

## COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/22/02761/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Proposed redevelopment of stables to provide 1 no. 3 bed dwelling</b>
<b>NAME OF APPLICANT:</b>	<b>Mr and Mrs Bracewell.</b>
<b>ADDRESS:</b>	<b>Fernhill, Newcastle Road, Crossgate Moor, Durham, DH1 4JZ.</b>
<b>ELECTORAL DIVISION:</b>	<b>Neville's Cross</b>
<b>CASE OFFICER:</b>	<b>Jennifer Jennings Senior Planning Officer 03000 261059 <a href="mailto:jennifer.jennings@durham.gov.uk">jennifer.jennings@durham.gov.uk</a></b>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. Fernhill is a large detached house lying in extensive grounds on the north western edge of the Crossgate Moor area of Durham. To the west is open countryside, to the east is The Lodge at the entrance to the site, beyond which lies the north-south A167 road, with detached residential properties and Flass Vale further beyond. To the north lie residential properties on Whitesmocks Avenue, separated from the application site by the unsurfaced Club Lane, a public right of way, running in an east-west direction. Immediately to the south is further open countryside, with residential properties in Crossgate Moor Gardens beyond. The site is located within the Durham City Green Belt.
2. The stables are to the west of the main house and are in L shape formation, finished in timber, with a riding arena area to the south of the block. It sits in a large area predominantly given over to lawns and substantial structural planting that screens much of the site from public views. The main house is set on a hill and is located at the highest point of the site, with unequal falls in land levels to each side, the stables themselves lying at a lower level to the house. The greatest change in level is to the north where the slope of the property falls to Club Lane and this difference in height wraps round the contours to the main road. The road rises as it heads south, however even at the highest point of the surrounding land the house still stands clear of its surroundings and predominates views.
3. Close by to the site there are bus stops with services travelling into the city centre and northbound towards the Arnison Centre and Newcastle. Durham Johnson School is close to the south along with a general retailer and a vet's practice.

## The Proposal

4. The application seeks planning permission for the demolition of the existing stables and the erection of a new 3 bed dwelling. The property known as Fernhill would be retained as a family dwelling.
5. The dwelling is proposed to be single storey with an 'L' shape formation similar to the size, form and siting of the existing stables. It would consist of a lounge / dining / kitchen area in the main eastern part of the east west wing, with the three bedrooms, one ensuite and one bathroom running along the north south wing to the west. It would be built into the landscape similar to the stable building and would be no higher than this existing building, save for the chimney on the eastern end elevation.
6. The dwelling has been designed to encompass timber cladding materials for the wall, with large glazed areas for the living spaces and standing seam metal for the hipped roof. An external stone chimney is proposed to the east elevation.
7. Access to the site is currently from the A167 via two positions on the eastern boundary, with the main access to be taken from the southern gated unadopted private drive leading past The Lodge cottage and the northern entrance remaining to serve Fernhill. The proposed route of the access track leading to the proposed dwelling has been amended and realigned on site to make use of the existing driveway track, retaining the grassed / tree planted area as existing. Two car parking spaces would be provided immediately to the south of the dwelling.
8. The application is reported to the Planning Committee at the request of the City of Durham Parish Council who consider the proposals to amount to inappropriate development within the Green Belt, as well as raising concerns over the impact on the Area of Higher Landscape Value.

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## **PLANNING HISTORY**

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9. 95/00371/FPA - Erection of three stall stable block erection of 2.1m stone wall and raising of pitched roof over private garage – Approved
10. 03/00009/FPA - Erection of two storey pitched roof extension to side, single storey pitched roof extension to rear and extension of detached garage, to include demolition of existing garage and conservatory – Approved
11. 03/00880/FPA - Change of use and conversion of existing garage to self-contained residential bedsit – Approved
12. 08/00523/FPA - Proposed demolition of existing lodge and erection of replacement together with an additional 12 no. two storey detached dwellings with associated garaging, parking, access and landscaping – Withdrawn
13. 09/00134/FPA - Demolition of existing flat roof extension and erection of replacement single storey pitched roof extension, erection of two storey pitched roof extension to east side elevation, erection of replacement porch to north elevation, removal of chimney and erection of replacement and demolition of existing outbuildings and erection of detached double garage – Withdrawn
14. 09/00693/FPA - Demolition of existing flat roof extension and erection of replacement two storey pitched roof extension to east elevation, erection of single storey pitched roof extension to north elevation – Approved

15. 11/00535/FPA - Erection of 3 no. dwellinghouses – Refused and dismissed at appeal
16. DM/14/03327/FPA – Erection of four detached dwellings with attached garages, demolition of the stable block conservatory extension on Fernhill and erection of a car port / covered area for parking a horse box – Refused
17. DM/21/02896/FPA – Redevelopment of stables to provide 1 no. 4 bed dwelling at Fernhill – Refused and Dismissed at Appeal.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

18. A revised National Planning Policy Framework (NPPF) was published in July 2021 (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.
19. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
20. *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.
21. *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.
22. *NPPF Part 5 Delivering a Sufficient Supply of Homes -* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
23. *NPPF Part 6 - Building a Strong, Competitive Economy.* The Government is committed to ensuring the planning system does everything it can to support sustainable

economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.

24. *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.
25. *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.
26. *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.
27. *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.
28. *NPPF Part 13 Protecting Green Belt Land:* The Government attaches great importance to Green Belts. 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.
29. *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.
30. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
31. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations

32. 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; design process and tools; determining a planning application; flood risk; healthy and safe communities; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; 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; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

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

## **LOCAL PLAN POLICY:**

### The County Durham Plan

33. *Policy 6 – Development on Unallocated Sites.* Supports 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.
34. *Policy 20 - Green Belt* states that development within the Green Belt will be determined in accordance with national planning policy.
35. *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.
36. *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.
37. *Policy 26 – Green Infrastructure.* States that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green

infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.

