



## Area Planning Committee (South and West)

**Date**        **Thursday 22 June 2017**  
**Time**        **2.00 pm**  
**Venue**       **Council Chamber, Council Offices, Spennymoor**

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meeting held on 20 April 2017 (Pages 3 - 12)
5. Applications to be determined
  - a) DM/17/01132/FPA - Tesco Extra, Abraham Enterprise Park, St Helen Auckland, Bishop Auckland, Co Durham (Pages 13 - 28)  
Construction of drive-thru Burger King and Papa Johns with associated parking.
  - b) DM/17/00064/FPA - Grove House, Redford Lane, Hamsterley, DL13 3NL (Pages 29 - 38)  
Change of use of garden to siting of four holiday camping pods and formation of car parking area.
  - c) DM/16/03151/OUT - Land to the North of Salvin Terrace, Fishburn (Pages 39 - 56)  
Outline application for residential development of up to 70 dwelling houses with all matters reserved.
  - d) DM/17/00942/FPA - PWS Distributors Ltd, Station Road, Aycliffe Business Park, Newton Aycliffe (Pages 57 - 68)  
Demolition of existing warehouse and construction of new warehouse extension with alterations to existing loading/unloading facilities and associated external works including fencing.
  - e) DM/17/00861/FPA - Garage Block, Villa Street, Spennymoor (Pages 69 - 82)  
4no. dwellings including demolition of existing garages.

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

**Clare Pattinson**  
Interim Head of Legal and Democratic Services

County Hall  
Durham  
14 June 2017

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

Councillor H Nicholson (Chairman)  
Councillor J Clare (Vice-Chairman)

Councillors J Atkinson, D Bell, L Brown, J Chaplow, E Huntington,  
K Liddell, C Martin, A Patterson, G Richardson, J Shuttleworth,  
L Taylor, F Tinsley and S Zair

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**Contact: Ian Croft**

**Tel: 03000 269702**

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**DURHAM COUNTY COUNCIL**

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, Council Offices, Spennymoor on **Thursday 20 April 2017 at 2.00 pm**

**Present:**

**Councillor H Nicholson (Chairman)**

**Members of the Committee:**

Councillors M Dixon (Vice-Chairman), D Bell, J Clare, K Davidson, E Huntington, S Morrison, A Patterson, G Richardson, L Taylor, C Wilson and S Zair

**1 Apologies for Absence**

Apologies for absence were received from Councillors B Armstrong and D Boyes.

**2 Substitute Members**

There were no substitute Members in attendance.

**3 Declarations of Interest**

There were no declarations of interest.

**4 Minutes**

The Minutes of the meeting held on 23 March 2017 were confirmed as a correct record and signed by the Chairman.

**5 Applications to be determined**

**a DM/16/03214/FPA - 33 Cockton Hill Road, Bishop Auckland**

The Committee considered a report of the Planning Officer regarding a retrospective application for the change of use of first floor from office (B1) to House in Multiple Occupation (C4) at 33 Cockton Hill Road, Bishop Auckland (for copy see file of Minutes).

A Harkness, Planning Officer gave a detailed presentation on the application which included a site location plan, aerial photograph, photographs of the front and side of the building, a wider street scene view and existing and proposed floor plans.

Councillor Lethbridge, local Member, addressed the Committee to object to the application. He informed the Committee that Mr Drennan, a local resident who

objected to the application was unable to attend the meeting and had sent his apologies.

Councillor Lethbridge referred to a nearby development where a property was used for the rehabilitation of young people which had resulted in high levels of anti-social behaviour and which had brought a healthy and inclusive community near to the point of destruction. Councillor Lethbridge informed the Committee that there were parallels between that development and this application.

Councillor Nicholson reminded Councillor Lethbridge that he should refer only to this application and not to other historic nearby applications.

Councillor Lethbridge referred to Policy H18 of the Wear Valley District Local Plan which stated that conversion of premises to flats would be approved if it would not be detrimental to the amenity of adjoining residents and informed the Committee that adjoining residents had suffered 10 months of purgatory since this property had been converted into an HMO. He had been told there had been a suicide in the building as well as drugs dealing.

Paragraph 24 of the report stated that the use of the building had raised no policing issues and no objections were made and Councillor Lethbridge informed the Committee that his was contrary to what he had been informed. This development would have an adverse impact on the community of Cockton Hill and there was a need to protect individuals and families.

Councillor Lethbridge referred to Paragraph 51 of the report which explained that Paragraph 58 of the NPPF stated that planning policies and decisions should aim to ensure that developments created safe and accessible environments where crime and disorder, and the fear of crime, did not undermine the quality of life or community cohesion, and he considered the application to be contrary to this.

Councillor Lethbridge asked the Committee to refuse the application.

Mr P Hardy of Cornerstone Supported Housing addressed the Committee in support of the application. While he understood the concerns of the local community, he informed the Committee that Cornerstone Supported Housing was a charity which worked with the homeless, not necessarily those released from prison.

The charity had a good record of supporting those in their properties to gain employment, and of the three people currently in this property, two had gained employment and one had enrolled as a music student.

When the charity started using the property local neighbours had been contacted but no feedback had been received. The charity visited the property on a daily basis Monday to Friday and was unaware of any problems other than the reported suicide.

If problems were brought to its attention, Cornerstone Supported Housing operated a '3-strike' rule. There were structure and support plans in place for residents and there was also internal CCTV to monitor activity.

The Planning Officer informed the Committee that the police had been consulted on the application who had confirmed that there were no issues with the property other than the reported suicide. There had been no police raids at the property.

Councillor Dixon informed the Committee that applications such as this always came with negative perceptions. However, he considered that Cornerstone Supported Housing had demonstrated it exercised good monitoring and control of the property. This type of project helped to reduce crime and had been working for 10 months with no evidence of any negative impact in the area. Councillor Dixon **moved** approval of the application.

Councillor Davidson **seconded** approval of the application. There were no valid planning reasons for refusal and there were other means of redress for issues referred to such as drugs and noise.

Councillor Clare informed the Committee that while the importance of this initiative could not be denied, the potential for problems living next to the property should not be underestimate and there was a difference between recorded crime and non-recorded issues. The issue of monitoring by Cornerstone Supported Housing was crucial and local residents needed to be made aware of how to report problems. However, Councillor Clare agreed with Councillor Dixon that the application should be approved.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions contained in the report.

**b DM/17/00517/FPA - Field To The East Of Victoria Cottages, Garden House, Cockfield**

The Committee considered a report of the Planning Officer regarding an application for the demolition of dwelling known as 1 Victoria Cottage and erection of dwelling, with associated access and garaging on land between Victoria House and Pine Tops in a field to the east of Victoria Cottages, Garden House, Cockfield (for copy see file of Minutes).

A Williamson, Planning Officer gave a detailed presentation on the application which included a site location plan, aerial photograph of the site, views along Garden House Lane, proposed site plan, and proposed house type.

A submission objecting to the application had been received from local residents which the Clerk read as follows:

*The residents who have lodged an objection to this proposal believe that their concerns have not been sufficiently answered in the reports and specifically the Committee Report, namely*

- *Safety concerns regarding access*
- *Future use of brownfield site*
- *Additional garaging*
- *Disproportionate size on new house in comparison to that earmarked for demolition*
- *Contradiction of planning approval for barn earlier in the year*
- *Inadequate heritage report on house to be demolished*

*Consequently we are seeking legal advice.*

*The Committee Report was not placed on the portal for public view until Thursday 13 April. Letters from the Planning Department with the link to the report were not received until Saturday 15 April not giving the five 'full' working days to digest the report and consult the necessary professional advisors. In effect we have had two working days by which to organise our case – this is wholly unfair. The Planning Department have had two weeks to prepare their report, objectors have had two days.*

*We consequently request that members adhere to the necessary protocol and postpone a decision to allow objectors adequate time to put forward their case. If members are of a mind that a decision must be made today we will be seeking a judicial review based on the above.*

C Cuskin, Planning and Development Solicitor informed the Committee that the Committee agenda and reports had been available for public viewing on the County Council's website on 10 April 2017 and this met the statutory requirement to provide 5 clear working days. Eighteen notification letters had been sent by email and two by first class post on 12 April 2017. This was not a statutory requirement but was good practice.

Councillor Nicholson sought clarification on the safety concerns regarding access to the proposed development.

The Planning Officer informed the Committee that Garden House Lane was an unadopted and narrow. The application would result in no increased traffic movements on Garden House Lane and would have no safety impact. The property at 1 Victoria Cottage would be demolished and seeded over, with the retention of the garage for use by local residents. Any future development of that site would require a planning application.

While the application was for a large house, the plot was large enough to accommodate it, and design and conservation had raised no objection. The barn development referred to by objectors would take up some of the field of the development but over 1 hectare of land remained for the development. There was no heritage impact by the demolition of 1 Victoria Cottage.

Councillor Dixon informed the Committee that the proposed development would lead to fencing being removed along Garden House Lane which would increase its width. Councillor Richardson informed the Committee that the highways issues which previously led to refusal of the application had been addressed and **moved** approval of the application.

Ms M Ferguson addressed the Committee on behalf of the applicant. The previous application in 2015 had been refused on highways issues and these had been much discussed at the time. This was the sole reason for refusal of the previous application. The applicant had addressed the highways issue and had overcome the highways reasons for refusal.

Garden House Lane was already used for agricultural reasons and this use would cease when the development took place. The applicant had lived in Cockfield all of his life and wanted to improve the village.

Referring to the representation made by objectors, Ms Ferguson informed the Committee that the application had been submitted for over two months which had provided sufficient time for comments on it, whereas the applicant had only 4 hours to react to the letter of objection.

Councillor Patterson informed the Committee that she was satisfied with the advice given by the legal officer that statutory processes had been adhered to and considered that the application would result in a highway improvement. Councillor Patterson **seconded** approval of the application.

Upon a vote being taken it was

**Resolved:**

That the application be approved subject to the conditions contained in the report.

**c DM/17/00463/FPA - Land To The East Of Cobweb Cottage, Loop Lane, Butterknowle**

The Committee considered a report of the Senior Planning Officer regarding an application for the demolition of existing outbuildings and erection of one dwelling, revised scheme to refusal DM/15/03005/FPA, on land to the east of Cobweb Cottage, Loop Lane, Butterknowle (for copy see file of Minutes).

T Burnham, Senior Planning Officer gave a detailed presentation on the application which included a site location plan, aerial views of the site, elevation plans and a sketch to the proposed building.

Councillor H Smith, local Member, addressed the Committee in support of the application. Councillor Smith informed the Committee that she was also expressing the views of Councillor A Turner, local Member.

Paragraph 54 of the NPPF stated that in rural areas local planning authorities should be responsive to local circumstances, and plan housing development to

reflect local needs, particularly for affordable housing including through rural exception sites where appropriate.

Local circumstances in this application were particular and the planning system should allow the flexibility to respond. The applicant was a teacher and wished to live in the village where she grew up. This application was the only way she could afford to do so and at the same time live a sustainable lifestyle. There had been no objections to the application from local residents or the Parish Council.

The first application to build on this area was refused in 2015 and the decision was unchanged by an appeal to the Planning Inspectorate in June 2016. This application had changed the site of the proposed house to use a brownfield site where there were currently disused outbuildings.

The appeal decision stated that the main issue was whether or not the proposed development would provide a suitable site for housing having regard to the proximity of services and facilities to meet daily living needs. The Planning Inspector considered that the occupiers of the proposed dwelling would have to rely heavily on the facilities of other, larger settlements and that Butterknowle was a very small settlement with some basic services.

Councillor Smith informed the Committee that Butterknowle was a thriving community. The services in the village included a primary school, two pubs, a doctor's surgery, a post office, a village hall with a varied and active programme, and an animal feed business. Although bus services were limited, that was the case for many villages within County Durham.

The Planning Inspector stated that because the occupant of the dwelling would be reliant on a car the proposal would be contrary to the environmental dimension of sustainable development in terms of requiring development to mitigate and adapt to climate change by moving to a low carbon economy. This development was an eco-friendly self-build which would use sustainable methods and techniques and would have a very low carbon footprint.

The comment about the applicant being dependent on a car were interesting. Planning permission was granted last year for eight houses at the far end of Butterknowle village on grazing land, despite the objections of the Parish Council and local residents. Each house had car parking space for two cars. The planning report for this application stated that the development was considered sustainable as the settlement was able to absorb further residential development. The development was approximately 250 metres from the site of this application. Consistency was vital to good planning decisions. It was difficult to understand how sixteen cars near to the application site was considered sustainable but one car at Cobweb Cottage was not.

Councillor Smith informed the Committee that Paragraph 55 of the NPPF stated that local planning authorities should avoid isolated homes in the countryside unless there were special circumstances such as where the development would re-use redundant or disused buildings and lead to an enhancement of the immediate

setting. This development, which would be built on the site of currently disused outbuildings, would significantly enhance the immediate setting.

NPPF Paragraph 55 was quoted as a reason to recommend refusal of the application. However, the word isolation was open to interpretation. There was a small terrace of cottages only 100 metres away from the development site and another house on the same side of the road as Cobweb Cottage 120 metres to the north with another large property on the opposite side of the road only 50 metres away. It was therefore stretching a point to call this an isolated dwelling in open countryside since it was between two dwellings and would become an integral part of South Side. The centre of Butterknowle village with its services was at most a 10 minute walk.

The planning report stated that no Coal Mining Risk Assessment Report was submitted with the application and therefore the Coal Authority had objected. A Coal Mining Assessment Report was submitted with the previous application in 2015 and as this application was very close to the site of the previous application and had the same post code the applicants had asked that the previous Coal Mining Assessment be used in conjunction with this application. The applicants were never told that this would not be acceptable or that a second mining survey report was required. The previous report had stated that the property was not in the likely zone of influence of any present underground coal workings and there were no known mine entries within or within 20 metres of the boundary of the property.

The applicant had very particular reasons for wanting to live in the village where she grew up, to live a sustainable and ecologically sound lifestyle. The proposed dwelling was not isolated in that it had close neighbours, and if the settlement of Butterknowle was thought able to absorb a development of 8 new houses with 16 car parking spaces this development should also be considered sustainable.

Councillor Smith asked the Committee to approve the application. Duncan Roberts, agent for the applicant, addressed the Committee. He informed the Committee that he was the architect who had been working on this project for 2 years and had worked on ecologically friendly projects for 25 years. Decisions on planning applications were taken by locally elected democratic representatives who had a local knowledge and who understood the local benefits of planning applications such as this. Local knowledge was better than that of a planning inspector based at Bristol, and the NPPF supported self-build properties.

Ms J Bell, applicant, addressed the Committee. She informed the Committee that she was local to the area and had attended Butterknowle Primary School as a child. Three years ago she and her sister had inherited the family house and land but she was unable to buy out her sister's share of the property. The sisters wished to sell the house and half of the land and Ms Bell would then use her share of the sale to self-build a new low-energy house and use the remaining land to live in as environmentally-friendly way as possible.

Ms Bell informed the Committee that planning legislation was open to interpretation. She did not want to set a precedent for development, adding that the application

site was a brownfield site and the proposed development would add value to the village.

Councillor Nicholson sought clarification of whether the site for this application had moved to that of the previous application. The Senior Planning Officer displayed an aerial photograph of the site which showed the position of the previous application and that of the current application, which was different.

The Senior Planning Officer informed the Committee that the issue of isolation involved some degree of subjectivity, adding that Butterknowle was a rural location. The Senior Planning Office also showed the location of the development at Pinfold Lane which had been referred to in the presentations, and this was nearer to the settlement of Butterknowle.

With reference to the mining search, the Senior Planning Officer informed the Committee that he would research what had been provided with the previous application.

Councillor Clare informed the Committee that he had been convinced by the presentation made by Councillor Smith. Many people used a vehicle to access services and facilities from properties, but this did not necessarily mean that the property was unsustainable. Settlement limits were no longer applicable and the site of this proposed development was only some 100 metres from Butterknowle.

The application would enable a local person to build their own house in their own village, and local people being able to live in their local area was becoming an issue.

Councillor Clare informed the Committee that the problem was the previously issued report by the Planning Inspector following a previous appeal. Paragraph 9 of that report stated that new isolated homes in the countryside should be avoided unless there were special circumstances such as, inter alia, the development would re-use redundant buildings and lead to an enhancement of the immediate setting. Councillor Clare considered that this resubmitted application now met these special circumstances in that the development was of excellent design with ecological qualities. There had been no objections from residents of Butterknowle to the application.

With reference to the Coal Board Assessment, Councillor Clare informed the Committee that the previously submitted report could be accepted, or another be requested if needs be and this could be by condition on the permission.

Councillor Clare **moved** approval of the application.

Councillor Richardson informed the Committee that he agreed with Councillor Clare. The Pinfold Lane application for 8 properties had been approved despite objections, and another site was in the process of being developed. Councillor Richardson **seconded** approval of the application.

Councillor Dixon informed the Committee that the previous decision issued by the planning Inspectorate needed to be addressed. There was already a building, Cobweb Cottage, at the location of the proposed development and he did not consider the issue of isolation to be valid. Councillor Dixon considered that the changes to this application were significant enough to meet the objections of the Planning Inspector and agreed that the application should be approved.

Councillor Wilson informed the Committee that she agreed with the points made by Councillors Smith and Clare and agreed that the application should be approved.

The Planning and Development Solicitor sought clarity from the Committee on the grounds for approval. These were detailed as the design quality of the proposed building, the enhancement of the setting and the personal circumstances of the applicant.

