

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/01333/FPA
FULL APPLICATION DESCRIPTION:	Erection of dwelling.
NAME OF APPLICANT:	Mr Paul Johnson
ADDRESS:	East Durham Cathedral Farm, High Pittington, Durham, DH6 1EY
ELECTORAL DIVISION:	Sherburn
CASE OFFICER:	Lisa Morina Planning Officer 03000 264877

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to land known as East Durham Cathedral Farm which is situated off Lady Piece Lane which connects Sherburn Village and High Pittington.
2. The site currently consists of three businesses comprising a factory, equestrian use and agricultural use which was granted consent retrospectively in 2013.
3. Access is taken from the north eastern part of the site with a long hard surfaced track leading past a section of equestrian training track and outdoor equestrian exercise area. Car parking is provided adjacent to a main large building which is in use as a factory and an extension is currently being constructed to the side of this for cattle. To the south of this is an amenity building with a caravan located next to this building which is moved on and off site when required. To the west of the training track is a building which is used to run the equestrian business.

The Proposal

4. This application seeks consent for the erection of a dwelling. The dwelling is proposed to be located to the west of the amenity building and will be of a dormer bungalow style construction providing 3 bedrooms and an office within the roof space. At its widest points, the structure will measure 22m x 15.2m.
5. The application is before Members at the request of Councillor David Hall for consideration of the need for the dwelling for the proper functional running and security of three important and growing local businesses run by this one family based from this site.

PLANNING HISTORY

6. 4/02/01012/FPA - Part change of use of agricultural land and building for employment use (B2 and office), for the keeping and breeding of horses, siting of cabins for office and storage use, formation of horse exercise areas and runs, enclosures and electricity line pole and engineering works to the landscape for drainage purposes (Retrospective). Approved 16/9/2003.
7. DM/14/00476/FPA – Stable Block, withdrawn 16/5/2014
8. DM/14/02859/FPA – Stable block (in association with the relocation of existing horses on site), access track and fencing (resubmission). Approved 25/11/14.
9. DM/15/01403/FPA - Extension to existing building and new amenity building. Approved 13/10/15.
10. DM/15/01550/COL - Application for Certificate of Lawfulness of existing development for access to a classified road. Approved 8/7/15.
11. DM/15/03559/VOC - Variation of condition no.2 (compliance with approved plans) pursuant to planning permission DM/15/01403/FPA for extension to existing building and new amenity building. Approved 15/1/16.

PLANNING POLICY

NATIONAL POLICY

12. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
13. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
14. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
15. NPPF Part 6 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.
16. NPPF Part 8 Promoting Healthy and Safe 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.

17. NPPF Part 9 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.
18. NPPF Part 12 Achieving Well-Designed Places - 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.
19. NPPF Part 15 Conserving and Enhancing the Natural Environment - 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.

<https://www.gov.uk/guidance/national-planning-policy-framework>

LOCAL PLAN POLICY:

City of Durham Local Plan

20. Policy E7 - Development Outside Settlement Boundaries - Seeks to limit new development in the open countryside unless of agricultural/forestry purposes or essential infrastructure.
21. Policy T1 - General Transport Policy - Requires all developments to protect highway safety and/or have significant affect on the amenity of occupiers of neighbouring properties.
22. Policy T10 - Parking Provision - Sets out off street car parking in order to promote sustainable transport choices.
23. Policy H5 - New Housing the Countryside sets out criteria outlining the limited circumstances in which new housing in the countryside will be permitted, this being where it is required for occupation by persons employed solely or mainly in agriculture or forestry.
24. Policies Q1 and Q2 General Principles Designing for People and Accessibility states that the layout and design of all new development should consider the requirements of all users.

