paragraph 135 of the NPPF.

80. As a result, and at the request of officers, the applicant has undertaken a structural survey of the colliery offices building and archway, to ascertain whether any part of it could be potentially suitable for retention within the redevelopment of the site, with particular attention being paid to the archway. The submitted structural survey indicates that the archway is in reasonable condition, however it also concludes that there would be a need for significant strengthening or an alternative means of support were it to be retained or relocated within the site.
81. It is considered that the value of the colliery building is not such that its retention in entirety is justified, particularly, as to do so would restrict the ability of the site to be redeveloped. Although it is possible that the arch, as the most notable part of the structure, could potentially be retained it would almost certainly need to be relocated, and without the remainder of the building to provide support, would need significant strengthening in order to maintain structural integrity. Furthermore, the retention of the arch alone in an alternative location, and without any context, would significantly erode its already limited significance.
82. The applicant has explored whether the relocation of the arch would be practical. As a standalone structure, the arch would require a robust frame to be designed and built which would, in theory, be shrouded by the stonework of the four corners of the arch, however, it is unclear how successful such an exercise would be. From a technical perspective it would take significant resources to take it down and rebuild it, for relatively limited cultural or historical gain, particularly as the archway would almost certainly have to be relocated from its current position in order to allow the development to proceed. The applicant has however offered to incorporate an area of interpretation within the site, whereby the history of the site would be recognised, and could include the retention of a smaller part of the archway, such as the headstone, and this could be secured by means of planning condition. They have also offered to gift the archway to a third party, for its retention offsite, however at the present time no such party has been identified.
83. A Local Member for Delves Lane, as well as the Member of Parliament for North West Durham, have both indicated that they believe that the archway should be retained as part of any redevelopment of the site. With the applicant indicating that the retention of the archway is impractical, and unwilling to voluntarily retain the archway, it would fall to secure its retention by means of a planning condition. It is considered that the imposition of such a condition would be unreasonable, as it would require a fundamental alteration to the development scheme, and would be excessively onerous, particularly if it required the archway to be retained in-situ. With the potential success of any proposal to demolish and rebuild the archway in alternative location being unclear, this raises further doubts over the reasonableness of such a condition.
84. The concerns of the local community as expressed by the elected community representatives with regard to this issue are appreciated, although no objections from members of the public have been received. With it being considered not to be reasonable to secure the retention of the archway by means of planning condition such concerns should be considered in the context of Paragraph 135 of the NPPF, whereby the loss of what is undoubtedly a non-designated heritage asset of value to the local

community should be weighed against the public benefits of the development in the Paragraph 14 planning balance exercise. The public benefits are considered below.

#### Access and highway safety issues

85. DDLP Policy TR2 requires that development proposals provide clear and defined safe vehicle access (including service vehicles), adequate turning and manoeuvring and satisfactory access to the public transport and adopted highway networks. This Policy is considered compliant with the NPPF which also seeks to promote accessibility by a range of methods while ensuring that a safe and suitable access can be achieved and therefore can be given full weight in considering the application. Paragraph 32 of the NPPF requires applications which proposed significant amounts of traffic movements should be supported by a Transport Assessment and should only be refused where the residential cumulative impacts of development are severe.
86. The proposed development would result in a single vehicular access point on to Delves Lane, which would incorporate a protected right turn junction for traffic entering the site. The detail of the access junction has been amended following discussions with Highway Authority officers, and is now considered to be acceptable, and in accordance with DDLP Policy TR2.
87. A Transport Assessment has been submitted that considers the impact of the development on the surrounding road network, which has been assessed by the County Highways, who concur with its findings that the surrounding highway network is considered to hold enough capacity to cater for the proposed new retail store. The Highway Authority outline that the Council's Parking and Accessibility Guidelines state a maximum level for parking, which this proposal complies with. The proposals would therefore not be in conflict with Paragraph 32 of the NPPF, as there would be no severe impact upon the highways network.
88. Travel Planning officers have reviewed the submitted Framework Travel Plan, which is largely considered to be sound but requires further amendments. It is considered that this matter can be dealt with by condition, along with securing the implementation of a travel plan coordinator to secure sustainable travel objectives. Sustainable methods of transport to the site are also encouraged within the submission with provision for both cycle parking and electric vehicle charging point proposed, and it is considered appropriate that these aspects be covered by condition to ensure their delivery in accordance with DDLP Policy TR3 and Part 4 of the NPPF.
89. Overall, based on the advice of the Highway Authority the proposal would be served by an appropriate means of access and traffic generated can be accommodated on the wider highway network. The internal layout is considered acceptable, while there is sufficient capacity in the immediate highway network to accommodate a higher flow of traffic to and from the site as a result of the lower level of parking provision. . Subject to conditions relating to sealing historic accesses, provision of cycle parking and electric vehicle charging points and an updated travel plan, the proposal is considered acceptable in highways terms and complies with DDLP Policies TR2 and TR3, and Part 4 of the NPPF.

#### Residential Amenity

90. DDLP Policy GDP1 requires new development to protect the amenities of neighbouring occupiers and land users in the vicinity of the development site. This Policy is considered NPPF compliant with a core planning principle at Paragraph 17 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future occupants of land and buildings. Part 8 of the NPPF amongst other

guidance advises on the need to create safe and accessible environments where crime and disorder and the fear of such are considered. Part 11 of the NPPF seeks to avoid noise from giving rise to significant new impacts. No objections have been raised by neighbouring properties to the proposed development with regard to the impact upon their amenity.

91. The closest residential properties to the proposed store are those on Boyd Street to the north of the proposed store building, approximately 50 metres away at the closest point. As such, a range of impacts from the proposal are possible upon the residential occupiers of these buildings. Primarily, the general impacts associated with the store operation such as vehicle movements of customers, operation of machinery and plant and deliveries. The store proposes opening hours of 7am to 10pm Monday to Saturday, and a 6 hour period between 10am and 4pm on Sundays and Bank Holidays. These times are comparable to similar uses in the vicinity, and therefore are deemed appropriate. Noise generated from the movement of cars would be within acceptable levels during the majority of the day, as it would be assimilated into the high overall background noise level of this location. The design of the proposed retail store would see the delivery bay and plant compound along the northern elevation of the building, whilst the proposed refrigeration plant would sit at the rear of the store, albeit at the northern end. There is potential for some disturbance later at night as a result of the proposed opening times (10pm Monday – Saturday); however this would not be considered to cause a significant adverse effect in accordance with DDLP Policy GDP1.
92. The applicant has provided a Noise Impact Assessment in support of the proposed 24 hour delivery times. The Noise Impact Assessment has been reviewed by the Council's Environmental Health and Consumer Protection Officer who consider that the case study used to demonstrate that deliveries carried out during the night would not result in an increase in noise over background levels is not to be representative, as a result of the timing of the example survey, and the fact that the delivery vehicle concerned was not using reversing alarms at the time, contrary to Lidl's standard delivery practice.
93. As a result, it is considered that it has not been demonstrated that 24 hour deliveries would not have a detrimental impact upon levels of residential amenity available to nearby residents, and therefore a condition is proposed in order to limit the timing of deliveries.
94. Impacts from the general operation of the store for long periods (i.e. 7am to 10pm Monday to Saturday) are however considered to be acceptable, however, Officers are justified in controlling the store opening times to the public to ensure the amenity of the nearby residents is safeguarded.
95. External lighting is proposed to the site, yet no detail has been provided with the application. As the site is in a prominent location, it is considered appropriate to agree details of a proposed lighting scheme by way of condition to ensure that lighting levels and spillage are suitably contained.
96. With regard to air quality, Environmental Health and Consumer Protection Officers have advised that the operation of the store is unlikely to have a significant impact upon air quality, although the construction phase should be adequately controlled by means of a dust management plan, which can be secured by means of a planning condition.
97. The construction phase of any new major development can be one which lasts several months or years and can, as a result lead to impacts of their own upon the surrounding area. Primary impacts include noise, dust, vibration and light and can cause significant impacts upon nearby residents if not controlled. The proximity of neighbouring

residential properties would make some form of control appropriate to safeguard amenity. A condition requiring a Construction Management Plan detailing measures to minimise the impact of construction activities on the neighbouring properties would therefore be appropriate in order to safeguard amenity during the construction phase of the development.

