

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/20/02379/FPA
FULL APPLICATION DESCRIPTION:	Construction of residential dwelling and associated commercial dog kennels
NAME OF APPLICANT:	Mrs Joy Johnson
ADDRESS:	Land To The South West Of High Terrace Roddymoor DL15 9RA
ELECTORAL DIVISION:	Tow Law
CASE OFFICER:	Adam Williamson, Planning Officer, 03000 260826, adam.williamson@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to an area of open agricultural land, located approximately 70m to the south west of the residential terrace of High Terrace, Roddymoor. The site measures approximately 1400 sq metres in area and is largely made up of a grassed area, used as grazing land, with a hard surfaced turning head at its eastern end. Mature trees are present to the northern and southern boundaries with additional grazing land beyond. To the east of the site, approximately 38m away is an agricultural building which is under construction.
2. The site is accessed via an unsurfaced track which measures approximately 77m in length, extending from High Terrace. The application site slopes upwards to the west, with the site being higher than the level of the access road.
3. There are a number of Public Rights of Way in the vicinity of the application site, with PROW no. 43 (Crook) passing through the eastern side of the site along the access road. Public Right of Way no. 164 (Crook) passes along the northern boundary and eastern boundary of the site. Public Right of Way no. 44 (Crook) passes approximately 43m to the south of the application site.
4. There are no designated heritage assets within 1 Km of the application site, nor does the site lie within a designated landscape.

Proposal

5. Planning permission is sought for erection of a kennels building and an associated dwelling, for the purposes of the operation of a dog breeding business. Both buildings would be located in the western corner of the site, forming a 'U' shape.

6. It is proposed that the dwelling would consist of a 3-bedroom detached property, measuring 16.5m in length, 7.4m in width and ridge height of 6m. The dwelling would be constructed from larch cladding to the ground floor, with corrugated cement sheeting to the 1st floor and roof. The dwelling is proposed to sit within a large, gravelled area, with sandstone paving around the perimeter of the dwelling. A concrete apron to the kennels is proposed, while a 900mm high post and rail fence would enclose the site.
7. The proposed kennels would adjoin the eastern elevation of the dwelling and would measure 15.5m x 4.6m with a ridge height of 4m. The external walls are proposed to consist of timber cladding with a corrugated cement roof. Internally the building would have 10 no. kennels, with the kennels being open to the southwestern elevation.
8. A small office block is also proposed adjoining the kennel building, which would measure 9.1m x 4.6m and have a mono pitched roof, measuring 4m to the highest point. The external walls are again proposed to consist of in timber cladding with a corrugated cement roof. The building would contain an office, kitchen, lobby and quarantine area.
9. The application has been called to committee at the request of Councillor Manchester, to allow for consideration of the applicant's business case by the Committee.

PLANNING HISTORY

10. At present, the applicant currently operates her dog breeding business from a property in Roddymoor, approximately 200 metres from the applications site operating since 2013. At the time of submitting this application, the applicant has a detached kennel building sited within the detached rear garden to the rear of the property. This kennel building contains 8 kennels with 8 dogs and is understood to have been constructed in 2012. A dog breeding licence issued by the Council's Animal Health department allows up to 10 litters per year, however it is advised that only two litters a year are bred. There have been no complaints to the Councils Planning Enforcement Team, or to the Councils Public Protection Team in respect of the current operation from the applicants dwelling.
11. Given the timeframe from the construction of the kennels, it is considered that these would be immune from enforcement action. Furthermore, based on the current level of operation and level of harm, it is considered that that the activities at the site are likely to be ancillary to the residential use of the dwelling, and have not resulted in a change of use requiring planning permission.

PLANNING POLICY

NATIONAL POLICY

12. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. 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.
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 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
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 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
19. *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.
20. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
21. *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 Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

22. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; climate change; design process and tools; determining a planning application; effective use of land; enforcement and post permission matters; flood risk; healthy and safe communities; land affected by contamination; land stability; natural environment; noise; rural housing; use of planning conditions; and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

LOCAL PLAN POLICY:

The County Durham Plan (CDP)

23. *Policy 6 (Development on unallocated sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
24. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
25. *Policy 12 (Permanent Rural Workers' Dwellings)* sets out the criteria needed to demonstrate the acceptability of a new permanent agricultural, forestry and other rural workers' dwellings outside the built-up area. These criteria include: details of the nature and demands of the work that demonstrate an essential functional need for a permanent full time worker to live on site; details that the rural business activity has been established for at least three years and is financially sound; the proposed dwelling should not be harmful to the landscape and character of the area; the scale of the dwelling should be commensurate with the functional requirement; the functional need cannot be fulfilled by another existing dwelling in the unit or area. If planning permission is to be granted, it must be subject to an occupancy condition and removal of householder permitted development rights. Further provisions for temporary accommodation and removal of occupancy conditions.

26. *Policy 21 (Delivering sustainable transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
27. *Policy 29 (Sustainable Design)* details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
28. *Policy 31 (Amenity and pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
29. *Policy 32 (Despoiled, degraded, derelict, contaminated and unstable land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
30. *Policy 35 (Water management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
31. *Policy 36 (Water infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defense infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
32. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

33. *Policy 40 (Trees, woodlands and hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
34. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.