38. *Policy 27 – Utilities, Telecommunications and Other Broadband Infrastructure.* States amongst its advice that new residential and commercial development should be served by a high speed broadband connection or appropriate infrastructure for future installation if direct connection is not appropriate, practical or economically viable.
39. *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.
40. *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.
41. *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.
42. *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.
43. *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.
44. *Policy 39 – Landscape.* 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.

45. *Policy 40 - Trees, Woodlands and Hedges.* 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.
46. *Policy 41 - Biodiversity and Geodiversity.* Restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.
47. *Policy 43 - Protected Species and Nationally and Locally Protected Sites.* Development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
48. *Policy 44 - Historic Environment* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
49. *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.

#### **NEIGHBOURHOOD PLAN:**

##### City of Durham Neighbourhood Plan

50. *Policy S1 - Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions* - sets out the economic, social and environmental criteria that development proposals will be required to meet to: Promote economic well-being, to Conserve, preserve and enhance the neighbourhood, to increase resilience to climate change, and secure equity and benefit to the local community.
51. *Policy H3 – Our Neighbourhood Outside the Conservation Areas* – requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area. Such development should sustain and make a positive

contribution to the character and distinctiveness of the area, and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.

52. *Policy D4: Building Housing to the Highest Standards* states that all new residential development should be of high quality design and meet building for life 12 standards.
53. *Policy G1 – Protecting and Enhancing Green and Blue Infrastructure* – seeks to support developments that retain existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value and developments that provide additional green or blue assets, particularly if there is an identified deficiency. Any new or replacement assets must be appropriate to the context and setting. The policy requires developments to protect and enhance public rights of way and footpaths and green corridors. It offers support to proposals that provide net gains for biodiversity. The policy requires features of geological value to be protected. The policy seeks to protect and enhance the banks of the River Wear by supporting proposals with desirable access that do not have significant impacts on current assets. The policy also seeks to protect dark corridors by ensuring developments minimise lighting in such areas
54. *Policy T1 – Sustainable Transport Accessibility and Design* – seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility, impact and design

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

55. *Highway Authority* – Raises no objection.
56. *Coal Authority* – No objections.
57. *City of Durham Parish Council* – Objects to the proposals. To summarise their comments, they note that the previous proposals for a new dwelling on site were recently dismissed at appeal, where development was considered inappropriate and no very special circumstances existed to outweigh this. They comment that the site was subject to specific consideration as part of the preparation of the CDP and the Inspector concluded it should remain within the Green Belt. In relation to the proposals, they consider it would have a greater impact on the openness of the green belt than the existing simple stables, along with the new private access and curtilage space, which was referred to as part of the appeal decision. No very special circumstances exist that would outweigh the harm identified.
58. Further comments were received in relation to the impact on the AHLV and that the proposals would conflict with policy 39 as the proposals would not conserve the special qualities of the landscape and no benefits have been highlighted to outweigh this harm. The proposals would conflict with NP policy H3 also as development would have a negative impact on the open and largely undeveloped nature of the site. Parish also rejects any assumption that the boundary planting would screen the development as it could be removed at any time.
59. In response to the amended drawings, the removal of the additional access road is welcomed but it does not alter the original view of the proposal that it would result in significant harm to the Green Belt from both a spatial as well as visual aspect.



## **INTERNAL CONSULTEE RESPONSES:**

60. *Archaeology* – due to the proximity of this site to the Battle of Nevilles cross, archaeological mitigation of the impacts of the development would be needed. This would involve various phases of metal detecting across the site before and during development, as well as a watching brief. These works could be secured by pre commencement conditions for a Written Scheme of Investigation
61. *Design and Conservation* – No objections. Building is noted as being smaller in footprint to that previously refused.
62. *Ecology* – Updated bat survey by RH Ecology is sufficient to inform the proposal and no further survey is required. It is requested that an integrated bat roost unit is installed in the new dwelling as ecological enhancement under the NPPF. The roost unit should be sited on the western or north western elevation as high up as possible.
63. *Environment, Health and Consumer Protection (Pollution Control)* – No objections
64. *Environment, Health and Consumer Protection (Contaminated Land)* – is satisfied with the information provided within the Phase 1 report. A pre commencement condition is required for Phase 2 and 3 reports, followed by a phase 4 verification report.
65. *Landscape Officer* – The proposals are similar to those made in DM/21/02896/FPA and landscape and visual effects remain as described in the committee report for that application. The application was refused on the single issue of the greater impact on openness of those proposals relative to the existing stables and the subsequent appeal dismissed on those grounds. The removal of the lower storey and associated earthworks substantially reduces the visual effect on openness in views from the south within the site noted by Inspector Brooker. Effects on openness from public vantage points would remain negligible
66. *Trees Officer* – No objections based on recommendations provided by the Arboricultural consultant. The proposed parking area must be constructed with cell web as shown within the arb method statement to ensure that root growth from nearby trees is not damaged /removed.

## **PUBLIC RESPONSES:**

67. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
68. Five objections have been received to date, including comments from City of Durham Trust. The comments are summarised as follows:
  - The development should be refused due to its location in the green belt.
  - The proposals would damage the green belt and the area of great landscape value.
  - There are no exceptional circumstances
  - The dwelling would intrude in the landscape setting and allowing it would set a precedent and make it more difficult to defend the green belt from future development
  - Site subject to multiple refusals over years, any approval would be thin edge of the wedge.
  - Friends of Durham Green Belt object to scheme and consider that the new proposals do not materially differ from the rejected scheme and should be refused for the same reasons.