98. Overall, whilst it is recognised that there would be a minor reduction in the level of amenity experienced by the occupiers of surrounding residential properties due to the proximity of the development, most of the impacts would be assimilated into the general background noise climate in the operational phase. No objections were received from nearby residents or other premises with regard to amenity concerns and no objections are raised by Environment, Health and Consumer Protection officers, subject to 24 hour deliveries being restricted until it can be adequately demonstrated that they would not result in an adverse impact upon residential amenity. The development is therefore considered to comply with DDLP Policy GDP1 and Parts 8 and 11 of the NPPF in this respect.

### Flooding and Drainage

99. Part 10 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Part 11 of the NPPF takes account of the impact of any development upon the natural environment. DDLP GDP1 follows these requirements of the NPPF by ensuring new development does not increase flood risk and is consistent as a result.
100. The application is accompanied by a flood risk assessment (FRA), which highlights that the application site is within flood zone 1 with a low flood risk probability. A mains sewer connection is proposed for both foul and surface water connections. In accordance with NPPF requirements, surface water runoff would be restricted to greenfield rates through the use of Sustainable Urban Drainage Systems (SuDS). In this instance conveyance swales, trapped gullies and flow control will be utilised). Foul water discharge would be considered domestic in nature and would be discharged in to the existing network.
101. The Council's Drainage and Coastal Protection officers raise no objection to the proposed method of surface water attenuation set out in the FRA and the greenfield run off rate of 5 l/sec. Northumbrian Water also offers no objections subject to the implementation of the proposed drainage scheme and restriction in run-off rate. As such, the proposed drainage scheme is considered to comply with DDLP Policy GDP1 and Parts 10 and 11 of the NPPF in this respect.

### Ecology

102. Part 11 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. There are no designated areas which border the site or within 2km of the site boundaries. An ecology appraisal has been submitted with the application, highlighting that no species that are afforded special legal protection under the Conservation of Habitats and Species Regulations 2010 (as amended) and the Wildlife and Countryside Act 1981 (as amended) have been recorded within the site.
103. However, the submitted report does identify that the site forms Early Successional Brownfield Land, and further that this habitat would have the potential to support Dingy Skipper Butterflies, as well as reptiles. Although no Dingy Skippers have been recorded on the site, they have been recorded twice within 1.2km of the site, within the last 16 years, and therefore the presence of the species cannot be wholly discounted.

104. The submitted ecology report identifies a series of onsite mitigation measures to offset any loss of potential habitat, however the applicant has indicated that the delivery of these would not be compatible with the efficient operation of the superstore. In lieu of the relevant mitigation being provided on site, a financial contribution of £8,000 would be secured through a planning obligation under S106 of the Town and County Planning Act 1990 (as amended) in order to allow biodiversity enhancements to be delivered on Durham County Council land within the Delves Lane area.
105. The County Ecologist has advised that the financial sum proposed is acceptable, and represents a proportionate figure to offset any biodiversity impacts, in accordance with the industry recognised methodology.
106. As a result, it is considered that impacts of the development upon biodiversity interests can be adequately offset, in accordance with Part 11 of the NPPF.

#### Other Issues

107. In relation to land contamination the applicant has submitted a phase 1 desk study report which identifies that there is a low risk of contaminants being present on site, but site investigation work is recommended. After reviewing the submitted report the Council's Environment, Health and Consumer Protection officers (Contaminated Land) advises that the submitted Phase 1 Assessment is acceptable and recommend a conditional approach to further land contamination investigations in line with Part 11 of the NPPF.
108. Planning plays a key role in helping to reduce greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. The development would be expected to achieve a proportion of its energy supply from renewable resources, or through an equivalent level through energy effect measures. Although the applicant has not submitted a sustainability statement setting out how this would be achieved, it is considered that an adequate strategy for energy reduction can be secured by means of an appropriate planning condition in order to ensure that the proposal complies with Part 10 of the NPPF.
109. Paragraph 120 of NPPF states that planning decisions should prevent unacceptable risks from land instability by ensuring that new development is appropriate for its location. Being a former colliery, it is perhaps unsurprising that the site is located in a High Risk Coal Mining Development Area. Originally, the Coal Authority had raised objections as the store building was proposed to be located over the two known mineshafts that exist on the site. Following these comments, the scheme has been amended, resulting in the building being re-located within the site, with the mineshafts now being located within the car park. On this basis, the Coal Authority has now withdrawn its objection, and there are no unresolved land stability issues. The proposed development can therefore be considered to be in accordance with Paragraph 120 of the NPPF.

#### Planning Balance

110. In summary, as DDLP policies are considered to be absent, or silent, with respect to this proposed development, the acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 14 of the NPPF which requires the granting of planning permission unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits, or where specific NPPF policies indicate that development should be restricted. Policies within the DDLP are

considered out-of-date with regard to retail requirements as no town centre boundaries have been defined. The Council's Retail and Town Centre Study (2013) however assesses the site as being outside of a town centre location.

111. By representing retail development in an out-of-centre location, Paragraph 27 of the NPPF indicates that such development should be restricted, unless the development passes sequential, and town centre impact tests. Whilst the second limb of Paragraph 14 is engaged, as the sequential and town centre tests are passed in this instance, such restrictive policy does not disapply the presumption in favour of granting planning permission. Instead the first limb of Paragraph 14 is in operation, which requires planning permission to be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits of doing so. Additionally, Paragraph 135 of NPPF requires the balancing of the harm to the non-designated heritage assets against the public benefits of the proposed development, in reaching any conclusion with regards to the planning balance.
112. The proposed development would improve the appearance of what is a currently underutilised brownfield site, which would in overall terms enhance the character and appearance of the area. Additionally, the development would lead to the creation of 40 job opportunities, which would offset the loss of the existing smaller store, as well as provide additional employment, and also increased consumer choice. Overall, the proposed store would contribute to social and economic development within the Delves Lane, and the wider Consett area. There would however, be harm in form of the loss of non-designated heritage assets, including the colliery archway, as well minor harm to residential amenity. This harm must be weighed against the public benefits of the proposals, and in this instance is considered that such harm would not significantly and demonstrably outweigh the benefits of granting planning permission.

