

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/19/02973/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Retention of static caravan to provide comfort facilities (Amended Description)
<b>NAME OF APPLICANT:</b>	Mr Tony Richardson, Sea View Villa, Park Lane, Horden, Peterlee, SR8 4DF
<b>ADDRESS:</b>	Land To The South Of Culloden Terrace, Grants Houses
<b>ELECTORAL DIVISION:</b>	Horden
<b>CASE OFFICER:</b>	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application sites comprises an area of land approximately 3.19 hectares in area located to the south of Culloden Terrace, Grants Houses, Easington. Whilst the site has an agricultural holding number the applicant is not engaged in any agricultural trade or business from the site which is principally used for the keeping of a variety of animals for the private enjoyment of the applicant only. Planning permission was also granted for the erection and use of part of the site as equestrian in 2014 although no horses appear to be stabled at the site at present.
2. The site is framed by terraced housing and allotment gardens to the north, a crescent of semi-detached housing to the east (beyond Sunderland Road) and by undulating open space to the south and west. It is delineated by an open boarded timber fence around its perimeter which is supplemented by large iron access gates.
3. It hosts several buildings of varying styles and sizes including stables, an aviary, an agricultural style storage building, static caravan and a large greenhouse. These are constructed in a range of materials including traditional facing brick, metal sheeting and timber cladding and some are in varying states of disrepair. The structures appear to have been constructed over a period of several years and in some cases without the benefit of planning permission but are now considered lawful due to the passage of time. Notwithstanding this, the retention of an aviary building was more recently granted planning permission in 2019 which resolved a previous breach of planning control.
4. Access to the site is taken via a short length of private track which connects to Sunderland Road West at a point approximately 113 metres to the north of the site entrance. It is noted that Sunderland Road also serves the terraced housing to the north of the site.

## The Proposal

5. Planning permission is sought for the permanent retention of an existing static caravan with associated raised decking on land to the south of Culloden Terrace, Grants Houses.
6. The static caravan is positioned across the north eastern part of the site and immediately to the south of a large greenhouse and is 3.5 metres wide by 11 metres long with a dual pitched roof to an overall height of 3.8 metres. It includes an area of raised decking with fencing to its eastern elevation and has external surfaces finished in plastic cladding to the walls and tiles to the roof and has plastic framed windows and doors.
7. The applicant has advised that the caravan is used to provide comfort/WC facilities and a sheltered area within which to prepare meals when at the site.
8. The application is reported to Planning Committee at the request of Councillor Ian McClean who considers the applicant to raise issues of welfare which should be given consideration by the Committee.

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## **PLANNING HISTORY**

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9. Planning permission was granted in 2014 for the erection of stables, a general purpose agricultural/storage building and change of use of land to equestrian. More recently planning permission was granted for the retention of an aviary at the site in 2019.
10. A planning application was submitted in 2019 for the erection of a dwelling at the site although this was subsequently withdrawn.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

11. 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.
12. 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;
13. *NPPF Part 6 Building a Strong, Competitive Economy*: The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.

14. *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.
15. *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.
16. *NPPF Part 15 Conserving and Enhancing the Natural Environment:* Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
17. *NPPF Part 16 Conserving and Enhancing the Historic Environment:* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

**LOCAL PLAN POLICY:**

18. The following policies of the Easington District Local Plan (EDLP) are considered relevant to the determination of this application.
19. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
20. Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
21. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
22. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.

## **EMERGING COUNTY DURHAM PLAN:**

### The County Durham Plan

23. Paragraph 48 of the NPPF states 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019 and was submitted to the Planning Inspectorate on 28 June 2019. Although the CDP EIP is currently proceeding and therefore the plan is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

24. Northumbrian Water Limited offer no objection to the application.

### **INTERNAL CONSULTEE RESPONSES:**

25. Landscape Section confirms that the siting of the mobile home has resulted in some adverse landscape and visual impact in conflict with landscape related planning policies.

### **PUBLIC RESPONSES:**

26. The application has been publicised by way of site notice and notification letters sent to neighbouring properties. No representations have been received.

