

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/22/00199/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of single storey dwelling
<b>NAME OF APPLICANT:</b>	Mr Alan Bell
<b>ADDRESS:</b>	Land north of Fenton Well Lane Great Lumley
<b>ELECTORAL DIVISION:</b>	Lumley
<b>CASE OFFICER:</b>	Steve France Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site sits in countryside designated as Green Belt beyond the western edge of Great Lumley, a medium sized village that includes a school, convenience store, clubs and a ranges of services and facilities proportionate to its size. The site is in a raised, prominent position with expansive views across the valley of the River Wear to Chester-le-Street, the East Coast Mainline railway and Durham County Cricket Club.
2. The land is a formed plinth, 'cut' into the rising ground to the east, and 'formed' above the lower ground to the west. The west edge of the plinth has a line of low-level shrubs and small trees. The southern boundary of the site is formed of a stone wall, with an entrance gateway at its eastern end. The wall separates the site from Fenton Well Lane, an unadopted access to Lumley Grange, 500m to the east. The adopted highway begins at the edge of the village, 50m to the east, where two extended semi-detached dwellings front the lane. To the rear of these dwellings is another, Half Moon Cottage. Facing them across Fenton Well Lane is a short cul-de-sac of three large modern detached two-storey dwellings, with an outstanding consent for another.
3. The status of the land between the site and the nearest dwellings is unclear. Part is close mown on satellite images and Council owned, appearing to have informal public access, part is fenced off as unimproved grassland without obvious use. Land to the north, west and south is in agricultural use.
4. The site may be considered as 'brownfield', having been historically occupied by a schoolhouse. Hardstanding and sparse ground level remains of former structures are

partially visible on site, the actual structures having been long since cleared and last visible on the 1969 OS Map – over 50 years ago.

## The Proposal

5. The application proposes a single storey detached dwelling of bespoke design on slightly raised site levels. 'U' shaped in form, with a shallow green roof, the floorplans show three bedrooms (one an optional study), an open plan kitchen / lounge and a study, a bathroom and utility room. The roof provides for solar and thermal panels. Elevational materials are red brick, brown render and wooden cladding, with dark grey fenestration. Car parking is open, with the existing access point from Fenton Well Lane used.
6. This application is being considered by Committee at the request of Councillor Philip Heaviside, to consider the impact on the Green Belt of a brownfield site.

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## PLANNING HISTORY

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7. DM/17/03144/FPA Erection of a dwelling - North Planning Committee – Refused  
  
2/06/00208/OUT Residential development comprising 1 no timber residential chalet – Withdrawn when recommended Refused to Committee.  
  
2/03/00558/OUT Single storey dwelling & garage – Committee Refused – Refused – Appeal dismissed.  
  
2/75/462/CM Outline application for house – Refused.  
  
2/75/00441/CM Erection of dwelling house (outline) – Refused.

Following appropriate procedure, this site was considered for removal from the Green Belt to facilitate erection of a dwelling during the preparation of the County Durham Plan, however following examination the Inspector was not persuaded that there were exceptional circumstances to justify the removal of the site from the Green Belt and the proposal rejected.

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## PLANNING POLICY

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### NATIONAL POLICY

8. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
9. *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.

10. *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.
11. *NPPF Part 5 - Delivering a wide choice of high-quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
12. *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.
13. *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.
14. *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.
15. *NPPF Part 12 - Achieving Well-Designed Places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 13 – Protecting Green Belt land.* The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.
17. *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.

18. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment, protecting biodiversity and recognising the intrinsic character and beauty of the countryside. There is further advice for ground conditions and pollution.

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

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

19. 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; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; 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

20. *Policy 10 Development in the Countryside.* Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and general design principles.
21. *Policy 20 Green Belt.* Development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out several exceptions as well as other forms of development which may be inappropriate in the Green Belt.
22. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
23. *Policy 25 Developer Contributions.* Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning

obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.

24. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
25. *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.
26. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
27. *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.
28. *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 defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
29. *Policy 39 Landscape* states that 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 and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
30. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-

uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.