RELEVANT EMERGING POLICY:

25. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

STATUTORY RESPONSES:

26. County Highway Officer – Objects to the proposal due to its unsustainable position.
27. Environmental Health (Contaminated Land) – Contaminated land condition should be added.
28. Landscape Officer – Original scheme too large, amended scheme should be accompanied by a landscaping scheme to assess overall acceptability.
29. Business Durham – Information provided does not show functional need for industrial premises however temporary structure could be considered for animal side.

PUBLIC RESPONSES:

30. The application was advertised by neighbour letters and a site notice, no letters of objection have been received. Cllr David Hall, Pitlington Parish Council and Sherburn Village Council all offer no objection to the proposal.

APPLICANTS STATEMENT:

31. PJI Engineering Ltd is an important and expanding local business which employs 25 local people and has recently secured contracts with major manufacturing companies of critical importance to the North East and the regional economy. There is a current need for someone to be readily available at all times to more effectively and efficiently service the 24/7 call-out needs, 365 days of the year, of its major manufacturing client base.
32. Two other businesses operate from the site (East Durham Cathedral Farm and East Durham Equestrian) which are also under the ownership and control of the applicant. These are continuing to grow rapidly and are resulting in increasing animal numbers requiring intensive care and attention, especially the equine business which was established as a farm diversification project specialising in the training of horses and whose essential functional requirements can only be met by having someone on-site at all times.
33. The plans submitted with the application have been revised to ensure that the proposed dwelling would be commensurate with the size of the business enterprises operating from the site and also to ensure that there would be no resultant adverse impact on visual amenity or the landscape character of the area.
34. The proposed scheme and the detailed supporting case underpinning it is wholly compliant with all relevant national and local planning policy. Fundamentally, the application accords with Policy H5 of the City of Durham Local Plan, Draft Policy 12 of the emerging County Durham Plan, and paragraph 79 of the National Planning Policy Framework (Feb 2019) which all support the provision of new housing in the countryside provided there is an essential need for a rural worker to live permanently at or near to their place of work which is clearly the case in this instance.

35. 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 issues in this instance relate to the principle of development (including an assessment of the justification for a workers dwelling at the site), housing need, impact on residential amenity and streetscene/landscaping issues. as well as access/highways/sustainability issues and any other issues which may be relevant.

Principle of Development

36. The application site is located outside of the residential framework of any town or village, in a predominantly rural location within the open countryside and some distance from the nearest residential dwellings. The proposal therefore represents development within the open countryside where there is normally a presumption against new isolated dwellings.

37. Policy H5 of the City of Durham Local Plan remains relevant to the determination of this application and seeks to restrict new isolated dwellings within the open countryside. Specifically, it states that a new dwelling will not be permitted in the countryside unless it can be shown to be essential to the needs of agriculture or forestry, and where this need cannot reasonably be accommodated by a property within an existing town or village. Where such justification exists and permission is granted an appropriate occupancy condition should be attached. In this respect paragraph 79 of the NPPF is also relevant and takes a similar approach and states that dwellings will only be considered acceptable if there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work. In addition, the development should be of a size commensurate with the established functional requirement of the enterprise.

38. Policy H5 also states that the functional and financial viability of the scheme needs to be considered. While no longer forming part of national policy, the approach contained within Annex A of PPS7 is still accepted and endorsed by recent appeal decisions, advocating the application of functional and financial tests in determination of the need test for rural workers dwellings contained in paragraph 79 of the NPPF. These tests require proposals to be genuine, financially viable and have a clearly established functional need for the dwelling. For the local planning authority to accept that there is clear justification for a new dwelling, any application should robustly demonstrate that the functional and financial tests have been satisfied.

39. Whilst Policy H5 of the Local Plan is similar to the NPPF in respect of a dwelling within the open countryside and therefore weight can be afforded to it due to the level of consistency, the evidence base behind this policy is out of date therefore, Paragraph 11 of the NPPF is engaged.

40. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:

- approving development proposals that accord with an up to date development plan without delay; or
- where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, , granting permission unless:

- i) the application of policies in the Framework that protect areas or assets of particular importance provide a clear reason for refusing the application; or
- ii) 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

41. The tests for a rural worker's dwelling were included in Annex A of PPS7. This PPS has been replaced by the National Planning Policy Framework (NPPF) which does not give any detail on how to assess whether there is an essential need or not for a person to live permanently at or near their place of work. although caselaw R (Embleton PV) V. Northumberland CC (2013)) has emphasised that the need test in the NPPF differs from the former requirements of Annex A of PPS7 that was based upon the NPPF bringing about a change in policy which subsequent caselaw (Redhill Aerodrome) has cast doubt upon. () ,It is considered that the Annex guidance can still be used to an extent to help assess such applications. In particular, the Planning Inspectorate stance seems to be that the Annex A tests remain a useful tool but are not necessary to satisfy the national 'essential need' requirement which may be adequately demonstrated by other evidence as an alternative approach.

42. An Inspector has recently (August 2014) taken the view that Annex A is a "useful tried and tested methodology for assessing whether there is an essential need for an agricultural workers dwelling" and the Inspector referred to and shared the view of another Inspector in a 2013 decision that "the terms of para.55 cannot preclude demonstration of agricultural need by evidence that does not seek to, or cannot show, all the Annex A tests of PPS7 have been met" (Messrs I W & JM Appleyard v SOS APP/F0114/A/14/2220728). The last two appeal decisions appear to indicate that the Annex remains a useful tool in the absence of any alternative guidance.

43. Bearing the above in mind it is considered that a series of essential need tests must all be satisfied in order to permit such development. Each of the tests are set out and examined below. An assessment must also be made as to whether the proposal constitutes sustainable development in other respects.

Assessment of Functional/Financial Requirement

44. The site is currently split into 3 with the following businesses namely East Durham Cathedral Farm, East Durham Equestrian and PJI Engineering Ltd being located on the site. In order to consider whether a dwelling can be considered acceptable the first thing to consider is whether there is a clear established existing functional need for at least one worker to live at the site. This will be assessed individually for all three businesses given they are separate in their own right.

45. A functional need is defined as one which establishes whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times, for example, in case animals require essential care at short notice. In addition to this, whether the business is viable and likely to remain so in order to support the dwelling.

East Durham Cathedral Farm

46. The existing agricultural element presently comprises the rearing of sheep and cattle with around 25 animals currently on site. The applicant states an intention to introduce a housed bull beef unit following the completion of structures on the site, with animals brought in at around 2 weeks old up to about 12-15 months of age.

47. Given the limited number of animals on site, it is not considered that currently this business provides a functional need for a worker on site however depending upon the expansion of the premises this may change in the future however, it is considered that a bull beef herd wouldn't normally warrant on site presence especially if no breeding is taking place. In addition to this, consent has been granted for a separate agricultural building to the south of Sherburn Village which has no physical relationship to this site and in which the planning statement which accompanied this application stated that Mr Jonah Johnson was looking to expand the farming in this location away from the application site.

East Durham Equestrian

The second business run from the site is East Durham Equestrian which has been established by the applicant as a farm diversification project specialising in the training of horses. The applicant along with his son care for and train their own horses while offering training and other facilities (horse spa, plate massage, equine hydro therapy facilities) for third party horses. It is stated that 24 hour cover, protection and on-site supervision is currently provided although this is without the benefit of planning permission. The reason for the on-site presence is due to the cost of the horses and also the type of treatment/care that is required which is estimated at around 19 hours per day with on site presence being required for illnesses that may develop and require prompt treatment to be successful.

48. In addition to this, a deal has been established with Oakwood Stud in Ireland to look after their British based Clients however this has not yet been implemented.

49. Therefore, whilst it is considered that a presence may be required on site for this business, financial justification has not been given to show that it is currently viable enough to sustain a permanent dwelling on site in accordance with policy H5 of the Local Plan and Paragraph 79 of the NPPF. Given the functional need for the equestrian business can be met, the Council in accordance with policy H5 would be supportive of a temporary permission for the caravan which currently is stored on site and taken off site when required for business purposes that would help to allow the business to grown and therefore, a permanent dwelling could be sought in the future if the business becomes viable.