The Planning and Development Solicitor informed the Committee that it could only be minded to approve the application upon receipt of a satisfactory Coal Mining Assessment, and recommended that the Committee grant delegated authority to the Senior Planning Officer, in consultation with the Chairman of the Committee to agree conditions for the permission.

Upon a vote being taken it was

**Resolved:**

- (i) That the Committee be minded to approve the application subject to the receipt of a satisfactory Coal Mining Assessment, and
- (ii) That authority be delegated to the Senior Planning Officer, in consultation with the Chairman, to agree planning conditions.

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# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/17/01132/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Construction of drive-thru Burger King and Papa Johns with associated parking
<b>NAME OF APPLICANT:</b>	Burney Estates Ltd.
<b>ADDRESS:</b>	Tesco Extra, Abraham Enterprise Park, St Helen Auckland, Bishop Auckland, Co Durham
<b>ELECTORAL DIVISION:</b>	West Auckland
<b>CASE OFFICER:</b>	Mark O'Sullivan, Planning Officer, 03000 261056, mark.o'sullivan@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The application relates to the construction of 2no. Class A5 Hot Food Takeaway units (Burger King and Papa John's Pizza) within the existing customer car park serving the Tesco Extra superstore at Tindale Crescent, Bishop Auckland. Both units would be detached from one another, located to the south western extent of the Tesco car park, to the immediate northwest of the C42 (Manor Road), occupying existing customer parking spaces.
2. The proposed Burger King would be located at the south west corner of the car park, and be served by 8no. dedicated parking bays (including 2no. disabled bays) and a drive-thru lane. The building would measure 16m x 9.5m in area, and 4.2m in maximum (single storey) height and would include an enclosed refuse compound to the south facing elevation.
3. The proposed Papa John's unit would be located some 30m to the north east of Burger King, close to the main Tesco car park entrance at its junction with Manor Road. This A5 unit would also be served by dedicated customer parking (5no. bays including 1no. disabled). No drive-thru would serve this unit which would measure 15.5m x 6.5m in area and a maximum monopitch ridge height of 4.7m. An enclosed bin store compound would be located to the east of the unit.
4. Small areas of incidental carpark landscaping comprising low level planting and shrubs are to be removed to facilitate the proposed development.
5. Details of site signage/advertisement as shown on submitted plans is indicative only and would be a matter to be controlled under a separate advertisement consent application.
6. The application is being reported to the Planning Committee at the request of Cllr Rob Yorke who expresses concern over the possible adverse impact of increased traffic flow which may result from the development if approved.

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## PLANNING HISTORY

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7. Outline planning permission was granted on 18 September 2009 for the demolition of a former factory on this site and the erection of new Tesco Superstore with Petrol Filling Station, parking and associated highway alterations (Planning approval ref: 3/2008/0723). Subsequent reserved matters approval was granted on 20 May 2010 for these works (Planning Approval ref: 3/2010/0074).

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## PLANNING POLICY

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### NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
10. *Part 1 – Building a strong competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
11. *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.
12. *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.
13. *Part 7 – Requiring good design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by 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.

## **LOCAL PLAN POLICY:**

15. The development plan is the Wear Valley District Local Plan saved policies:
16. *GD1 - General Development Criteria* – requires new development to be designed and built to a high standard which contributes to the quality and built environment of the surrounding area.
17. *S1 – Town Centres* - seeks to maintain and protect Bishop Auckland Town Centre as delineated on the Proposals Map Inset 1 forming part of the WVLP as a major retail centre in the former District.
18. *I5 – General Industrial Sites* – details acceptable site uses within designated general industrial areas.
19. *S11 – Hot Food Takeaways* – permits hot food takeaways within existing shopping areas where they do not adversely affect the amenity of neighbouring properties, create unacceptable levels of traffic which exceed the capacity of the local road network, do not undermine the vitality and main function of the existing retail area and do not conflict with other relevant plan policies.
20. *T1 – General Policy* – seeks to ensure that all developments which generate additional traffic be required to fulfil Policy GD1, providing for adequate access, capable of access by public transport networks, without exceeding the capacity of the local road network.

## **RELEVANT EMERGING POLICY:**

The County Durham Plan

21. 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.

*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:**

22. *Bishop Auckland Town Council* – have made no comment on this application.
23. *The Highway Authority* – raise no objections to the proposals having viewed the Transport Statement submitted with the application and having also undertaken a separate car park survey on Saturday 15 April 2017.

24. *The Coal Authority* – confirm the site to be located outside of any Development High Risk Area and therefore offer no comment with respect the proposed works.

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

25. *Ecology Section* – raise no objections to the proposals.

26. *Environmental Health (Contaminated Land)* – agree with the findings of the submitted Phase 1 Desk Study (Lustre Consulting, February 2017) and have undertaken a site walkover. Due to the fact that this development would constitute a change of use to a more sensitive receptor, a contaminated land condition should apply to any planning approval.

27. *Environmental Health (Noise)* – The granting of planning permission for the development may potentially result in a statutory nuisance being created. However the imposition of conditions relating to control over operational hours and details of a fume extraction system and subsequent adherence would remove any objections to the development.

28. *Spatial Policy Section* – raise no objections. Officers are unaware of any circumstances in regard to this scheme that directly relate to policies within NPPF that would indicate that the scheme would be significantly harmful in principle and should be resisted. The development of the site would have potential to contribute to the economy in terms spend and employment which would bring to the area the potential to benefit complementary retail and leisure operators. The potential for impacts arising from an intensification of use of the site within the local area in terms of loss of existing parking, effect on local highway network and air pollution need to be assessed.

29. *Drainage* – consider the proposals would not affect the current situation with respect to surface water discharge rate, with little opportunity for betterment. Proposals are acceptable with regards surface water flood risk and management.

#### **PUBLIC RESPONSES:**

30. The application has been publicised by way of site notice and notification letters to neighbouring residents. 1no. letter of objection has been received in response to this exercise from a local resident who expresses concerns over the existing volume of traffic using the adjacent highway and the amount of litter in the area from existing hot food takeaways.

31. In addition, 1no. email has been received from Cllr Christine Wilson who raises no objections to the application.

#### **APPLICANTS STATEMENT:**

##### **Employment**

32. The most significant economic benefit of proposing new business in this area would be the local job creation. With a new Burger King Restaurant on site the company will employ over 40 members of staff of which 20 will be full-time and 20 part-time. The restaurant will operate from 08.00 to 23:00 as a standard, within a structure of 3 shifts a day, 7 days a week. As part of their employment, Burger King train staff in various roles including management and transfer staff to manage other restaurants in the locality.

33. Additionally, Papa John's new takeaway unit will create 20 jobs, split 40% full-time, 60% part-time. They seek, where possible, to operate standard opening hours for all of their stores and the typical closing time at 23:00.
34. The restaurant and takeaway will offer good employment opportunities for the key 16-25 year old demographic and generate jobs for the local community. The average crew member spends 2.6 years with the Burger King business. The restaurant and takeaway will provide opportunities for local jobseekers to take the first steps on a long career path and also to those who are in the market for something a little more flexible and fit around other commitments, such as parental responsibilities or a student lifestyle.

#### Local economic role

35. The businesses proposed to operate in both new buildings will contribute to the economy of local food supply with a demand for vegetables, dairy produce, meat and baked goods. Burger King Restaurants receive 50 – 60% of all their products from UK suppliers. Never frozen ingredients are the guiding principle at Papa John's therefore it is apparent that the takeaway will utilise local sources and distributors. Furthermore, the emergence of new supply links within the local economy will also create more intermediate demand on services such as delivery and management jobs to achieve the intended daily operation.

#### Highways

36. Adequate parking and access for delivery vehicles are proposed in order to minimise the impact on local traffic. The current application site has provision for parking for passing vehicular trade and delivery of goods. 8 car parking spaces are provided for the Burger King Unit and 5 car parking spaces are allocated for the A5 Papa John's Unit. All parking bays are 2.5m by 5.0m in size and meet the quantity provision standards of local planning guideline.
37. The site is located on the Retail Store parking area where people make trips to do their shopping. Having this in regard, it is highly likely they will also be customers for the restaurant and the takeaway and add no additional vehicular trips to the local transport network. Unlike a large retailer of varied goods from different suppliers the proposed businesses will utilise a single source supply which will give them the flexibility and opportunity to adjust to the site and receive only single sized delivery vehicles. In terms of the suitability and benefits of the development in the proposed location, it will provide local residents and users of the Tesco's Express Supermarket and Petrol Station with convenient access to refreshments and meals that are within walking or cycling distance.

#### Environment

38. Burger King Business complies with all existing sustainability regulations and aims to introduce above and beyond initiatives where possible including recycled cardboard, LED lighting, biodiesel usage and creation, and responsible recycling of cooking oil. Therefore, this is a very sustainable development to the local area.

#### Nutrition of the goods

39. In addition to offering lower-fat menu item such as salads, the company has updated its nutrition guides to include dietary guidelines, nutritional information and calories count in their restaurants and online.

40. To address concerns over the increase in childhood obesity in Western nations and accusations of unhealthy offerings for children the company created a nutritional program called "BK Positive Steps" and a new low-fat Kid's Club Meal. According to a statement by Burger King, the new Kid's Club meals contain no more than 560 calories per meal, less than 30 percent of calories from fat, less than 10 percent of calories from saturated fat, no added trans fats, and no more than 10 percent of calories from added sugars.
41. Papa John's have also reacted to the current obesity and unhealthy diet issues that have evolved into major health problems of the modern day. The company's official website along with the menu options to order provide a nutritional information, guidance to the better dietary options and customers are encouraged to make an informed choice. A variety of low fat, low carb non-meat options have also been introduced into the menu.

## Conclusion

42. It is apparent that a new Burger King restaurant would be a significant employer, employing over 40 members of staff. This is a very high employee intake per sq. ft. compared to other commercial units and also offers good promotional prospects for the staff. Papa John's takeaway unit will create 20 more roles and more demand for local food suppliers, intermediate services, utilities and management will benefit the economy.
43. Both new businesses proposed on-site support charitable organisations that have been involved with disaster relief, international education and local charities including Cancer Research and Children in Need. Franchised from a company that complies with all existing sustainability regulations and with a notable ambition to pioneer in environmentally better fast food business, expansion for Burger King Restaurants in this area would set a better standard for local high street businesses of similar trade. The Papa John's own Responsible Growth Policy states the store is always a welcome and positive addition to the local community. Through the Franchise system, they represent not only a well-run business providing employment and structured career paths for local people but also a business that is actively involved in supporting the local community.
44. As a takeaway business model – Papa John's would produce no litter from its customer's onsite and very little customer traffic. In terms of the suitability and benefits of the development in the proposed location, it will provide local residents and users of the Tesco's Express Supermarket and Petrol Station with convenient access to refreshments and meals that are within walking or cycling distance. A good amount of journeys to the restaurant or takeaway would be spared because the businesses discussed are already on same destination as large retail store.
45. In terms of fast food industry's influence on current social and public health issues, the proposed restaurant and takeaway are in the foreground of promoting and advocating healthier choices.
46. Taking into the regard the benefits of created employment, economic addition to the local industries and proposed businesses ethical conduct as well as advantages of site location discussed in this report the development proposed Burger King Restaurant and Papa John's takeaway is most likely to contribute to the local community with a positive significance.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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47. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the principle of development, Scale/Design, Impact on neighbouring uses, Highways, Ecology and Land Contamination.

The principle of the development:

48. The application relates to the erection of 2no. Class A5 Hot Food Takeaways within the Tesco Superstore Customer Carpark at Tindale Crescent, Bishop Auckland. This site is located approximately 1km to the south west of the main Bishop Auckland Town Centre on an existing retail park occupied by a number of large retail units including Tesco and Sainsbury's Superstores, M&S, Next, Home Bargains, McDonalds, Subway, Dominos, KFC and a Public House.

49. Historically this site fell within the St Helens Industrial Area. However, the granting and subsequent implementation of the Tesco Superstore planning permission saw the general use of this land change from industrial to retail with saved Policy I5 (General industrial sites) of the Wear Valley District Local Plan no longer applicable to this site.

50. The application site is located outside of the defined Bishop Auckland Town Centre where uses such as those proposed (as defined by Annex 2 of the NPPF) are normally to be directed. However, these 2no. units would be located within a retail park environment which already contains a broad range of Class A retail and hot food takeaway related uses which would complement those proposed here.

51. The application has been submitted alongside a detailed sequential assessment in accordance with Paragraph 24 of the NPPF which states 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. It also states that when considering out of centre proposals, preference should be given to accessible sites that are well connected to the town centre.

52. The report identifies 13no. alternative sites which have been assessed in terms of their availability, suitability and viability and concludes that these are unsuitable in terms of size, layout, lack of parking provision or an opportunity for drive-thru provision. The chosen site therefore represents the best site which can comfortably accommodate the needs of the applicant. The submission is considered to be comprehensive and represents a fair assessment of each of the sites considered.

53. Taking into consideration the content of the sequential assessment and siting of the units within an established retail park environment containing a number of other town centre related uses that have previously been deemed acceptable, no objections are raised to the principle of development in this case. It is further noted that these A5 units would be located in a sustainable and accessible location which benefits from excellent public transportation linkages without any overreliance upon private vehicle usage.

54. Such works if approved would also provide additional leisure facilities for users of the retail park, with improved choice for retail consumption, whilst supporting economic investment, public spending and job creation. Such benefits would be viewed in the context of the three dimensions of sustainability set out within Paragraph 7 of the NPPF

and satisfy the provisions of Part 1 of the NPPF in terms of promoting economic development. Locating on this site would not come at the direct detriment of the nearby Town Centre but rather supplement the existing retail services on offer in this location for existing users.

55. For the above reasons, the principle of developing this site for further retail related uses in an out of centre, albeit retail park environment is considered to be acceptable, subject to the other material planning considerations set out within this report.

#### Scale / Design:

56. Part 7 of the NPPF and saved policy GD1 of the Wear Valley District Local Plan together seek to ensure good design in new developments. Development proposals should in their scale and form have regard to a site's natural and built features and the relationship to adjacent land uses and activities.
57. The application site is not located within a Conservation Area or other area of special control, but instead forms part of a retail park setting (and former industrial designation) that is characterised by large industrial style superstores to the north, east and south, all set within large areas of open hardstand used for customer parking.
58. The proposed A5 units would be of a relatively standard contemporary design and would reflect similar A5 premises in the area in terms of scale and appearance. Details of materials and finishes are specified on submitted drawings comprising different coloured composite panels on a brick plinth, and would be of an appearance commensurate to their function and surroundings. Furthermore, the layout of the proposed units provides for potentially unsightly bin store areas to be suitably enclosed by boundary fencing.
59. Works would involve the removal of small areas of incidental car park landscaping around the border of the car park. However none of this is significantly established, with all planting low level and contributing little to the amenity of the area. Submitted plans do show the retention of the large verge area to the south of the car park where adjacent to the main road and the retention of existing tree planting in this area.
60. The proposed works would be considered in accordance with the overarching principles of Part 7 of the NPPF and saved policy GD1 of the Wear Valley District Local Plan with no objections raised.

#### Impact on neighbouring uses:

61. Saved policy GD1 of the Wear Valley District Local Plan requires new development to avoid any disturbance or conflict with adjoining uses. Although not strictly within a defined retail centre, Saved policy S11 of the Wear Valley District Local Plan also seeks to permit hot food takeaways within existing shopping areas where they do not adversely affect the amenity of neighbouring properties.
62. The application site is located within a retail park environment surrounded by the Tesco superstore to the north and Sainsbury's superstore to the south east with additional retail units to the east and west, all set amongst spacious customer parking areas. Within close proximity are a number of other A5 hot food takeaway uses.
63. The proposed development would be constructed within the existing customer car parking area with the nearest residential properties located some 100m away to the south west on Maude Terrace and Grange Court. As such, the key issues relating to the

perceived impact on neighbouring uses in terms of the proposed development relates to noise and odour.

64. With regards to noise, the development has a number of potential impacts associated with its use, including noise from deliveries, fixed plant and drive through areas etc. The applicant has provided a very detailed and robust assessment of all the aforementioned noise sources which is compliant with current guidance and is considered compliant with the Councils TANS. The assessment demonstrates that noise from the above sources, when compared against the existing noise climate, would not breach the levels stated within the TANS. This is dependent on plant and the drive through etc. being installed as stated within submitted document MM440/17009.
65. Whilst there would inevitably be some change in the local noise climate extending into the night time, provided the hours of operation of the site for customer use be strictly controlled, it is considered that any noise from the site could be satisfactorily regulated so as to mitigate any significant adverse impact on surrounding residential amenity. The proposed hours of operation as confirmed by the applicant are reasonable and at a time when the road network and nearby commercial properties are likely to be in use and therefore the noise climate is high. It is recognised that the noise directly from the development would not be significant and even on a Sunday the surrounding road network is still likely to be the dominant noise source. For this reason, approval is recommended subject to a condition controlling opening hours and strict adherence to the noise impact assessment submitted.
66. Regarding deliveries, given the nature of the surrounding retail park environment and the lack of control on deliveries for these neighbouring retail uses, it would be difficult to impose any restriction of deliveries relating to the 2no. proposed A5 units. The majority of surrounding retail type units will benefit from unregulated delivery times throughout the day, with the applicant having confirmed that deliveries for these 2no. A5 units will take place outside of normal opening hours, thereby minimising disturbance to customers and stress on the adjacent highways. However given other neighbouring uses will likely adopt similar delivery patterns, it would be unreasonable to control deliveries to this development only, particularly given the distance to nearby sensitive uses which would unlikely be significantly affected by nighttime delivery noise when the adjacent roads will be at their quietest.
67. With regards to odour, the application provides no detail in relation to the extraction system to be used at either site. Considering the nature of the businesses proposed and their location within an existing retail environment, further details of this can be controlled by condition, these to be provided and agreed in advance of development.
68. Subject to strict adherence to the above conditions, and given the nature of the proposed works in the context of surrounding uses, as well as the distance to nearby sensitive uses, it is not considered that the proposed works would result in any significant adverse impact upon the residential amenities of nearby residential property or statutory nuisance. In view of the foregoing, the proposed development is considered to satisfy the provisions of saved policy GD1 and S11 of the Wear Valley District Local Plan.

