

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/20/03609/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Use of interior and exterior curtilage of Greencroft indoor shops for the holding of occasional seasonal events.
<b>NAME OF APPLICANT:</b>	Mr Marshall
<b>ADDRESS:</b>	Field House, West Road, Annfield Plain, Stanley, DH9 7XA.
<b>ELECTORAL DIVISION:</b>	Annfield Plain Louisa Ollivere
<b>CASE OFFICER:</b>	Senior Planning Officer Telephone: 03000 264878 <a href="mailto:louisa.ollivere@durham.gov.uk">louisa.ollivere@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The site is the former builder's yard office building now known as Greencroft Indoor shops with an associated outdoor car wash and front curtilage parking areas. The site is adjacent to and south of West road, a main road in and out of Annfield Plain. The area is predominantly residential with dwellings to the south, east and north east . There is however an industrial company to the west. To the north and across the road is an area of public open space.
2. The site is within the settlement of Annfield Plain but outside of the defined centre of Annfield Plain.

#### The Proposal

3. Permission is sought to use the interior and exterior of the buildings on site for the holding of occasional seasonal events such as 'scarewash' at Halloween, and Christmas events such as a temporary ice rink and area for Coca Cola Truck visits. Over the past year similar events have taken place without the benefit of planning permission and permission is now sought to regularise any future events.
4. The events would create further full time employment for 2 persons. The events would be held between 9am to 7pm Monday to Saturday and 9am to 4pm Sundays and Bank Holidays.
5. No additional parking is proposed above the current 16 car parking spaces available on site used to serve the current businesses.

6. This application is being reported to Committee upon the request of Councillor Joan Nicholson on the grounds that the proposal will impact upon highway safety, increase traffic and parking on street and impact upon neighbouring residents.

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## **PLANNING HISTORY**

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7. DM/20/00138/FPA Change of use to car wash (retrospective) (Approved).

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
9. The NPPF requires local planning authorities to guide development towards sustainable solutions whilst taking local circumstances into account, to reflect the character, needs and opportunities of each area.
10. In accordance with paragraph 213 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.
11. The following elements of the NPPF are considered relevant to this proposal;
12. *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.
13. *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.
14. *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.

15. *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.
16. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate. Amongst other aims decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site to impacts that could arise from the development. Noise should be mitigated and reduced to a minimum potential adverse impact to avoid noise giving rise to significant adverse impacts on health and quality of life. Decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development the applicant should be required to provide suitable mitigation.

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

17. The newly introduced National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
18. Noise: Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved.

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

19. The following policies in the County Durham Plan are relevant to the consideration of this application.
20. *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 (where applicable).

21. *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.
22. *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.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at:*

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

23. Highways Officer – Notes that the site has previous planning history for mixed use commercial development. Highways have previously raised concerns that the fact that the operations of the car wash along with the other lawful mixed uses mean parking and accessibility at site could be problematic and may cause an adverse highways impact as parking would not be contained at the site thus over spilling onto the public highway. The Officer advises that these proposed events would compound the present parking issues already highlighted and the safe operation of a suitable one way traffic system. Any such future held events at the site would therefore not be supported by highways because of these reasons.

### **INTERNAL CONSULTEE RESPONSES:**

24. Environmental Health (Nuisance) – Have requested further detail into the type of events that are proposed and whether the events involve the playing of music, live or amplified, and request details which specify the provisions to be made for the control of noise emanating from the proposed development to include details of any management, layout and/or structural measures that will be implemented. The Officer also advises that an environmental noise assessment may be required, depending upon the nature of the events to be held.

25. Councillor Nicholson: Has concerns about this planning application and refers to previous events that have been held on the premises have caused problems for the surrounding properties. The Councillor comments that police have been involved with parking issues and the constant parked cars are causing road traffic problems and requests a multi-agency approach to this property and the problems being caused to local residents.