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## **CONCLUSION**

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113. The presence of a general urban noise climate with a high background level and the site in close proximity to a busy main road, would result in limited, if any impact upon the nearest residential properties. However impacts from allowing unrestricted delivery times to the store, cannot yet be fully understood; and a broader range of impacts are possible from unrestricted store opening times (such as customer vehicle movements) and so conditions are proposed to maintain control of these aspect.
114. The proposal would be served by an appropriate means of access and would have an appropriate impact on the wider highway network. Parking provision is within the Council's Parking and Accessibility Guidelines stated maximum. The scheme would not increase the risk of flooding elsewhere.
115. Any impacts on biodiversity can be adequately offset by means of a financial contribution towards offsite ecological enhancements. It is considered that the planning obligation to secure a £8,000 payment for offsite ecological mitigation represents a proportionate figure to offset any biodiversity impacts and meets the three planning tests set out in Paragraph 204 of the NPPF and Section 122 of The Community Infrastructure Levy Regulations 2010. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.
116. The proposal has generated some public interest with concerns being raised by a Local Member, and Member of Parliament with regard to the loss of non-designated heritage assets, albeit offering support in principle to the application. These, along with other

responses received, have been carefully balanced against the scheme's wider social, economic and environmental benefits. Whilst mindful of the nature of the concerns it is considered that these are not sufficient to outweigh the planning judgement in favour of the proposed scheme.

117. In summary, the scheme is considered to represent sustainable development as set out in the NPPF, and in accordance with Derwentside District Local Plan Policies GDP1, TR2, and TR3, and that planning permission should be granted.

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## **RECOMMENDATION**

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That the application is **APPROVED** subject to the completion a Section 106 Legal Agreement to secure the following:

- £8,000 towards biodiversity enhancements within Delves Lane Electoral Division;

and subject to the following conditions:

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

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

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

Site Layout 07147-SPACE-A(90)GAP002-14 Rev.14

Landscape Details R/1917/1C

Boundary Treatment Plan 07147-SPA-A(99)GAP002-3 Rev.3

Proposed Elevations 07147-SPA-A(00)GAE001-4 Rev.4

Proposed Roof Plan 07147-SPA-A(00)GAP201-3 Rev.3

Proposed Ground Floor 07147-SPA-A(00)GAP001-3 Rev.3

Tree Survey AMS-EXI

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies GDP1, TR2 and TR3 of the Derwentside District Local Plan and Parts 1, 2, 4, 7, 8, 10, 11 and 12 of the National Planning Policy Framework.*

3. Prior to the commencement of any part of the development hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

1. Overall strategy for managing environmental impacts which arise during construction;
2. Measures to control the emission of dust and dirt during construction;
3. Contractors' compounds, materials storage and other storage arrangements, cranes and plant, equipment and related temporary infrastructure;
4. Designation, layout and design of construction access and egress points;
5. Directional signage (on and off site);
6. Provision for all site operatives, visitors and construction vehicles for parking and turning within the site during the construction period;

7. Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
8. Routing agreement for construction traffic.
9. Storage of plant and materials used in constructing the development;
10. The erection and maintenance of security hoarding/fencing including decorative displays and facilities for public viewing, where appropriate;

The approved Construction Management Plan shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

*Reason: In order to protect the amenity of neighbouring residents from commencement of the development in accordance with Policies GDP1 and TR2 of the Derwentside District Local Plan and Parts 4, 8 and 11 of the National Planning Policy Framework. This condition is required to be pre-commencement in order to ensure that adequate mitigation measures are in place before work begins.*

4. Prior to the commencement of any part of the development hereby permitted a scheme to deal with contamination shall be submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections (a), (b), (c) or (d) are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

#### Pre-Commencement

- (a) Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications. Prior to the Phase 2 a Sampling and Analysis Plan is required.
- (b) If the Phase 2 identifies any unacceptable risks, a Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

#### Completion

- (c) During the implementation of the remedial works (if required) and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part b of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part c of the condition. The development shall be completed in accordance with any amended specification of works.

(d) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

*Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and for the Local Planning Authority to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems details are required in advance of work commencing on site in accordance with Part 11 of the National Planning Policy Framework. Required to be pre-commencement in order to ensure that the site is safe and suitable for development, before works start.*

5. Within three months of the commencement of the development a detailed landscaping scheme, including method of protection of roots and protection of trees from vehicle impacts where necessary, has been submitted to and approved in writing by the Local Planning Authority. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

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

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

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

Replacements will be subject to the same conditions.

*Reason: In the interests of the visual amenity of the area and to comply with Policy GDP1 of Derwentside District Local Plan and Parts 7, 8, 11 and 12 of the National Planning Policy Framework.*

6. Within one month of the commencement of the development, details of the materials to be used in the construction of the main store building shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the works shall be carried out in accordance with the approved plans.

*Reason: In the interests of the visual amenity of the area and to comply with Policy GDP1 of Derwentside District Local Plan and Parts 7, 8, 11 and 12 of the National Planning Policy Framework.*

7. Within one month of the commencement of the development, details of the surface treatment and construction of all hardsurfaced areas shall be submitted to and approved in writing by the Local planning authority. The development shall be undertaken in accordance with the approved details.

*Reason: In the interests of the appearance of the area and to comply with Policy GDP1 of Derwentside District Local Plan and Parts 7 and 12 of the National Planning Policy Framework.*

8. Prior to the retail store hereby approved being brought into use, details and positioning of electric vehicle charging point(s) and parking space(s) shall be submitted to and agreed in writing by the Local Planning Authority. The spaces should be created and be fully operational at the time of the store first opening and thereafter shall only be solely for the use for the charging and parking of electric motor vehicles.

*Reason: In the interests of promoting sustainable travel in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 4 and 8 of the National Planning Policy Framework.*

9. Prior to the retail store hereby approved being brought into use the on-site cycle parking facilities depicted on the proposed site plan (Site Layout 07147-SPACE-A(90)GAP002-14 Rev.14) shall be installed and all general car parking spaces shall be made available for use. The cycle parking facilities shall be retained in perpetuity.

*Reason: In the interests of highway safety and the promotion of sustainable transport in accordance with Policy TR3 of the Derwentside District Local Plan and Parts 4 and 8 of the National Planning Policy Framework.*

10. Within 6 months of occupation of the retail store hereby approved, a final Travel Plan, conforming to The National Specification for Workplace Travel Plans PAS 500:2008, Bronze Level, shall be submitted to and approved in writing by the Local Planning Authority. The plan shall then be implemented and monitored in accordance with Local Authority Guidance.

*Reason: In the interests of promoting sustainable travel in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 4 and 8 of the NPPF.*

11. No construction/demolition activities, including the use of plant, equipment and deliveries, shall take place before 0700 hours or after 1900 hours Monday to Friday, or take place before 0800 hours or after 1700 hours on Saturday. No works shall be carried out on a Sunday or Public Holiday.

*Reason: In the interests of residential amenity, in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 8 and 11 of the National Planning Policy Framework.*

12. The retail store hereby approved shall only be open to members of the public between the hours of 07:00 and 22:00 Monday to Saturday, and 10:00 and 18.00 Sundays and Public Holidays.

*Reason: In the interests of residential amenity in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 8 and 11 of the National Planning Policy Framework.*

13. No deliveries shall be made to the retail store hereby approved outside of the hours of 0700 – 2130.

*Reason: In the interests of residential amenity in accordance with Policy GDP1 of the Derwentside District Local Plan and Parts 8 and 11 of the National Planning Policy Framework.*

14. No external lighting shall be installed until full and precise details have been submitted to and approved by the Local Planning Authority to include the following:

- A statement setting out why a lighting scheme is required, and the frequency and length of use in terms of hours of illumination during the summer and winter.
- A site survey showing the area to be lit relative to the surrounding area, the existing landscape features together with proposed landscaping features to mitigate the impacts of the proposed lighting.
- Details of the make and catalogue number of any luminaires/floodlights.
- Size, type and number of lamps fitted within any luminaire or floodlight.
- The mounting height of the luminaires/floodlights specified.
- The location and orientation of the luminaires/floodlights.
- A technical report prepared by a qualified Lighting Engineer demonstrating the light spillage (vertical illumination level) at the site boundary and the windows of all nearby dwellings.