#### Highways:

69. Saved Policy T1 of the Wear Valley District Local Plan seeks to ensure that new developments which generate additional traffic fulfil Policy GD1 highway requirements, whilst providing for adequate access to the development including access for public transport, as well as not exceeding the capacity of the local road network. Part 4 of the NPPF requires that new developments achieve a safe and sustainable access. NPPF

paragraph 32 states development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are considered to be severe.

70. A detailed Transport Statement has been submitted in support of the application, prepared by Icen Projects Ltd (May 2017) confirming the proposed A5 units to provide a combined 13no. designated parking spaces for customers (including 3no. disabled bays) and provision for 10no. cycle parking spaces, in accordance with standards set out within the Durham County Council Accessibility and Parking Guidelines. Access into the site would be retained via the existing Tesco car park entrance to the south, which is considered to be of sufficient size and layout to accommodate any increase in vehicles associated with the use of the 2no. A5 units. Furthermore, all delivery and servicing of these units would take place outside of normal operational hours, with associated vehicles only utilizing the existing empty customer parking spaces as designated on plans.
71. Concerns have been expressed by an elected member on highway grounds, with 1no. local resident having also raised concern over the impact of the proposed development on the volume of existing road traffic in the area.
72. The aforementioned Transport Statement includes a detailed analysis and Car Parking Assessment which explores the potential of the existing Tesco car park to support a reduction in parking provision and an increase in use as a direct result of the 2no. A5 units. Findings confirm that the application site is located in a sustainable and accessible location served by excellent public transportation links to the surrounding area thereby reducing reliance on private vehicle usage. For private vehicle users, the perceived level of trips specifically to these A5 units alone would be low, with it likely that those using these facilities would more likely be generated from those using existing services in the surrounding area. As such the proposed works would unlikely have any significant impact on the existing highway network to a level where a refusal could genuinely be sustained.
73. With regards the parking assessment, two separate surveys of the existing car park were undertaken at peak times, identifying low stress levels relating to the full capacity of the car park. The survey identifies a total of 504no. vehicle parking spaces across the wider Tesco site, with the proposed development to result in a loss of 70no. of these spaces (14% of the total number). Despite a loss of 70no. spaces, the proposed A5 uses would be served by an additional 13no. spaces, resulting in a net loss of 57no. spaces (11% of the total number). Although the parking stress of the entire car park would fluctuate (understandably increasing during peak periods), this car park could still comfortably accommodate any increase in vehicular movement or parking demand.
74. DCC highway engineers conducted a separate survey of the site to supplement the findings of Icen Projects Ltd. Officers visited the site on Saturday 15 April over the Easter Bank Holiday Weekend at a time when trading in this location would be expected to be at its busiest. This survey was carried out between the hours of 11:00 – 14:00 at a peak lunchtime where it was estimated that the car park offered at least 200no. free car parking spaces. Even at its busiest (around midday) there was still estimated to be around 150+no. parking spaces available in the car park.
75. Video recordings of the car park were also taken by highway engineers at 11:00 and 13:00 on this day demonstrating the car park around the proposed development area to be almost entirely empty. Such findings concur with those of the planning case officer who when undertaking an initial site visit on 10 April 2017 was presented with an almost empty car park at lunchtime of that day. Subsequent journeys past the site throughout

April and May during working hours confirmed this end of the car park to be largely empty.

76. In view of the foregoing, it is concluded that the development of this southern section of the Tesco car park would not result in any significant loss of essential car parking provision in an area where there is a clear and visible surplus of underused spaces. The subsequent loss of a section of this car park would retain a large parking area to the north which could more than comfortably accommodate any displacement of vehicles and increase in parking demand.
77. In accordance with paragraph 32 of the NPPF, the residual cumulative impacts of the proposed development are not considered to be severe. Although the immediate public highway network surrounding the site is known to be experiencing capacity issues at peak periods, in particular to the east and south of the application site, the proposed A5 units are modestly sized with capacity for some associated vehicle trips to be linked or pass-by trips (i.e. linked to a Tesco visit or already passing on the adjacent highway network). Furthermore, the site is located in a sustainable and accessible location, well served by existing public transportation modes with no sole reliance upon private vehicle usage. For these reasons, and notwithstanding the highway network capacity issues, it is not considered that a highways refusal could be sustained at appeal, with no highway objections raised.

#### Ecology:

78. The Ecology Section have considered the proposals, raising no objections. There would be no conflict with the requirements of the Habitat Regulations and Part 11 of the NPPF.

#### Land Contamination:

79. Part 11 of the NPPF seeks to ensure that new development is appropriate for its location, preventing unacceptable risks from pollution and land instability. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
80. The application has been submitted alongside a Phase 1 Desk Study (Lustre Consulting, February 2017) with officers from the Councils Environmental Health section having also undertaken a site walkover. Taking into account the findings of this report, and given the proposed development would constitute a change of use to a more sensitive receptor, it is recommended that any approval be granted subject to an appropriately worded contaminated land condition. The applicant is also advised to adhere to YALPAG guidance by informative. Subject to the above, the application would be considered to satisfy the principles of Part 11 of the NPPF with regards ground contamination.

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## CONCLUSIONS

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81. The proposal represents a sustainable form of development that would deliver economic, social and environmental benefits in accordance with the core principles of the NPPF. The redevelopment of this land from surplus, underused car parking to A5 uses would improve service provision and support job creation, public spending and economic competition between businesses within an established retail park environment, surrounded by similar class A uses.
82. Consideration has been given to the scale and design of the proposed works, impact on neighbouring uses, highways, ecology and contaminated land. Any adverse impact

in terms of noise or odour can be effectively mitigated and controlled. Finally, no highway objections are raised over the scheme which would occupy an area of underused car parking without resulting in any significant and detrimental increase in use of the adjacent road network.

83. The views of objectors is carefully acknowledged however on this occasion it is not considered that there are significant adverse impacts that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole, or the other relevant policies of the Sedgfield Borough Local Plan. In view of the foregoing, the application is recommended for approval.

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## RECOMMENDATION

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
*Reason: 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:  
3547\_PL01B (Existing location plan), received 11 May 2017  
3547\_PL02B (Existing site plan), received 11 May 2017  
3547\_PL04F (Proposed site plan), received 15 May 2017  
3547\_PL05 (Proposed floor plan, Burger King), received 31 March 2017  
3547\_PL06 (Proposed elevations – Burger King), received 31 March 2017  
3547\_PL07C (Proposed plan, A5 Papa Johns), received 10 May 2017  
3547\_PL08C (Proposed elevations, A5 Papa Johns), received 10 May 2017  
Noise Impact Assessment (report ref: MM440/17009 rev.0) received 31 March 2017  
*Reason: For the avoidance of doubt and in the interests of proper planning.*
3. The customer car parking areas shown on approved plan ref: 3547\_PL04F (received 15 May 2017) shall be constructed, marked out and made available for use prior to the development hereby approved being brought into operation, in accordance with details to be agreed with the Local Planning Authority. Thereafter the car parking spaces shall be used and maintained in such a manner as to ensure their availability at all times for the parking of vehicles in association with the approved development.  
*Reason: In the interests of highway safety and to comply with saved policies GD1 and T1 of the Wear Valley District Local Plan.*
4. The development hereby permitted shall not commence until a pre-commencement scheme to deal with contamination has been 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) 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 the Local Planning Authority wishes 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 in accordance with NPPF Part 11.*

*Note: Following the submission of a preliminary ground gas risk assessment, for some developments the Local Planning Authority may agree in writing to the installation of Gas Protection Measures as a precautionary measure without first carrying out ground gas monitoring.*

*Note: Further information is available under the policy documents YALPAG Development on Land Affected by Contamination, YALPAG Verification Requirements for Cover Systems, YALPAG Verification Requirements for Gas Protection Systems.*

5. No development shall commence until details of the fume extraction system, serving Burger King and Papa Johns, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times when cooking is being carried out on the premises.

*Reason: In the interests of residential amenity in accordance with saved policy GD1 of the Wear Valley District Local Plan.*

6. The A5 premises hereby approved shall not be open to customers outside the hours of 07.00am to 00.00am Monday to Saturday and 08.00am to 23.00pm on a Sunday.

*Reason: In the interests of residential amenity in accordance with saved policy GD1 of the Wear Valley District Local Plan.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision have, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner. The Local Planning Authority have sought to ensure that this application has been determined within the statutory determination period.

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## **BACKGROUND PAPERS**

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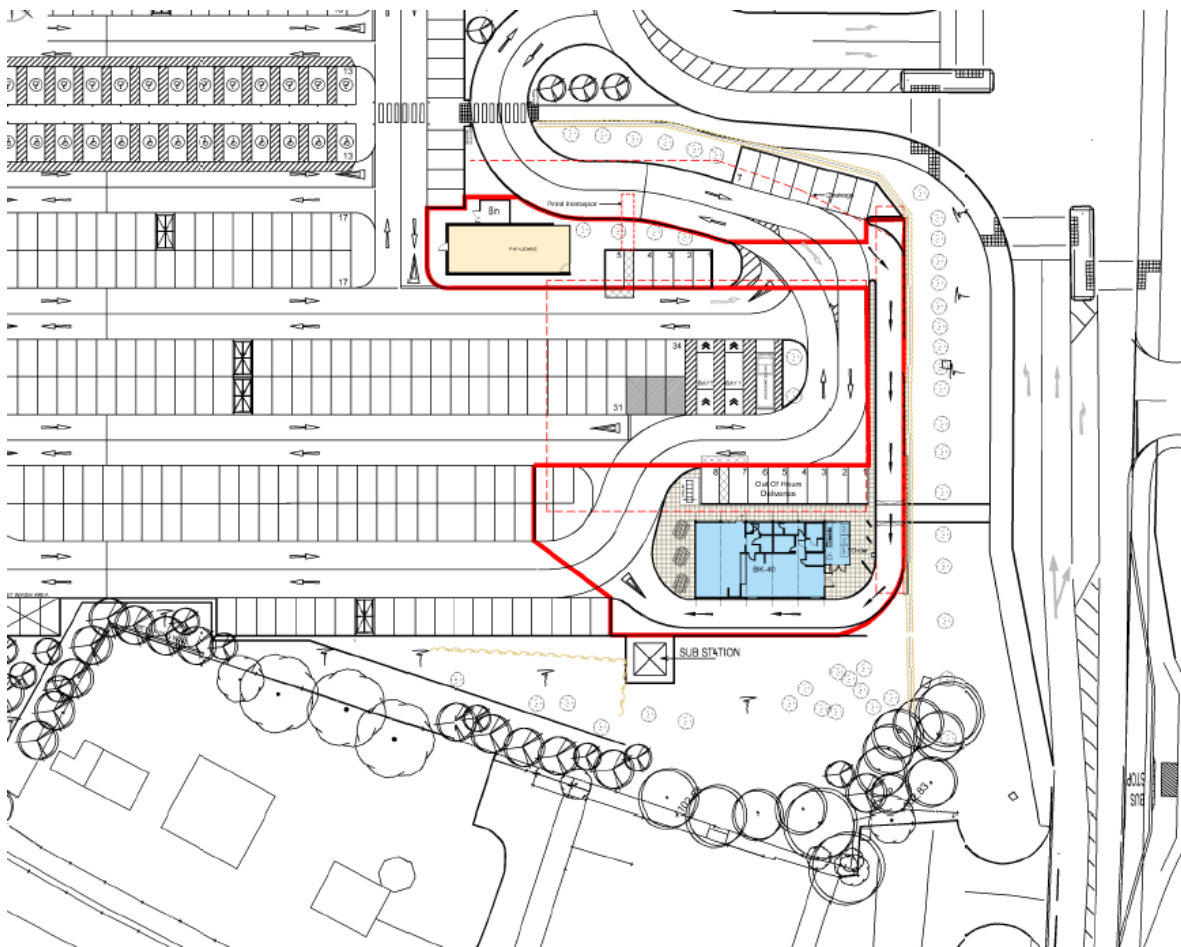
Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

Wear Valley District Local Plan

Statutory response from the Highway Authority and The Coal Authority

Internal responses from Ecology, Environmental Health, Contaminated Land, Spatial Policy and Drainage



## Planning Services

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Construction of Drive-Thru Burger King and Papa John's Pizza with associated parking

Comments

Date 22 June 2017

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

APPLICATION NO:	DM/17/00064/FPA
FULL APPLICATION DESCRIPTION:	Change of use of garden to siting of four holiday camping pods and formation of car parking area
NAME OF APPLICANT:	Mr G Turner
ADDRESS:	Grove House, Redford Lane, Hamsterley, DL13 3NL
ELECTORAL DIVISION:	Evenwood
CASE OFFICER:	Adam Williamson, Planning Officer, 03000 260826 <a href="mailto:Adam.williamson@durham.gov.uk">Adam.williamson@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSAL

1. The application seeks permission for the siting of 4 timber camping pods in the south west corner of the garden of Grove House, which is located within Hamsterley Forest. 3 of the pods would be located within the disused paddock area on the eastern side of the stables, with the fourth located to the west of the stables. Two styles of pod are proposed, each serviced by water and electricity and with its own wc connected to a new biodigester. A small parking area would also be created alongside the existing driveway within the property.
2. The property is a 19<sup>th</sup> century former hunting lodge set within extensive grounds located along the Forest drive, approximately 3km south west of the Hamsterley Forest visitor centre. It is now 3 private properties, but Grove House retains approximately 2 acres of garden area. The adjoining properties Grove Cottage and 1 The Grove lie to the north west and east respectively. Grove Cottage lies at a higher level and a large retaining wall forms the northern boundary between the two properties. A row of Beech trees from an outgrown hedge lines the southern boundary along the adjacent cycle route.
3. The application has been called to committee by Cllr Heather Smith because of concerns expressed by the neighbouring properties over loss of privacy, disturbance and tree impact.

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### PLANNING HISTORY

4. There is no planning history relevant to the determination of this application.

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## PLANNING POLICY

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### NATIONAL POLICY:

5. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
6. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’
7. The following elements are considered relevant to this proposal:
8. NPPF Part 1 Building a Strong, Competitive Economy. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
9. NPPF Part 3 Supporting a Prosperous Rural Economy. Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
10. NPPF Part 7 Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
11. NPPF Part 11 Conserving and Enhancing the Natural Environment. The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

12. The development plan is the Teesdale District Local Plan saved policies.
13. Policy GD1: General Development Criteria: All new development and redevelopment within the district should contribute to the quality and built environment of the surrounding area and includes a number of criteria in respect of impact on the character and appearance of the surrounding area; avoiding conflict with adjoining uses; and highways impacts.
14. ENV1 Protection of the Countryside: Within the countryside development will be permitted for the purposes of agriculture, rural diversification projects, forestry, nature conservation, tourism, recreation, local infrastructure needs and an existing countryside use where there is a need on the particular site involved and where a proposal conforms with other policies of the plan. To be acceptable proposals will need to show that they do not unreasonably harm the landscape and wildlife resources of the area.
15. Policy ENV3: Development Within or Adjacent to an Area of High Landscape Value: The proposals map defines an area of high landscape value where the distinctive qualities of the countryside are worthy of special recognition. Development will be permitted where it does not detract from the area's special character, and pays particular attention to the landscape qualities of the area in siting and design of buildings and the context of any landscaping proposals such development proposals should accord with policy GD1.
16. Policy BENV3: Development affecting a listed building or its setting will not be permitted.
17. Policy TR 3 Caravan/ chalet sites: Supports the principle of the development of chalet sites in situations where it does not detract from the character of the area; is adequately screened by local topography or existing tree cover; is served by adequate infrastructure; site services are limited to site occupants only; and does not adversely affect the amenities of the neighbouring properties.

*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/3271/Teesdale-Local-Plan>*

## EMERGING PLAN

18. The County Durham Plan
19. 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 18 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.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

20. *South Bedburn Parish Council* objects to the proposal on the grounds that the presence of the camping pods and potential effect on specimen trees in the grounds would be detrimental to the character of the historic property and its setting along the scenic woodland drive. There are also concerns about loss of privacy and disturbance to neighbours. Generally, it is felt that camping facilities in the Forest should be part of an overall development plan for the Forest and could be better located than proposed.
21. The *Highway Authority* has no objection.

### INTERNAL CONSULTEE RESPONSES:

22. *Landscape & Trees*: The site lies in the Area of High Landscape Value and initial concerns were raised about the lack of arboricultural assessment accompanying the application and potential effect on trees from the location of the parking area, soakaway and water/electricity service runs. This resulted in submission of further survey work, relocation of the parking and turning area to avoid loss of any important trees, and clarification over service runs, new planting and the colour treatment of the pods. The scheme now appears to offer a layout that is acceptable from a landscape and arboricultural perspective providing the soakaway can be accommodated outside the root protection areas of surrounding trees, the lodges are stained a dark colour and the new hedge around the car parking is Beech rather than Laurel.
23. *Design and Conservation* has no objection.
24. *Ecology* has no objection to the proposal.
25. *Environmental Health (Noise Action Team)*: Note the potential for the development to generate noise and BBQ smoke from outdoor activity associated with the holiday use. However, it is advised that this could be addressed by a condition requiring submission of a management plan advising how these potential issues will be addressed.