#### Other Consultees

26. Durham Constabulary: No comments received to date.

#### **PUBLIC RESPONSES:**

27. A total of 42 letters of consultation were sent out to surrounding residents. This has resulted in 7 letters of objection from local residents.
28. The concerns are summarised as follows:
- Traffic problems will be caused
  - Noise issues
  - Past events have led to traffic and noise problems (music, shouting beeping of horns etc) late at night and police attending.
  - There is already excessive parking on the street and surrounding streets from the uses on this site -this is a hazard for drivers and pedestrians. This will worsen.
  - The parking on street is opposite a bus stop and already blocks traffic flow.
  - Many of surrounding residents are elderly or families sensitive to noise.
  - Anti-social behaviour from people attending the events.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:*

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QKYS0QGD0G000>

#### **APPLICANTS STATEMENT**

29. Our events are going to be all solely family events and as you will see from last years Christmas events we didn't have a single complaint about noise as we took on board our issues from the scarewash and corrected them, and as for the scarewash, we didn't get noise complaints, we rectified all issues to make sure going forward we do stuff right.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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### The Principle of the Development

30. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development in this location, amenity considerations, highway safety, sustainability,, use of land, urban regeneration and economic impacts.

### The Principle Issues

31. The lead County Durham Plan policy in relation to this development is Policy 6 (Development on Unallocated Sites). This essentially permits development on unallocated sites but within the built-up area or outside the built-up area but well related to a settlement provided certain criteria are met. There are 10 criteria a-j relating to compatibility, physical and visual relationship of site to settlement, loss of open land, design considerations, highway safety, locational sustainability, impact on neighbourhood, climate change, use of brownfield land (if relevant) and priorities for urban regeneration priorities (where appropriate).
32. Criteria b) of the CDP Policy 6 is not considered relevant in this case as the proposal involves a use with no new permanent buildings or structures therefore there should be no permanent visual impacts to the settlement from the proposal. Criteria c) is not considered relevant in this case as this is not open land. Nor is criteria d) relevant in relation to design as there is no permanent built form proposed. Criteria g) is not considered relevant as the proposal does not involve the loss of a facility. Criteria h) relating to climate change/flooding is not considered particularly relevant as the proposal does not involve any permanent built form.
33. Annfield Plan is a settlement and the site is with the built-up area of the settlement. The acceptability of the proposal rests on the relevant criteria of policy 6 being met and each of these will be considered in turn in the following section of the report alongside other relevant policy considerations.

### Amenity considerations

34. Criteria a) of Policy 6 requires development to be compatible with existing uses of adjacent land. The surrounding uses are predominantly residential. Therefore, consideration of residential amenity and pollution policies is essential in terms of compatibility. Policy 29 of the CDP requires proposals to provide high standards of amenity and privacy, and to minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy 31 of the CDP requires development to have no unacceptable impact on living conditions and to ensure that future occupiers of proposed developments have acceptable living conditions. It advises that 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.
35. Paragraph 130 (f) of the NPPF requires developments to have a high standard of amenity for existing and future users and para 30 recognises that it is important to that developments do not result in crime and disorder, and fear of crime that would undermine the quality of life or community cohesion and resilience. Paragraph 185 of

the NPPF requires new development to be appropriate to its location taking into account the likely effect of pollution on health, living conditions and the sensitivity of the area. The framework requires development to mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development and to avoid noise giving rise to significant adverse impacts on health and quality of life.

36. The site is surrounded by older persons bungalows to the east and south in close proximity and family housing across the road to the north. This being the case the proposed amenity of existing residents is a material consideration, with the occupiers of nearby residential dwellings particularly concerned about noise, disturbance and anti-social behaviour.
37. The Council's Environmental Health Officer is concerned about noise from the proposed events and has requested further details as to the type of events proposed, whether music will be played and amplified, how noise will be managed and mitigated and advised that a noise assessment may be required once more is known about the events. Despite requests limited information has been supplied other than the events being described as family events and that measures were taken in response to a previous events to ensure noise complaints were not received at the next event.
38. It has therefore not been adequately demonstrated that the development would not have an unacceptable impact on living conditions or that satisfactory mitigation measures are in place to prevent noise in this noise sensitive area. There is clear policy conflict in this respect. In regard to anti-social behaviour, whilst this has been a problem in the past more recent events have been better managed and the type of family events envisaged should not result in this being a significant concern, unlike noise.
39. On this basis it is considered that the proposed development is not compatible with the existing residential use of adjacent land and there is policy conflict with CDP Policy 6 criteria (a) and Policy 31 and Section 12, Paragraph 130 of the NPPF in that respect.