PJI Engineering Limited

50. The functional and financial need for the dwelling on site has predominantly been centred around this business. PJI engineering are metal fabricators who provide 24 hour off-site repairs and it is considered that the business can run more effectively with an on-site presence by providing a more effective and efficient service for the 24/7 call out service that the business provides.

51. Whilst financial information has been provided which would appear to prove the business could support a dwelling on the site, it is not considered that the functional need can be proven on this case.

52. Various other engineering firms operate from industrial estates, typically not in close proximity to their owner's residential properties, with businesses operating remotely in terms of security and function perfectly well. In addition to this, call outs to site require travel to the business which requires assistance and it is considered that the reduction in travel that would be achieved by the development which works out at approximately 2.4miles which with no traffic would be a 7minute drive, is not considered significant enough to demonstrate a functional need. Given this, it is not considered that the functional need can be proven in respect of this business. In addition to this, confirmation has not been provided that there are no other suitable properties nearby that are appropriate. Currently there are 54 properties for sale within a 1 mile radius of the postcode for this property.

53. Taking all the above into consideration, it is considered that whilst the financial justification may have been provided in respect of the PJI Engineering Business, the functional case has not been satisfactorily demonstrated; and whilst the functional case appears to have been provided in respect of East Durham Equestrian, the financial justification has not been proven. With regard to the agricultural business, this is not considered to satisfy either the functional or financial requirements at the present time. On this basis, the proposal is currently not considered acceptable in principle as the aims of policy H5 of the City of Durham Local Plan can not be met as the functional and financial justifications must relate to the same business.

Housing Need

54. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. The boost to housing supply from the development of one dwelling should not therefore be given significant positive weight in the planning balance.

Impact on residential amenity

55. The proposal is not within nearby proximity to any residential dwellings therefore, the impact on the residential amenity of neighbouring properties is not compromised.

Impact on streetscene/landscape

56. The NPPF in section 15 seeks to protect and enhance valued landscapes. Local Plan Policy E7 also seeks to ensure that developments within the countryside are situated so as not to be harmful to the landscape character of the area. In terms of design Section 12 of the NPPF and Local Plan Policy H5 encourage a high standard of design for all buildings in keeping with the character of the area.

57. The primary viewpoints are on Pittington Road and from Sherburn Village. The recent industrial and equestrian developments have eroded the unbroken rural character and nature of the location and this development represents an additional substantial change to the character of the countryside.

58. The revised design and amended location represents a modest improvement in terms of likely visual impact.

59. Whilst the dwelling is of an acceptable design within the area being sited within an existing cluster buildings and of an appropriate scale in relation to these buildings, it is still considered there would be some conflict with the NPPF and Local Plan Policy E7 in respect of the harm to the landscape from the presence of the dwelling given it would be visible from distances however, it is felt that providing an appropriate landscaping scheme is submitted, the harm is not considered sufficient to warrant refusal of the application on landscape issues.