### PUBLIC RESPONSES:

26. Letters of objection were received from both of the adjoining neighbouring properties (Grove Cottage and 1 The Grove). It is felt that camping facilities for the Forest should not be located in the garden of a property which is overlooked by neighbours; the sewage system and electric supply will result in removal and damage to specimen trees; noise from cars and voices in the evening will be an intrusion in a peaceful setting; and there will be added pressure on the spring-fed water supply.

*The above represents a summary of the main points identified in the representations received and does not seek to repeat every point made.*

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## PLANNING CONSIDERATION AND ASSESSMENT

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

### Principle of development

28. The visitor economy is extremely important to County Durham and supports around 11,000 jobs. Visit County Durham Research suggests that for every 3 self-catering properties, one full time job is created. Overnight tourists spent £81 million in the County in 2015 with the average spend of £232.55 per trip, however the number of visitors staying overnight within County Durham has remained static with the lack of new accommodation options a possible contributory factor. Improving the amount and diversity of quality accommodation options in key visitor areas is seen as an important way to keep visitors in the County for longer.
29. Hamsterley Forest is one of County Durham's most popular visitor destinations offering excellent family facilities and opportunities for foot, bike and horse trails. It is also well placed in relation to other tourist and leisure opportunities in the wider Dales area. Although the proposal is a private-led scheme on private property within the forest, it would make a small, but nevertheless valuable contribution to increasing the range of tourist accommodation in the County and improving the ability of the County to retain overnight tourists to the benefit of the rural economy. This is wholly in accordance with NPPF Parts 1 and 3 which seek to support economic growth and is therefore a factor which must be given significant weight (NPPF paragraph 19).
30. The relevant development Plan is the Teesdale Local Plan 2002. Policy TR3 relates specifically to camping, and/or caravan sites and chalets and is permissive of such development providing among other things the proposal is well screened and does not detract from the character of the area, there is adequate but limited associated infrastructure and there is no adverse effects neighbouring properties. These aims are consistent with NPPF Parts 1, 3, 7 and 11 and therefore the development plan is not out of date in this respect.
31. The principle of the development is therefore supported by NPPF guidance and Teesdale Local Plan Policy TR3, subject to consideration of impacts on the surrounding area and neighboring properties. This is considered in the sections below.

### Impact on character and appearance of the area

32. The site lies in the Area of High Landscape Value. The property is a notable building, visually and historically, but is not listed.
33. The proposed pods would be small timber features located over 70m from the house in an area of the garden which is of lesser quality containing a disused paddock and stables. The existing tree coverage ensures views of this part of the garden from the Forest drive, including the nearby grade II listed bridge over Spurliswood Beck and the

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adjacent cycle route are very limited, particularly during the summer. Even in winter the small scale of the pods and their dark stained timber appearance are unlikely to be visually prominent features. Some additional fruit tree planting is proposed to the north which would further enclose the site and separate it from the remaining garden, which is more formal in character. The new parking and turning area is to be located immediately off the existing driveway, close to the pods and would be surrounded by a new Beech hedge as recommended by the Landscape Section. The parking would necessitate removal of the existing Leylandii hedge and 3 individual trees (Yew, Sycamore & Cypress), but they have all been categorized as trees of low quality and their loss would be insignificant to the character of the area, particularly in the context of surrounding forest. There is already water and electricity supply to the stables so the only additional infrastructure required is a new foul drainage system in the form of a biodigester which would discharge to a soakaway located in the garden, avoiding retained trees or any discharge into the beck. The number and appearance of the pods, landscaping details and tree protection measures can all be secured by conditions.

34. Having regard to the above it is considered that the development could be comfortably accommodated on the site without detriment to the character of the property or surrounding area. In the same respects there would also be no harm to the Area of Landscape Value designation. Accordingly there is no conflict with the relevant criteria of Teesdale Local Plan Policy TR3 (A, B, C, D, E) and policy ENV3. Nor is there conflict with the general design criteria of policy GD1 (A, B, F, I, P).
35. In addition, being mindful of statutory duty imposed by Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered that the development would preserve the setting of the grade II listed bridge to the south, as the proposals are physically removed from the bridge, and also due to the dense planting around the boundary of the site, which screen the proposal from the designated heritage asset. There is no conflict with Teesdale Local Plan Policy BENV3 in this respect.

#### Impact on neighbours

36. Although the proposal lies within the garden of the property, the pods, parking and access would still be considerably distant from the two neighbouring properties given the extensive nature of the grounds, and that is where all associated activity would be contained. Grove Cottage is the closest and does sit at a higher level, which affords distant views over the site from a small raised part of their garden, but their outdoor terrace is at a lower level and the main garden of Grove Cottage lies further north. The planting of new fruit trees may not offer full year round screening from Grange Cottage, but it is not necessary to do so as there would not be any unreasonable privacy impacts arising from the development.
37. If there is any potential for impact on neighbours it would be from noise. The Environmental Health recommendation to condition submission of a management plan are noted, but the separation distance, small number of pods, seasonal nature of the use, and fact that the applicant/management would also be living at the site are all likely to minimize potential for adverse noise and BBQ smoke impacts and ensure there is proper management of the small site. Even if there were occasions when noise from talking, children playing, music etc was audible to neighboring properties it would not be all the time and is unlikely to continue late at night because the management is also living at the site. The quality of leisure and recreational

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opportunities within the forest are also likely to draw people off the site during most days. In addition, site licensing requirements would place expectations on proper management of the site. A planning condition in these respects is therefore neither justified, nor could adherence to it even be enforceable in planning terms and as such, it would not meet the Planning Practice Guidance tests for use of conditions.

38. The NPPF at Para 123 states that planning decisions should avoid noise from giving rise to significant adverse impacts. For all the reasons above, it is considered that noise from the proposal would not fall within the “Significant observed adverse effect level”. No conflict is identified with Teesdale Local Plan Policies TR3 (F) and GD1 (E).
39. The Planning Practice Guidance also explains that noise should not be considered in isolation, separately from the economic, social and other environmental dimensions of proposed development. In the absence of identification of significant adverse effects on the amenity of neighbours, the tourism and rural economic benefits of this scheme are matters that carry significant weight in its favour.

#### Other Issues

40. The Highways Authority has raised no objections to the access arrangements and parking provision, and the small scale of development would not generate significant levels of local traffic. A condition could secure provision of the parking prior to the use commencing. There is no conflict with Teesdale Local Plan Policies GD1 (Q).
41. The site is not identified as being at risk of flooding and the small footprint of the development would have a minimal effect on surface water drainage characteristics of the site. The new parking area would be constructed in a porous material and this could be secured by a condition. There is no conflict with Teesdale Local Plan Policy TR3 (G).
42. Electricity and water connection would be via an existing private supply. It's unlikely such a small scale of development would put significant pressure on those supplies, but in any case it would be a private matter and therefore not a matter which could be given any weight in the consideration of this planning application.
43. Representations have suggested that all camping facilities in the Forest should be part of an overall development plan for the Forest, but this is a private proposal that has to be considered on its own individual merits.

#### Conclusion

44. The proposal is well placed in a popular visitor location and would increase the range of holiday accommodation in County Durham, thereby directly supporting a sector that contributes significantly in tourist spending in the County and which benefits other local businesses that rely on the local tourism industry. These are significant social and economic benefits. The proposal is wholly in accordance with the NPPF in these respects.
45. In addition, Teesdale Local Plan Policy TR3 is permissive of this type of development where it does not detract from the character and appearance of the area; is adequately screened; the scale and design are appropriate to the locality; site services are limited in scale; there is adequate infrastructure; it does not adversely affect neighbours' amenities; and it is not at risk from flooding. There has been no

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conflict identified with any of these criteria, and in turn, there is no conflict with Policies GD1, ENV3 and BENV3.

46. All representations have been carefully considered, however when the proposal has been assessed against the policies of the NPPF and Teesdale Local Plan it has been found acceptable in planning terms.

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## RECOMMENDATION

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Recommendation that the application is:

**APPROVED** subject to the following conditions

Conditions:

1. The development shall not be begun later than 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:

Description	Plan Ref No.	Date Received
Site location plan		04.01.2017
Proposed plans	Issue 6	03.04.2017
Biodigester details		04.01.2017

Reason: To define the consent and ensure that a satisfactory form of development is obtained

3. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme of landscaping shall include details of planting species, sizes, layout, densities, numbers, method of planting and maintenance regime.

Reason: In the interests of visual amenity having regards to Policy GD1 and ENV3 of the Teesdale Local Plan.

4. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first available planting season following the first use of the site as approved, and any trees or plants which within a period of 10 years from this point in time die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species. Any replacements shall be subject to the same conditions.

Reason: To ensure implementation of the landscaping in the interests of visual amenity having regards to Policy GD1 and ENV3 of the Teesdale Local Plan.

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5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (or any Order revising or revoking that Order) there shall be no more than 4 camping pods on the site and none of the camping pods hereby permitted shall be replaced by any other structures differing from the approved location and appearance, unless and until details of the size, design and location of such replacements have first been approved in writing by the Local Planning Authority on an application submitted to it.

Reason: In the interests of visual amenity having regards to Policy GD1 and ENV3 of the Teesdale Local Plan.

6. The camping pods hereby permitted shall not be occupied otherwise than for short term holiday letting purposes (not exceeding 6 weeks by any one person) and shall not be occupied as a person's sole or main place of residence. The owner/operator shall maintain an up to date register of the names and addresses of the occupiers of the pods and shall make the register available at all reasonable times to the Local Planning Authority upon request.

Reason: To ensure the pods are not used as permanent units of accommodation in the open countryside where there is a presumption against new residential development.

7. All hard surfaces on the site shall be constructed in a porous material.

Reason: To limit surface water runoff and in the interests of visual amenity having regards to Policy GD1 and ENV2 of the Teesdale Local Plan.

8. The access and car park shown on the approved plans shall be provided and be ready for use prior to the first use of the site as approved and shall be kept clear of obstruction and retained as such for the lifetime of the development.

Reason: In the interests of highway safety having regards to Policy GD1 of the Teesdale Local Plan.

9. The Tree Protection measures shown in the Arboricultural Impact Assessment: Proposed Glamping Site, Grove House, Hamsterley Forest, by Dendra dated 24.04.2017 shall be put in place before any development takes place on the site and shall thereafter be retained throughout any construction works unless the local planning authority agree in writing to any variation.

Reason: To ensure trees aren't damaged during construction. In the interests of visual amenity having regards to Policy GD1 and ENV2 of the Teesdale Local Plan.

## STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its recommendation have, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner. The Local Planning Authority has sought to ensure that this application has been determined within the statutory determination period.

## BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

Planning Practice Guidance

Teesdale District Local Plan

The County Durham Plan (Submission Draft)

All consultation responses and representations received

		
 <b>Planning Services</b>		Change of use of domestic garden to provide four camping pods
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>		22.06.2017

## Planning Services

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### APPLICATION DETAILS

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APPLICATION NO:	DM/16/03151/OUT
FULL APPLICATION DESCRIPTION:	Outline application for residential development of up to 70 dwelling houses with all matters reserved
NAME OF APPLICANT:	Mr Gordon Hirst
ADDRESS:	Land to the North of Salvin Terrace, Fishburn
ELECTORAL DIVISION:	Sedgefield
CASE OFFICER:	Laura Eden Senior Planning Officer 03000 263980 <a href="mailto:laura.eden@durham.gov.uk">laura.eden@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The 3.8 ha application site is an arable field bounded by trees and hedgerows located to the rear of Salvin Terrace in the north-easterly part of Fishburn.
2. The site is on elevated land rising up from Road C26 to the south from which access would be gained and contains a prominent ash tree in its north eastern corner. The site abuts small woodland belt adjacent to the southern boundary with residential properties in Salvin Terrace. .
3. Housing within Sedgefield Terrace and an ambulance depot also lies to the south and further residential development and a cemetery lie to the east. Open countryside lies to the north and west of the site which is crossed by a public right of way.

#### The Proposal

4. Outline planning permission is sought for residential development of up to 70 dwelling houses with all matters reserved. Indicative plans show that an access would be taken off the C26, running parallel with Fishburn and Stobart Terrace. The indicative layout shows houses located on the land to the rear of Salvin Terrace which appears capable of accommodating the 70 dwellings proposed and associated areas of public open space.
5. This application is being reported to Planning Committee as it falls within the definition of a major development.

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### PLANNING HISTORY

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6. The site does not benefit from any previous planning consents.

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## PLANNING POLICY

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### NATIONAL POLICY:

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
9. The following elements are considered relevant to this proposal;
10. *NPPF Part 1 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
11. *NPPF Part 4 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. *NPPF Part 6 – Delivering a wide choice of high quality homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing application should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
13. *NPPF Part 7 – Requiring good design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *NPPF Part 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.
15. *NPPF Part 10 – Meeting the challenge of climate change, flooding and coastal change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable

and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

16. *NPPF Part 11 – Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

*The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/publications/planningandbuilding/nppf>*

## **LOCAL PLAN POLICY:**

### **Sedgefield Borough Local Plan (1996) (SBLP)**

17. Policy E15 (Safeguarding woodlands, trees and hedgerows) Sets out that the Council expect development to retain important groups of trees and hedgerow and replace any trees which are lost.
18. Policy H8 (Residential Frameworks for larger villages) Outlines that within the residential framework of larger villages residential development will normally be approved.
19. Policy H19 (Provision of a range of house types and sizes including Affordable Housing) Sets out that the Council will encourage developers to provide a variety of house types and sizes including the provision of affordable housing where a need is demonstrated.
20. Policy L1 (Provision of sufficient open space to meet the needs for sports facilities, outdoor sports, play space and amenity space) Requires a standard of 2.4 ha per 1,000 population of outdoor sports and play space in order to benchmark provision.
21. Policy L2 (Open Space in New Housing Development) Sets out minimum standards for informal play space and amenity space within new housing developments of ten or more dwellings equating to 60sqm per dwelling.
22. Policy D1 (General Principles for the layout and design of new developments) Sets out that all new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.
23. Policy D2 (Design for people) Sets out that the requirements of a development should be taken into account in its layout and design, with particular attention given to personal safety and security of people.
24. Policy D3 (Designed with pedestrians, cyclists, public transport) Requires that developments should make satisfactory and safe provision for pedestrians, cyclists, cars and other vehicles.
25. Policy D5 (Layout of housing development) Requires that the layout of new housing development should provide a safe and attractive environment, have a clearly defined road hierarchy, make provision for appropriate areas of public open space either within the development site or in its locality, make provision for adequate privacy and amenity and have well designed walls and fences.

- 26. Policy D8 (Planning for Community Benefit) Sets out that developments are required to contribute towards offsetting the costs imposed by them upon the local community in terms of infrastructure and community requirements
- 27. Policy D9 (Art in the Environment) Encourages the provision of artistic elements in development.
- 28. Policy T1 (Footways and Cycleways in Towns and Villages) States that the Council will seek to ensure that safe, attractive and convenient footpath and cycleway links and networks are provided.

## **RELEVANT EMERGING POLICY**

### **The County Durham Plan**

- 29. 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:**

- 30. *Fishburn Parish Council* – Is supportive of the proposal as it is considered the development would benefit the sustainability of the village. It is hoped that matters relating to highways access and visibility will be fully considered taking into account the increased volume of traffic.
- 31. *Highway Authority* – Options for creating a new vehicular access onto the C26 are outlined in the Transport Assessment and are deemed to be generally acceptable subject to final details being agreed at reserved matters stage. There is also the potential to create improved vehicular and pedestrian access for the occupiers of adjacent properties. A series of general recommendations have been made to help inform any future reserved matters application.
- 32. *Northumbrian Water* – No objection to the development on the provision that a condition relating to foul and surface water drainage is imposed.

### **INTERNAL CONSULTEE RESPONSES:**

- 33. *Planning Policy* – The scheme conflicts with the general aims of the SBLP as the site is outside the residential framework contrary to policy H8. However this is considered to be a housing supply policy so is not up-to-date in the context of NPPF para 49 and in this instance the proposal should be subject to the planning balance test contained within Paragraph 14 of the NPPF. The scheme has the potential to deliver benefits in social and economic terms through the delivery of new housing including affordable

housing and is considered to be well related to the village if the landscape impacts are within acceptable parameters.

34. *Design and Historic Environment Section* – The development of this site would cause some incursion into the countryside but has the potential to provide a better defined settlement edge. However it is the detailed design that will dictate the overall quality of the development.
35. *Sustainability Officer*– No concerns raised in relation to locational sustainability. A condition is suggested to ensure that a scheme is agreed to embed sustainability within the development and minimize carbon from construction and in-use emissions.
36. *Landscape Section* – The proposals would have some localised adverse landscape and visual effects which could be reduced through detailed design.
37. *Arboricultural Officer* – It is recommended that the existing trees and hedges on site are retained and that any future planning application is supported by tree protection plans.
38. *Affordable Housing* –Affordable housing requirement of 10%
39. *Archaeology Section* – The submitted survey identifies features of interest which require further investigation. This should be secured by planning conditions.
40. *Drainage and Coastal Protection Section* – Despite initial concerns confirm that they have no objections to the proposed drainage strategy.
41. *Ecology* – An addendum to the submitted ecology report has been produced which identifies a series of recommendations to mitigate the impact to protected species, to be secured through a S106 legal No objection is raised on this basis and subject to the imposition of conditions relating to the agreement of a sensitive lighting strategy.
42. *Environmental Health (Contaminated Land)* – Offer no objection subject to the imposition of a condition
43. *Environmental Health (noise)* – No objection subject to the imposition of a construction management plan condition
44. *Public Rights of Way* – Two footpaths are affected by the proposal and footpath 12 will likely require diversion.
45. *School Organisational Manager* – There are sufficient primary school and secondary school places available in the area to accommodate additional pupils from this development.