<https://www.durham.gov.uk/cdp>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

35. *Highways Authority* - Advise that the vehicular access route between the site and the wider highway network is slightly shorter and more legible/direct via the public highway that runs east from the existing site access junction. It also avoids the Chestnut Grove/Oak Gardens etc housing estate and the existing site access junction is angled to facilitate such movements rather than via High Terrace. The bulk of vehicular movements generated by the new dwelling and business are deemed likely to use this route between the site and B6298, ie eastwards from the site access junction. The 170m highway link leading east from the site access junction is subject to a substandard carriageway width. If planning permission is granted then a condition for the provision of a passing place within this link should be attached.
36. *The Coal Authority* - Advise that coal mining legacy potentially poses a risk to the proposed development and that investigations are required, along with possible remedial measures. It is recommended that should planning permission be granted for the proposed development, a conditional approach to secure intrusive ground investigation works should be adopted, in order to ensure the safety and stability of the development site.

INTERNAL CONSULTEE RESPONSES:

37. *Environmental Health Public Protection (Nuisance)* - Advise the development is likely to breach the thresholds within the TANS, Noise TANS section 3.7 pg. 18. This indicates that the development may, without further controls, lead to a significant impact. However, the applicant has specified that provision is to be made for the control of noise emanating from the proposed development, including details management, layout and/or structural measures that will be implemented.
38. Noise associated with the vocalisation of dogs in commercial kennels can give rise to statutory nuisance to nearby sensitive receptors. However, it is considered that subject to conditions to fully agree management plans and structural measures this would mitigate the potential of a statutory nuisance and therefore no objection is raised to the development.
39. *Environmental Health Public Protection (Contaminated Land)* - Following assessment of historical maps and available information with respect to land contamination and the submitted screening assessment form, it is advised that there is no requirement for a contaminated land condition.

40. *Public Rights of Way*- Advise that the proposed access would use Footpath 43 from the North- East, any improvements required for vehicular use and future maintenance for either footpath surface should be well compacted and well drained and should be suitable for pedestrian use. There is no objection to a passing place alongside a footpath, where a footpath is used as the primary access route.
41. *Ecology* - Advise that a Preliminary Ecological Appraisal is required to assess the potential impact on protected species. Depending on the results of the survey mitigation measures may be required, net gains in biodiversity should also be achieved by the development.

PUBLIC RESPONSES:

42. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents. Following this publicity, 7 letters of objections have been received, as summarised below.
- The objections received state that proposal will cause noise disturbance to nearby residents from the number of dogs barking resulting in nuisance to neighbouring residents.
 - Comments have been made that the land was previously used for Coal Mining and as such the land may be unstable.
 - Objections state that the use of the site for kennels will cause an unacceptable impact in terms of smell from animal waste.
 - Comment has also been made that the proposal will devalue nearby properties
43. 12 letters of support have also been received. The comments state that the proposal will provide local jobs, that neighbours foresee no noise issues, and that there is no existing noise nuisance from the applicant breeding dogs in her home.

APPLICANTS STATEMENT:

44. I became involved with Bull terriers in 1994, showing, breeding and then eventually judging, all to the highest Championship standard. In 2001 I made up my first Champion and with him won Best of Breed at Crufts, this catapulted my kennels fame to the fore front of the breed and I have worked hard since to keep it there, further wins over the years include;
45. Twice winner of the Sandawana Trophy for top coloured Bull terrier in the country, Top puppy and Stud dog in the country awards, a dog of my breeding this year won the prestigious Regent Trophy for Bull Terrier of the year which is the highest accolade any Bull Terrier can win from a breeders point of view. I have made up or bred 7 UK Champions, 15 allocated KC stud book numbers for high achieving dogs that didn't quite make champion and numerous foreign champions across the world.
46. I am a qualified Animal Nursing Assistant and worked as a veterinary nurse for 15 years between 1992 & 2007. I was secretary of the local breed club society for several years and currently hold a highly sought after position as a committee member of 'The Bull Terrier Club' which is the mother breed club, overseeing the breed in the UK. I am a Kennel Club Assured Breeder holding the highest level of accolades offered by the scheme. Also a DCC licensed Breeder holding a 5 star rating.
47. In 2012 I found myself with more time to dedicate to my dogs and with an ever increasing demand for my puppies I became registered with HMRC as a sole trader.