31. *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.
32. *Policy 56 Safeguarding Mineral Resources*. Sets out that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area unless certain exception criteria apply.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

33. *Highways* initially wrote with a number of concerns with the access to the site beyond the extent of the adopted public highway, the lack of a defined footway and lighting along with requirements for visibility spays of specific dimensions into the site. They noted that as informative advice, every new property must be provided with an electric vehicle charging point.
34. *The Coal Authority* confirm the site falls within the defined Development High Risk Area and raise no objection to the proposed development subject to the imposition of suggested conditions to secure proper investigation of the issues posed by the coal mining legacy, mitigation where identifies as required and verification when complete. The potential for mine gas and the need for mitigation where present is raised. Where sustainable drainage is proposed, the developer should seek their own to ensure that a proper assessment has been made of the potential interaction between hydrology, the proposed drainage system and ground stability, including the implications this may have for any mine workings which may be present beneath the site.

### **INTERNAL CONSULTEE RESPONSES:**

35. *Spatial Policy Officers* write: This site lies to the west of Great Lumley settlement, on land designated Green Belt within the development plan. The land is also identified as an Area of Higher Landscape Value. The site is physically separate from the built-up area of Great Lumley, as a field lies between the site and existing dwellings, and it would be regarded as being in the open countryside in planning terms.
36. Residential development proposals have been previously considered on this land and refused. In December 2017 a proposal for a single dwelling was refused on the basis that it was contrary to Green Belt policy set down in the (former) Chester-le-Street Local Plan and national policy as contained in the National Planning Policy Framework (2012 version). The proposal was deemed to have a greater impact than the existing open land, and it would have therefore been harmful and unacceptable in planning terms. The officer report also noted that whilst each site is assessed on its own merits, the approval of this site would create a dangerous precedent on a significant level in relation to the Green Belt matter.

37. Historical mapping shows that the land was previously built upon and used as a school/schoolhouse. The site is clear in the 1970s maps and it is therefore presumed that the building was demolished sometime in the 1960s.
38. Looking at national guidance, set down in the most recent version of the National Planning Policy Framework (2021), previously developed (brownfield) land is defined as: *“Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure.”*
39. This site has been identified as Green Belt land since the adoption of the former Chester-le-Street Local Plan (2003); this plan established the detailed extent of green belt land for the former district area. Chester-le-Street District Council sought to designate an ‘irretrievable’ minimum of Green Belt land which fulfilled the criteria contained in planning policy guidance at the time to ensure it was kept permanently open.
40. The adoption of the County Durham Plan (October 2021) led to the replacement of the former district local plans and the Green Belt designation is now set down in the CDP. This site was considered for removal from the Green Belt during the preparation of the CDP, however following examination the Inspector was not persuaded that there were exceptional circumstances to justify the removal of the site from the Green Belt.
41. the Inspectors Report notes:
  - *The site of the former Lumley Boys School is in the countryside to the west of Great Lumley. It is physically separate from the village and whilst development may offer the opportunity to remove the last remnants of the former school, these are not visually prominent. On the other hand, new buildings on the site, even if well designed and landscaped, would represent a significant encroachment into the countryside and reduce the openness of the area.*
42. Policy 20 of the CDP defines the physical extent of the Green Belt; it states that development proposals within the Green Belt will be determined in accordance with national planning policy, to ensure consistency and an up-to-date approach for decision making. The Framework sets down that in general terms new development in the Green Belt ought to be resisted, as the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
43. Paragraphs 147 to 150 set down the key requirements for considering development proposals of this nature. Given that the site sits physically separate from Great Lumley, the development would fall to be considered against criteria ‘g’ of Paragraph 149. This states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Applicable exceptions to this include:
44. (g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
  - *not have a greater impact on the openness of the Green Belt than the existing development; or*
  - *not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.*