#### **PUBLIC RESPONSES:**

46. The application has been advertised by way of a press and site notice, and individual notification letters to neighbouring residents. 7 letters of objection have been received in response raising the following issues and concerns:
  - a second access being created off the C26
  - the potential impacts to the Public Rights of Way
  - impact to existing trees and hedges on site
  - incursion into the countryside
  - destruction of wildlife habitat

- loss of light and privacy
- overbearing impact
- loss of view and property devaluation

47. One letter has also been received querying aspects of the development such as will there be a cap on housing numbers, the need for affordable housing in a place such as Fishburn, whether the development will actually go ahead, the proposed mix of housing, access, flooding, noise and disturbance from adjacent land uses.

#### **APPLICANT'S STATEMENT:**

48. The applicant understands that this proposal is to be recommended for approval, and as such draws the Planning Committee's attention to the detailed analysis made within this Officer Report, which concludes that 'on fair and reasonable planning balance' outline permission should be granted; as the next step in bringing this site forward for much needed housing development in a location that would greatly benefit from it - rather than directing all the development around Durham City. The new housing will support local services, bus routes and shops both in Fishburn and nearby - and provide jobs within the construction and support servicing whilst being built.

49. It is considered the plethora of specialist consultants' reports and beautiful indicative layout plans all support the case for approval.

50. The modest amount of objection comment is noted, however the Planning Committee will be well aware that 'you cannot make an omelette without breaking eggs' and that many, many factors have to be brought to bear in the difficult decisions they make. The planning conditions proposed will more than adequately ensure that any externalities, disbenefits and inconveniences are kept to the bare minimum possible.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<http://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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51. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, affordable housing, infrastructure, open space, impact on the character and appearance of the surrounding area, access and highway safety, impact on the amenity of adjacent residents and future occupants, ecology, flooding and drainage issues and other material considerations.

### **Principle of development**

52. Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The SLP 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, paragraph 215 of the NPPF advises that due weight should be given to relevant policies in existing plans according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given).

53. Furthermore, paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);

- approving development proposals that accord with the development plan without delay; and
- where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
  - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
  - ii) specific policies in this Framework indicate development should be restricted.

54. The application site is located outside of the residential framework of Fishburn, where saved policy H8 of the Sedgefield Borough Local Plan seeks to direct new housing. Sites located outside of residential frameworks are considered against countryside policies and objectives, to which there is a presumption against development for housing. The development of this site for housing would therefore conflict with saved policy H8 of the Sedgefield Borough Local Plan in this respect.

55. Durham County Council is currently unable to demonstrate a 5 year supply of deliverable housing land as Objectively Assessed Need for housing is yet to be fully tested. Despite the lack of a 5 year supply, and the guidance at para 49 of NPPF, it is not the case that every housing site should be approved although Paragraph 14 of the NPPF makes it clear that there is a “presumption in favour of sustainable development.

56. Within the Durham County Council Settlement Study (2012) Fishburn is classified within the Tier 3 – Local Service Centre contains among other things a primary school, public house, post office, local shops, church, health surgery and community centre. In assessing the sustainability of the site, it is considered that it performs well and future residents would have the opportunity to access a range of facilities and services without the need to utilise the private motor car. Sustainable transport links are considered to be good. As such the Council’s sustainability officer has raised no objection to the locational sustainability of the site.

57. A development of this nature could therefore be acceptable in principle, subject to the acceptability of detailed matters considered below.

#### Affordable Housing

58. In order to widen the choice of high quality homes and opportunities for home ownership, Paragraph 50 of the NPPF encourages the provision of affordable housing based on evidenced need. SBLP Policy H19 also encourages developers to provide an appropriate variety of house types, including affordable housing on specific allocated sites. This site is not identified as such under the policy which is also considered to be only partially consistent with NPPF. Accordingly, advice within the NPPF should take primacy with regards to this issue.

59. The identified need in the area is set out in the Strategic Housing Market Assessment and equates to a minimum of a 10% provision. The applicant has offered up 10% of the dwellings on an affordable basis to be secured by way of a planning obligation

secured through S106 of the Town and Country Planning Act 1990 to comply with the Policy requirement.

## Infrastructure

60. Saved Policy D8 of the Local Plan sets out that developments are required to contribute towards offsetting the costs imposed by them upon the local community in terms of infrastructure and community requirements. In this instance the Local Education Authority has highlighted that there are sufficient primary school and secondary school places available in the area to accommodate additional pupils from this development.

## Open Space

61. SBLP Policies L1 and L2 sets out that for every 10 dwellings developed 100sqm of informal play space and 500 sqm of amenity space should be provided, along with new equipped play areas where appropriate. These Policies are considered consistent with Part 8 of the NPPF which promotes access to high quality open spaces and opportunities for sport and recreation. The applicant has indicated a willingness to enter into a S106 agreement to secure such provision in addition to a financial contribution towards play and recreational facilities at a pro-rata rate of £1,000 per residential unit.

## Impact on the character and appearance of the surrounding area

62. SBLP Policies D1, D2, D3 and D5 seek to promote good design which relates well to the natural and built features of the site, the surrounding area and adjacent land uses. Policy E15 expects development proposals to retain woodland, hedgerows and important trees wherever possible. SBLP Policy D9 seeks to encourage the incorporation of public art within developments wherever possible and the incorporation of a public art feature can be secured by means of a planning condition.
63. Parts 7 and 11 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 58 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Due to their compliance with the NPPF significant weight can be afforded to SBLP Policies D1, D2, D5, D9 and E15 in this respect.
64. The layout and appearance of the proposed development is not under consideration, at this stage but the submitted information suggests that the development would be arranged around a series of cul-de-sacs with areas of public open space/amenity land and landscape buffers through the scheme. It is acknowledged that the development of the site would cause some incursion into the countryside however there is the potential to better define the settlement edge. Overall it is considered that the development would have an appropriate relationship to the surrounding built environment. No objection is therefore raised by the design and conservation section.
65. The site lies on gently sloping land which falls down towards the C26 and comprises of arable farmland that it is bounded by hedgerows. It contains a mature ash tree in the north eastern corner and a small woodland belt to the southern boundary with Salvin Terrace. It does not form part of a designated landscape. The landscape officer recognises that the development would have some localised adverse landscape and visual effects but considers that it would be seen in close association with the existing settlement edge. The development would be relatively well contained

in wider views from lower ground as it would be partially screened by existing built development and landscaping features. It would be visible in more open views from the north but seen in association with the existing settlement. A suitable landscaping scheme retaining existing features on site would help mitigate against potential adverse impacts. Such matters would be progressed through the reserved matters application. It is therefore not considered that the development of the site would have a significant adverse visual impact on the surrounding landscape that would justify refusal of this application of landscape grounds. As such no objection is raised by the landscape section.

66. SBLP Policy D9 states that the Council will encourage the provision of artistic elements in development schemes. The NPPF is silent on public art although it seeks to ensure that development is well designed and responds to local character. This reflects the aims of the Local Plan and the policy is considered partially consistent with the NPPF and can be afforded some weight. As there have been no issues raised in relation to bringing the scheme forward with regards to viability it is considered that a condition can be imposed to secure this matter.

#### Access and Highway Safety

67. SBLP Policy D3 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. SBLP Policy T1 seeks to ensure that safe, attractive and convenient footpath links are provided, where appropriate, to serve new development. These policies are 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.
68. Access is a reserved matter and detailed proposals would come forward at this stage. Options for creating a new vehicular access onto the C26 are outlined in the Transport Assessment. Colleagues in the highway authority have noted that these are deemed to be generally acceptable subject to the final details being agreed as a reserved matter. There is also the potential to create improved vehicular and pedestrian access for the occupiers of the adjacent properties by creating links off the new access road into the development. A series of general recommendations have been made to help inform any future reserved matters application. As such no highways objection is raised.
69. There are 2 recorded public footpaths, Fishburn Footpaths 10 & 12, affected by this application. Footpath no.12 extends through the field in roughly a west to east direction before following along the southern boundary of the site. Footpath no.10 runs in a north to south direction along the eastern boundary of the site and connects into footpath no.12 at its southern most point. It is likely that changes to these two footpaths will be required including improvement works. Such details would come forward at the reserved matters stage in association with the housing layout although Footpath 12 will likely require diversion from its existing route. Path diversions by legal order must be complete prior to any substantial development taking place. No objection has been raised by colleagues in the Public Rights of Way Section (and whilst the Ramblers Association were consulted no comments have been received).
70. Overall it is considered that the development would not adversely impact on the highway safety of the surrounding road network or public rights of way., The details regarding highway access, layout, parking provision, accessibility and potential diversions to PROW's could be controlled in any future reserved matters application. The proposal is considered to be in compliance with the relevant local plan policies.

## Impact on amenity of adjacent residents and future occupants

71. One of the twelve core planning principles of the NPPF is to always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. At a local level, policies D3 and H17 requires that satisfactory levels of amenity and privacy can be achieved for both the new dwelling and existing adjacent dwellings. SPG Note 3 establishes minimum separation guidelines between principal and non-principal elevations of neighbouring dwellings again in the interests of amenity and privacy (21m between facing principle elevations, 14m between principle and gable elevations). The local plan policies are considered to be in accordance with the intentions of the NPPF.
72. An indicative layout has been provided which demonstrates that 70 houses could be development on the site whilst providing sufficient parking provision, private and public amenity open space. In terms of the relationship between the proposed development and existing adjacent neighbours it is considered that a suitable layout could be provided to satisfy privacy distance requirements. No significant concerns are therefore raised at this stage and it considered that acceptable arrangements could be agreed at reserved matters stage.
73. The provision of the new homes in relatively close proximity to existing residential properties also raises the potential for noise and disturbance to be an issue throughout the development phase. Colleagues in the environmental health section consider that the imposition of a construction management plan condition regulating working practices would be sufficient to mitigate the potential of a statutory nuisance and have no objection to the proposal subject to its inclusion.
74. Following a review of available information including the historic maps and the submitted Phase 1 desk top study the contaminated land section considered that more was needed to adequately risk assess the site. A number of points have been raised and these can be added as an informative. Notwithstanding this colleagues raised no objection to development subject to the imposition of a contaminated land condition.

## Ecology

75. Paragraph 11 of the NPPF and policy E11 of the Local Plan requires that local planning authorities take into account, protect and mitigate the effects of development on biodiversity interests. The applicant has submitted an ecology report assessing the potential impacts of the development on protected species. This report concludes that there is a low risk of any protected species being located on site.
76. Having reviewed the addendum to the ecology report the Ecology Section is largely satisfied that the risk to protected species will be low. Subject to the mitigation measures outlined within the ecology report addendum being secured through a S106 legal agreement and imposition of the suggested sensitive lighting strategy conditions it is considered that the granting of planning permission would not constitute a breach of the Conservation of Habitats & Species Regulations 2010 and the Planning Authority can satisfy its obligations under these.

## Flooding and drainage

77. The NPPF requires that consideration be given to issues regarding flooding particularly from surface water run-off and that developments adequately dispose of foul water in a manner that prevents pollution of the environment.

78. 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. Whilst initial concerns were raised by the drainage section regarding the lack of a drainage strategy this matter has since been resolved. Subject to securing the finer detail of the agreed approach at the reserved matters stage the Council's Drainage and Coastal Protection officers offer no objections to the development or the overall drainage strategy. Northumbrian Water also suggest that a conditional approach to managing surface water discharge be adopted.
79. In relation to foul water, it is proposed to connect to the existing sewerage network. Northumbrian Water advise that the application does not provide sufficient detail with regards to the management of foul and surface water from the development to enable them to assess their capacity to treat the flows from the development. On this basis they recommend that a foul and surface water drainage condition is imposed.
80. Subject to conditions to resolve the final surface and foul water disposal, no objections to the development on the grounds of flood risk or drainage are raised having regards to Part 10 of the NPPF.

#### Other Issues

81. In terms of Archaeology, the NPPF sets out the requirements for an appropriate programme of archaeological investigation, recording and publication of results. The submitted geophysical survey identifies features of interest which need to be evaluated through trial trenching. This will be secured by planning condition.
82. Planning plays a key role in helping to reduce greenhouse gas emissions 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 as set out in the NPPF. As such the development would be expected to embed sustainability and minimize carbon from construction and in-use emissions. This matter can be controlled by a planning condition.
83. Whilst a letter of support has been received from the Fishburn Parish Council 7 letters of objection have been received from local residents. Some of the concerns relate to detailed matters that will be progressed as part of any future reserved matters planning application. Concerns relating to loss of view and property devaluation are not material planning considerations. All of the other objection reasons have been addressed within this report. Whilst the concerns of local residents are noted it is not considered that they amount to reasons sufficient to justify refusal of the planning application.

#### The Planning Balance

84. The acceptability of the application falls to be considered under the planning balance test contained within Paragraph 14 of the NPPF and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development need to significantly and demonstrably outweigh any benefits.
85. The Council cannot currently demonstrate a five-year supply of deliverable housing sites. As a result it is considered that weight should be afforded to the economic and social benefits of the additional housing to be provided including affordable housing contribution. The scheme would provide areas of public open space and contributions towards children's play equipment.

86. It is acknowledged that the proposals would have some localised adverse landscape and visual effects. However these could be reduced through detailed design which would be progressed as part of any future reserved matters application.

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## **CONCLUSION**

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87. The acceptability of the application falls to be considered under the planning balance test contained within Paragraph 14 of the NPPF.

88. In this instance it is accepted that the development would provide public benefits, the most significant of which, would be the boost that the proposal would provide to housing supply including the provision of affordable homes. Whilst it is acknowledged there would be an incursion into the countryside it is not considered that this would have a significant adverse impact.

89. The concerns of neighbouring residents are noted however it is not considered any of the issues raised would be sufficient to justify refusal of the planning application.

90. On balance, it is considered that the benefits of the development significantly and demonstrably outweigh any potential adverse impacts. It is not considered that there are material planning considerations which indicate otherwise therefore the application is recommended for approval.

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## **RECOMMENDATION**

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That the application be APPROVED subject to the completion of a legal agreement pursuant to Section 106 of the Town and Country Planning Act 1990 to secure the following;

- 10% Affordable housing
- Securing on-site open space provision
- financial contributions towards play and recreational facilities at a pro-rata rate of £1,000 per residential unit Ecological mitigation

And subject to the following conditions;

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

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

2. Approval of the details of access, appearance, landscaping, layout and scale (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority before the development is commenced.

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

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

Location plan received 29/09/2016

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with policies D1 and D5 of the Sedgefield Borough Local Plan and the NPPF.

4. Prior to 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: To ensure that sustainability is fully embedded within the development as required by the NPPF.

5. Notwithstanding the details submitted, this permission relates to a maximum of 70 dwelling houses on the site.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in with policy D5 of the Sedgefield Borough Local Plan.

6. No development of the relevant phase approved by this permission (excluding, archaeological investigation or any land remediation/ground improvement) shall commence until a detailed scheme for the disposal of foul and surface water has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be undertaken in accordance with the approved details. The submitted scheme should be based upon the "Surface Water Principles" contained within the County Durham Surface Water Management Plan and must adhere to the hierarchy of preference for surface water disposal. This hierarchy requires surface water to be disposed of in the following order of preference i) via infiltration or a soak away system ii) to a watercourse iii) to the sewer.

The agreed scheme should include but not necessarily be restricted to the following;

- i. Detailed designs of any sustainable urban drainage system infrastructure including any associated works and landscaping
- ii. A management and maintenance document detailing how the sustainable urban drainage infrastructure shall be managed and maintained.

The development shall be implemented in accordance with the agreed scheme.

Reason: In the interest of the adequate disposal of foul and surface water in accordance Parts 10 and 11 of the NPPF.

7. Prior to the submission of reserved matters the applicant must secure the implementation of a phased programme of archaeological work in accordance with a written scheme of investigation, including a timetable for the investigation, which has been approved in writing by the Local Planning Authority. The Scheme shall provide for:

i), the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area by means of trial trench evaluation to inform the reserved matters application(s);

ii), an assessment of the impact of the proposed development on any archaeological remains identified in the evaluation phase;

iii), proposals for a mitigation strategy for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible, should features be identified in the trenching phase (i);

iv), sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and

v), notification in writing to the County Durham and Darlington County Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

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

Reason: To comply with para 135 & 141 of the NPPF because the site is of archaeological interest.

8. 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 para. 141 of the NPPF which ensures information gathered becomes publicly accessible.

9. In view of the proximity of the proposed development to nearby residential premises the applicant shall prepare and submit a Construction Management Plan (CMP) to the local planning authority for approval. The CMP shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any occupants of nearby premises and shall detail mitigation proposed. This shall include:

- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management "Guidance on the assessment of dust from demolition and construction" February 2014

- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 'Code of practice for noise and vibration control on construction sites' 2014.

- Where it is necessary to undertake piling on the site details shall be provided justifying the method of piling used so as to minimise disturbance, from noise and vibration, to the occupants of nearby premises.

- Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council's accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no working on a Sunday or Bank Holiday.

- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.

- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

No works, other than site investigation works, shall be permitted to start on site until the CMP has been submitted and approved in writing by the local planning authority. Once approved the development of the site shall be carried out in accordance with the plan.