48. In 2015 after years of study, judging qualifications and assessments I was awarded the top honour as a international judge to award Challenge Certificates by the Kennel Club, this increased my reputation further and lead to several overseas judging appointments a year, I regularly judge across Europe, Scandinavia and Australia as well as appointments in the UK.
49. After the new dog breeding regulations came into play in October 2018 I applied to become a licensed breeder to keep in line with the law. In July 2019 my application was successful and my breeding license was granted by Durham County Council at a 5 star rating. Under the new law this means I can breed over 2 litters per year, however due to the strict guidance I am limited by space. I feel for my business to reach its full potential I need bigger premises, I simply don't have the space needed indoors to have more than 1 litter of puppies on the premises at a time, to correctly rear my puppies to the high standard I am accustomed to they must be reared in doors. The breed I have must be watched 24/7 for the first 2 to 3 weeks to avoid heavy losses, after this it's important for the puppies socialisation and mental development that they are raised in an indoor environment with 24 hour care at hand. I have 8 kennels in my current outdoor kennel building, they currently house my old retired girl, an old, un rehomeable girl for Bull Terrier welfare, 1 stud dog on loan from America, 1 miniature breeding bitch, 2 standard breeding bitches and 2 male puppies I am hoping make the grade as show/stud dogs. I have 2 six week old puppies and their mother in the house. I am currently full to capacity and only able to breed 2 litters a year without overcrowding both my indoor and outdoor space.
50. I have a huge demand for my puppies, today alone I have 4 puppies enquiries all of which I have passed on to breeders with litters from the stud dog I have here as my waiting list is currently (at my current rate of supply) approximately 2 years long. There is no scope at my current address for expansion and don't want my dogs to become a problem for my neighbours.
51. I propose building a new, a purpose built breeding facility, inline with DEFRA dog breeding regulations with modest living quarters, allowing me to be on site at all times as required by my breeding license (see attached reference link to The Animal Welfare (Licensing of Activities Involving Animals) (England) Regulations 2018 – see Part A, condition 5.9 and 10.4 Higher Standard for A competent person must be on site at all times. Also Part B, condition 2.2 and 2.5 for space restrictions as described below).
52. This would provide me with room to increase numbers sufficiently to keep up with demand and allow me to turn a more reliable profit, whilst keeping my high standards of care and give my dogs the space and quality of life they require. With separate purpose build whelping rooms fitted with incubators, whelping boxes and resting areas for mums, this would allow me to breed more 1 litter at a time.
53. Bitches living together sync so they all come into season at the same time approximately 6 months apart, so twice yearly. Although I can legally have more than 2 litters a year this season timing and issue with space is making very difficult to do so, factor in that the girl I choose to breed doesn't always become pregnant, I often don't even have 2 litters per year if a breeding is unsuccessful, its proving most frustrating as I know given more space I could breed more than 1 bitch at a time, increasing my number of successful pregnancies and not continually letting down potential puppy buyers. It would also allow me to keep stud dogs, at present I loan 1 stud dog at any 1 time to use on my girls, any stud fee's this dog then makes from other breeders using him at stud goes to the owner not myself. I only have space for 1 adult male in my current situation; however it makes much more financial sense to own my own males.

54. I own a site of approximately 6.5 acres on the edge of Roddymoor village, adjacent to High Terrace. I currently can't utilise this space effectively as I must be on site to see to the dogs daily care as part of my license agreement and of course my own peace of mind, my dogs are too vulnerable and valuable to leave unattended. I would like to build my facility on this site with your approval.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

55. 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, locational sustainability, landscape/visual impact, local amenity, highways, ecology, flooding and drainage, ground conditions, and other matters.

Principle of the development

56. 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 County Durham Plan (CDP) is 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. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.
57. Policy 6 of the CDP recognises that in addition to the development of specifically allocated sites, there will be situations where future opportunities arise for additional new development over and above that identified in the Plan, this includes for employment and economic generating uses. Policy 6 sets out that the development of sites which are not allocated in the Plan which are either (i) in the built up area; or (ii) outside the built up area but well related to a settlement will be permitted provided the proposal accords with all relevant development plan policies and where specified design criteria are met.
58. The County Durham Plan defines 'the built up area' as land contained within the main body of existing built development of a settlement, or within a settlement boundary defined in a Neighbourhood Plan. Areas falling outside this definition will be regarded as countryside. The site lies outside of Roddymoor and it is not well related to the settlement, and as such it is considered to be situated in the countryside. As such no support for the development can be drawn from CDP Policy 6.
59. The suitability of the principle of development therefore needs to be assessed under County Durham Plan Policy 10, which relates to development in the countryside and advises that development will not be permitted in the countryside unless allowed for by specific policies in the Plan (including Policy 12 relating to rural workers dwellings) or where the proposal comprises an exception related to economic development, infrastructure development or the development of existing buildings. Policy 10 also establishes general development principles for development within the countryside, which is considered in detail in later sections of the report.