45. It is a matter of planning judgement as to what would constitute such an impact on openness. This would normally be based upon area and volume, however it may also be affected by topography and location, as well as other factors depending upon the details of the case. Given that the site is currently undeveloped, any development would be likely to have a greater impact on openness than existing (in relation to the requirements of the first sub-criteria under criteria 'g' of Paragraph 149). In terms of the second sub-criteria, while it is acknowledged that the proposed design seeks to reduce potential impacts through scale and materials (including green roofing), as well as falling below the level of 'substantial harm' to openness, the scheme would also be required to address affordable housing needs, which is not proposed in this case.
46. These fundamental policy restrictions serve to establish the primary policy issues in relation to this proposal. It is nevertheless the case that this proposal would gain no support if it were assessed against Policy 10, as this seeks to control new dwellings in the countryside unless an exceptional case is evidenced. Policy 39 sets down requirements for proposals in Areas of Higher Landscape Value, which reinforces concerns around impacts on the landscape. This policy states that development will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm.
47. Summary comments: This site lies outside of Great Lumley settlement, on land designated Green Belt and identified as an Area of Higher Landscape Value. The principle of development would fall to be considered against Policy 20 (which confers to criteria 'g' on the NPPF), alongside Policies 10 and 39 of the CDP.
48. *Ecology Officers confirm that 'Given the scale of the development and the nature of the habitats on site the landscaping plans as proposed will be sufficient to meet the requirements for biodiversity net gains'.*
49. *Public Rights of Way Officers note the vehicle access to the development site is in part via public footpath no. 22 Great Lumley Parish. The affected section of footpath 22 is also recorded as adopted highway, serving a number of other properties. No concerns are raised over the proposed access arrangements to the development site.*
50. *Environmental Health (Contamination) note that the report submitted is a number of years old however the information is still relevant: there is the risk of land contamination on the site and therefore a requirement for a phase 2 investigation. Given this and due to the fact that this development constitutes a change of use to a more sensitive receptor, suggested contaminated land conditions should apply to ensure physical investigation of the site, mitigation, where identified as required with where necessary include gas protection measures and thereafter verification of the methods and operations undertaken. Informatives are suggested to cover the eventuality for unforeseen contamination being encountered.*

#### **PUBLIC RESPONSES:**

51. Seven consultation letters were sent out, with the application advertised by site notice and in the press because it affects a Public Right of Way and represents a departure from the Development Plan. Four public representations have been received – two in support, two objecting.
52. Opposed to the development, an objector seeks to repeat objections from previous applications in 2003, 2006 and 2017, with, to the forefront – the property was not 'brownfield' when acquired by the current owner – the land had been used to graze



horses and the objector took riding lessons on the site as a child. The foundations now apparent were below ground level and have been uncovered by the applicant – the former property having been removed more than half a century ago. More importantly if the site is allowed for development in the Green Belt further may follow. The village has grown significantly further encroachment into the green belt is detrimental to the sustainability of the village community and the surrounding countryside. This correspondent, and the immediate neighbour of the site has not seen or heard of any anti-social behaviour emanating from the site.

53. A second close neighbour objects to the principle of a Green Belt development with climate change and the ecological crisis a national topic requiring a regional and local level of response. With sizable new-build projects recently developed and planned the 'counterbalancing importance of the formal Greenbelt by Great Lumley cannot be clearer'. The correspondent is not aware of any significant anti-social behaviour associated with the land in their residence.
54. In support occupants of the nearest dwelling write the scheme will deter anti-social behaviour and the potential for youths and vehicles to converge in the area adjacent to the land which can be intimidating and leads to fast food debris, empty alcohol cans and broken bottles and sometimes evidence of drug paraphernalia.
55. A resident of the new development south of Fenton Well Lane at the edge of the village writes that the site has been vacant for some time and attracts 'some' anti-social behaviour, with cars driving down the lane and youths gathering near or in the application site. This brings a danger of fires, with two extinguished in recent months. The proposals seeks to assimilate into the landscape.

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

56. Introduction: Site is accepted by DCC as a brownfield site in a sustainable location. Last developed use was as a boys school that was on site for over 100 years. Site has been in our ownership for over 20 years and due to constraining policy it has remained derelict all these years.
57. 2/ Reuse of land: This will have a wide benefit for all in the neighbourhood and will rid site of its ASB uses whilst having a net gain for the environment.
58. 3/ Other relevant matters: The site does not perform well at all with the five purposes of being in the greenbelt (GB) and was the reasoning DCC planning policy put site forward for the GB deletion in the Durham Plan. The application complies with section 149 (g) of the NPPF and limited infilling on a previously developed site (infilling can be on edge of settlements, this was accepted with application DM/21/01278/FPA Tiana Lane Rainton Gate). DCC planning policy team have already accepted "WOULD NOT BE VISUALLY INTRUSIVE NOR WOULD IT IMPACT ON OPENNESS". Therefore application is fully compliant with national policy.