Reason: To protect the residential amenity of existing and future residents from the development to comply with policy D5 of the Sedgefield Borough Local Plan and the National Planning Policy Framework.

10. The development hereby permitted shall not commence until a pre-commencement scheme to deal with contamination has been 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, d or e are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 1 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) A Phase 1 Preliminary Risk Assessment (Desk Top Study) is required to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.

(b) If the Phase 1 identifies the potential for contamination, 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.

(c) 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

(d) 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.

(e) 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 the Local Planning Authority wishes 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 in accordance with NPPF Part 11.

11. Prior to the occupation of the first dwelling, a scheme for the provision of public art on the site shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall detail the appearance of the artwork, maintenance schedule and timeframes for implementation. The scheme shall be undertaken in accordance with the approved details and timings thereafter.

Reason: In the interests of the amenity of the surrounding area in accordance with Policy D9 of the Sedgfield Borough Local Plan and Part 7 of the NPPF.

12. No development shall commence unless in accordance with the Addendum to the Ecology and Planning Statement by Valley Environmental Consulting received 26 January 2017.

Reason: To ensure the preservation and enhancement of species protected by law in accordance with Part 11 of the National Planning Policy Framework.

13. A lighting strategy shall be submitted to and approved in writing by the Local Planning Authority prior to the first occupation of the dwellings hereby approved. The lighting shall be erected and maintained in accordance with the approved details.

Reason: To ensure the preservation and enhancement of species protected by law in accordance with Part 11 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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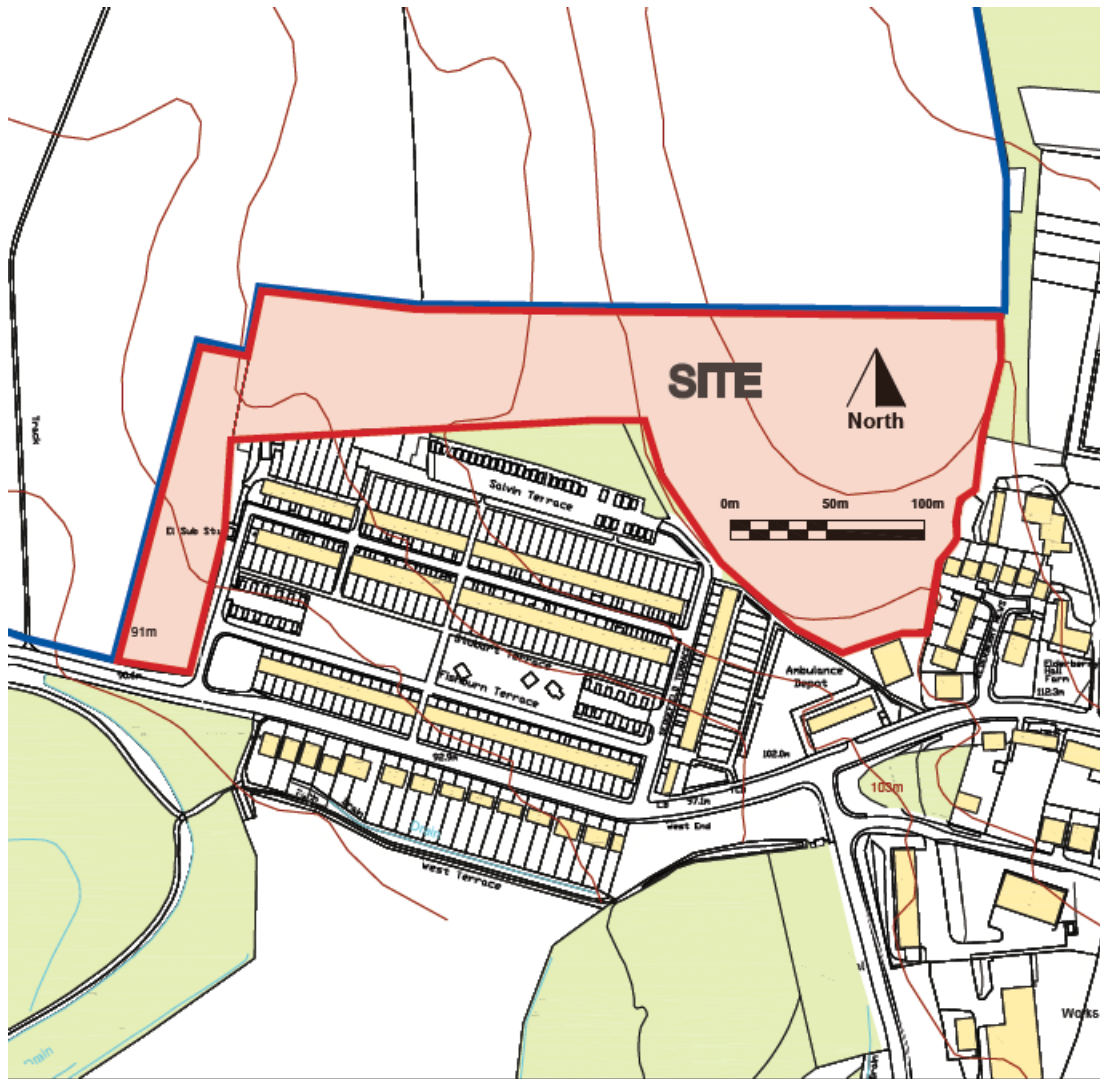
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering 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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- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- Sedgefield Borough Local Plan
- Evidence Base Documents
- Statutory, internal and public consultation responses



**Planning Services**

**Outline application for residential development of up to 70 dwellinghouses with all matters reserved**  
**Mr Gordon Hirst**  
**Land to the North of Salvin Terrace, Fishburn,**  
**Ref: DM/16/03151/OUT**

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**Date**  
 22<sup>nd</sup> June 2017

**Scale**  
 Not to scale

# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION No:	DM/17/00942/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing warehouse and construction of new warehouse extension with alterations to existing loading/unloading facilities and associated external works including fencing
NAME OF APPLICANT:	Kevin Gay on behalf of PWS Distributors Ltd
ADDRESS:	PWS Distributors Ltd, Station Road, Aycliffe Business Park, Newton Aycliffe, DL5 6EQ
ELECTORAL DIVISION:	Aycliffe East
CASE OFFICER:	Laura Eden Senior Planning Officer 03000 263980 <a href="mailto:laura.eden@durham.gov.uk">laura.eden@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site lies within Station Road, Newton Aycliffe in an area defined as a general industrial estate by policy IB2 of the Sedgefield Borough Local Plan. The surrounding area is predominantly within industrial usage. The site is bounded by Heighington Lane to the south. Immediately to the south west of the site on the opposite side of Heighington Lane lies the Locomotion One Public House, a Grade II listed building and Grade II listed signal box at Heighington Station.
2. The application site relates to an existing warehouse (2,800sqm) to the west of the main PWS operation. The building is of post war construction and does not offer sufficient height or space to meet the current requirements of the business. To the rear of the building lies a car parking area and delivery area both of which are accessed from existing access points on Station Road. There is a landscaping belt which runs adjacent to Heighington Lane.
3. PWS is recognised as one of the leading UK Distributors of Kitchen Components. In addition to the development site they occupy other units immediately to the east, west and north. They also have a factory on land to the east of the C147 Spring Road. Car parking is allocated on two sites within the PWS complex with site wide provision for 340+ vehicles.

#### The Proposal

4. Planning permission is sought for the demolition of the existing warehouse and the construction of a larger warehouse together with alterations to the existing loading/unloading facilities and associated external works including new landscaping

and fencing. The extension would measure approximately 67m wide by 87m long and would extend to 6,000sqm which would result in a net gain of 3,200sqm of floor space. It would match the height of the adjacent PWS building to the east and it is proposed that the materials to be used in construction would be similar in appearance to that of the existing building. This would consist of profiled metal wall cladding in a matching colour although it is acknowledged that the existing building has weathered over a number of decades.

5. The proposals would also include alterations to the existing loading/unloading facilities located to the west of the proposed building and to the rear of the remaining warehouse on site. The existing car park would be lost as a result of the proposals but there are two car parking sites within the PWS complex that have provision for 340+ vehicles. Some of the existing landscaping belt will also require removal to facilitate the development. A scheme has been proposed for additional landscaping to compensate for this. It is also proposed to erect new boundary enclosures.
6. This application is being referred to the Planning Committee as the proposed floor area for the developments exceeds 5,000sqm.

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## **PLANNING HISTORY**

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7. There have been a number of planning applications relating to the wider PWS site. With regards to this site specifically it benefits from planning consent granted in 2000 and 2008 for car parking and also for the demolition of existing warehouse to facilitate a replacement building and links to the adjacent warehouse. This latter consent was essentially for the same development currently being applied for. That scheme was never implemented and the consent lapsed.
8. A further application submitted by PWS is also under consideration. It relates to a new paint line building to the south of one of their existing buildings on land to the north of Heighington Lane.

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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.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
11. The following elements are considered relevant to this proposal;
12. *NPPF Part 1 Building a Strong, Competitive Economy*. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

13. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *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.
15. *NPPF Part 10 Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
16. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
17. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

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

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

## **LOCAL PLAN POLICY:**

### **Sedgefield Borough Local Plan**

18. Policy IB2 (Designation of Type of Industrial Estate) Outlines the designated industrial estates across the borough.
19. Policy IB6 (Acceptable Uses in General Industrial Estates) Sets out acceptable uses within General Industrial Areas, taking account the purposes of such areas.
20. Policy IB13 (Extension to Industrial and Business Premises) States a presumption in favour of such proposals provided adjacent industrial and business premises are not adversely affected, the site is not over intensively developed and there are no negative impacts in respect of residential amenity, area character or traffic generation.
21. Policy D1 (General Principles for the layout and design of new developments) Sets out that all new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area.

22. Policy D2 (Design for people) Sets out that the requirements of a development should be taken into account in its layout and design, with particular attention given to personal safety and security of people.
23. Policy D3 (Designed with pedestrians, cyclists, public transport) Requires that developments should make satisfactory and safe provision for pedestrians, cyclists, cars and other vehicles.
24. Policy D4 (Layout and Design of new Industrial and Business Development) Sets out that the layout and design of all new industrial and business development will normally be expected to have a high standard of building design, accommodate traffic generated by the development without causing danger or inconvenience to other road users and have an appropriate standard of landscaping including screening of open storage areas.
25. Policy E15 (Safeguarding woodlands, trees and hedgerows) Sets out that the Council expect development to retain important groups of trees and hedgerow and replace any trees which are lost.

## **RELEVANT EMERGING POLICY**

### **The County Durham Plan**

26. 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:**

27. *Great Aycliffe Town Council* – No comments or objections
28. *Highways Authority* – No objection
29. *Northumbrian Water* – No comments to make at this stage

### **INTERNAL CONSULTEE RESPONSES:**

30. *Travel Plan Advisor* – Following amendments the travel plan now meets the required DCC standards
31. *Landscape Section* – Raise a number of concerns with the initial landscaping scheme which proposed low level shrub planting to mitigate the loss of trees that require removal to facilitate the development. A revised scheme has since been submitted and is currently under consideration.

32. *Tree Officer* – Recognise that many of the existing trees will be removed or subsequently decline due to works proposed therefore suggest a replacement planting scheme is undertaken.
33. *Design and Conservation Section* – Raised concerns regarding the form, detailed design and loss of existing landscape would could have an adverse impact on the setting of the adjacent listed building and signal box
34. *Drainage* – No objection
35. *Ecology* – No objections to the proposals subject to the imposition of an informative relating to nesting birds.
36. *Environmental Health (Contaminated Land)* – Is satisfied with the submitted Phase 1 Desk Top Study and agrees with the risk assessment and recommendations. Due to its findings a contaminated land condition is required.
37. *Environmental Health (Noise)* – No objections
38. *Sustainability* – No objections

#### **PUBLIC RESPONSES:**

39. The application has been advertised by a press notice, on site and neighbouring residents were notified. No letters of representation have been received.

#### **APPLICANTS STATEMENT:**

40. None received

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### **PLANNING CONSIDERATIONS AND ASSESSMENT**

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41. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development; access and highway safety, impact on surrounding land users, visual, heritage and landscape impact, drainage and flooding and other considerations.

#### **Principle of development**

42. The site is designated under Policies IB2 and IB6 of the SBLP as an existing general industrial area. Class B1, B2, and B8 (storage and distribution) are acceptable uses under Policy IB6. The development mainly concerns the erection of a building for B8 - warehousing purposes which is acceptable in terms of the SBLP policies. In terms of more up to date guidance, consideration can also be given to the Employment Land Review carried out in 2011/12 which identified that this area should continue to be allocated for B1, B2 and B8 uses.
43. The NPPF also provides a presumption in favour of sustainable development and encourages the building of a strong, competitive economy. As outlined the proposal is considered to lie within a sustainable location and the development would support an existing business and employer within the area.

44. It is therefore considered that the principle of development is acceptable in terms of both local and national planning policy subject to the acceptability of detailed matters.

#### Access and Highway Safety

45. The information submitted in support of the application explains that the enlarged warehouse would be completely automated and operated by existing staff. As such there would be no requirement for any on-site car parking for additional staff to be considered. It is acknowledged that some existing car parking would be lost at the site however PWS provide centralised car parking on two individual sites within their complex with site wide provision for 340+ vehicles. The Highway Authority has confirmed they have no objection to development and the proposal would accord with policies D1, D3 and D4 of the SBLP in terms of highway and access issues.
46. Due to the amount of floor space proposed a Travel Plan has been submitted in support of the application. This has been assessed and following amendments the Travel Plan advisor has confirmed that it meets the required DCC standard to help mitigate the negative transport impacts of development. Agreement has been reached for the long-term management strategies for integrating proposals for sustainable travel options at the site.

#### Impact on the amenity of adjacent land users

47. Local Plan Policy D1 highlights that developments should have regard to a sites relationship to adjacent land users and activities. This policy is considered to be in accordance with one of the core principles of the NPPF which states that planning should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
48. In this respect the development site is substantially bordered by other industrial businesses including those in PWS ownership to the north, east and west. Therefore it is not considered that any adverse amenity issues would be raised over and above the existing situation. Furthermore, the environmental health section has raised no objection to the proposed development and its impacts.

#### Visual, Heritage and Landscape Impact

49. Part 7 of the NPPF deals with good design generally advising that it is a key aspect of sustainable development, indivisible from good planning that can lead to making places better for people. Policies D1 and D4 of the SBLP expect development proposals to include an appropriate standard of design.
50. The site is located within a broadly industrial landscape and should be viewed in the context of this setting. Furthermore, the development now proposed has formerly benefitted from consent although it is acknowledged this has now lapsed. The overall height of the building would match that of the adjacent PWS building to the east. It is proposed that the materials to be used in construction would be similar in appearance to that of the existing building which would consist of profiled metal wall cladding. Details have also been provided with regard to new boundary enclosures which are typical of fencing used within industrial estates comprising of 2.4 metre high steel welded mesh fence finished in green. In this regard it is considered that the proposed scale and design of the extensions and associated modification works around the site are appropriate and accord with policies D1 and D4 of the SBLP and part 7 of the NPPF. Furthermore it is not considered necessary in this case to impose conditions requiring the subsequent agreement of detailed design matters

51. Policy E15 seeks to retain important groups of trees where possible and replace any trees which are lost. On the southern boundary of the site there is a large group of existing trees and some hedgerows planted on a mounded area. To facilitate the development these are to be substantially removed, This is regrettable as the planting does make a notable contribution to the landscape and visual amenity of the local area. However this has previously been considered acceptable as part of the previous consent and there are significant economic benefits associated with the proposed development. A landscaping scheme is intended to help mitigate the loss. This has been revised to include more trees and tall shrub planting and is currently out for consultation with landscape colleagues. It is hoped an update will be available in time for the committee meeting however in the interim period a landscaping scheme and timing condition is proposed.
52. Colleagues in the arboricultural section acknowledge that many of the existing trees will be removed or subsequently decline due to works proposed therefore they suggest a replacement planting scheme is undertaken.
53. Part 12 of the NPPF requires the local planning authority to have special regard to preserving the setting of listed buildings or any special architectural or historic interest which it possesses in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The site is close to the Grade II listed Locomotion PH and Grade II listed signal box at Heighington Station. These are located immediately to the south west of the site, approximately 20m from the site boundary, on the opposite side of Heighington Lane.
54. The design and conservation officer has raised a number of concerns regarding the proposed development. Whilst their concerns are noted it is not considered that they would amount to reasons to refuse the application. The proposed building is to read as an extension to the adjacent building therefore its scale, massing and detail has largely been dictated. The development would be in line with a former approval and once a suitable landscaping scheme has been agreed it is not considered that the development would have an adverse impact on the setting of the listed building.

#### Drainage and Flooding

55. The NPPF requires that consideration be given to issues regarding flooding particularly from surface water run-off and that developments adequately dispose of foul water in a manner that prevents pollution of the environment.
56. The site does not lie within a known flooding area however constitutes major development. The Lead Local Flood Authority has been consulted and accepts the submitted drainage design with regards to surface water management. Northumbrian Water have not raised any concerns regarding the development.

#### Ecology

57. Paragraph 11 of the NPPF and policy E11 of the Local Plan requires that local planning authorities take into account, protect and mitigate the effects of development on biodiversity interests. The applicant has submitted a Great Crested Newt Risk Assessment report which concludes that the likely risks to newts is low.
58. The Ecology Section have raised no objection to this report however as works are proposed to trees they have recommended that an informative is imposed in order to address any risk of impact on breeding birds by the proposals. It is therefore considered that the granting of planning permission would not constitute a breach of

the Conservation of Habitats & Species Regulations 2010 and the Planning Authority can satisfy its obligations under these.