60. In this respect the proposed development due to its nature does not satisfy the exception criteria related to infrastructure development or the development of existing buildings. In relation to economic development, Policy 10 permits development necessary to support:-
- a. an existing agricultural or other existing rural land-based enterprise or associated farm diversification scheme, including the provision of new or the extension of existing building(s), structures or hard standings required for the functioning of the enterprise;
 - b. the expansion of an existing business falling beyond the scope of a rural land based enterprise, where it can be clearly demonstrated that it is, or has the prospect of being, financially sound and will remain so;
 - c. the establishment of a new agricultural or other rural land based enterprise which clearly demonstrates an essential and functional need for that specific location and where it can be clearly demonstrated that it has the prospect of being financially sound and will remain so; or
 - d. the undertaking of non-commercial agricultural activity which is located within or directly adjoining the applicant's existing residential curtilage which is of a scale commensurate to the incidental enjoyment of that existing dwelling.
61. The application states that the proposed development is required to facilitate the care of dogs bred at a purpose-built kennel facility, with a dwelling to provide care/supervision. At present the applicant is a licensed breeder and currently breeds 2 litters of Bull Terriers per year, which she does from her property in Roddymoor. However, the applicant states that there is insufficient space to house more than 1 litter at a time. The applicant has 8 kennels at her home, and states that she has demand for her dogs, with a current 2 year waiting list. The proposed scheme seeks the erection of a dwelling and kennel facility to enable the applicant to increase numbers of puppies reared and a 10 bay kennel facility to provide accommodation to provide 24 hour care for dogs on site, with ancillary office/ facilities.
62. In assessing the proposal against the economic development criteria of Policy 10 of the CDP, it is considered that the development could not be considered a diversification scheme related to an existing agricultural or rural land-based enterprise and therefore not supported by Policy 10 criteria a.
63. The proposals also do not represent the expansion of an existing business in this location (recognising that the applicant's business is located within the current dwelling) and is therefore not supported by Policy 10 criteria b.
64. In relation to Policy 10 criteria c, whilst it can be preferable for kennel type uses to be located away from residential areas, it is considered that proposed operations do not consist of a new agricultural or other rural land based enterprise by nature and therefore draw no support from criteria c. The functional need and financial viability of the business are considered further below.
65. The development is located away from the applicants dwelling and therefore draws no support from Policy 10 criteria d.
66. Overall it is considered that in principle the formation of a new commercial kennels enterprise in the countryside is not supported by Policy 10 of the County Durham Plan.

67. Policy 12 of the CDP specifically relates to the erection of rural workers dwellings, setting out that isolated new houses in the countryside require special justification for planning permission to be granted. One of the few circumstances in which isolated residential development may be justified is when accommodation is required to enable agricultural, forestry and certain other full-time rural workers to live at, or in the immediate vicinity of, their place of work. It will often be as convenient and more sustainable for such workers to live in nearby towns or villages, or suitable existing dwellings, so avoiding new and potentially intrusive development in the countryside.
68. However, there will be some cases where the nature and demands of the work concerned make it essential for one or more people engaged in the enterprise to live at, or very close to, the site of their work. Whether this is essential in any particular case will depend on the needs of the enterprise concerned and not on the personal preferences or circumstances of any of the individuals involved.
69. It is therefore essential that all applications for planning permission for new occupational dwellings in the countryside are scrutinised thoroughly with the aim of detecting attempts to abuse (eg through speculative proposals) the concession that the planning system makes for such dwellings. In particular, it will be important to establish whether the stated intentions to engage in farming, forestry or any other rural-based enterprise, are genuine, are reasonably likely to materialise and are capable of being sustained for a reasonable period of time. It will also be important to establish that the needs of the intended enterprise require one or more of the people engaged in it to live nearby.
70. Policy 12 of the County Durham Plan sets out that proposals for new permanent agricultural, forestry and other rural workers dwellings outside the built up area will be permitted provided it can be demonstrated that:
 - a. the nature and demands of the work involved means that there is an essential existing functional need for a permanent full time worker to live at, or very close to, the site of their work in order for the enterprise to function effectively, or the dwelling is required to accommodate a person with majority control of the farm business;
 - b. the rural business activity has been established for at least three years, is currently financially sound as verified by a qualified accountant, and has a clear prospect of remaining so;
 - c. the proposed dwelling is not harmful to the rural landscape and character of the area and is physically well related to the activities required;
 - d. the scale of the dwelling is commensurate with the established functional requirement of the enterprise; and
 - e. the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.
71. There is no definition in planning of what employment constitutes a rural worker, however case law indicates that it is generally a person working in agriculture, fish farming, an equestrian enterprise, or forestry. It is considered that the occupation of a dwelling by a dog breeding kennel owner/worker and a new enterprise would not fall under the criteria of a rural worker set out in Policy 12 of the CDP or Paragraph 80 of the NPPF and as such the erection of a dwelling on the site for a kennel worker fails

the first test of Policy 12 of the County Durham Plan. Nevertheless, for completeness the application will be assessed against the criteria of Policy 12 of the County Durham Plan below.