*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=R698YMGDKD600>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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59. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance

with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development in the Green Belt, highway safety and access, layout and design, landscape and visual impact.

## Principle of the Development

### The Development Plan

60. 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.

### Green Belt

61. The principal Policy for determination of this application is Policy 20 that effectively sets the detailed requirements against Part 13 of the Framework. This part of the Framework is unusually precise, giving specific and definite advice for the establishment and protection of Green Belts, and the control of development within them. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open. The essential characteristics of Green Belts are their openness and their permanence. Five purposes of Green Belt are set out including: to assist in safeguarding the countryside from encroachment.
62. Changes to Green Belt boundaries should only be allowed in exceptional circumstances and through the Local Plan process. This specific site was very recently considered by this process, with the Planning Inspector concluding that '*new buildings on the site, even if well designed and landscaped, would represent a significant encroachment into the countryside and reduce the openness of the area*'. The applicant's Planning Statement seeks to revisit the arguments offered in this procedure, asking for a different conclusion. It would be wholly inappropriate for Officers to overrule the conclusions of the Inspector.
63. The Framework offers advice for proposals affecting the Green Belt: Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. The exceptions are set out at length, with the applicant relying on two criteria: For e. Limited infilling in villages, the site is outwith the developed envelope of the village, separated by open, undeveloped land. This criteria does not apply – it relates to open sites within small settlements that a Green Belt washes over. For criteria g. limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the Green Belt than the existing development. Notwithstanding one objector's ascertainment that the very basic foundations apparent on the land have been exposed to contrive an apparently brownfield site, there are no built structures visible on the site, so any new development will have a greater impact on openness than the existing foundations. The material weight that the development would accrue from

'brownfield' status is positive but not significant. The development is therefore wholly contrary to the advice in paragraph 149g. of the Framework and therefore Policy 20 of the Durham County Plan.

64. Design and highways elements of the proposal will be considered below. The applicant offers a further specific 'very special circumstance' in support of his proposals – an apparent anti-social behaviour issue. All four respondents to the application refer to this issue, all four are immediate neighbours, yet there is disagreement as to whether this is anything other than a low-key issue, and indeed whether it relates to the actual site or the conjunction of lanes on the approach to it. Where proposal in the Green Belt, material weight has only been attributed where overwhelming formally evidenced information has been submitted – a scheme at Beamish presented an extensive dossier of Police reports of damage and vandalism extending over a number of years as one component of a series of tangible high level benefits including employment generation. The Case Officer has visited the site over a number of years, for the current and previous proposals and the applicant has provided photographs of small evidence of litter and low-level fly tipping in support of the current application. With contradictory views offered by immediate neighbours and suggestion that the apparent issue relates as much to 'gatherings' in Fenton Well Lane, rather than on the site, this issue falls far below the level where it can be afforded significant weight.

#### Development in the Countryside

65. Separate from the existing settlement, the proposals must be considered against the requirements of Policy 10 – Development in the Countryside and Policy 39 – Landscape, the implications in the latter Policy in the context of the site's inclusion within a designated Area of High Landscape Value (AHLV). Policy 10 is summarised above and restricts development in the countryside to agricultural or employment related operations and alteration of existing buildings. The proposals fail assessment against this Policy, an issue that is not addressed within the application.
66. Policy 39 – Landscape, requires new proposals to not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Development affecting Areas of Higher Landscape Value defined on Map H, will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. Part 15 of the Framework requires planning decisions to protect and enhance valued landscapes.
67. The proposed building is considered to have a neutral effect in the landscape. The application describes the land as 'unsightly'. This is not the case as where apparent from the public domain – whether nearby footpaths, the mown public land around the village art feature at the edge of the village, or in longer views from the west across the AHLV, the site is only apparent by it's formed nature and the flora that has grown up around its boundaries.
68. The presented benefits of the proposal are discussed elsewhere in this report but are not concluded significant in the planning balance. Ultimately in proposing inappropriate development in a designated landscape area, and notwithstanding the design assessment below, the proposals represent 'harm' and fail the requirements of Policies 10 and 39.

## Highways Safety and Access

69. Policy 21 of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Whilst there were some issues identified by County Highways Officers that related mainly to the separation of the site from the adopted highway, some 50m from the site entrance and the quality of surface on Fenton Well Lane, the applicant has provided sufficient detail in response to indicate that this issue could be resolved through the imposition of appropriate conditions.