69. City of Durham Trust objects to the proposals for the following reasons:
- Highlight the site's location within the green belt, further confirmed through the examination process that ratified the CDP.
  - Site forms part of the green wedge, linking Flass Vale with the open countryside
  - Fernhill is considered to be a local heritage asset and key component of local character.
  - Proposals considered to be an extensive development through reshaping and excavation of the area.
  - No reference to loss of stables and the potential to replace them elsewhere in the grounds.
  - Inaccurate to claim new house will have same impact as stable building, as proposals include substantial retaining wall and terracing and new road link.
  - Land not wholly previously developed land as it occupies a substantial section of the house setting.
  - The dwelling would impact negatively on the site openness and quality and value of the site as green belt.
  - It reduces the extent of the landscaping around the house, impacting value of green asset
  - House would break estate character of the site and appear discordant
  - No exceptional circumstances relating to its design or public benefits that weigh against negative impacts
  - Matching height of stables not enough to mitigate harm, nor lack of public access or view of the site.
  - Increased traffic will create hazard for road users
  - Conflicts with policies 10, 20 and 29 of CDP, Part 13 of NPPF and S1, H3 and G1 of the NP.
  - In response to amended drawing, whilst the amendments to the driveway are welcome, it is not sufficient to remove objection as proposals are still considered harmful to the Green Belt.

*The above is not intended to repeat 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=QU6BIIGD0BK00>*

#### **APPLICANTS STATEMENT:**

70. The site was purchased in 1994. The land was not within the designated Green Belt. In 1995 the applicant started to develop the land and successfully applied for and obtained planning permission to build stables on the land and convert one of the outhouses into a cottage, which is now rented privately. The requisite planning permissions were obtained and no reference was made to Fernhill being in the Green Belt. This changed in 2004 when the site was erroneously added to the Green Belt. It was land to the south of Fernhill (a Persimmon Homes site) that was considered during the City of Durham Local Plan Inquiry.

Since then, the development of this site has a long history of support from the Council, including acknowledgement in 2010 that there was “no rationale or justification as to why” the site was included in the Green Belt in 2004. In 2016 Officers of DCC signed a Statement of Common Ground that stated that the land exhibited none of the five purposes of Green Belt and should be removed from the Green Belt. In 2019 Officers of DCC signed a further Statement of Common Ground which repeated the opinion held for the previous 10 year.

This revised scheme to demolish the existing stables and propose a 4-bed dwelling on land at Fernhill, Crossgate Moor. The principle of development has been as PDL through the recent Appeal decision. Therefore, the assessment turns to the impact on openness in accordance with the NPPF.

The Design and Access Statement and proposed plans demonstrates that the proposed dwelling does not have a greater impact on the openness of the Green Belt than the existing stables. The comments of the Inspector have been considered in the revised plans and a single storey dwelling with the same footprint and ridge height as the existing stable has been proposed. The revised proposal ensures that there is not a greater impact to openness in terms of both spatial and visual impacts. Further amendments were made during the application to address comments from Officers.

This application has addressed all matters consider by the Inspector, including the impact on the AHLV, ecology, land contamination and highways. In addition, the scheme will utilise renewable and low carbon energy generation and include electric car charging points.

Therefore, it has been demonstrated that the proposal accords with relevant policies contained within the County Durham Local Plan, the City Durham Neighbourhood Plan and the NPPF.

The proposal is a sustainable form of development which would not have a greater impact on the openness of the Green Belt than the existing stable, fully in accordance with part (g) of paragraph 149 of the NPPF.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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71. 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) and the City of Durham Neighbourhood Plan (NP) form 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. Both the CDP and NP were adopted in 2020 and provide the policy framework for their respective areas up until 2035. The tilted balance in paragraph 11(d) of the framework is not engaged.
72. 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 the development, impact on the character and appearance of the area and landscape, design and impact on non-designated heritage assets, impact on residential amenity, highway safety and access, ecology, archaeology and other issues.

### Principle of Development

73. This proposal seeks to develop land at Fernhill for one detached dwelling. The site is within the Green Belt and a designated Area of Higher Landscape Value (AHLV).
74. By way of background, and as highlighted within the Parish Council comments, consideration to remove the Fernhill site from the Green Belt took place through the plan making process, and the evolution and development of the County Durham Plan (CDP). The version of the CDP which was submitted for examination contained a Policy relating to 'non-strategic Green Belt amendments' which earmarked Fernhill for

removal from the Green Belt (it was Policy 21 within the submission version). The Examination in Public (EiP) of the CDP commenced in November 2019 and the programmed hearing sessions closed on 6th February 2020. The Inspector issued his post hearing advice on 20th February 2020, and an amended CDP was prepared to take account of the specific instructions from the Inspector, and also to take account of all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. This updated Plan was subject to consultation (26th May until 21st July 2020), with all comments sent to the Inspector to inform his final report, which was issued on 17th September 2020. The report confirmed that the CDP was sound and could progress to adoption.

75. The report dealt with the proposed removal of Fernhill from the Green Belt within paragraphs 334 to 337, and these are set out below:

*334. Fernhill is a detached house standing within a large garden surrounded by mature vegetation. It is separate from the main built up area of Durham city which is largely on the other side of the A167, and is bordered by an historic green lane to the north and open countryside to the west and south. The site is mainly open and appears as part of the attractive rural area forming the setting of the historic city in this particular location.*

*335. Neither of the above two sites are required to meet identified development needs, and I am not persuaded that there are exceptional circumstances to justify the removal of either of them from the Green Belt.*

*336. I concluded earlier in this report that there are exceptional circumstances to justify removing land at the former police skid pan at Aykley Heads from the Green Belt and that it is suitable for residential development. The allocation of the site and its exclusion from the Green Belt are clearly shown on the Policies Map, and development requirements are set out in policy 4. Policy 21 therefore serves no material purpose with regard to the site.*

*337. In light of the above I conclude that policy 21 and paragraphs 5.198 to 5.201 inclusive be deleted from the Plan [MM102 and MM103]. The Policies Map should be amended to retain Fernhill and the former Lumley Boys School site in the Green Belt.*

76. The finalised CDP was subsequently adopted by the Council on 21st October 2020 and is the development plan which covers the whole of County Durham. Within the CDP, Fernhill remains within the Green Belt.
77. Planning history on this site is also of relevance. A previous planning application (4/11/00535/FPA) to develop three houses at the site was refused in September 2011, and a subsequent appeal (APP/X1355/A/11/2162513) dismissed in January 2012. A further application (DM/14/03327/FPA) for the erection of four detached dwellings with attached garages, and the erection of a car port / covered area for parking a horse box was refused by the planning committee in January 2020. The refusal and dismissal reasons for both schemes centred around Green Belt implications, including the adverse effect on openness.
78. Of particular relevance is a recent application (DM/21/02896/FPA) for the erection of a single two-storey dwelling on the site of the existing stable block. Recommended for approval, the scheme was refused at planning committee and subsequently dismissed at appeal, with proposals deemed inappropriate development that would cause some harm to openness, and very special circumstances were not considered to exist that would outweigh this.