72. Part a. of Policy 12 of the County Durham Plan states that the nature and demands of the work involved means that there is an essential existing functional need for a permanent full time worker to live at, or very close to, the site of their work in order for the enterprise to function effectively, or the dwelling is required to accommodate a person with majority control of the farm business;
73. Whether or not a worker needs to live on site is a matter of judgement based on factors such as the frequency of out-of-hours problems, the ability of a resident worker to identify and address those problems, the severity of loss if they are not addressed and the potential for notification of problems to a worker living off site (by alarms, for example).
74. At present, the applicant owns and resides in a property approximately 215 metres to the north east of the application site. The applicant states that new litters of puppies require 24/7 care for the 2- 3 weeks after birth and after that it is important for puppies to be raised in an indoor environment for their physical and mental development. The applicant states that she has a large demand for her puppies, and she currently has 8 kennels at her property housing 8 dogs and is only able to breed 2 litters a year without overcrowding both the indoor and outdoor space.
75. Limited evidence has been submitted as to why the care of puppy litters must be provided by persons occupying a dwelling on the site, rather than by a night time worker occupying a staff room in the kennel block, or why the applicant cannot undertake this care given the close proximity of her existing dwelling which is just over 200 metres from the site. It may be the case that a night time worker may not be a suitably qualified animal carer to administer medication if required, but the person could contact the owner who lives close to the application site and could be on site quickly if she was required to be.
76. It is also not clear what percentage of the year 24 hour care is required between litter cycles, or beyond the at risk age of 1-3 weeks, with puppies generally not re-homed around 8 weeks old. It is acknowledged that animal welfare is a key consideration, however insufficient evidence has been submitted to demonstrate that a breeding kennels could not operate effectively with the applicants current living arrangements, or without a permanent presence on the site. As such it is considered that criterion a. of Policy 12 requiring a functional need to be demonstrated has not been met from the information submitted.
77. Part b. of Policy 12 of the County Durham Plan states that the rural business activity has been established for at least three years, is currently financially sound as verified by a qualified accountant, and has a clear prospect of remaining so. The applicant states that she has been breeding Bull Terriers since 2012 and has been a licenced breeder with Durham County Council since July 2019. No financial details from a qualified accountant have been submitted, however the applicant has submitted summaries of past accounts showing a profit of just over £7,000 per annum from the current operation.
78. It is not clear if the dog breeding is the applicant's sole source of income, however a profit of just over £7000 does not meet the level needed for the business to be considered as financially sound. The applicant has provided business projections for the next three years. Year 1 would make a small profit, with larger profits expected in years 2 and 3. The projected profit in year 1 is just above the gross average UK salary

of £26.5k, in years 2 and 3 the gross profit rises to over £68,000. Concerns are raised at this assumed growth rate and whether this realistic and sustainable in the long term particularly as the submitted details also state that it is the intention for the breeding business to employ 3 full time employees. The submitted financial information makes no allowances for the wages of these employees in the proposed outgoings. It is also noted that these figures also do not include any mortgage costs to build the property and kennel block, or utility bills.

79. Given the above, it is considered that insufficient details have been submitted to demonstrate that the business activity has been established for at least three years at a profitable level, is currently financially sound, as verified by a qualified accountant, and has a clear prospect of remaining so, and as such the proposal fails the test of part b. of policy 12 of the County Durham Plan.
80. Part d. of Policy 12 of the County Durham Plan states that the scale of the dwelling must be commensurate with the established functional requirement of the enterprise.
81. The submitted plans show the proposed dwelling to have a floor area of 193 square metres, this representing a relatively large detached dwelling in the countryside. It is considered that the size of the dwelling is excessive for the scale of the operation proposed if indeed a functional need could be demonstrated. Concerns are also raised regarding whether the dwelling proposed could be constructed out of the profits from the business. The size of the dwelling has not been demonstrated as affordable based on the income projections provided given the omitted running and staff costs in the financial information.
82. Part e. of Policy 12 of the County Durham Plan states that the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.
83. As stated previously, the applicant currently resides approximately 215 metres to the north east of the application site. Insufficient evidence has been submitted that the business could not operate with the applicant remaining to occupy the dwelling at High Terrace given its close proximity to the application site, or why the kennels could not be occupied by a night worker to ensure the puppies welfare during key times. As such it considered that the proposal does not satisfy part e. of Policy 12.
84. Overall, it is considered that a commercial dog breeding business is not supported in principle by Policy 10 of the County Durham Plan. Furthermore, it is considered that a functional need for the dwelling has not been demonstrated, nor has it been demonstrated that the enterprise is financially viable and could sustain the proposed property on the site. In this case it is considered that the siting of the dwelling in the location shown has been borne out of personal preferences of the applicant, as the land is already within her ownership. It is not clear if other alternative locations have been discounted in the locality particularly exploring the reuse of existing buildings within the countryside. In principle the development of the site for the proposed use would not conform to the relevant policies of the CDP or the NPPF.

Locational Sustainability

85. Policy 10 part p, states that new development in the countryside should not be solely reliant upon, accessibility by unsustainable modes of transport. Policy 21 of the County Durham Plan requires new development to deliver sustainable transport, including by providing appropriate, well designed, permeable and direct routes for

walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users.

86. Paragraph 103 of the NPPF states that planning should actively manage patterns of growth to support the objectives of sustainable transport, including opportunities to promote public transport, walking and cycling, and focus significant development in locations which are or can be made sustainable.
87. Roddymoor has a rating of 2.2 in the Council's 2017 Settlement Study, placing the settlement 187th in the county, reflective of the limited availability of services available within the village. The village is however relatively well connected to the surrounding towns and villages by regular bus service. The application site is located away from the main built up area of Roddymoor, which contains the bus stop links at a distance of approximately 360m. The Institution of Highways and Transportation Guidance 'Planning for Public Transport in Developments' states at page 9 that 'the maximum walking distance to a bus stop should not exceed 400m and preferably be no more than 300m.' The nearest bus stop in this case is approximately 363m to the north at Elm Gardens at the top end of this recommended distance.
88. The nearest settlement is the main town of Crook, located which is approximately 1450m to the south east along unsurfaced and unlit public rights of way to its centre. If a person was to use the surfaced, lit public footpath route then this distance would be increased to approximately 2500 metres.
89. Overall, it is considered likely that there would be a dependence on the private motor car to access services and amenities. While recognising the harm associated with this, it is acknowledged that in principle Policy 6 of the CDP would permit very limited development either within or directly adjacent the built up area of Roddymoor. For this reason, it is considered that any reason for refusal based purely on locational sustainability matters could not be sustained.