The approved scheme shall be constructed and installed in full accordance with the approved details and shall thereafter be maintained in full accordance with the approved details.

*Reason: In the interests of residential amenity in accordance with Policy GD1 of the Wear Valley District Local Plan and Parts 8 and 11 of the National Planning Policy Framework.*

15. Both foul and surface water drainage shall be carried out in accordance with submitted 'Flood Risk Assessment and Drainage Statement' and 'Addendum Report –Proposed Lidl Superstore, Delves Lane, Consett'

*Reason: In the interests of flood prevention in accordance with Part 10 of the NPPF.*

16. Within one month of the commencement of the development, a scheme to embed sustainability and minimise Carbon from construction and in-use emissions shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in complete accordance with the approved scheme and retained while the building is in existence.

*Reason: In the interests of sustainable development in accordance with Part 10 of the National Planning Policy Framework.*

17. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The Scheme shall provide for:

i; Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.

ii; Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts.

iii; Post-fieldwork methodologies for assessment and analyses.

iv; Report content and arrangements for dissemination, and publication proposals.

v; Archive preparation and deposition with recognised repositories.

vi; A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.

vii; Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

viii; A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

*Reason: To comply with Paragraphs 135 & 141 of the National Planning Policy Framework because the site is of archaeological interest. Required to be pre-commencement to ensure that no archaeological remains are disturbed by the commencement of work*

18. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

*Reason: To comply with Paragraph 141 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.*

19. Within one month of the commencement of development, a scheme of interpretation and commemoration of the history of the site shall be submitted to, and agreed in writing by the Local Planning Authority. The scheme shall thereafter be implemented in accordance with the approved details prior to the development being beneficially occupied.

*Reason: To comply with Paragraph 141 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of a heritage asset to be lost, and to make this information as widely accessible to the public as possible.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to support this application 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) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

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## **BACKGROUND PAPERS**

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- 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 1997.
- Statutory, internal and public consultation responses.




**Durham**  
County Council

**Planning Services**

DM/16/03715/FPA  
 Demolition of existing buildings and erection of a Lidl store (Use Class A1) with associated car park and landscaping, Land To The South Of 1 Boyd Street, Delves Lane, Consett.

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**Comments**

**Date** 19th September 2017

**Scale** NTS

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/17/02331/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Change of use of open space to garden</b>
<b>NAME OF APPLICANT:</b>	<b>Mr J Berry</b>
<b>ADDRESS:</b>	<b>13 Dunelm Close, DH8 7QR.</b>
<b>ELECTORAL DIVISION:</b>	<b>Leadgate and Medomsley</b>
<b>CASE OFFICER:</b>	<b>Louisa Ollivere</b> <b>Planning Officer</b> <b>Telephone:03000 264 878</b> <a href="mailto:louisa.ollivere@durham.gov.uk">louisa.ollivere@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is a parcel of land to the east of 13 Dunelm Close, which is an end terraced property adjacent to a hammerhead on a small cul-de-sac within a larger residential area in Leadgate. The site which is in unknown maintenance was until recently grassed and left open and sloped sharply from the adjacent informal footpath to the side of the property. Since the submission of this application the site has been levelled and timber fence posts have been erected. To the north and east of the site is an informal footpath that leads from Dunelm Close to the garage courtyard behind. To the north and east of this footpath is an area of enclosed pasture land that is subject of an application for an agricultural building and replacement hedging and fencing which is currently under consideration by Officers.

### The Proposal

2. Planning permission is sought for the change of use of this open land to private garden land associated with 13 Dunelm Close. It is proposed to erect 1.2m high close boarded fencing along the front and side and 2m high fencing at the rear.
3. The application is reported to Committee as a local Councillor, Councillor Watts Stelling has requested that this be determined at this level given concerns in relation to potential for any fencing to create an alleyway which could lead to antisocial behaviour.

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## PLANNING HISTORY

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4. In April 2017 an application for the erection of an agricultural barn for general agricultural storage and retention of 2 temporary storage containers and fencing adjacent to the highway on the adjacent land was refused (DM/17/00318/FPA).
5. An application for the erection of an agricultural barn for general agricultural storage and replacement fencing, hedging and creation of an access on adjoining land is currently under consideration (DM/17/02609/FPA).

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## PLANNING POLICY

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### NATIONAL POLICY:

#### NATIONAL PLANNING POLICY FRAMEWORK

6. 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:
7. *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.
8. *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.
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.

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

## **NATIONAL PLANNING PRACTICE GUIDANCE:**

10. 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.
11. *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.
12. *Open space, sports and recreation facilities* – Requires open space to be taken into account when considering proposals that may affect existing open space and provides guidance on Local Green Space designation.

## **LOCAL PLAN POLICY:**

13. 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.

*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:**

14. 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.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

15. None applicable.

## **INTERNAL CONSULTEE RESPONSES:**

16. None applicable.

## **PUBLIC RESPONSES:**

17. Neighbouring land owners and occupiers have been consulted and this has resulted in 11 letters of objection from 15 local residents.

Objectors' comments are summarised as follows:

- Fencing has already been erected on site.
- Loss of open space.
- Applicant has failed to remove unsightly 2m high fencing on the adjacent site that was refused planning permission.
- High fencing would create an alleyway that would be unsafe and lead to anti-social behaviour problems.
- Development would affect a Public Right of Way.

## **APPLICANTS STATEMENT:**

18. The open space was dangerous for Council to cut with machines as too steep. This resulted in long grass, rubbish and dumping ground for dog muck. The slope of the land was causing damp in my house. I have tidied it up, levelled it out and put the same size fence around as what surrounds no 13.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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19. 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 whether the land is open space and the impact of the proposals on the character of the area and on crime and personal safety.

### **Loss of open land**

20. Derwentside Local Plan Policy GDP1 criteria (e) requires the protection of open land which is recognised for its amenity value or the contribution its character makes to an area. This accords with section 8 of the NPPF although this also restricts development on existing open space unless an assessment has proven it is surplus to requirements, the loss would be replaced by better quantity and quality open space in a suitable location or the development is for alternative sports and recreational provision.

21. The local residents consider this area of land to be public open space. However being private land the land is not owned or maintained by the Council. Whilst it is accepted that private land, can also be classed as open space the NPPF defines open space as being all open space of public value which offer important opportunities for sport and recreation and can act as visual amenity. Given the previous steep slope of the land, the minimal amount of land involved and the close proximity to residential

properties it is not considered that the land offered opportunities for sport or recreation. Furthermore the land it is not considered of significant visual amenity given the lack of regular maintenance and difficulties with maintenance caused by the slope. Bearing the above in mind the land is not considered to be open space as defined by the NPPF and therefore the stricter requirements of section 8 of the NPPF are not applicable in this case and the loss of the open land is therefore acceptable in principle.