79. The current proposal seeks to address the issues raised as part of the appeal decision, by reducing substantially the scale of the dwelling from two storeys to a single storey. As before, the proposal will be assessed against Policy 20 (Green Belt) of the CDP. This states that development proposals within the Green Belt will be determined in accordance with national planning policy. The supporting text confirms that there is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated.
80. The NPPF is therefore key in assessing this proposal. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 138 that the Green Belt serves five purposes. Paragraph 147 of the NPPF under proposals affecting the Green Belt states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
81. Paragraph 149 of the NPPF advises that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a. buildings for agriculture and forestry;
  - b. the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
  - c. the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d. the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - e. limited infilling in villages;
  - f. limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
  - 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.
82. The starting point for determination of this application in terms of the principle of development is that the construction of new buildings in the Green Belt should be considered as inappropriate development. However, it is necessary to consider whether any of the exceptions set out above and in Paragraph 149 of the NPPF are applicable to the proposed development.
83. Much discussion took place as part of the previous submission in 2021 as to whether the land constituted 'previously developed land' (PDL). Following review of case law it was determined that the site was deemed to be PDL, a view upheld by the Inspector as part of the appeal decision. On this basis, it is accepted that the scheme can be determined against the exception listed under Para. 149(g) of the NPPF, namely redevelopment of PDL, with the key test being whether or not it would have a greater impact on the openness of the Green Belt than the existing development, namely the stables on site.

## Impact on the Openness of the Green Belt

84. Planning Practice Guidance advice confirms that matters to consider when assessing the impact upon openness include acknowledgement that openness can have both spatial and visual impacts, the duration of the development and its remediability (taking into account any provisions to return land to its original state or to an equivalent or improved state of openness), and the degree of activity likely to be generated. However, it remains that any assessment as to whether openness would be preserved is a matter of judgement based upon the merits of each case.
85. Interested parties have made representation on the application in this regard and consider the proposal to amount to inappropriate development which would be harmful to the openness of the greenbelt for which there are no very special circumstances relevant to outweigh that harm.
86. As part of the recent dismissed appeal decision (July 2022) against the Council's decision to refuse planning permission for a two-storey dwelling, the Planning Inspector considered both the spatial and visual impacts of the development on the openness of the green belt as detailed below:
87. *The impact on openness has a spatial as well as a visual aspect. In spatial terms, the Statement of Common Ground (SoCG) details that the "Upper floor footprint of 89sqm and a lower floor footprint of 115sqm compared to the approximately 100.7sqm footprint of existing stable building." On this basis, the appeal scheme is substantially larger than the existing building and despite being partially subterranean, would therefore introduce a significant amount of additional built development on to the site.*
88. *Turning to the visual aspect of openness, it is agreed between the parties that views of the site from the public domain are limited and I note that the ridge line of the proposed dwelling is very similar to the existing stables. However, when viewed from the south, the appeal scheme is shown on the submitted plans as being a substantial two storey dwelling. Other proposed elevational drawings show an increase in built form. It is my planning judgment that based on the evidence before me and my observations on site, the visible massing of the appeal scheme is greater than the existing built form.*
89. *While I note that the appeal scheme would result in the removal of the paddock area and further landscaping, the submitted plans also show an additional access road, car parking and boundary treatments.*
90. *In that the appeal scheme would result in additional built development both visually and spatially, the proposal would consequently reduce the openness of the Green Belt to a greater extent than the existing development and while the loss of openness would be minimal in the context of the overall size of the Green Belt, the Framework nonetheless indicates that substantial weight should be given to any harm to the Green Belt.*
91. *Thus, I find that the appeal scheme would harm the openness of the Green Belt contrary to guidance set out in the Framework.*
92. The Inspector further commented that very special circumstances do not exist that would outweigh the harm, although he did reiterate that the harm amounted to a minimal loss of openness.

93. The current proposals have been amended to reduce the scale of the dwelling from two storeys to a single storey house, contained within the footprint of the existing stable block. The new dwelling would measure approximately 100.3 square metres compared to the approximate 100.7 square metres footprint of the existing stable building. The proposal would maintain the L-shape form, but the east-west length would be reduced by 3 metres from approximately 18.7 metres to 15.7 metres, whilst there would be a small increase of about 1 metre in the north-south length from 10 metres to 11 metres. The width of each arm of the proposed building would be increased by approximately 0.8 metres from 3.7 metres to 4.5 metres. In terms of height, the building would be no higher than the existing stables, as indicated by the red line on the proposed elevations drawing, with a maximum height to ridge measuring about 3.4 metres.
94. Further amends were also sought during the course of the current application to remove the new access road across the garden area. This has now been included as part of the latest proposed site plan, showing that the access to the site and driveway would now use the existing driveway access, reducing the extent of incursion of development. Works include the erection of a retaining wall, not visible above ground level, and this would be installed to the north of the dwelling to create a small enclosed grassed courtyard. Post and rail timber fencing is proposed along the edge of this. To the south of the dwelling, the existing concrete plinth serving the stables would be retained, with a footpath leading down from this to the car parking area located at the north-eastern edge of the existing manege. The remainder of the manege would be restored to a landscaped garden in keeping with the grounds surrounding the wider site.
95. In assessing the current proposals, it is considered that they have suitably addressed the points and issues noted by the Inspector as part of his decision to dismiss the appeal. The relevant assessment, as outlined in the appeal decision, is whether the appeal proposal would have a greater impact on the openness of the Green Belt compared to the existing development. In this case, the proposed new dwelling is to be of similar footprint and height as the existing stables and would therefore be comparable to the existing development. The minimal loss of openness identified by the Inspector as part of the previously refused application is considered to be fully addressed through removal of the additional storey and the driveway access route.
96. On this basis, the proposed dwelling is not considered to have a greater impact upon the openness of the Green Belt than the existing stables and so is in accordance with Paragraph 149(g) of the NPPF and CDP Policy 20. Accordingly, it is not inappropriate development and the policy tests in paragraphs 147 & 148 of the NPPF do not apply, in that the development does not need to demonstrate 'very special circumstances'. A condition is recommended to remove permitted development rights for extensions to and free-standing structures within the curtilage of the proposed dwelling to ensure the Local Planning Authority retains control over further development of the site which may impact upon the openness of the Green Belt. Subject to this, the principle of development in the Green Belt is considered acceptable in this case and in line with policy 20 of the CDP.
97. Given that the site is well related to the settlement, the proposals would also find support under policy 6 for development on unallocated sites. In particular, the site would be compatible with nearby residential uses in line with part a). It would not contribute to ribbon development or inappropriate background development given that ready access can be gained to the site and amenity distances achieved, in line with part b). There would be no loss to open land, with development taking place on the footprint of the existing stable block, considered previously developed land, in line with parts c) and i) / j). The proposals would also not result in the loss of a settlement's