## Layout, Design and Residential Amenity

70. Policy 29 of the CDP outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing valued landscapes. The proposed design is an appropriate modern approach to minimising the impact of a new dwelling in the countryside. This however does not mitigate the principle of the openness of the Green Belt. The weight that could be offered to the 'eco' nature of the proposal is reduced as this becomes a standard requirement of all development.
71. The proposal provides appropriate levels of residential privacy and amenity for its residents and poses no issues for neighbours. It is thus compliant with Policy 31 of the Plan.

## Ecology

72. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. The County Ecologist opines that requirements for net biodiversity gain can be achieved within the site. This is presented as one of the very special circumstances offered in justification of the development. It is actually a basic requirement of all forms of built development without which the scheme would be refused and should be weighted accordingly.

## Ground conditions

73. Implications from the Coal Mining legacy and contamination from the former uses of the site can be addressed through the imposition of standard conditions. Foul and surface water proposals are referred to in principle in the submitted forms, the size of the application being such that the relevant consultees would not offer comment.

## Public Right of Way

74. Footpaths Officers have confirmed the proposals offer no conflict with the surrounding footpath network.

## Other Considerations

### Precedent and Consistency

75. The application is presented as of benefit to the Council, to the environment and to neighbours, concluding that it is a requirement of precedent for planning decisions to be consistent. Two decisions are presented – both approved by Committee against Officers recommendation. The first at Rainton gate was a Green Belt site immediately adjacent a rear garden – it noted that the current application is physically separate from the nearest garden. The second was a proposal for holiday accommodation associated with a commercial operation – and established large garden centre.
76. Officers concur that consistency in decision making and Policy application is essential. To do otherwise significantly undermines the Policies in the Development Plan. Whilst it is right to look at the wider context of planning decisions, members will be aware that each proposal and each site must be considered on its own merits. Whilst the Development Plan and its policies are new, and the Framework is often revised, Green Belt policy in its intent and detailed application has been consistent for some years. Therefore, the refusal of the three applications referred to in the history section, the withdrawal of another under threat of refusal and the conclusions of the Local Plan Inspector represent a clear consistency of approach that it would be inappropriate to deviate from.

### Public Sector Equalities Duty

77. Officers have considered whether there are implications in the proposals including the loss of the existing land, the nature of the proposed development and the development period that would affect rights under the Human Rights conventions and the Equalities Act 2010 over and above those implicit in the planning assessment, concluding that in this instance there are none.

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## **CONCLUSION**

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78. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
79. The proposal represents inappropriate development in the Green Belt. A series of what the applicant considers to be 'very special circumstances' are presented in deference to this however, under examination these cannot be attributed significant weight. Claims of anti-social behaviour are unevidenced and called into question in some responses from neighbouring residents. They may not relate in whole to the site. The brownfield land nature of the site brings positive but not significant weight. The potentially sustainable nature of a 'eco' build is again positive but as an increasingly standard requirement, not significant. Net biodiversity gain is a standard requirement. The principle of development proposed has been recently examined in the Local Plan Enquiry process and this must carry significant weight in any assessment. The proposals fall far short of presenting a defensible set of 'very special circumstances'.
80. There are Policy issues beyond the principle involved in the Green Belt assessment in terms of development in the countryside and in a designated landscape that the proposals fail to address.

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## **RECOMMENDATION**

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

1. The application proposes inappropriate development, harmful to the Green Belt and is not supported by very special circumstances that would individually or cumulatively outweigh the harm, contrary to the requirements of Policy 20 of the Durham County Plan 2020 and Part 13 of the Framework.
2. The application represents new development in the countryside without appropriate justification or evidence of need contrary to the requirements of Policy 10 of the Durham County Plan 2020.
3. Proposed in a designated Area of High Landscape Value as defined on map H in the Development Plan, the development does not conserve or enhance a valued landscape in the countryside and does not set out quantified or evidenced benefits to a degree that would outweigh the harm, contrary to Policy 39 of the Durham County Plan 2020 and part 15 of the Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF, notwithstanding the negative conclusion.