#### Design and Impacts upon the character of the area

22. Derwentside District Local Plan Policy GDP1 criteria (a) requires developments to be in keeping with the character and appearance of the area. This policy is in compliance with the NPPF specifically section 7 which requires developments to create attractive places to live and visit and respond to local character.
23. This is residential cul de sac with several properties enclosed with low level timber fencing and there are small areas of grassed and maintained open space to the front and side of dwellings. Whilst this proposal would result in the loss of some open land that adds to the openness of the area this is considered acceptable given the site is visually different from the areas of public open space given the small amount of land involved and the limited maintenance issues. The height and type of fencing being proposed is akin to the fencing already surrounding 13 Dunelm Close and the positioning of the fencing would not create an irregular boundary. The development is therefore considered to be of an acceptable design in keeping with the character and appearance of the area.

#### Deterrence of crime and personal safety issues

24. Derwentside Local Plan Policy GDP1 criteria (h) requires proposals to be designed to deter crime and increase personal safety. This policy is consistent with the NPPF section 7 which requires the creation of safe environments where crime and disorder and the fear of crime do not undermine quality of life or community cohesion.
25. Both local residents and Members are concerned that high fencing on either side of the footpath would create an alleyway here which could lead to incidences of crime and anti-social behaviour and fear of crime. However the applicant has confirmed that it is his intention to erect fencing no greater than 1.2m in height along the front and the site boundary with the footpath. This proposal would not therefore lead to the creation of an alleyway with no surveillance as views would be possible into the footpath area from Dunelm Close above the 1.2m high fencing which can be ensured via condition. The use of 2m high fencing to the rear is considered acceptable as there are wider views possible to the footpath from the garage court area to the rear. The deterrence of crime and personal safety can therefore be ensured in accordance with Derwentside Local Plan Policy GDP1 and the NPPF.
26. Objectors are concerned that the application may be prejudiced by fencing already being on site. This is not the case and in fact the applicant's previous disregard for planning law is a material planning consideration in regard to the Government's advice issued through their ministerial statement; however this in its own right is not enough to warrant refusal of the application.
27. It is noted that neighbours object due to impacts upon a Public Right of Way. There are no registered Public Rights of Way on or within the vicinity of the site. Whilst there is an informal footpath on the site the use of or experience when using the footpath

should not be significantly affected by this proposal with a condition restricting the height of the fencing.

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## **PLANNING BALANCE AND CONCLUSION**

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28. Policy 14 of the NPPF directs the Local Planning Authority to approve proposals that accord with up to date development plan policies without delay. With conditions restricting the height of fencing adjacent to the footpath and along the frontage to no greater than 1.2m in height the proposal would accord with Derwentside Local Plan Policy GDP1 which is compliant with the NPPF. Therefore approval is recommended subject to conditions restricting the height of fencing in perpetuity.

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## **RECOMMENDATION**

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

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

Plan Ref:	Date Submitted:
Location Plan	25/07/2017

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy GDP1 of the Derwentside District Local Plan.*

2. The height of any fencing along the southern and eastern boundary shall be no greater than 1.2m in height in perpetuity.

*Reason: To deter crime, ensure personal safety and that the development is in keeping with the character of the area in accordance with Derwentside Local Plan Policy GDP1.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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.

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## **BACKGROUND PAPERS**

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Derwentside District Local Plan (saved policies 2007)  
National Planning Policy Framework, March 2012  
National Planning Practice Guidance



at 2017.



**Planning Services**

**13 Dunelm Close DH8 7QR**

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**Comments**

**Date** 29<sup>th</sup> September 2017

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/17/01667/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of porch to front and two storey rear extension
<b>NAME OF APPLICANT:</b>	Mrs Patricia Luke
<b>ADDRESS:</b>	11 Park View, South Pelaw, Chester-le-Street, DH2 2JW
<b>ELECTORAL DIVISION:</b>	Chester-le-Street North Jayne Pallas, Planning Assistant Telephone; 03000 268306
<b>CASE OFFICER:</b>	<a href="mailto:Jayne.pallas@durham.gov.uk">Jayne.pallas@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is a traditional, mid terraced property located in a residential area of South Pelaw. The dwelling is two storey to the front; however due to the length of the South Western roof slope, the rear elevation is almost single storey (served by a single roof light). The property is served by a small enclosed garden to the North East, fronting the C183 highway. The rear of the property is accessed via a back lane and the existing yard is bounded by timber fencing. The neighbouring dwellings are located on either side.

### The Proposal

2. Planning permission is sought for the erection of a porch to the front and a two storey extension to the rear of the dwelling. The proposed porch would project 1.5m beyond the principal elevation and would measure 2.4m at the eaves and 3.2m at the highest point. The proposed two storey extension would protrude 1.5m beyond the rear wall of the host dwelling and would measure 5.745m in width. The proposal would be served by a flat roof, measuring 5.75m in height. The proposed extension would provide an enlarged kitchen/dining room on the ground floor and a bathroom and additional bedroom at first floor level.
3. The application has been referred to committee at the request of the Local Councillor and was originally presented to committee on 29 June 2017 with a recommendation of refusal on the following grounds:
  4. The proposed rear extension would have an adverse impact upon the scale, form and character of the original building and the street scene, contrary to Policy HP11 (i) of the Chester-le-Street District Local Plan and Section 7 of the NPPF.
  5. The proposed two storey rear extension would have a significant detrimental impact on the amenity of the neighbouring properties due to its projection and height,

therefore would conflict with Policy HP11 (ii) of the Chester-le-Street District Local Plan.

6. At that meeting it was resolved to defer consideration of the application to allow the applicant the opportunity to reconsider a revised design to address the reasons for refusal. As such, an amended scheme has been submitted for consideration with the projection of the proposed two storey rear extension reduced from 2.7m to 1.5m.

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## **PLANNING HISTORY**

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7. DM/16/00449/FPA – Erection of front porch and two storey rear extension – refused on the grounds that the proposal would have an unacceptable impact on the scale, form and character of the original building and due to concerns about residential amenity. The decision to refuse the application was upheld by the Planning Inspector at appeal in November 2016.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

8. 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 dependant. 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, these being; empowering local people to shape their surroundings, proactively drive and support economic development, ensure a high standard of design, respect existing roles and character, support a low carbon future, conserve the natural environment, encourage re-use of previously developed land, promote mixed use developments, conserve heritage assets, manage future patterns of growth and take account of and support local strategies relating to health, social and cultural well-being.
9. Paragraph 14 of the NPPF sets out that at the heart of the document is a presumption in favour of sustainable development. For decision-making this means approving development proposals that accord with the development plan without delay, and where relevant policies in a development plan are out-of-date, granting consent unless: any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole: or where specific policies in the framework indicate development should be restricted.
10. **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:**

11. The following are those saved policies in the Chester-le-Street District Local Plan relevant to the consideration of this application:
12. *Policy HP11 – Residential Extensions – Seeks to control the scale, form and character of extensions to an existing building, any neighbouring property, or the locality in general, specifically within the identified settlement boundaries.*

#### **RELEVANT EMERGING POLICY:**

13. 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 from examination. In the light of this, policies of the CDP can no longer carry any weight at the present time.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

14. None.

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

15. None.

#### **PUBLIC RESPONSES:**

16. The neighbouring properties have been notified individually in writing. Further consultations letters were sent upon receipt of the revised scheme. No comments or objections have been received.