valued facility, in line with part g). Adherence to parts d), e) and f) are discussed in relevant sections below.

98. To conclude, the proposals are considered to meet with requirements set out in policy 6. The principle of development is therefore considered acceptable subject to further considerations below.

#### Impact on the character and appearance of the area and AHLV

99. The site lies in an Area of Higher Landscape Value (AHLV) as identified in the County Durham Plan. Objection has been raised to the impact of the proposal upon the AHLV by interested parties.
100. Policy 39 (Landscape) of the CDP seeks to protect the character, quality or distinctiveness of the landscape and expects new development to incorporate appropriate measures to mitigate adverse landscape and visual effect. The policy makes clear that development affecting Areas of Higher Landscape Value (as in this case) 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.
101. The AHLV in this area covers open countryside to the west of the site and the wooded common of Flass Vale to the east. The open leafy grounds of three large properties, Fernhill, Friarside and Flass Vale Hall, form a transition between the two and contribute to the AHLV in this area through a combination of their open, largely undeveloped, character and their mature vegetation.
102. The proposals would see the erection of a dwelling on the site of the existing stable building to the west of the site which is screened by a line of mature trees on its west and south boundaries. The dwelling has been designed to be of similar scale and footprint as the existing stable, to ensure its massing and impact on the openness of the Green Belt and wider landscape would be neutral. Views of the proposed dwelling from the distance would be limited by the nature of the topography and surrounding development and the retention of the mature garden vegetation along the boundaries of the site. Therefore, the proposed development would not have a significant impact on the character of the wider landscape.
103. It will be important to ensure, however, that these trees and vegetation can and would be protected and maintained during and after the construction works to ensure the constructed dwelling would continue to benefit from effective screening from public vantage points. A detailed Arboricultural Impact Assessment (AIA), Arboricultural Method Statement (AMS), and Tree Protection Plan (TPP) has been submitted in support of the application which demonstrates that the vegetation would be retained, subject to minor pruning works to a small number of trees to the west of the proposed dwelling. Trees originally proposed for removal to make way for the new driveway access can be retained, although they were noted as low quality specimens and there was previously no objection to their removal. The AMS has detailed protection measures to be adhered to during construction, with the installation of protective fencing as well as the use of ground protection measures for works within the root protection areas of trees. The submitted AIA is a detailed document which concludes that 'no significant damage should take place during the demolition or construction phase and the tree cover should flourish in the longer term.'
104. Trees section assessed the details of the scheme and raised no objections to the findings of the submitted reports. The removal of the new driveway access route is welcomed, but it is requested that the parking area be constructed with cell web as



detailed within the AMS to ensure root growth from nearby trees is not damaged or removed. A suitably worded condition would be applied to any permission granted requiring that development is carried out in accordance with the AMS and TPP.

105. Landscape section also assessed the details of the proposals and concurred with requirements set out by the trees officer. Noting the outcome from the appeal decision, the principal landscape officer confirmed that the removal of the additional storey of the proposed dwelling and the originally proposed extensive earthworks would substantially reduce the visual effect on openness in views from the south within the site. Overall, they considered that effects on openness from public vantage points would be negligible and raised no objection, further welcoming the removal of the new access driveway track as detailed on amended drawings.
106. With it being demonstrable that the trees and vegetation along the southern and western boundaries can be retained, and can be secured via a condition, the development would not be widely appreciated outside of the site in views from public vantage points. Furthermore, the residential properties at Whitesmocks to the north are located on a significantly lower land level which would prevent views of the dwelling from this location, and views of the dwelling from the A167 to the east would not be possible due to the boundary vegetation, higher ground level of the site and the position of Fernhill.
107. In summary, the proposed dwelling would have a comparable form, massing and height to the existing stable building and the visual impact of the dwelling would be extremely limited from outside the application site due to this. The retention of mature boundary vegetation as well as the topography would ensure that the proposals would be visually contained and consequently the impacts in terms of public views would be minimal, conserving the contribution made by the site's vegetation to the AHLV. Therefore, the proposals are considered to accord with CDP Policy 39.

#### Sustainable Design, Layout and Heritage Assets

108. Fernhill and Lodge was originally built in the late Victorian era, firstly appearing on the 1896 ordnance survey map, it was originally known as Crofton House, and is considered to be a non-designated heritage asset (NDHA). Fernhill sits on a high point and may be considered the most prominent building within the site and the application site lies within the setting of the asset.
109. NPPF Paragraph 203 advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
110. In line with this, CDP Policy 44 states that a balanced judgement will be applied where development impacts upon the significance and setting of non-designated heritage assets and that in determining applications which would affect a known or suspected non-designated heritage asset with an archaeological interest, particular regard will be given to ensuring that archaeological features are generally preserved in situ; and in cases where the balanced judgement concludes preservation in situ should not be pursued, it will be a requirement that they are appropriately excavated and recorded with the results fully analysed and made publicly available.
111. CDP Policy 29 requires development to (in part): a) contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and c) and d)

seek to achieve zero carbon buildings and minimise the use of non-renewable and unsustainable resources. Policy 6d) requires development to be appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.