#### Other Considerations

59. A Phase 1 Contaminated Land Desk Top Study Report has been submitted in support of this application which makes recommendation for a Phase 2 Site Investigation. The contamination land officer is satisfied with the submitted report and its recommendations therefore suggest a condition is imposed requiring the submission of further information.
60. The site is considered to have good locational sustainability credentials. Furthermore, the agent has also provided information pertaining to how sustainability would be embedded into the development. On this basis no objection is raised by colleagues in the sustainability section.

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## CONCLUSION

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61. The proposal involves works to improve the operational efficiency and competitiveness of an established business and local employer on the Aycliffe Business Park. Planning permission has previously been granted for works of a similar nature and it is considered that the site represents a suitable and sustainable location for further industrial development both in principle and in detailed terms. As the report outlines all material planning considerations have been assessed and can be satisfactorily resolved with any outstanding detailed matters controlled through condition. As such the application is recommended for approval.

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## RECOMMENDATION

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That the application be APPROVED subject to the following conditions;

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

Reason: 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:

Drg. no. 17.01/01 location plan received 20/03/2017  
Drg. no. 17.01/03 proposed block plan received 20/03/2017  
Drg. no. 17.01/04 existing and proposed elevations received 20/03/2017  
Drg. no. 17.01/05 proposed section through received 20/03/2017  
Drg. no. 17.01/06 roof plan received 20/03/2017  
Drg. no. 17.01/07 proposed security fence received 20/03/2017  
Travel Plan Issue 2 dated 25<sup>th</sup> May by Tim Speed Consulting  
Drainage Strategy received 01/06/2017  
Micro Drainage Information received 01/06/2017  
Layout showing attenuation tanks received 01/06/2017

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies GD1, I5 and T1 of the Wear Valley Local Plan.

3. The development hereby permitted shall not commence until a scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following, unless the Local Planning Authority is satisfied that the site is suitable for the proposed use and dispenses of any such requirements, in writing:

#### Pre-Commencement

(a) A Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

(b) If the Phase 2 identifies any unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out by competent person(s). No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.

#### Completion

(c) 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.

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

4. Prior to the commencement of development a detailed scheme for the landscaping of the site shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide detail for:-

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

Full details of any regrading or alteration of levels on the site.

Full details of the surfacing/hard standing proposed for the road and parking areas

The approved landscaping scheme shall be implemented and completed in accordance with the approved details in the first planning season following the substantial completion of the development. 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 appearance of the area and to comply with policies E15, D1 and D4 of the Sedgefield Borough Local Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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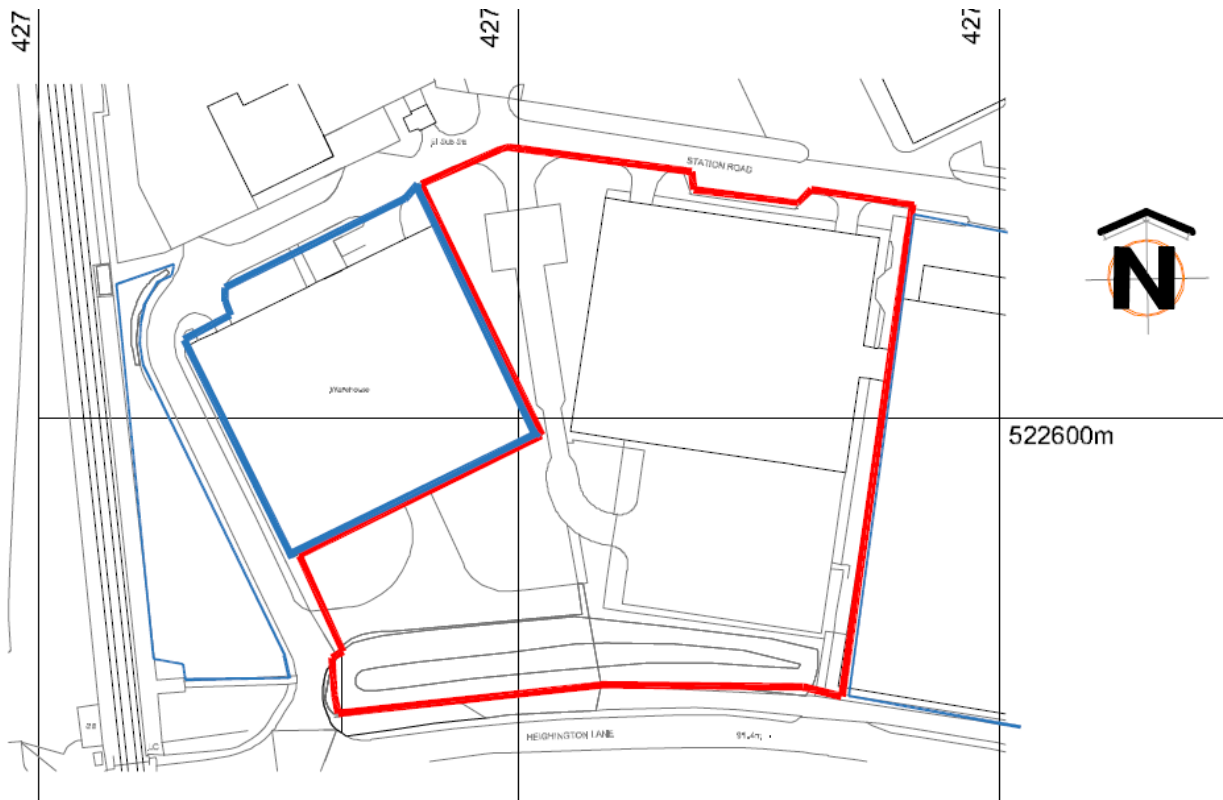
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering 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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- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- Sedgefield Borough Local Plan
- Evidence Base Documents
- Statutory, internal and public consultation responses



## Planning Services

**Demolition of existing warehouse and construction of new warehouse with alterations to existing loading/unloading facilities and associated external works including fencing**  
**Mr Kevin Gay on behalf of PWS Distributors Ltd**  
**PWS Distributors Ltd, Station Road, Aycliffe Business Park, Newton Aycliffe, DL5 6EQ**  
**Ref: DM/17/00942/FPA**

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**Date**  
**22<sup>nd</sup> June 2017**

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# Planning Services

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/17/00861/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	4no. dwellings including demolition of existing garages
<b>NAME OF APPLICANT:</b>	Livin
<b>ADDRESS:</b>	Garage Block, Villa Street, Spennymoor, Co Durham
<b>ELECTORAL DIVISION:</b>	Spennymoor
<b>CASE OFFICER:</b>	Mark O'Sullivan, Planning Officer, 03000 261056, mark.o'sullivan@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The application site relates to 2no. blocks of terraced garages (20no. units in total), owned by Livin, located to the east of Villa Street, Spennymoor. Neighbouring residential properties on Villa Street and Craddock Street lie to the north and west, with an enclosed children's play park to the east. To the south lie allotment gardens which are accessed via a narrow lane bordering the west of the application site and adjacent to the gable elevation of no.1 Villa Street.
2. The proposal seeks the demolition of the 20no. garage units and the erection of 4no. semi-detached, 2 storey properties. These units would be for affordable home ownership, marketed as Rent to Buy where prospective tenants pay affordable rent for five years allowing them to save for a deposit if they wish to buy.
3. All 4no. dwellings would be north facing and set back from the adjacent carriageway to allow for off-street parking provision and incidental landscaping to the front of each property. Private amenity spaces serving each property would be to the rear with a footpath accessing the adjacent allotments to be maintained to the west of the site.
4. The application is being reported to the Planning Committee at the request of Spennymoor Town Council which supports the views of concerned local residents over the perceived impact on access and loss of parking provision in the area.

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### PLANNING HISTORY

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5. There is no relevant formal planning history relating to this particular parcel of land.

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### PLANNING POLICY

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#### NATIONAL POLICY

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements

are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.

7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
8. *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.
9. *Part 6 - Delivering a wide choice of high quality homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
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.
11. *Part 11 – Conserving and enhancing the natural environment.* The planning system should contribute to and enhance the natural and local environment by 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.

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

12. The development plan is the Sedgefield Borough Local Plan saved policies:
13. *Policy D1 - General principles for the layout and design of new developments* - requires the layout and design of all new developments to take account of the site's relationship to the adjacent land uses and activities.
14. *Policy D3 - Design for access* - seeks to ensure new development makes satisfactory provision for all road users and pedestrians.
15. *Policy D5 - Layout of new housing development* - sets criteria for the layout of new housing developments.
16. *Policy E15 – Safeguarding of woodland, trees and hedgerows* – requires development proposals to retain areas of woodland, important groups of trees, copses and hedgerows wherever possible, replacing any trees which are lost.
17. *Policy H17 - Backland and infill housing development* - sets criteria for new backland and infill housing development.

## RELEVANT EMERGING POLICY:

### The County Durham Plan

18.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.

*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:

- 19.*Spennymoor Town Council* – Endorse the concerns raised by local residents over access and loss of parking.
- 20.*Highway Authority* – No highways objections to submitted plan ref: NE380 SL01 rev D (Proposed site layout), received 09 June 2017. There is no way a highways objection could be raised against this application based on Livin's business management plan for their garage sites. The applicant could consider the option of creating additional visitor parking bays on the grassed area to the west of Craddock Street if this area is under the applicant's control.

### INTERNAL CONSULTEE RESPONSES:

- 21.*Ecology Section* – No objections to the proposals. If approved it is advised the applicant be reminded by informative of sensitive timing of works so as to avoid impact on breeding birds.
- 22.*Environmental Health (Noise)* – Raise no objections. The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact. The proposed residential properties are to be located in close proximity to an allotment site which raises the potential for conflict from matters such as noise, smoke, pests, flying insects and odour. However allotments are community resources and are already sited close to existing properties.
- 23.*Environmental Health (Contaminated Land)* – Advise that given the potential for made ground / contamination on the site associated with the garages, and due to the fact that this development constitutes a change of use to a more sensitive receptor, a contaminated land condition should be applied to any approval.
- 24.*Arboriculture Section* – Consider the development to be achievable although there is likely to be future conflict between Plot no.4 and the existing trees to the east of the site

which may lead to excessive pruning or increased liability on the owner of the trees. To remedy this, the development would have to remove one dwelling. However, whether this would be appropriate or proportionate would be a decision for the planning officer.

#### **PUBLIC RESPONSES:**

25. The application has been publicised by way of site notice and individual notification letters to neighbouring residents. 14no. letters of objection have been received and the key areas of concern can be summarized as follows:

Loss of existing garage units will displace vehicles onto highway;  
Existing lack of off road parking in area will become worse;  
Impact on pedestrian safety resulting from increased congestion from roadside parking;  
Problems of access for emergency and waste collection vehicles;  
Vandalism to parked vehicles in the area will worsen;  
Restricted access for vehicles using roads as a result of congestion;  
Current condition of garages is good;  
Fear of having to park vehicles further away from properties;  
Loss of trees;  
Questions over who will occupy the houses?  
Alternative areas would be better suited for residential development;  
No need for additional housing in the area (high vacancy rates of existing stock and large scale developments nearby);  
Existing services such as GP's and Schools are already struggling to cope with increased population;  
Overdevelopment of site;  
Poor outlook for proposed dwellings;

26. A 24no. named signed petition has also been received from residents who reiterate concerns over perceived parking and access problems. Increased congestion would damage kerbstones and pavements and present a highway safety threat to pedestrians. Vandalism of vehicles parked in the street is also cited as a current issue which may worsen as a result of the proposed works. Furthermore, dwellings would appear out of character with their surroundings, with no need for more houses in the area given present vacancy rates within the Spennymoor settlement.

27. Cllr Maddison raises concern over increased traffic congestion and highway safety resulting from increased roadside parking. Concerns are also raised over the surplus of empty homes within the town and recent approvals for large scale developments nearby which are already placing strain on the town's services without further residential development proposed here. Doubts have been raised over the extent of the authorities neighbour notifications process which although are not relevant material planning considerations, are covered within the remit of this report.

#### **APPLICANTS STATEMENT:**

28. The Applicant has requested the following statement be provided for the attention of the Planning Committee in support of their application:
29. It is the responsibility of not just the local authority through their application of planning policy, but also of all of us, be that companies, landowners, or individuals, to make the most effective and efficient use of any and all land within settlement boundaries, and particularly that which has been previously developed – such as this application site. That is a key tenet of planning policy – many would say the most important one in these times of housing shortage.

30. Provision will be proactively made to try and accommodate any displaced parked cars should tenants require off-street car parking and it can be made within their curtilage – which is the most obvious place to park a household's car. However, obviously that will have to be done on a case-by-case basis and with the help of other parties where necessary.
31. It is a fact that these garages do not have a 100% occupancy rate. The rate is much lower and the trend is only getting even lower. The garages are all obviously single-storey and many of them that are rented are just used for general storage, household over-spill, and as a way of dealing with the clutter accumulated through life; instead of recycling it or selling it on.
32. All of these factors make it clear that the garages are not an effective or efficient use of this urban land resource - and that is the key test when this new housing scheme is being considered.
33. Is the proposed cluster of four houses a more effective and efficient use of this land resource, and does the layout proposed have an acceptable impact on the amenity of existing occupiers? The answers to both these questions is 'yes' – that is clear from all the internal and external consultee professional responses.
34. The DCC Highways Unit response makes it clear that any refusal on highways safety, traffic, congestion, overspill car-parking or other vehicle related grounds would NOT be sustainable at planning appeal; despite what some of the objectors raise.
35. Yes, there are impacts, but they do not outweigh the acceptability of this development for new housing - which the county and the country desperately needs in a wide variety of types, styles and locations. The officer has made a careful balancing judgement and outlined the many reasons why this application should be approved.
36. The officers and the county solicitor will underline that any Planning Inspector at an appeal (if the application was to be refused), would give weight only to the material planning considerations. The points raised by the objectors simply do not have sufficient weight in the planning balance to support a refusal; and thus any appeal against a refusal would stand an excellent chance of success – with the distinct possibility of an adverse costs award against the Council, such are the few issues in balance and how clearly they weigh in favour.
37. Even a flagpole casts a shadow – and there are often some disbenefits to redevelopment schemes, which otherwise are on balance acceptable and should be approved; as is the case here. There is simply not 'enough' in planning terms to reasonably resist this redevelopment scheme.
38. All parties want to avoid a costly appeal if they can, and that is why it is respectfully requested that the Planning Committee take up the officer's recommendation to approve this scheme; as per the careful and professional analysis made in the case officer's report.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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39. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the principle of development, Scale/Design, Privacy/Amenity, Arboricultural Impact, Highways, Ecology and Land Contamination.

The principle of the development:

40. Saved policies H17 and D5 of the Sedgefield Borough Local Plan support new residential development on backland and infill locations where this can achieve a satisfactory means of access and parking provision, satisfactory amenity and privacy for both the new dwellings and existing adjacent dwellings, and where development is in keeping with the scale and form of adjacent dwellings and the local setting of the site. Given the age of the Sedgefield Borough Local Plan, its general housing supply policies are out of date and therefore carry little weight. In these circumstances paragraph 14 of the NPPF advises that developments should be approved unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies of the NPPF as a whole.

41. The overarching principles of the NPPF seek to secure development in sustainable locations. Paragraphs 47- 55 of the NPPF seek to boost significantly the supply of housing to create sustainable, inclusive and mixed communities.

42. Spennymoor is a Main Town, as identified in the County Durham Settlement Study. The application site lies in an established residential environment and has good links to the local amenities and services in the town. Four additional dwellings in this location would make a small contribution to housing supply (and social objectives). Most of the site also constitutes brownfield land and its re-use is encouraged in the NPPF.

43. The proposal would deliver economic, social and environmental benefits in accordance with the core principles of the NPPF and is considered acceptable in principle, subject to an assessment of the other benefits and adverse impacts of the proposals.

Scale / Design:

44. Part 7 of the NPPF and saved policies H17 and D1 of the Sedgefield Borough Local Plan seek to ensure good design in new developments, having regard to a sites natural and built features and the relationship to adjacent land uses and activities. Development should be in keeping with the scale and form of adjacent dwellings and the local setting of the site.

45. The application site is not located within any Conservation Area or area of special control.

46. Each of the proposed 4no. dwellings would be of two storey scale, commensurate to neighbouring two storey residential properties which surround the site to the north and west. The semi-detached building form would sit comfortably within the terraced surrounds and the plot size would not appear out of place, incongruous, overdeveloped or cramped. Sufficient space would be left for private gardens to the rear (south) of each plot, with off street parking and small landscaped garden areas to the front (north).

47. The dwellings would be of grey buff brick construction with a Marley Eternit Birkdale fibre cement slate roof and white upvc fenestration which would not be out of place in this setting.
48. It is considered that the proposed dwellings would be of a scale and design which respect their surroundings, thereby satisfying the principles of Part 7 of the NPPF and saved policies H17 and D1 of the Sedgefield Borough Local Plan.