60. The proposal would be accessed from an existing access from a classified road which is considered appropriate in highway terms and ample parking is available on site. The proposal is therefore considered acceptable in respect of access and parking in accordance with policy T10 of the City of Durham Local Plan.
61. Part 9 of the NPPF however, promotes sustainable transport and the proposal would be remote from services and amenities and would not be readily accessible to public transport. Given this any occupants of the dwelling would be heavily reliant on a motor vehicle which is contrary to Part 9 and the proposal is not considered to be sustainably located.
62. Normally, this would not be considered an issue when the dwelling would be on the site of the occupier's work as this would counteract such journeys. However, as it is considered that the proposal cannot justify a worker's dwelling, it cannot be considered to be in a sustainable location when considered under normal housing policies given it is detached from any village. The proposal is therefore not considered to be in a sustainable location in respect of reducing the reliance on the motor vehicle.
63. The Manual for Streets by the Department of Transport promoted the concept of walkable neighbourhoods and these are typically characterised by having a range of facilities within 10 minutes' walking distance (about 800m) of residential areas which residents may access comfortably on foot.
64. The application site is not considered to fall within this requirement with all measurements being taken from actual walking routes and taken from the entrance to the site. The application site is located some 980m to the nearest school in Pitlington with the school in Sherburn being located around 1200m away and the closest shops within Sherburn being 1246m away. The nearest bus stops are located 655m and 760m away. These routes are also considered unacceptable as they are not formal footpaths with limited lighting and are adjacent a national speed limit single carriageway. Therefore, whilst the applicant has stated that footway links would be improved, it is not considered that the proposal falls within a sustainable distance and therefore, the benefits of this would be limited and would not warrant an approval of the application on this basis. In addition, this would also include works to land outside of the ownership of the applicant and therefore may not be able to be achieved.

Other Issues

65. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.

The Council's Contaminated Land Section has been consulted and raises no objection to the application subject to a condition regarding remediation being placed on any approval. The development is therefore considered to accord with the aims of paragraph 178 of the NPPF.

66. Whilst it has been stated that the businesses help other local businesses and the community through donations, it is not considered that this is a sufficient enough reason to allow the development and does not override the fundamental sustainability concerns identified.

Planning Balance

67. The application is subject to the titled balance test contained in paragraph 11 of the NPPF. As there are no policies that protect areas or assets of particular importance which provide a clear reason for refusal then, accordingly, planning permission should be granted unless the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

The Benefits of the scheme are as follows:

68. The development would provide some benefit in terms of providing a boost to housing supply although this would be considered very limited at one dwelling, particularly in the context that the Council is currently able to demonstrate a 5 year supply of housing land and less weight should be afforded to the benefits of delivering new housing than would be the case if a shortfall in supply existed. It would also provide personal benefits to the businesses that operate from the site in terms of creating more convenient living arrangements.

The Adverse impacts of the scheme are as follows:

69. The proposal is not considered to provide a sustainable dwelling given its location within the open countryside and insufficient justification has been submitted to meet the requirements for a rural workers dwelling. There would be a reliance on the use of private motor vehicles for access to essential services and facilities, other than employment. In addition to this, the development of a new building is considered to have a negative impact, although it is considered that this could be potentially mitigated against with the submission of an appropriate landscaping scheme.

Concluding Point regarding Paragraph 11

70. It is considered that given the benefits of the scheme can only be afforded limited weight, the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits of the development, and accordingly planning permission should be refused.

CONCLUSION

71. This application has been fully assessed and considered in relation to the relevant. In reaching a recommendation on this application, comments submitted with the application have been fully considered along with comments received from consultees.

72. The proposal is considered to conflict with guidance contained within the NPPF in that it fails to present adequate justification for both the functional and financial need for the creation of a new isolated dwelling within the countryside to accommodate the essential need for a rural worker to live permanently at or near their place of work. In this regard the application is considered to be contrary to guidance contained within paragraph 79 of the NPPF and policy H5 of the City of Durham Local Plan.

73. The application is therefore recommended for refusal.

RECOMMENDATION

That the application be refused for the following reasons:

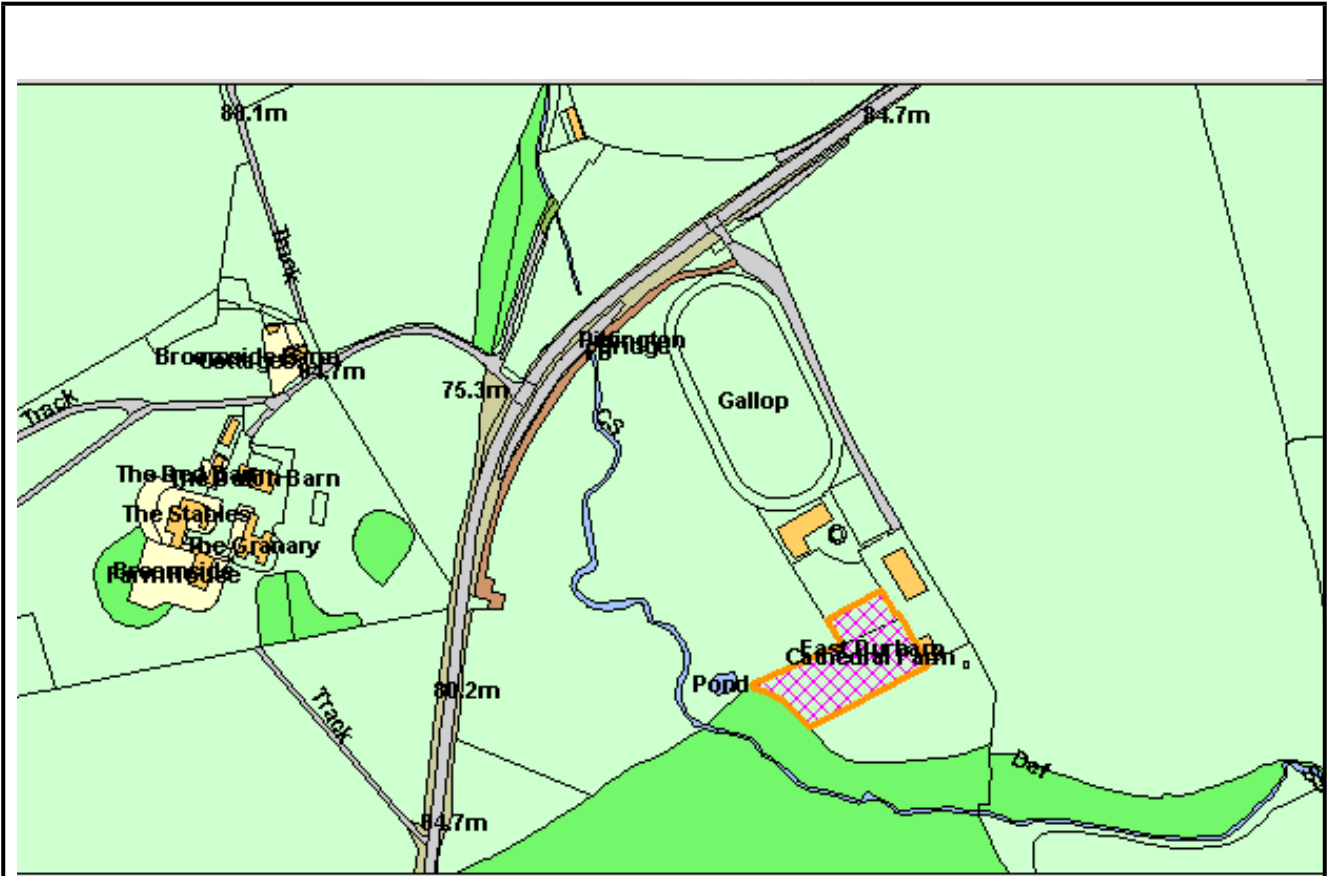

1. The proposal constitutes new residential development in the open countryside which is considered to be within an unsustainable location and without adequate justification in terms of an identified essential need or sufficient financial justification. Consequently, it is considered that the proposal is contrary to guidance contained within Paragraph 79 of the National Planning Policy Framework and the requirements of saved policy H5 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies and representations received, however, the issues of concern could not result in a positive recommendation.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Responses from statutory and other consultees
National Planning Policy Guidance

Durham
County Council

Planning Services

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Erection of dwelling at East Durham Cathedral Farm	
Date March 2019	