112. In addition, Policy S1 of the DCNP seeks to promote economic well-being by contributing to a mix of uses and to preserve and enhance the neighbourhood by harmonising with its context in terms of scale, layout, density, massing, height, materials, colour, and hard and soft landscaping; and conserving the significance of the setting, character, local distinctiveness, important views, tranquillity and the contribution made to the sense of place by designated and non-designated heritage assets.
113. DCNP Policy H3 relates to development outside of the conservation areas and states that development proposals outside the Conservation Areas should take into account, and meet where appropriate and relevant to the area to which the proposal relates, the following requirements, by:
  - a) sustaining and making a positive contribution to the character and distinctiveness of the area; and
  - b) avoiding the loss of open space and public realm that contributes to the character and appearance of the surrounding area; and
  - c) using high quality design which contributes to the quality and character of the area; and
  - d) having scale, density, massing, form, layout, landscaping and open spaces appropriate to the context and setting of the area; and
  - e) using materials and finishes appropriate to the context and setting of the area.
114. Policy D4 Building Housing to the Highest Standards seeks to ensure that all new housing must be of a high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.
115. The dwelling would be sited in the same location as the existing stables with a similar 'L' shaped form. Design and Conservation Officers have commented on the proposals and raise no objection, noting that the previous appeal dismissal related to the green belt policies, rather than design or impact on the adjacent NDHA. The material palette proposed of glass, timber and standing seam roof is considered to positively respond to Fernhill and the landscape setting whilst introducing a contemporary approach to the architecture. A condition is recommended to secure details of the make, colour and texture of all walling and roofing materials.
116. In terms of sustainable design, the proposals are suitably orientated with large areas of fenestration maximising on solar gains, with added benefits from installation of solar photovoltaic units along this south facing elevation and high levels of insulation. A car charging point is also proposed adjacent to the parking bay. A suitably worded condition would be included to any approval requiring details of these elements to be submitted and installed prior to occupation of the building.
117. Whilst there will be intervisibility between the proposed development site and the non-designated heritage asset, the proposed development would be built into the topography ensuring its bulk and massing matches that of the stable block. Sitting at a lower level, it would read as subservient to Fernhill, with limited impact on the setting of the non-designated heritage asset. Overall, the level of impact within the setting of the non-designated heritage asset would be considered negligible and not harmful.

118. Archaeology Officers have commented that the findings of a desk-based assessment (DBA) carried out in 2008 and submitted in support of application 4/11/00535/FPA also relating to this site are still relevant and recommend the imposition of two conditions relating to a programme of archaeological work and a post investigation assessment. With these conditions the proposal is considered to accord with CDP Policy 44 and NPPF Paragraph 203.
119. Overall, it is considered that the proposals are of high quality design utilising a material palette that would respond positively to the setting of Fernhill and the wider landscape whilst comprising an appropriate scale, massing, form and layout. The proposals are therefore considered to be in accordance with CDP Policy 6, 29 and 44, Part 12 and 16 of the NPPF and DCNP Policy S1, H3 and D4.

#### Residential Amenity

120. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
121. In line with this, CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours 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.
122. In addition, criterion e) of Policy 29 requires all development proposals to provide high standards of amenity and privacy, and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
123. The dwelling has been designed to incorporate a sunken patio to the north to allow light to enter the windows to one of the bedrooms and the hallway area, as well as the kitchen / dining / lounge area. Bedroom 3 would have a single window facing westwards towards the adjacent tree lined boundary. Whilst there may be some shading associated with these trees, it is not considered that this would be detrimental to future users of this room. The remaining windows serving habitable rooms are contained within the south elevation away from any trees to provide sufficient outlook and light for the inhabitants. The proposed layout accords with the Nationally Described Space Standards and includes a generous amount of external amenity space to the south. Overall, it is considered that residential amenity for future occupiers would be acceptable.
124. With regards to separation distances, the east elevation is proposed to contain two windows serving the lounge. These would be secondary windows, with the primary windows contained within the north and south elevation. The east facing windows would face onto the front of the single storey dormer annexe building approximately 12m away, which is below the typically required 18m between habitable room windows within bungalows. Therefore, a condition is recommended to require these windows to be obscure glazed to protect the privacy of the occupants of the proposed dwelling and this annexe building. With this condition the minimum requirements stated in the Council's Residential Design Supplementary Planning Document would be achieved, ensuring all residents on the site would benefit from sufficient levels of privacy and outlook.
125. Environmental Health Officers (EHO) have commented that the area is primarily rural/residential, with limited sources of noise in the area, with the most significant noise source in the vicinity of the site being the A167 road. They raise no objections

or concerns, but in order to protect the amenity of future occupiers, a condition can be applied requiring the dwelling to achieve compliance with specified noise levels. In addition the submitted Construction Management Plan is sufficient to protect the amenity of neighbouring residents, provided the working hours and strategies for noise and light nuisance mitigation are adhered to. Accordingly, conditions are recommended to secure both these elements.