#### Privacy / Amenity:

49. Saved policies H17, D1 and D5 of the Sedgefield Borough Local Plan together seek to ensure that new developments provide satisfactory amenity and privacy for new and existing adjacent dwellings. Supplementary Planning Guidance Note 3 sets minimum separation criteria between dwellings, requiring a minimum 21m distance between opposing windows of primary elevations and 14m between primary and gable elevations of neighbouring property.
50. The proposed dwellings would be north facing, overlooking an area of public highway. To the east this development would border a children's play park which is sufficiently screened by existing boundary vegetation to be retained. Allotment land lies to the south, with the nearest properties in this direction some 60m away on Poplar Drive. No.1 Villa Street, with the aforementioned grassed access track serving the nearby allotments lies immediately to the west. Given these dwellings would be set back into their plot, the side (west facing) elevation of the end unit would only partially align with the side (east facing) elevation of no.1 Villa Street which would avoid any direct overlooking of the existing first floor gable window at no.1 Villa Street. The projection of the houses beyond the rear elevation of no.1 Villa Street would be under 3.5m and would not significantly impact on the residential amenity of the neighbouring occupier.
51. Means of enclosure (to be controlled by condition) would further help to maintain the privacy between existing and proposed neighbours with control over future extensions and outbuildings which may encroach into the aforementioned separation distances also recommended by conditions in the interests of residential amenity.
52. All proposed dwellings would occupy reasonably sized plots and have private front and rear garden spaces commensurate to surrounding plots.
53. With regards the amenities of neighbouring residents during the demolition and construction phases, appropriately worded conditions would ensure control over the timings of works so as to ensure the limitation of noise emission from the site during more sensitive hours.
54. In view of the foregoing and subject to the aforementioned conditions the proposed development is considered to satisfy the provisions of saved local plan policies H17, D1 and D5 and SPGNote3.

#### Arboricultural Impact:

55. Saved policy E15 of the Sedgefield Borough Local Plan requires development proposals to retain areas of woodland, important groups of trees, copses and hedgerows wherever possible, replacing any trees which are lost.
56. The application site contains no trees, although the adjacent play area to the east does contain a significant number, particularly along its western boundary with the application site. Although some neighbour concern has been received over the loss of these trees,

none of these are protected and there are no plans to remove any to facilitate the proposed development.

57. The application includes an Arboricultural Impact Assessment and Tree protection plan (AllAboutTrees, January 2017) which confirms that it would not be necessary to remove any trees to facilitate the proposed development. Furthermore the proposed plans include some tree planting within front gardens.
58. Areas to be protected by barriers are set out within this report, which if adhered to would avoid any significant damage to neighbouring vegetation during construction. Any approval should be recommended subject to conditions to ensure the appropriate tree protection measures are implemented on site as per the findings of this report and to agree landscaping details.
59. The views of the Councils Arboriculture section have been sought who raise no objections in this regard. It is considered that development of this site could result in future conflict, in-particular between the cherry trees to the east of the site that are likely to branch laterally in the future over the eastern most dwelling of the development plot. This may lead to demand for pruning or an increased liability on the owner of the trees. Given the findings of the report which confirm no harm to adjacent trees and the proposed implementation of landscape scheme to complement the proposed development, such mitigation and replacement planting is considered acceptable in planning terms.
60. It is not considered that the proposed development would conflict with saved policy E15 of the Sedgefield Borough Local Plan with insufficient grounds for refusal in this regard.

#### Highways:

61. Saved policies H17 and D3 of the Sedgefield Borough Local Plan, and Part 4 of the NPPF require new development to achieve a safe and suitable access. NPPF paragraph 32 states development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are considered to be severe.
62. The potential loss of any off-street car parking provision and subsequent displacement of vehicles onto the public highway is of considerable concern to local residents as demonstrated by the level of local opposition to the scheme. The views of the highway authority have been sought with regards the loss of 20no. existing garage units and the potential highways impacts resulting from the displacement of parked vehicles from this site onto the public highway.
63. The applicant has confirmed that of the 20no. units to be demolished, 16no. are currently occupied. 1no. tenant within this group currently resides some 350m away on St Pauls Gardens, with a further 4no. on Clyde Terrace to the north where there is existing on street parking provision available. The remaining 11no. tenants live within a 60m radius of the garage site entrance.
64. The possibility of creating some additional parking on a grassed area to the north of the garage block (to the west of no.93 Craddock Street) has been raised as a possible option by Highways to help alleviate demand caused by the displacement of vehicles from the site. Livin has confirmed that they would be open to any future suggestion of a joint funding initiative should it be decided that the site be viable to develop if approved. However it is not possible to consider this matter as part of this application as the area of land falls outside of the applicant's ownership (County Council owned) and is beyond the boundaries of the application site. Any development of this land for increased parking provision would also result in the loss of a small area of grassed open amenity

space. In any event the Highway Authority does not consider that it is essential that replacement parking is provided to make the scheme acceptable in highway terms.

65. With regards the 16no. displaced tenants, it cannot be assumed that all of these currently use the garages for parking purposes or that everyone who does would choose to park their vehicles on the public highway immediately adjacent to the application site if displaced. There is possibility for those displaced to be accommodated closer to their properties with the applicant having indicated that proactive steps would be made to try and accommodate any displaced parked cars should tenants require off-street car parking and it can be made within their curtilage.
66. Concerns have also been raised over the impact of development on access by emergency services and waste disposal vehicles as they negotiate their way through these streets. However these vehicles manoeuvre through many different street environments and it is unlikely that access on these estate roads would be completely restricted and at all times. For this reason, it is not considered that accessibility for such vehicles would be significantly affected to a detrimental level.
67. With regards the proposed site plan, a 1.8 metres wide footway/vehicular access crossing arrangement would be provided to the front of the site as agreed with the highway authority which would see a continuation of the southern channel line from Villa Street across the front of Plots 3 and 4.
68. On the basis of the 4no. 3 bedroomed dwellings having 2 no. on-site car parking spaces each, supported by 2no. visitor car parking spaces, this level of on-site car parking provision would be deemed to comply with the minimum requirements outlined in the DCC Residential Car Parking Standards 17.7.13.
69. Whilst the loss of existing garages and any associated displacement of vehicles onto the adjacent carriageway is regrettable, it is the case that Livin could decide as part of its ongoing review of its garage stock to terminate all garage licences on a notice period of 1 week and without the need to provide any alternative parking provision. This may not occur and Livin has indicated a willingness to explore alternative options within its own remit as housing provider.
70. From a planning perspective and having regard to Highways Advice, it is considered that the potential displacement of up to 16no. vehicles could be absorbed within surrounding streets and would not give rise to an unacceptable increase in highway safety, parking and congestion issues.
71. With no requirement for all those displaced vehicles to park in the area immediately surrounding the application site, and given the addresses of those tenants concerned, it is considered that the redevelopment of this site would unlikely give rise to any significant or detrimental impact on amenities or highway safety as a direct result of the congregation of vehicles immediately adjacent to the application site. Furthermore, there is no reason to assume that displaced vehicle owners will be forced to park their private vehicles any further away from their properties than at present. Whilst fear of vandalism to private vehicles currently parked on the roadside is noted as a cause for concern should displacement occur, unfortunately such issues are an existing issue which stem beyond the boundaries of this application and as such cannot be considered as a justifiable reason for refusal for this application alone.
72. There is no perceived significant conflict with policies H17 and D3 of the Sedgefield Borough Local Plan, and in accordance with NPPF paragraph 32, the residual cumulative impacts of the proposal on highway safety could not be classed as severe enough to justify a refusal on highway safety grounds.

## Ecology:

73. As the proposal involves demolition, regard must be given to potential impacts on bats, a protected species. In this case the garages are flat roofed and cold. As such, they do not represent suitable habitat for breeding or hibernating bats. The risk of disturbing bats or loss of habitat is therefore extremely low. The Ecology Section has considered the proposals and have no objection, subject to an informative reminding the applicant of the possible impact on breeding birds. There is no conflict with the requirements of the Habitat Regulations and Part 11 of the NPPF.

## Contaminated Land:

74. Part 11 of the NPPF seeks to ensure that new development is appropriate for its location, preventing unacceptable risks from pollution and land instability. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. Given the current use of the site for domestic garaging/storage it is very unlikely that there would be any significant ground contamination and therefore it would be appropriate to leave this matter to a condition, as recommended by the Contaminated Land Section.

## Other matters:

### *75. Public consultation:*

Concerns have been raised over the level of public consultation for the application with some properties notified currently vacant, and others not notified at all. The Planning Authority has distributed notification letters to neighbouring properties immediately adjoining the application site and displayed a site notice adjacent to it for a period of 21 days in line with statutory requirements. The Planning Authority do not hold records of vacant residential properties.

### *76. Existing vacancy rates across settlement and number of approved dwellings to be built:*

Such matters are not considered as material planning considerations relevant to the determination of this application.

### *77. Strain on local services:*

It is not considered that the provision of 4no. additional dwellings would lead to any significant and detrimental impact on the ability of local services to support the local population.

### *78. Who will occupy the dwellings:*

Such detail cannot be considered as a material planning consideration relevant to the determination of this application. Livin homes have however confirmed that the units if approved would be available for affordable ownership and marketed as Rent to Buy.

## Planning balance:

79. Paragraph 14 of the NPPF details how Planning Authorities should approve development proposals which accord with the development plan without delay. Where the development plan is absent, silent or relevant policies are out-of-date; Planning Authorities should only grant permission where any adverse impacts of doing so would be significantly and demonstrably outweighed by the benefits.

80. Whilst the loss of 20no. existing garages units within a local community made up largely of terraced properties would be regrettable; these are privately owned by Livin who could close these at any time as part of their business plan. As such, their ongoing

viability for their original purpose is very much in doubt regardless of the outcome of this application.

81. 16no. of these garages are presently occupied with one of these occupied by a resident who lives approximately 350m away and a further 4no. living nearby in areas where there is alternative parking provision. The remainder all live within close proximity to these garages. At worst, the resulting displacement of 11no. vehicles onto the public highway as a result of these works would be limited and can be satisfactorily accommodated across the wider streetscape with no necessity for all displaced vehicles to park in this exact location given the garage occupants do not all reside directly adjacent to this site. Such displacement would unlikely result in any significant and detrimental highway impact. As explained, Livin will seek to support those who are displaced where assistance is sought.
82. On balance, the benefits of redeveloping this site to provide an additional 4no. sustainably located dwellings of an appropriate design and layout that contribute to the level and mix of housing in the area would outweigh the negative impacts associated with losing these garages.

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## CONCLUSIONS

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83. The proposal represents a sustainable form of development that would deliver economic, social and environmental benefits in accordance with the core principles of the NPPF.
84. The redevelopment of this privately owned site would result in a sympathetic form of development which would reflect the character, layout and density of the surrounding street scene without significantly and detrimentally compromising highway safety, residential amenity, ecology, adjacent trees and land contamination. All representations have been carefully considered, however there have been no adverse impacts identified that would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies of the NPPF as a whole, or the other relevant policies of the Sedgefield Borough Local Plan. In accordance with NPPF Paragraph 14 and the presumption in favour of granting permission in this case, the proposal is therefore recommended for approval.

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## RECOMMENDATION

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

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.  
*Reason: 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:  
NE380 SL01 rev D (Proposed site layout), received 09 June 2017  
NE380 H2 rev A (3B5P House), received 14 March 2017  
*Reason: For the avoidance of doubt and in the interests of proper planning.*
3. Prior to the commencement of the development details of means of enclosure shall be submitted to and approved in writing by the Local Planning Authority. The enclosures

shall be constructed in accordance with the approved details prior to the occupation of the dwelling to which they relate.

*Reason: In the interests of the visual amenity of the area and to comply with saved policies H17, D1 and D5 of the Sedgefield Borough Local Plan.*

4. Notwithstanding the provisions of Class A, B, C, D, E, F and G of the Town and Country Planning (General Permitted Development) Order 1995 (or any Order revoking or re-enacting that Order) details of any enlargement, improvement or other alteration to the dwelling(s) hereby approved and any buildings, including sheds, garages and glass houses to be erected within the curtilage of the dwellinghouse(s) shall be submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of the visual amenity of the area and to comply with saved policies H17, D1 and D5 of the Sedgefield Borough Local Plan.*

5. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1400 on Saturday. No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1700 on Saturday. No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

*Reason: In the interests of the residential amenity of neighbouring properties and to comply with saved policies D1 and H17 of the Sedgefield Borough Local Plan.*

6. All planting, seeding or turfing comprised in the approved details of landscaping as detailed on approved plan ref: NE380 SL01 rev D (Proposed site layout), received 09 June 2017 shall be carried out in the first available planting season following the practical completion of the development. Any trees or plants which within a period of 5 years from the substantial completion of the development which die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species

*Reason: In the interests of the visual amenity of the area and to comply with saved policies D1 and E15 of the Sedgefield Borough Local Plan.*

7. No development, including demolition, shall commence until protective fencing has been placed around trees adjacent to the site, the details and position of which shall first have been submitted to and agreed in writing by the Local Planning Authority. The approved tree protection measures shall be retained throughout the construction period.

*Reason: To ensure the nearby trees are appropriately protected during construction in the interests of the visual amenity of the area and to comply with policy D1 and E15 of the Sedgefield Borough Local Plan.*

8. A Phase 1 Preliminary Risk Assessment (Desk Top Study) shall be carried out by competent person(s) and the results submitted to the Local Planning Authority before development commences, to identify and evaluate all potential sources and impacts on land and/or groundwater contamination relevant to the site.

If the Phase 1 identifies the potential for contamination, a Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) before development commences to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

If the Phase 2 identifies any unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be submitted to and approved in writing by the Local Planning Authority and thereafter

carried out by competent person(s). No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.

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.

*Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimized and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 11.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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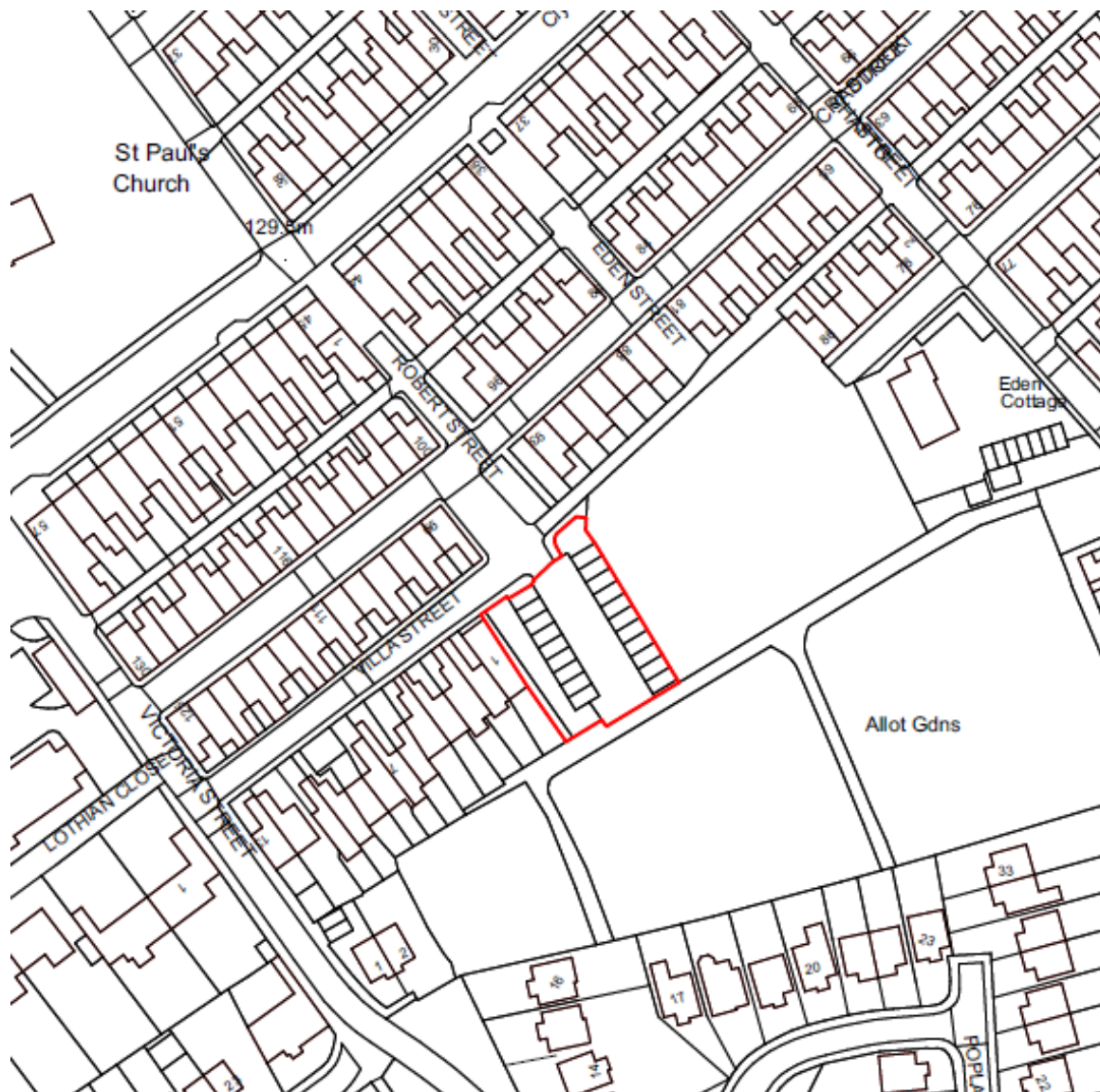
The Local Planning Authority in arriving at its decision have, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner. The Local Planning Authority have sought to ensure that this application has been determined within the statutory determination period.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
Sedgefield Borough Local Plan  
Statutory response from the Highway Authority  
Internal responses from Ecology, Arboriculture, Environmental Health and Contaminated Land



### Planning Services

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4no. dwellings including demolition of existing garages

### Comments

Date 22 June 2017