#### Highway Safety

40. Criteria e) of policy 6 of the CDP requires proposals to not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Policy 21 of the CDP requires all development to deliver sustainable transport by amongst other less relevant criteria ensuring that any vehicular traffic generated by new development can be safely accommodated and ensuring development has regard to Parking and Accessibility Supplementary Planning Documents. Paragraph 111 of the NPPF advises that development should only be refused on highway grounds if there would be an unacceptable impact on highway safety.
41. As local residents' detail, there are already problems with on street parking on the main road in the vicinity of the site due to the numerous vehicles associated with the employees of indoor shops and car wash in addition to customers parking. Whilst it is acknowledged that the ticketing of events has prevented the extreme traffic backlog experienced in October 2020, the events would still attract visitors to the site that is already struggling to cope with parking. The Highways Officer considers that the proposed events would compound the present parking issues and the safe operation of a suitable one way traffic system. As such it is considered that the proposal would be prejudicial to highway safety and is not supported in highway safety policy terms.

## Locational sustainability credentials

42. Criteria f) of Policy 6 of the CDP requires development to have good access by sustainable modes of transport to relevant services and facilities and to reflect the size of the settlement and the level of service provision within the settlement. Paragraph 110 of the NPPF advises that appropriate opportunities to promote sustainable transport modes can be-or have been- taken up, given the type of development and its location.
43. The site lies within the built-up residential area and close to the local centre and directly opposite a bus stop with regular services to surrounding areas. Against this background, it appears that the site is likely to be reasonably accessible by employees and customers by modes of transport other than the private car. This weighs in favour of this development, in accordance with Policy 6 of the CDP and Paragraph 110 of the NPPF.

## Use of land

44. Criteria i) of policy 6 of the County Durham Plan supports the use of previously developed land. This land is currently brownfield being occupied by shops and hardstanding therefore the use gains some support in this respect.

## Priorities for urban regeneration

45. Criteria j) of policy 6 advises that where appropriate, development should reflect priorities for urban regeneration. In neighbourhoods such as this the priorities are improving the housing offer, narrowing the deprivation and inequalities gap between communities, establishing communities where people live, can live and want to live, improve equality of access to employment and services and mitigating the impact of welfare reform on our most vulnerable residents. The proposal would not offer much in this regard. Nor is the scale and nature of the business one with potential to drive economic growth in terms of productivity, employment or business stock moving forward. The proposal does not gain support in respect of this criteria.

## Building a strong, competitive economy

46. Paragraph 81 of the NPPF advises that significant weight should be placed on the need to support economic growth and productivity. The proposal would have some economic benefits in terms of employment and boosting the footfall to current business on site. These would be limited benefits and would not weigh heavily in favour of this proposal.

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## **CONCLUSION**

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47. Whilst the site is in a sustainable location and there would be some limited economic benefits the use of the land is not supported as it is not compatible with the

neighbouring residential use and it would be prejudicial to highway safety given the current parking problems at the site. The proposal is considered in conflict with County Durham Plan Policies 6 criteria a) and e), 21, 29 and 31 and Parts 9 and 15 of the NPPF. Paragraph 12 of the NPPF states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed. It is not considered that there are material considerations in this case to justify a departure from the local plan policy therefore the application is recommended for refusal.