126. The proposals are considered to accord with CDP Policy 29(e) and 31 and Part 12 of the NPPF.

#### Highway Safety and Access

127. Paragraph 111 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
128. CDP Policy 21 relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network. This displays a broad level of accord with the aims of Paragraph 110 of the NPPF which states that planning decisions should ensure development provides safe and suitable access to the site can be achieved for all users. Policy 6 requires development to have good access to services etc and to not be prejudicial to highway safety
129. DCNP Policy T1 seeks to avoid development that would result in adverse transport related impacts where practicable and where necessary to provide mitigation in the form of contributions to access to sustainable means of transport.
130. Given the current proposal is for one dwelling only, to replace an existing private stables, it is considered that the access arrangements would be acceptable in terms of highway safety. Sufficient space is available on site to provide suitable access to the site, allowing cars to enter and egress in a forward gear. In addition, the dwelling is proposed to be served by two in-curtilage car parking spaces which accords with the Council's Car Parking and Accessibility Standards 2019. This document sets out that dedicated cycle parking is not required for dwellings with less than five bedrooms which is the case of this proposal. An EV charging point would be included as part of the proposals.
131. The proposed development is in a sustainable location, would be served by a safe and suitable access, a sufficient amount of in-curtilage car parking, and would not generate a significant increase in traffic. Therefore, the proposals are not considered to adversely affect highway safety and accord with CDP Policies 21, 6e) and 6f) and DCNP Policy T1

#### Land Contamination and Stability

132. Policy 32 of the CDP states 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 and all investigations and risk assessments have been undertaken by an appropriately qualified person. This displays a broad level of accord with Paragraph 183 of the NPPF, which requires that planning decisions should ensure that the site is suitable for its new use taking

account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.

133. The Coal Authority's Planning & Development Team considers that the content and conclusions of the Phase I Geo-Environmental Site Assessment are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority raised no objections to the application, noting that more detailed information may be required as part of any subsequent building regulations application.
134. The EHO has assessed the available information and historical maps with respect to land contamination and reviewed the submitted ERGO Environmental Ltd. (August 2021) Phase 1 Geo-Environmental Site Assessment. The EHO has commented that they are satisfied with the information provided in the report and given that the site has been previously developed and due to the fact that this development constitutes a change of use to a more sensitive receptor, recommend the imposition of two contaminated land conditions (3 and 4). With these conditions, the proposal accords with CDP Policy 32 and NPPF Paragraph 183.

## Ecology

135. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
136. In line with this, Policy 41 of the CDP 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.
137. The application is supported by a Bat Survey Report dated August 2019 and an Updating Bat Survey Report dated August 2021.
138. The 2019 survey (commissioned in relation to an application for four dwellings) identified a bat roost within a poplar tree within the site and concluded that development of the site for four dwellings would result in the loss of feeding and commuting habitat of district, local or parish value to low numbers of bats, with mitigation being particularly important due to the level of foraging activity and the close proximity of roosts to the proposed new housing.
139. The current application relates to a single dwelling as opposed to four, and the most recent report (Updating Bat Survey Report dated August 2021) concludes that no bats were seen emerging from the poplar tree (T2074) during the dusk survey, with a daylight inspection of the tree showing that tree was in poor condition and that tree work had been undertaken according to the advice previously provided by AllAboutTrees (2021). However, the bat transect survey showed that common pipistrelle, soprano pipistrelle and Myotis bats use the tree lines for foraging and commuting. Up to 3 bats were seen at any one point and so two bat boxes are recommended to be added to trees near to the poplar T2074 to provide alternative roosting provision, considering the poor condition of the tree. The report concludes that no further survey work is necessary but recommends a condition to secure adherence to the Method Statement included within Appendix 1. Ecology Section concur with the findings. Accordingly, a condition to this effect is recommended.

140. With the above condition, the proposed development would accord with the requirements of CDP Policy 41, and Part 15 of the NPPF.

#### Drainage

141. CDP Policy 35 states that surface water run-off must be managed at source wherever possible and disposed of in the following order:

1. to an infiltration or soak away system.
2. to a watercourse open or closed.
3. to a surface water sewer.
4. to a combined sewer.

142. The application proposes that all surface water generated by the development would be discharged to an existing water course, although the precise detail of the proposed arrangement has not been provided.

143. It is considered that a suitably worded planning condition requiring the submission and agreement of precise detail as to the means of disposal of surface water prior to the commencement of development, would satisfactorily mitigate any potentially adverse impact in this regard.

144. Subject to such a condition, the development is considered to accord with the aims of CDP Policy 35.

#### Broadband

145. Policy 27 of the CDP requires new residential development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located in an edge of settlement location characterised by both residential and commercial development. Similar requirements in terms of broadband connectivity would be delivered in this wider context. As such it does not appear that there would be any significant constraints to delivering the connectivity in accordance with the requirements of policy 27 although the submission and agreement of precise detail in this regard could be secured through planning condition. Subject to the inclusion of this condition the development is considered to accord with the aims of policy 27 of the CDP.

#### In Response to Objectors Concerns

146. The City of Durham Parish Council consider that the proposals are contrary to DCNP Policy G4, which relates to proposals within the Green Belt land in the Sidegate and Frankland Lane area of Our Neighbourhood as shown in Proposals Map 4 (Green Belt -areas for improvement). The application site is not located within one of the two areas for improvement and so this policy is not relevant in this instance.

147. Concerns have been raised that approving the application could set a precedent for replacing stables with dwellings, and would make it difficult to refuse the erection of a new garage on the site in the future. This application does not propose the erection of a garage or new stable building. Any future planning applications for the erection of a garage or a stable block would be determined on its own merits.

#### Other issues

148. It is noted that an objection was received considering that the Fernhill site is too large to be considered as only private residential garden space and is a landscaped estate forming a key component of the greenspace surrounding Durham City.
149. The application site comprises the existing stable building, manege to the south and the access from the A167 past The Lodge. Fernhill has existed since circa 1896 and planning permission granted for the erection of stables in 1995. Therefore, the land is clearly occupied by a permanent structure. The land surrounding Fernhill, whilst extensive, has not been sub-divided in any way and is clearly separated from the surrounding fields to the west and south by a line of mature trees. This gives credence to the view that the land surrounding Fernhill is private garden land associated with this property, with the stables sited on land within its curtilage.
150. In addition to the above, the Inspector's CDP report concluded that Fernhill "is separate from the main built up area of Durham City which is largely on the other side of the A167", and that "The site is mainly open, and appears as part of the attractive rural area forming the setting of the historic city in this particular location". Therefore, it is considered that the site is not excluded from the definition of previously developed land by virtue of it comprising garden land within the curtilage of an existing building, located outside the built up area of Durham City. Consequently, the proposal should be assessed as to whether it meets the criteria in sub-paragraph (g) of Paragraph 149 of the NPPF.