Landscape and Visual Impacts

90. Policy 10 of the CDP seeks to protect townscape qualities, including important vistas and the intrinsic character and beauty of the wider countryside. Policy 12 of the CDP part c requires that proposed dwellings are not harmful to the rural landscape and character of the area and are well related to the activities required.
91. Policy 39 of the CDP states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Policy 40 of the CDP seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided.
92. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
93. The application site is detached from the main body of Roddymoor which lies to the north east of the application site. The application site lies within a larger paddock area on the opposite (south) side of the road to High Terrace. There is no other residential development on that southern side of the road, indeed the only other development south of high terrace is for agricultural or equestrian uses.

94. Visually, the southern end of High Terrace forms a clear and defined settlement edge to the open countryside which the application site forms a part. Whilst there are agricultural buildings close by, it is a form of development expected and in keeping with the wider rural setting. It is considered that the proposed dwelling, kennels and associated curtilage would be of a completely different character to the surrounding area and would sit distinctly separate from the residential development at High Terrace. The development would essentially appear as a lone development in an agricultural pasture, where the rising topography will mean the dwelling and kennels are easily seen above other land levels in views looking west of Roddymoor Road. The development would introduce significant urbanising elements into what is currently an open field and would therefore appear as an incongruous addition to the settlement, rather than any natural extension or rounding off like other recent housing approvals in the locality. Although the existing hedges and trees provides a degree of screening from the immediate highway of Roddymoor Road, there are still views of the site from the several public rights of way around the application site; from Roddymoor Road and High terrace, where the incongruous and urbanising form of development would be seen. The visibility and incongruous nature of the development would be exacerbated in the use of light-coloured cladding materials.
95. Whilst it is noted that the landscape does not have a statutory designation it is open countryside. The County Landscape Character Appraisal identifies the area as the West Durham Coalfield landscape character area, where the landscape strategy is to enhance the landscape where it has been degraded while conserving what is most distinctive about its character, including its rural identity. For the reasons outlined above it is considered that the proposed development would cause harm to the character and appearance of the countryside and the surrounding landscape. The proposal is therefore contrary to Policies 10, 12, 29, and 39 of the County Durham Plan and Parts 12 and 15 of the NPPF.

Local Amenity

96. Policy 10 of the CDP sets out that new development in the countryside should not impact adversely upon residential or general amenity. Policy of the CDP requires all development to provide high standards of amenity and privacy and minimise the impact of development upon existing adjacent and nearby properties.
97. Policy 31 of the CDP seeks to support proposals only where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. The policy sets out that developments will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result. Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
98. Parts 12 and 15 of the NPPF, require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from unacceptable levels of pollution.

99. The application relates to the introduction of a residential dwelling and commercial kennels, with a capacity for ten breeding animals. The commercial element would be operated by the applicant who intends to live in the proposed dwelling on the site. Currently the applicant operates a commercial dog breeding operation from her current home address at High Terrace, EH Officers advise that there is no history of complaints against that address in relation to noise from those dogs.
100. The development site would see commercial kennels located within 90m of noise sensitive receptors to the north east on High Terrace. EH Officers advise that by their nature dogs bark and such vocalisation can lead to noise disturbance for nearby sensitive receptors. After assessing the application EH officers advise that the development is likely to breach the thresholds within the Technical Advice Note (TANS), Noise TANS section 3.7 pg. 18. This indicates that the development may, without further controls, lead to a significant impact.
101. Due to this, the applicant has provided proposed noise mitigation details, which include indications of the management of the enterprise and layout and/or structural measures that could be implemented if planning permission is granted. This includes the use of acoustic insulation. EH Officers advise that subject to these controls being put in place it is likely that the enterprise could operate without causing an issue to nearby sensitive receptors. However, conditions are recommended to fully detail and secure this mitigation and ensure that the kennels are only occupied by the applicant's dogs and the dwelling occupied by a person connected to the business.
102. EH Officers advise that odour is not considered likely to be an issue for nearby receptors.
103. Overall, subject to conditions, it is considered that the development would not result in a significant reduction in residential amenity and would be compatible with adjacent uses, in accordance with, Policies 10, 29 and 31 of County Durham Plan and Parts 12 and 15 of the NPPF.

Ecology

104. Policy 10 of the CDP states that new development in the countryside should not give rise to unacceptable harm to biodiversity either individually or cumulatively which cannot be adequately mitigated or compensated for. Policies 26, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
105. The Ecology section have advised that a Preliminary Ecological Appraisal is required in support of the application to assess the impact of the development on protected species and their habitats. However, in this instance an Ecology Assessment has not been submitted, so any potential ecological impacts cannot be assessed as part of this application, in conflict with relevant CDP and NPPF policies. Further to this both Policy 41 of the CDP and paragraphs 174 and 175 of the NPPF require new development to deliver net biodiversity gains. In this regard the application fails to demonstrate how the scheme would achieve this.
106. The development would fail to meet the requirements of Policies 10, 26, 41 and 43 of the CDP and the aims of Part 15 of the NPPF in this respect.