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## **BACKGROUND PAPERS**

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Submitted application form, plans, supporting documents and subsequent information provided by the applicant

Statutory, internal and public consultation responses

The National Planning Policy Framework

National Planning Practice Guidance Notes

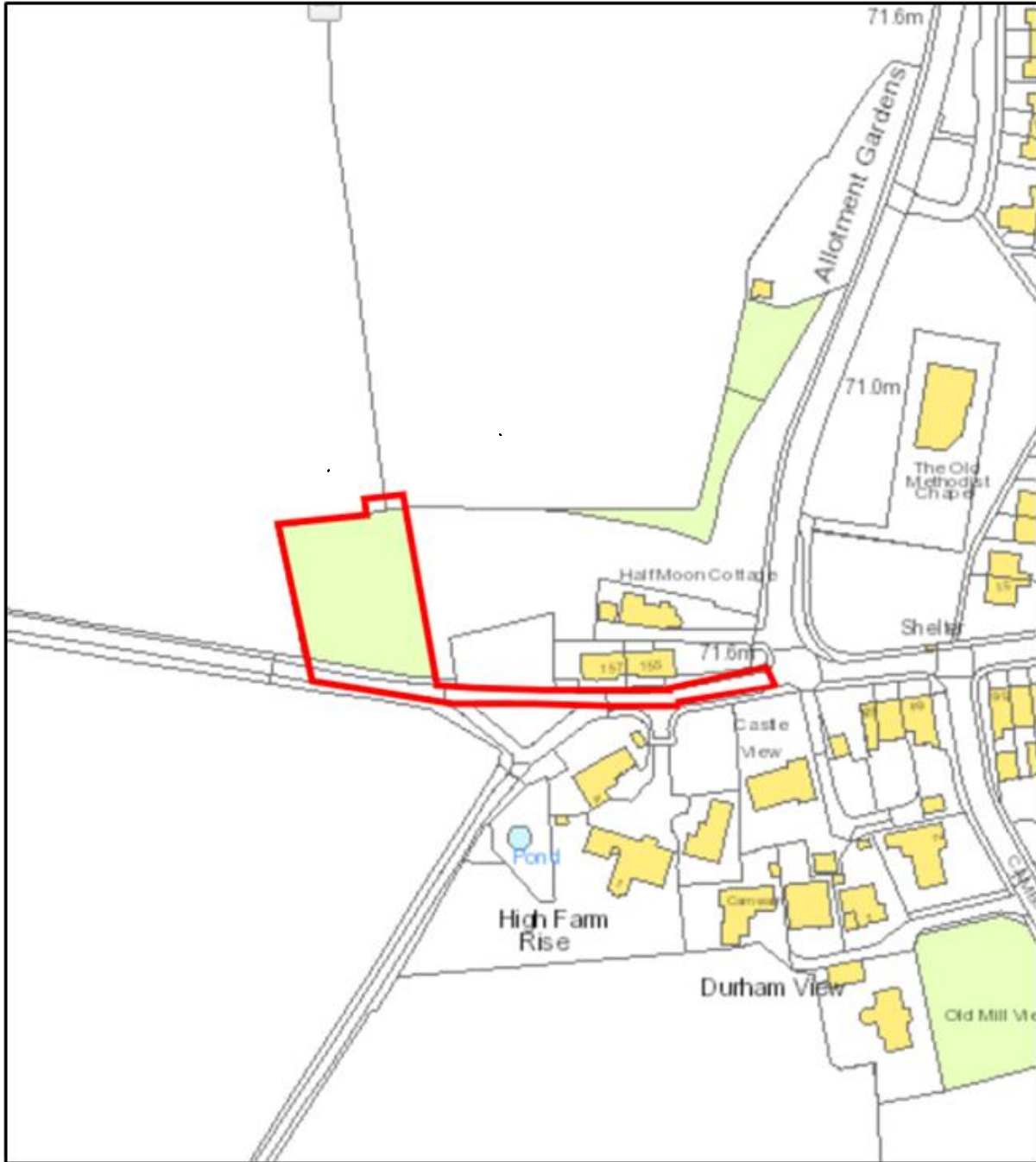
County Durham Plan

Residential Amenity Standards SPD (2020)

County Durham Building for Life SPD (2019)

County Durham Landscape Strategy (2008)

Equalities Act 2010



**Planning Services**

DM/22/00199/FPA  
Erection of single storey dwelling

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**Date** 19<sup>th</sup> May 2022

**Scale** NTS