### **APPLICANTS STATEMENT:**

27. The application relates to the siting of a caravan for the provision of welfare facilities, office space for visiting vets (including storage of medicines) and a monitoring station for CCTV and other security measures. It is often essential to spend long periods of time, including occasionally throughout the night, to care for the approximately 300 rare breed animals and birds during spells of sickness or while breeding/lambing etc. The Council have stated that, whilst they accept the need for welfare facilities, they feel other buildings on site could be used. We feel we have demonstrated by virtue of the photographs provided that this is not feasible, as all other buildings are used for housing livestock and/or storage of feed, plant and machinery.
28. The Council have also stated that the siting of the caravan has an adverse impact on visual amenity. Again, we feel we have shown that it is barely visible apart from within the smallholding itself. Local residents that it may be considered are subject to any visual impact, are generally supportive of what has been done with the site and there have been no complaints.

29. What has been done with the site has been generally well received by local residents and the wider community. The local Mencap organisation occasionally brings clients to visit the site to help with the animals and cultivate plants in the large greenhouse and have confirmed that it provides a wonderful therapeutic experience. These visitors also require welfare facilities and somewhere to have refreshments, and the charity manager has provided a letter of support for the application.
30. In conclusion, we feel that that the use of an alternative building on site is not feasible and the extent of any impact on visual amenity is negligible. As such, we would respectfully request that the Committee lend their support to the application.

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

### Current Use of the Site

32. In determining this planning application it is important to assess the extent to which the siting and use of the caravan is considered development in the context of S55 of the Town and Country Planning Act.
33. The stationing of a caravan on agricultural land for the purposes ancillary to the agricultural use of land in some cases might not constitute a material change of use of the land and as such does not requiring planning permission. However, this is based on the use of the caravan being ancillary to the agricultural use of the site.
34. Agriculture is defined at Section 336 of the Act as follows: “agriculture” includes horticulture, fruit growing, seed growing, dairy farming, the breeding and keeping of livestock (including any creature kept for the production of food, wool, skins or fur or for the purpose of its use in the farming of the land), the use of land as grazing land, meadow land, osier land, market gardens and nursery grounds, and the use of land for woodlands where that use is ancillary to the farming of land for other agricultural purposes, and agriculture shall be construed accordingly”. The keeping of rare birds, Llamas and the previous permission relating to the erection of stables and associated equestrian use of the site does not fall within any of these defined categories, which essentially relate to operations conducted for commercial purposes. Despite the fact that the applicant keeps a limited number of more traditional farm livestock and implements used for the cultivation of the land, the activities carried out there are not of a wholly agricultural nature.

35. As there are several uses present across the site the LPA therefore considers that in planning terms this amounts to a mixed use comprising horticulture, aviculture with some limited agriculture such that would be expected on an allotment in order to facilitate one's hobby.
36. Generally, the siting of a caravan falls to be considered as a use of land rather than operational development. Therefore, the use of a caravan in association with an existing lawful use at a site in some circumstances is not development (and as such might not require planning permission) because it is part and parcel of the lawful use. However, in this instance the caravan is a large static caravan type and has required the formation of an area of hardstanding, included significant decking and permanent affixation to that hardstanding as well as external cladding and a pitched roof. These works and degree of permanence mean that the caravan has ceased to be a caravan (as defined in the Caravan Sites and Control of Development Act 1960) and accordingly, it amounts to operational development which requires planning permission. This is irrespective of the fact that the proposed use may not amount to a change of use.

#### Principal of Development

37. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Easington District Local Plan (EDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that the degree of weight to be afforded to existing Local Plan policies will depend upon the degree of consistency with the NPPF.
38. The Easington District Local Plan (EDLP) was adopted in 2004 and was intended to cover the period to 2006. The NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired.
39. There are no saved policies of the EDLP which relate specifically to the siting of a caravan for the purposes described. Policy 3 of the Plan relates to settlement limits and is out of date so can only be afforded limited weight given that the NPPF displays a more permissive approach to development and a presumption in favour of sustainable development. Consequently, the application must be determined in accordance with Paragraph 11 of the NPPF.
40. For decision taking this means (unless material considerations indicate otherwise);
  - approving development proposals that accord with the development plan without delay; or
  - where there are no relevant development plan policies, or the policies which are most important for the determining the application are out-of-date, granting planning permission unless;
    - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or
    - ii) any adverse impact of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework when taken as a whole.