#### **APPLICANTS STATEMENT:**

17. The property is an old colliery terrace consisting of two bedrooms with a downstairs bathroom adjacent to the kitchen, which is in need of radical modernisation to bring it up to modern day standards that would enable me and my family to live there.
18. There are 36 houses in Park View, consisting of two blocks, most of which in the second block have extensions similar to the proposal. Some of the houses in the first block have extensions to the lower level, none of which are identical; however the first house in the street has a two storey extension.

19. I have spoken with residents of Park View who are also keen to extend their own properties, and are hoping my case will set a precedent for others to follow, which I think would be beneficial for the area and its residents as a whole.

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

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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20. 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 impact of the scheme upon the character and appearance of the host dwelling and the surrounding area, and upon the amenity and privacy of the neighbouring residents.
21. The application is the re-submission of a previous application (DM/16/00449/FPA) which was refused under delegated powers by the Local Planning Authority in 2016. The application was refused on the grounds that the proposed two storey rear extension would have an adverse effect on the scale, form and character of the original dwelling and would have a significant detrimental effect on the neighbouring residents in terms of amenity. The decision was upheld at appeal and although the projection of the proposed two storey extension has been reduced by 1.2m within the amended scheme, it is considered that this appeal decision remains a material consideration in the determination of the application.

### Impact upon character and appearance

22. The application, in its amended form, comprises of two elements, a porch to the front and a two storey extension to the rear.
23. The proposed porch is considered acceptable in size and scale and would not have an overbearing impact upon the principal elevation of the host dwelling or the surrounding area, where there are a number of porches in situ along the terrace. The porch would be constructed of traditional materials to match the host property and it is considered that this element of the scheme would adequately accord with objectives outlined in the NPPF and policy HP11 of the Chester-le-Street District Local Plan. This view was also taken by the Inspector in considering the appeal against the refusal of the previous application.
24. The projection of the proposed two storey rear extension has been reduced by 1.2m within the revised scheme, which undoubtedly would assist in reducing the prominence and visual impact of the proposal within the street scene. However, the proposed extension would remain significant in scale and would extend across the full width of the rear elevation with a flat roof. The rear elevations of the properties in Park View remain largely unaltered with only one property in the terrace having undertaken a two storey extension protruding beyond the existing rear elevation. Being a large scale, two storey, flat roofed extension on the single storey rear of the property the proposed extension would appear incongruous in the street scene and would adversely impact on the rear of the terrace by virtue of its design and scale. As such it is considered to be contrary to Part 7 of the NPPF and Policy HP11 which seeks to ensure that extensions would not adversely affect the scale, form and character of the existing building, any neighbouring property or the locality in general.

25. In considering the appeal against the previously submitted application the Inspector stated that *“due to the significant scale of the proposed extension, it is considered that it would dominate the host property. It would alter the historic plan form of the property and result in the loss of the distinctive almost single storey rear. Furthermore, it would disrupt the continuity of the traditional terrace. The flat roof design would exacerbate the incongruous appearance of the proposal. Moreover, due to the access lane which runs to the rear of the terraces, the proposal would be visible to the public.”*
26. Whilst it is acknowledged that the projection of the proposed rear extension has been reduced within the revised scheme, it is still considered that the amendment would fail to address the original grounds of objection or the concerns of the Inspector in relation to the impact upon the scale, form and design of the original building and the wider street scene. As such and despite the reduction in the scale and massing of the extension it is considered that the proposal would represent an overbearing and incongruous addition to the rear elevation of the terrace, where there are no extensions in situ that are directly comparable in terms of size, form or location. As a result, it is deemed that the proposed two storey extension would conflict with Policy HP11 (i) of the Chester-le-Street District Local Plan and design aims outlined within paragraphs 17 and 56 of the National Planning Policy Framework.

#### Amenity and Privacy of the Neighbouring Residents

27. The proposed porch is considered a small scale addition and would not have an adverse impact upon the amenity or privacy of the neighbouring residents.
28. The proposed two storey addition would extend across the full width of the site and would project 1.5m beyond the South West elevation of the existing terrace. This would create a blank gable wall measuring 5.75m in height on the boundary with No.10 and No.12 Park View. Both neighbouring properties are served by single roof lights (presumably serving bedroom spaces at first floor level) and the centre point of the kitchen window of No.10 is located approximately 1.3m from the boundary of the application site. No.12 is served by an obscure glazed window in close proximity to the boundary; however this does not appear to serve a habitable room.
29. The projection of the proposed two storey rear extension has been reduced to 1.5m within the revised scheme in order to lessen the impact upon the amenity of the neighbouring residents. Whilst the proposal would fail to accord with the 45 degree rule (contained within the Residential Estate Design Guidance in the Chester-le-Street District Local Plan) in relation to the ground floor habitable room window of No.10 Park View, this would be by a marginal amount (with only 10cms of the extension breaking this line). Given the very minor breach of the 45 degree rule, it is considered that the amended proposal would not have an unreasonable overbearing impact upon the adjoining residents, or result in unacceptable loss of daylight to the existing roof lights or the ground floor kitchen window of No.10.
25. As there are no properties to the rear and the proposal would include no windows to the side, it is deemed that the privacy of the neighbouring occupiers would be adequately preserved. This weighs heavily in favour of the rear extension.
26. As a result of the above, it is considered that the proposed two storey extension would not have an unreasonable adverse impact upon the amenity of the neighbouring

residents in terms of dominance or loss of daylight and would adequately accord with saved policy HP11(ii) of the Chester-le-Street District Local Plan.

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## **CONCLUSION**

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30. The application is a resubmission of a previously refused application which was supported by the Planning Inspectorate at appeal. The application was presented to committee in June 2017, however was deferred in order to allow a revised scheme to be considered by the applicant to address the reasons for refusal.
31. Whilst the amended scheme has adequately addressed the concerns in relation to the impact upon the amenity of the neighbouring residents, it is considered that the proposed two storey extension would have an adverse impact upon the scale, form and character of the original building by virtue of its size and design. As such, the scheme would fail to address the concerns raised by the Local Planning Authority and Inspector with regard to the affect of the scheme on the character and appearance of the original building and the visual amenity of the surrounding area. Therefore, despite the fact that the potential impact upon the amenity of adjoining residents has been resolved, on balance it is considered that the application would conflict with Policy HP11 (i) of the Chester-le-Street District Local Plan and Section 7 of the NPPF and is recommended for refusal. It is noted that this policy is fully consistent with the NPPF and is therefore accorded full weight. In arriving at this recommendation officers have considered the personal circumstances of the applicant and their desire to extend their home to provide improved living conditions for their family. Whilst officers acknowledge that the first floor living conditions are cramped it is not considered that this outweighs the sound planning reasons for recommending refusal of the proposal. The human factor is, however, always present in planning decisions but will seldom outweigh the more general planning considerations. It is, however, a matter for members to decide upon the weight they wish to attach to the personal circumstances of the applicant in this instance.

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## **RECOMMENDATION**

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It is recommended that the application be refused for the following reason:

1. The proposed rear extension would have an adverse impact upon the scale, form and character of the original building and the street scene, contrary to Policy HP11 (i) of the Chester-le-Street District Local Plan and Section 7 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at the decision to refuse the application has tried to secure a positive outcome in accordance with the NPPF however the proposal is considered to be unacceptable in principle.