Highway Safety

107. Policy 10 of the CDP requires that new development in the countryside should not be prejudicial to highway safety. Policy 21 of the CDP reiterates the requirement of Policy 10 in addition to expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 of the CDP advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Specifically, the NPPF sets out at Paragraph 108 that safe and suitable access should be achieved for all people. In addition, Paragraph 109 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
108. The dwelling and kennels would be accessed via the existing public bridleway (PROWs 43 and 164 Crook) off Roddymoor Road/ High Terrace. The bulk of vehicular movements generated by the new dwelling and business are deemed likely to use this route between the site and B6298, i.e. eastwards from the site access junction. The approximately 170-metre-long highway link leading east from the site access junction is subject to a substandard carriageway width. The Highways Authority advise that should planning permission be granted the delivery of this passing place should be secured. The Highways Authority raise no objection to the proposal in terms of access or parking provision. The Public Rights of Way Team would have no objections to these works being carried out
109. Overall, subject to conditions, the highway impacts of the proposed development are considered to be acceptable and in accordance with Policies 10, 21 and 29 of the County Durham Plan as well as Part 9 of the NPPF.

Flooding/Drainage

110. Policy 36 of the County Durham Plan seeks to ensure that suitable arrangements are made for the disposal of foul water and sets out a hierarchy for foul water disposal.
111. The submitted application forms state that foul drainage would be disposed of by a Package Treatment Plan. The application form indicates that foul drainage is to be discharged to a non-mains drainage system. In these circumstances the Planning Practice Guidance (PPG) Water supply, wastewater and water quality advises that applications for developments relying on anything other than connection to a public sewage treatment plant should be supported by sufficient information to understand the potential implications for the water environment. In this instance no information has been submitted.
112. The application does not provide a sufficient basis for an assessment to be made of the risks of pollution to the water environment arising from the proposed development, however this could be controlled by a suitably worded condition to ensure that the scheme would be in compliance with Policy 36 of the County Durham Plan in this respect.

Ground Conditions

113. Policy 32 of the County Durham Plan requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 178 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.

114. The application site falls within the defined Development High Risk Area; within the site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. This has been raised by objectors to the scheme. The planning application is accompanied by a Coal Mining Risk Assessment (16th May 2021), prepared by GEOL Consultants Ltd). This report considers mining legacy across the application site, recommending that intrusive ground investigations, in the form of rotary boreholes, are undertaken at the site in order to establish ground conditions and the depth of shallow coal seams/workings. The Coal Authority have been consulted and raise no objection subject to conditions requiring this further investigation works are carried and any mitigation secured before development commences.
115. A Phase 1 Desk Study Site Investigation Report has been submitted as part of the application. This report concludes that the site is suitable for the proposed use and there are no risks from land contamination. The Council's Contaminated Land Officer is satisfied with the manner in which the investigations have been carried out and agrees with the conclusions. As such there is no requirement for a contaminated land condition in this instance and an informative is appropriate to advise the applicant to liaise with the Contaminated Land Team if any unexpected contamination is found during construction works. The proposal would therefore accord with Policy 32 of the County Durham Plan and Part 15 of the NPPF in this regard.

Other matters

116. Comment has been made from objectors that the proposal would devalue nearby dwellings. This is not a material planning consideration.

CONCLUSIONS

117. The application seeks the erection of a dog breeding kennels and workers dwelling within the defined countryside. Policy 10 of the CDP sets out that within the countryside development will not be permitted unless it fulfils relevant exception, including development for specific economic purposes. However, given the nature of the proposals it is concluded that the development would not satisfy relevant exception criteria. It is also concluded that a functional need for a dwelling in the countryside has not been proven, or that the enterprise is financially sound, contrary to Policies 10 and 12 of the CDP.
118. In visual terms, the site occupies a countryside location beyond the established built-up area, while the existing topography increases the wider prominence of the site. It is concluded that this would result in the development being highly visible from surrounding settlements, roads and public footpaths contrary to Policies 10, 12, 29, and 39 of the CDP and Parts 12 and 15 of the NPPF.
119. Insufficient details have been submitted to assess the ecological impacts of the development while the proposals do not assess or identify how a net biodiversity would be achieved. As a result, it is concluded that the development would conflict with Policies 10, 26, 41 and 43 of the CDP and the aims of Part 15 of the NPPF.
120. It is considered likely that there would be a dependence on the private motor car to access services and amenities. While recognising the harm associated with this, it considered that this in itself does not result in policy conflict.

121. It is concluded that the development could achieve a satisfactory means of access and would not likely give rise to amenity impacts to adjacent land uses subject to relevant conditions.
122. The policies of the CDP are considered consistent with the NPPF, which seeks to protect the countryside, prevent isolated new housing and, protect ecological interests. Whilst the development would provide economic benefits through the construction of the facility and potentially future employment opportunities, these benefits are not considered to outweigh the conflict with the CDP. There are no material considerations that indicate otherwise and therefore the application is recommended for refusal.