41. Having regard to the above, the Development Plan is considered to be silent and/or out of date with respect to this proposed development. As a result, the acceptability of the development rests on the planning balance of whether any adverse impact of approving the development would significantly and demonstrably outweigh the benefits, there being no NPPF policies at play which protect areas or assets of particular importance and which provide a clear reason for refusal.
42. The site appears well established for a variety of uses comprising the keeping of birds and other rare breed livestock, in addition to Llamas, chickens and other poultry and planning permission exists for the use of the stables and surrounding land for equestrian purposes. In this regard, it is important to note that this represents a mixed use for planning purposes and is not agriculture. Nor does it form part of any agricultural trade or business with the intensity of use akin to hobby use for the private enjoyment of the applicant only.
43. The proposal relates to the retention of a large static caravan at the site which was originally sited without the benefit of planning permission and is currently positioned across the north eastern part of the site. For clarity the applicant has confirmed that the caravan is not used for residential purposes or to provide any overnight accommodation at present.
44. Policy 3 of the EDLP remains part of the development plan and seeks to protect the countryside from inappropriate development, noting that development will only be permitted where specifically allowed by other policies in the plan. In this regard it is noted that policy 41 of EDLP previously provided a policy framework in support of animal shelters, feed stores and stock rearing units with a hobby or part time activity. However, policy 41 has expired and cannot be afforded any weight in determination of this application.
45. It is understood that the applicant is semi-retired and spends much of his time at the application site engaged in his hobby. At present he resides at a property in Horden which is approximately 2.6km to the south of the application site and the caravan provides comfort facilities in order to remove/reduce the need for him to make several trips back and forth from his home during the course of the day for meals and comfort breaks.
46. The relatively close proximity of the applicant's home is noted at approximately 2.6 km to the south at Horden and considered to be such that it provides accessible comfort facilities should they be required. In the event that the requirement to provide facilities within the site itself it is noted that there are several existing buildings within which appropriate provision could be provided with relative ease, thereby negating the need for the caravan.

#### Impact upon the Character and Appearance of the Surrounding Area

47. The application site is located within the countryside and beyond the residential framework of any town or village. Whilst it is framed by residential housing to the north and east, it is nevertheless viewed in the context of the open countryside and occupies a prominent location visible in the wider locale, particularly those views from the north and east. Whilst there are no landscape related designations the site does fall within a Durham County Council adopted *Landscape Improvement Priority Area*, where the spatial strategy is *enhance*.

48. Policy 35 of the EDLP relates to the general design and layout of new development and requires that development reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials and should provide appropriate landscape features and screening where required. This is considered to display a broad level of accordance with the aims of paragraph 127 of the NPPF which states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Accordingly, policy 35 can be afforded significant weight.
49. The application proposes the retention of the existing caravan which is approximately 3.5 metres wide by 11 metres long with a dual pitched roof to an overall height of 3.8 metres and includes an area of raised decking with fencing to its eastern elevation. External materials comprise plastic cladding to the walls and tiles to the roof with plastic framed windows and doors.
50. The topography of surrounding land is such that the application site is visible in the wider locality being elevated above surrounding land to the south and west and the adjacent settlement to the north. Key public vantage points are those to the immediate surroundings at Grants Houses to the north and Springfield Terraces, although it is also noted that the site is visible in views from Sunderland Road to the east.
51. The caravan is positioned in a location detached from existing buildings approximately 30 metres from the main thrust of the structures within the site and a similar distance from the terraced housing to the north. It's size and scale is such that it exceeds that which is functionally required to meet the applicant's identified need, which itself is limited to WC facilities and a place of shelter to have meals etc. In this regard it is also important to note that there are several existing buildings within the site which could be altered with relative ease to provide such facilities and without any adverse visual impact.
52. As a consequence, the caravan sits in isolation and is viewed as an incongruent addition to the existing landscape to the detriment of visual amenity and contrary to the aims of policy 35 of the EDLP and paragraph 127 of the NPPF, which together seek to ensure that new development is sympathetic to local character and history, including the surrounding built environment and landscape setting.