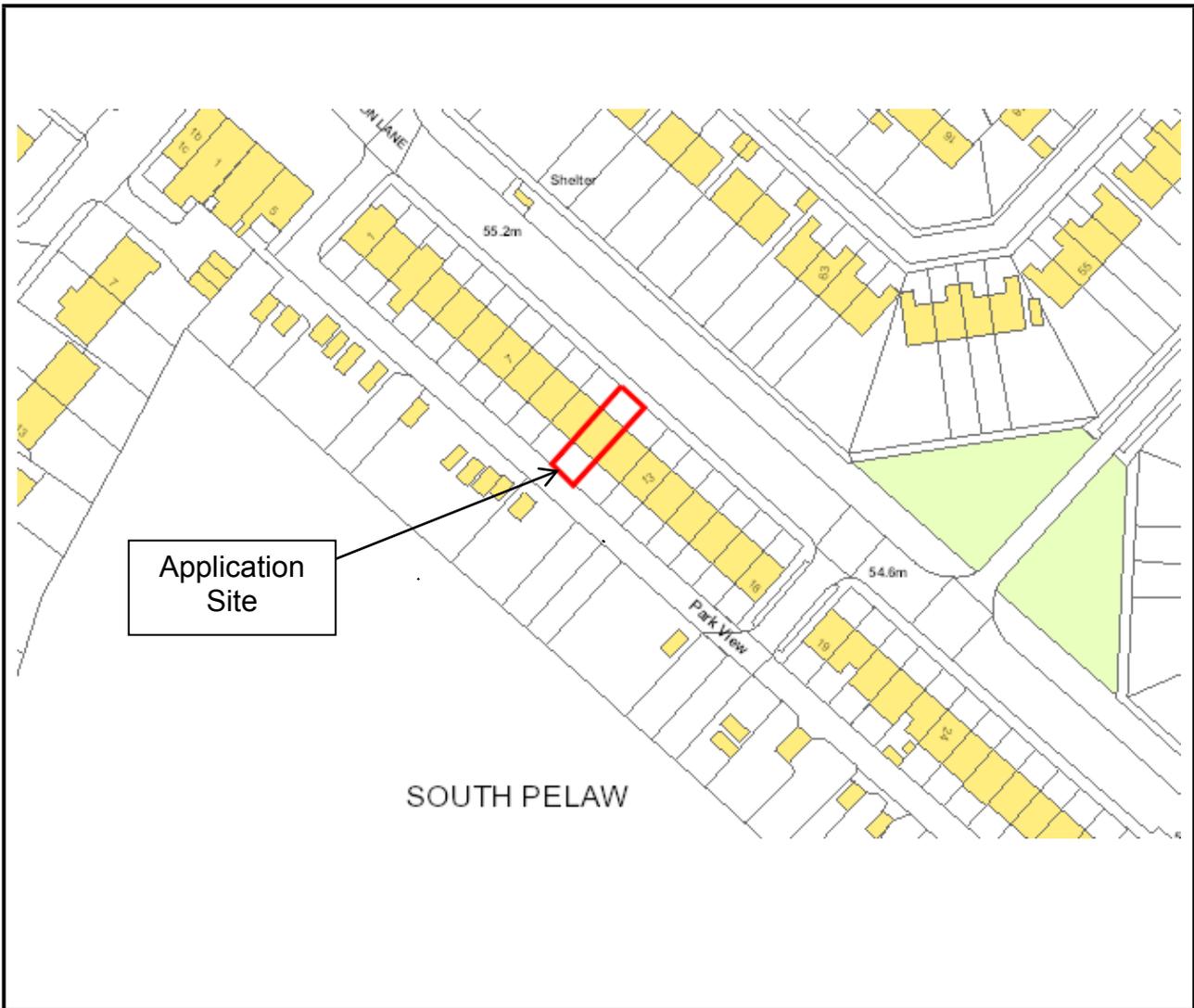
The Local Planning Authority in arriving at the decision to refuse the application were unable to seek solutions with the applicant in order to resolve those matters which failed to deliver high quality sustainable development in accordance with the NPPF, due to the form of development being unacceptable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

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## **BACKGROUND PAPERS**

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- 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)



**Planning Services**

Erection of porch to front and two storey extension to rear

Application Number DM/17/01667/FPA

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**Comments**

**Date** 28<sup>th</sup> September 2017

**Scale** NTS



## Planning Services

# COMMITTEE REPORT

## AGENDA ITEM NUMBER: 6

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### APPEAL UPDATE REPORT

#### APPEALS RECEIVED

**An appeal has been received against the refusal of planning permission for a partly retrospective general purpose agricultural building at 5 Front Street, Burnhope (DM/16/02733/FPA).**

The application was refused under delegated powers on 9th March 2017 on the following grounds –

*'The principle of agricultural development on the application site is considered to be contrary to criterion (a) of Policy AG3 and Policy EN1 of the Derwentside District Local Plan as the applicant's agricultural enterprise has not yet been demonstrated and the proposal would not be of benefit to the rural economy.'*

*'The location of the building, in terms of its effects on the landscape, would conflict with criterion (b) of Policy AG3, and Policy EN1 of the Derwentside District Local Plan as it is considered the building would have an intrusive effect and would not maintain or enhance the landscape character of the site.'*

The appeal will be dealt with under the written representations procedure and Members will be updated with regard to the decision in due course.

**An appeal has been received against the refusal of outline planning permission for a dwelling at Old County View, Hett Hills, Pelton Fell, Chester-le-Street (DM/16/04069/OUT).**

The application was refused under delegated powers on 16<sup>th</sup> February 2017 on the following grounds –

*'The principle of residential development on the application site is considered to be contrary to Paragraph 55 of the NPPF and Policy HP6 of the Chester-le-Street District Local Plan by virtue of the site's unsustainable location in the*

*countryside outside of any settlement boundary, not well related to existing settlement patterns, and with no special circumstances for the proposal demonstrated.'*

*'The proposal to remove one Yew Tree protected by a Tree Preservation Order has not been justified within the context of Policy NE11 of the Chester-le-Street District Local Plan, in that the tree is not considered to pose a threat to other trees, nor has it been shown that it is causing structural damage with no remedial action possible and no evidence shown to say that the tree is a threat to life or limb. Additionally, the applicant has failed to demonstrate that the development would not adversely affect the habitat of a protected species, namely bats, contrary to Part 11 of the NPPF.'*

The appeal will be dealt with under the written representations procedure and Members will be updated with regard to the decision in due course.

## APPEALS DETERMINED

### **Appeal against the refusal of planning permission for the erection of a Residential Development of 52 Dwellings with new access and associated works, on land to the west of Briardene, Cadger Bank, Lanchester.**

An appeal against the refusal of Planning Permission for the above development was received on 19<sup>th</sup> December 2016 following refusal by the Northern Area Planning Committee on 30<sup>th</sup> June 2016. The application was refused for the following reason:

*'The local planning authority considers that substantial harm will be caused to the significance of a designated heritage asset of the highest significance, namely the Scheduled Monument of Longovicium Roman Fort by reason of adverse impacts upon its setting including the destruction of archaeological remains of the extended vicus complex that are themselves non-designated heritage assets. The proposal fails to demonstrate that substantial public benefits would arise, or that the harm to the designated asset is necessary in order to achieve any such benefits. The proposal does not constitute sustainable development and is contrary to policy EN19 of the Derwentside District Local Plan 1997 and to paragraphs 133 and 135 of Part 12 of the National Planning Policy Framework.'*

The appeal was dealt with by way of a Hearing.