RECOMMENDATION

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

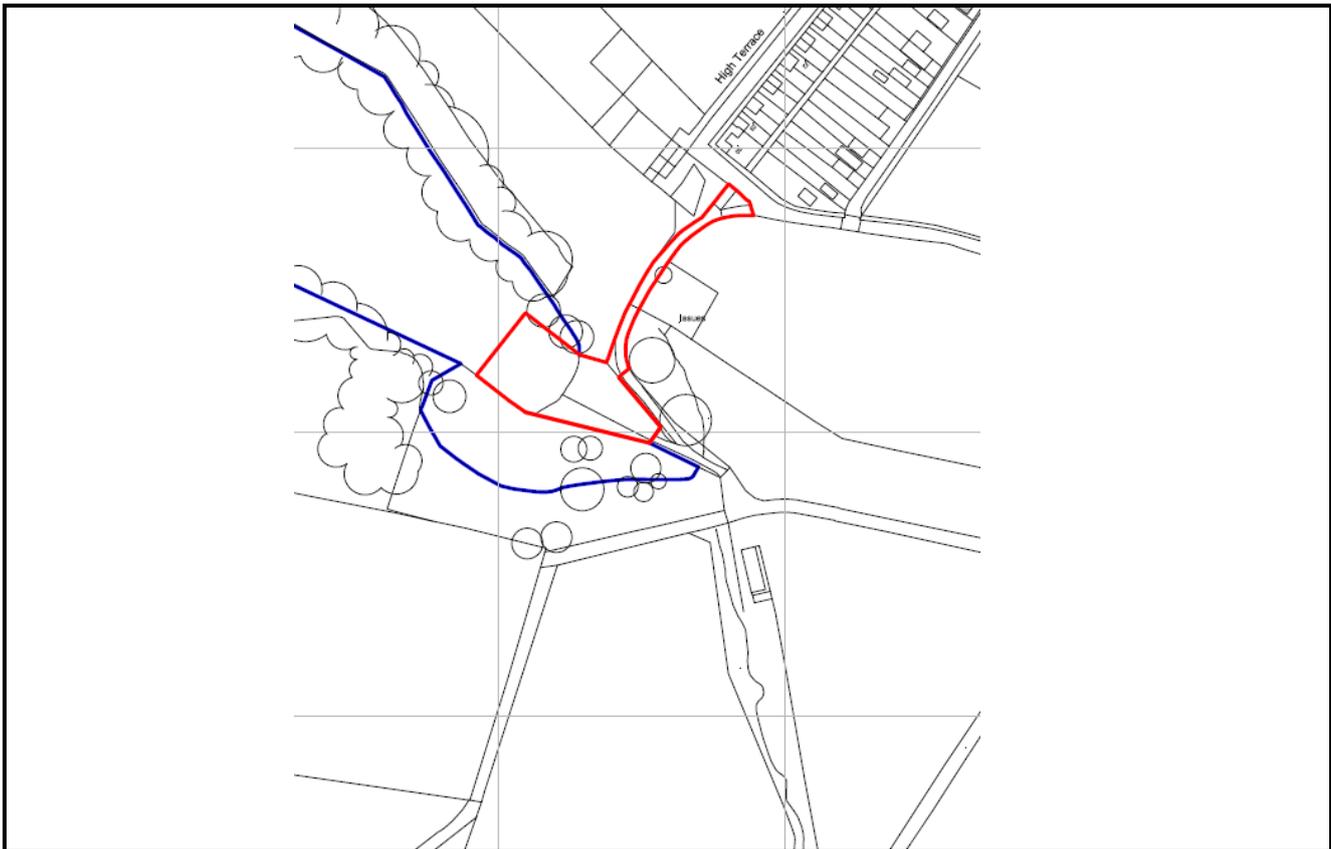
1. In the opinion of the Local Planning Authority, it has not been demonstrated that there is an essential need for a full-time rural worker to live permanently on the site, and that the enterprise is financially viable and could sustain the proposed dwelling, contrary to Policy 12 of the County Durham Plan and NPPF Paragraph 80.
2. The development by reason of its siting in a detached position from the main body of the settlement of Roddymoor would cause harm to the character and appearance of the countryside and the surrounding landscape; without meeting relevant exception tests for development in the countryside, contrary to Policies 10, 12, 29 and 39 of the County Durham Plan and Parts 12 and 15 of the NPPF.
3. The application does not demonstrate that it would not negatively impact on protected species or their habitats, or that the scheme would result in a net gain to biodiversity, in conflict with Policies 10 and 41 of the County Durham Plan and Part 15 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Statutory consultation responses
Internal consultation responses
External consultation responses
National Space Standards
Planning Practice Guidance Note for Noise



<p>Planning Services</p>	<p>Construction of residential dwelling and associated commercial dog kennels at Land To The South West Of High Terrace Roddymoor DL15 9RA</p>	
<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>	<p>Comments</p>	
	<p>Date 26th August 2021</p>	