#### Impact upon Residential Amenity

53. As noted the caravan is located some 30 metres from the nearest residential properties to the north at Grants Houses.
54. Policy 35 of the EDLP requires that the layout and design of new development will be required to have no serious adverse impact on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation. This is considered to display a broad level of accordance with the aims of the NPPF at paragraph 180 which states that planning decisions should ensure that new development is appropriate for its location taking into account the likely effects (including effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.

55. The use of the caravan does not appear to have raised any issue of noise or odour beyond that generated by the wider use of the site, and the LPA has not received any complaint in this regard. The separation distances are considered sufficient to ensure there has been no adverse impact in relation to overlooking, overshadowing or loss of privacy and as such the proposal accords with the requirements of policies 1 and 35 of the Easington District Local Plan and paragraph 180 of the NPPF in this regard.

#### Parking, Access and Highway Safety

56. Policy 36 of the EDLP requires that new development provide safe and adequate access capable of serving the amount and nature of traffic to be generated and is considered consistent with paragraph 108 of the NPPF in respect of achieving safe and suitable site access. Therefore, significant weight can be afforded to it.
57. The application proposes the use of the existing access and would not result in any increase in the frequency of vehicle movements to the site and in this regard the siting and use of the caravan has not resulted in any unacceptable impact upon highway safety.
58. The proposal would therefore accord with the requirements of policies 36 and 74 of the EDLP and 108 of the NPPF.

#### Planning Balance

59. As the relevant policies of the EDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

#### *Benefits*

60. Whilst the retention of the caravan presents some personal benefits these would be limited and restricted to the applicant in terms of introduction of personal convenience facilities available within the site. Consequently, any benefit in this regard should be afforded only limited weight in determination this application.

#### *Adverse Impacts*

61. As highlighted the caravan occupies a prominent position within the countryside in an elevated location detached from the main cluster of existing buildings and adds to the detrimental impact of the cluster of buildings which presently occupy the site, some of which were constructed without planning permission and are now exempt from formal enforcement action. As a consequence, the caravan appears as a significant and incongruent addition in the surrounding landscape and as such has a significant detrimental impact upon visual amenity and the landscape character of the surrounding area.

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## **CONCLUSION**

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62. In applying the requirements of paragraph 11 of the NPPF it is considered that the adverse impacts of the proposal would significantly and demonstrably outweigh any benefits. In particular, the development, by reason of its isolated position, detached from clusters of existing buildings to the south and east, would fail to take account of the existing landscape setting and have a significant and detrimental impact upon the open character of the surrounding landscape to the detriment of visual amenity contrary to policies 3 and 35 of the Easington District Local Plan and paragraph 127 of the NPPF.

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## **RECOMMENDATION**

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That the application be **REFUSED** for the following reasons;

1. In applying the requirements of paragraph 11 of the NPPF it is considered that the adverse impacts of the proposal would significantly and demonstrably outweigh any benefits. In particular, the development, by reason of its isolated position detached from clusters of existing buildings to the south and east, would fail to take account of the existing landscape setting and have a significant and detrimental impact upon the open character of the surrounding landscape to the detriment of visual amenity contrary to policies 3 and 35 of the Easington District Local Plan and paragraph 127 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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

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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 (2018)

National Planning Practice Guidance Notes

Easington District Local Plan 2007

Statutory, internal and public consultation responses



**Planning Services**

Retention of static caravan to provide comfort facilities (Amended Description)

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**Comments**

**Date**

11 February 2020