The Inspector in determining the appeal considered that the main issue was the effect of the proposal on the significance of the Longovicium Roman Fort, a Scheduled Ancient Monument (SAM). The proposed development would have taken place outside but adjacent the SAM. It was agreed by all parties that the site was in the setting of the heritage asset

The status of the relevant 'saved' policies in the 1997 Development Plan were examined and weighted, along with the advice in the NPPF, this requiring a balancing exercise of harm vs benefits, where harm of a heritage asset is found. The Council's lack of an up-to-date housing supply and the implications for the status of the 'saved' housing policies was assessed, concluded as rendering the housing and countryside policies restricting housing out-of-date, and engaging the 'presumption in favour' of sustainable housing development. Acknowledging the efforts of the Parish Council in preparing a Neighbourhood Plan, it was noted that this was not yet at a stage where it could be attributed material weight.

The Inspector concluded the site contributed to the asset in two ways – it reflected the remote setting of the fort and vicus (civilian settlement), and the tranquil character of the site enhanced the experience of the asset by providing it a reflective environment, separate from the modern settlement.

Survey work had indicated that the site included archaeological interest outside the SAM, the Framework advising that this should be considered of equal value of those within the designated area. Whilst Historic England had recently declined to extend the SAM to cover the site, the buried remains on it were concluded to contribute positively to its significance. The development would have resulted in the loss of all buried remains and caused harm to the significance of the SAM contrary to Policy EN19 of the Local Plan. The Inspector found that the identified harm was 'less than substantial' as it did not result in the destruction of the whole of the Monument's setting as open views would still be present around it. It was clarified however, less than substantial harm does not mean less than substantial objection.

Residents and representatives from the community indicated at the meeting that contrary to the Officer's report and the County Council's formal refusal reason, issues including the effect on the Conservation Area, accessibility from the site to the village centre, the character of the countryside, drainage, highways capacity, parking and pressure on services were all areas of concern they believed justified additional grounds for refusal of the scheme. The Inspector addressed each of these in detail and concurred with the Council that the effect of development on each of these topics was acceptable, limited or could be adequately mitigated through imposition of conditions.

The benefits of the scheme were identified as the contribution to housing supply, with the family dwellings providing an added social benefit in addressing an identified age imbalance in the population. Limited economic benefits would accrue through the development process, and spending by new residents. Limited weight was also attached to a potential proposed information scheme following additional pre-development archaeology.

#### Balancing exercise and Conclusion.

The proposal had been identified as causing 'less than substantial harm' to the SAM, and resulting in the loss of non-designated assets that contributed positively to the SAM. The SAM is of national importance and harm to it

therefore carries substantial weight. Limited harm was identified for the character and appearance of the countryside. The identified benefits did not individually or cumulatively outweigh the harm to the SAM.

With policies in the Framework indicating development should be restricted, the proposal was concluded as not 'sustainable' development, and the appeal was dismissed.

**Appeal against the refusal of planning permission for the erection of a two storey detached agricultural workers dwelling with adjoining double car port and ancillary hard and soft landscaping features (DM/16/02077/FPA) at Dunleyford Farm, Humberhill Lane, Lanchester .**

An appeal against the refusal of Planning Permission for the above development was received on 18th May 2017. The application was refused under delegated powers for the following reason:

*'It has not been demonstrated that there is a permanent need for such a dwelling as there is not an established livestock business on site or proposed and as it has not been adequately demonstrated that there would be a financially viable arable and livestock business on the site in the future therefore the proposal is in conflict with both the Framework and Local Plan Policy EN1.'*

The appeal was dealt with by way of a hearing and site visit held on the 18th July 2017. The Inspector in determining the appeal considered that the main issue was whether there is an essential need for the proposed dwelling to accommodate a rural worker to live permanently at or near their place of work in the countryside.

The Inspector's view was that for an essential need to exist there must be some aspect of the farm operation that demands a residential presence on the holding, and there must be some certainty that the farm business is sufficiently soundly established that this presence will be required for the foreseeable future.

The Inspector considered that the submitted accounts fail to differentiate between the livestock and crop elements of the business and therefore do not demonstrate what the income is from that component of the business which might require a worker to live on the holding.

The Inspector was of the view that in order to establish that there is an essential need for a dwelling that there should be a demonstration that the cattle rearing component of the business is sustainable and would be profitable in itself. The Inspector considered that the profitability or sustainability of the livestock component of the business has not been demonstrated and was of the view that the sale of cattle bred on the holding would be an essential component of the model of livestock business being

established. Without such evidence he considered it would be difficult to demonstrate that a viable business exists or would be likely to endure. The Inspector was also of the view that the limited security in terms of tenure of surrounding grazing land does not lend support for the long term sustainability of the livestock component of the business.

The Inspector concluded that it has not been demonstrated that there is an essential need for a permanent dwelling on the holding and therefore the proposal is considered to be contrary to LP Policy EN1 and does not demonstrate the special circumstances the Framework requires to justify an isolated new home in the countryside.

The Inspector dismissed the appeal. An application for an award of costs was submitted but the Inspector refused the application as the Inspector was satisfied that the Council acted reasonably in citing its reason for refusal, in not seeking further views from an independent Agricultural adviser in relation to additional information submitted and in relation and in terms of being helpful suggesting alternative solutions to the purported need for an on site presence.

**Appeal against the refusal of planning permission for the erection of a detached two storey dwelling on land to rear of 3 Lintz Terrace (DM/16/03550/FPA)**

An appeal against the refusal of Planning Permission for the above development was received on 7th March 2017. The application was refused under delegated powers for the following reason:

*'The development would not be in keeping with the existing pattern and form of development in the locality and would have an adverse impact on the character and appearance of the area. The proposal is therefore contrary to Part 7 of the NPPF and Saved Policies HO5(a) and GPD1(a) of the Derwentside Local Plan (1997).'*

The appeal was dealt with by way of written representations. The Inspector in determining the appeal considered that the main issue was the effect of the proposal on the character and appearance of the area.

The Inspector's view was that the application site represented a transition area between the built form of the terrace and the wider countryside to the north. In particular, the pattern of development of Lintz Terrace is characterised by a strong road frontage with subsidiary buildings behind.

The Inspector considered that the proposed dwelling would appear as incongruous tandem development located in a detached ancillary garden area to the rear of the terrace. In addition, the awkward arrangement of the dwelling to the rear of an existing garage for a neighbouring property would add to this incongruity.

The Inspector took into account the comments within the Appellants statement with regard to the bulk and massing of the dwelling however, the Inspector found that it would still appear as a substantial building at odds with the immediate pattern of development.

The Inspector noted that the dwelling would add to the supply and mix of housing in the area, albeit limited. It would also generate employment and investment in the area though limited to the construction period and be accessible to local services which would add support to these services, again this would be limited.

The Inspector considered a recent decision of the Council for a detached property highlighted by the Appellant. The Inspector found that the circumstances of that case were not directly comparable to the case under consideration, which is to be considered on its own merits. It did not represent an inconsistency in decision making by the Council.

The Inspector concluded that that the proposal would harm the character and appearance of the area. It would therefore conflict with saved Policies HO5 and GDP1 of the Derwentside Local Plan 1997 which seek to ensure that tandem housing development is acceptable and appropriate to the existing pattern and form of development as well as being in keeping with the character and appearance of the area. The Inspector dismissed the appeal.

Reports prepared by Fiona Clarke, Principal Planning Officer, Steve France, Senior Planning Officer, Louisa Ollivere, Planning Officer and Sarah Seabury, Planning Officer.