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## **RECOMMENDATION**

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

1. It has not been adequately demonstrated that the development would not have an unacceptable impact on living conditions from increased levels of noise or that satisfactory mitigation measures are in place to prevent impacts from noise in this noise sensitive area. On this basis it is considered that the proposed development is not compatible with the existing residential use of adjacent land and there is policy conflict with County Durham Plan Policy 6 criteria a) and Policy 31, and Paragraph 130 of the National Planning Policy Framework.
2. The proposal would be prejudicial to highway safety in the surrounding area as there is insufficient car parking capacity on site to cope with additional parking which will see a significant increase and will likely interfere with the safe current, on-site one way system in operation. The proposal is therefore contrary to County Durham Plan Policy 6 criteria e) and Policy 21, and Paragraph 111 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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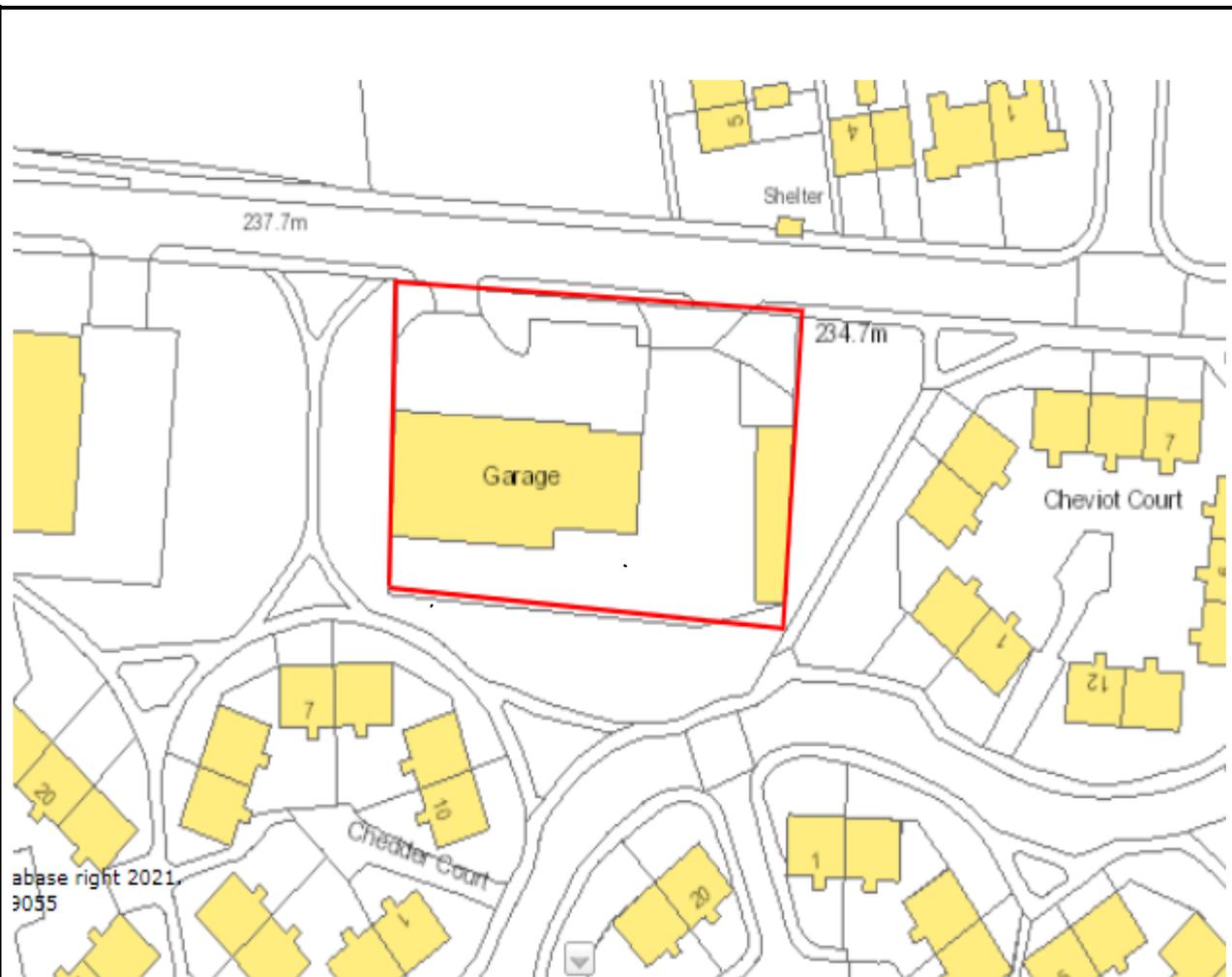
The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.) however this has not been possible in this instance.

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## **BACKGROUND PAPERS**

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The National Planning Policy Framework (2021)  
National Planning Practice Guidance Notes  
The County Durham Plan 2020  
Statutory, internal, and public consultation responses  
Submitted forms, plans and supporting documents



**Planning Services**

DM/20/03609/FPA

Use of interior and exterior curtilage of Greencroft indoor shops for the holding of occasional seasonal events.

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**Comments**

**Date** 28.09.2021

**Scale** 1:1250