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## **CONCLUSION**

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151. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11(c)).
152. The proposals are contained within the Green Belt, and it has been determined that they fall to be considered under the exception listed under paragraph 149(g) of the NPPF. Under this exception, the acceptability of the principle of the proposal in the Green Belt rests upon whether the proposed dwelling would have a greater impact on the openness of the Green Belt than the existing stable building it would replace.
153. Based on the assessment outlined above, the proposed dwelling is considered to be of comparable footprint, scale and massing as the existing stable and would therefore not have a greater impact than the building it would replace. With the retention of the mature vegetation along the southern and western boundaries demonstrated by the submitted Arboricultural reports and recommended to be conditioned, views of the proposed dwelling from outside the site would be extremely limited by the treeline, higher topography, and surrounding buildings. Therefore, the proposed dwelling is not considered to have a greater impact, spatially or visually, on the openness of the Green Belt nor would the proposals adversely affect the character of the surrounding landscape. On this basis there is no requirement to demonstrate 'very special circumstances' and the principle of the development is considered acceptable, having suitably addressed the issues raised by the Inspector as part of the recently dismissed appeal at the same site.
154. The dwelling is considered to be of an appropriate design, massing, siting and form that utilises materials that would respond positively to Fernhill, a non-Designated

Heritage Asset, and no concerns are raised over the proposals adversely affecting the amenity of neighbouring residents or highway safety.

155. Notwithstanding the above, conditions are recommended to secure details relating to land stability, archaeology, drainage, as well as conditions restricting the hours and timing of works, and ensuring the protection of trees during the works. Subject to such conditions, the proposals are considered to accord with Policy 6, 20, 21, 29, 31, 32, 35, 39, 40, 41 and 44 of the County Durham Plan, Policy S1, H3, D4 and T1 of the Durham City Neighbourhood Plan and Parts 2, 4, 5, 6, 8, 9, 12, 13, 15 and 16 of the NPPF. The proposals are therefore recommended for approval.
156. Whilst the proposal has generated public interest, the objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application. On balance, it is considered that proposals are acceptable and the application is recommended for approval.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Plan	Drawing No.	Date Received
Tree Protection Plan	AMS TPP Rev A	20/09/22
Proposed Site Plan	DR-A-1012 Rev 7	25/01/23
Site Location Plan	DR-A-1001 Rev 2	25/01/23
Proposed Floor Plan	DR-A-2011 Rev 3	25/01/23
Proposed Elevations	DR-A-3011 Rev 3	25/01/23
Proposed Sections	DR-A-4011 Rev 4	25/01/23

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 6, 20, 21, 29, 31, 32, 35, 36, 39, 40, 41 and 44 of the County Durham Plan, Policy S1, H3, D4 and T1 of the Durham City Neighbourhood Plan and Parts 2, 4, 5, 6, 8, 9, 12, 13, 15 and 16 of the National Planning Policy Framework.

3. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.



Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

4. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 Verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

5. No development shall commence until a written scheme of investigation setting out a programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

Reason: To safeguard any Archaeological Interest in the site, and to comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

6. The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

7. No development shall commence until precise detail of the proposed means of the disposal of surface water have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall take place in accordance with the agreed details.

Reason: To ensure the appropriate discharge of surface water in accordance with Policy 35 of the County Durham Plan. Required to be pre-commencement to ensure that the development will not increase flood risk.

8. Notwithstanding any details of materials submitted with the application no development shall progress beyond the damp proof course membrane until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

9. Prior to installation of the water proof damp coursing associated with the dwelling hereby approved, precise details of a scheme to minimise greenhouse gas emissions,

with the aim of achieving as close as possible a zero carbon building, shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation and electric car charging points. The renewable and low carbon energy measures shall be installed in accordance with the approved details thereafter.

Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in policy 29c) of the CDP

10. Prior to the first occupation the development hereby approved, precise details of all means of enclosure including fencing and retaining walls within and surrounding the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

11. No development shall be occupied until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of policy 27 of the County Durham Plan.

12. The works hereby approved shall be undertaken in strict accordance with the Method Statement for Contractors contained within Appendix 1 of the Updating Bat Survey Report published by RH Ecological Services and dated August 2021.

Prior to the first occupation of the dwelling two bat boxes shall be installed to trees near to the poplar T2074.

Reason: In the interests of protecting bats present in the area and to provide alternative roosting provision in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

13. No works to trees, building or demolition shall take place within the bird nesting season (March - August) unless a checking survey has been carried out by a suitably qualified ecologist and a written report prepared confirming the absence of bird nesting activity is submitted to and approved by the Local Planning Authority.

Reason: In the interests of protecting bats present in the area in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

14. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, and ground protection measures where identified on the plan, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

Reason: In the interests of the visual amenity of the area and to comply with Policies 20, 29, 39 and 40 of the County Durham Plan and Parts 12, 13 and 15 of the National Planning Policy Framework.

15. The dwelling shall be designed to ensure noise audible within the following specified rooms and areas will not exceed:
- o35 dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)
  - o30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
  - o45 dB LAmax in bedrooms during the night-time (2300 - 0700)
  - o55 dB LAeq 16hr in outdoor living areas

Any noise mitigation measures required shall be installed prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: To protect future occupiers from nearby noise sources in accordance with Policy 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

16. The development shall take place in strict accordance with the submitted Draft Construction Management Plan dated August 2021 (received 20 September 2022) unless the Local Planning Authority gives its written consent to any variation.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the two proposed east facing windows serving the lounge of the dwelling hereby approved shall be obscured to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be maintained thereafter in perpetuity.

Reason: In the interests of the residential amenity of neighbouring properties in accordance with Policies 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), no extensions to the dwelling hereby approved or freestanding structures within the curtilage of the dwelling hereby approved shall take place without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of the amenity of the surrounding area in accordance of Policies 20, 29 and 31 of the County Durham Plan and Parts 12, 13 and 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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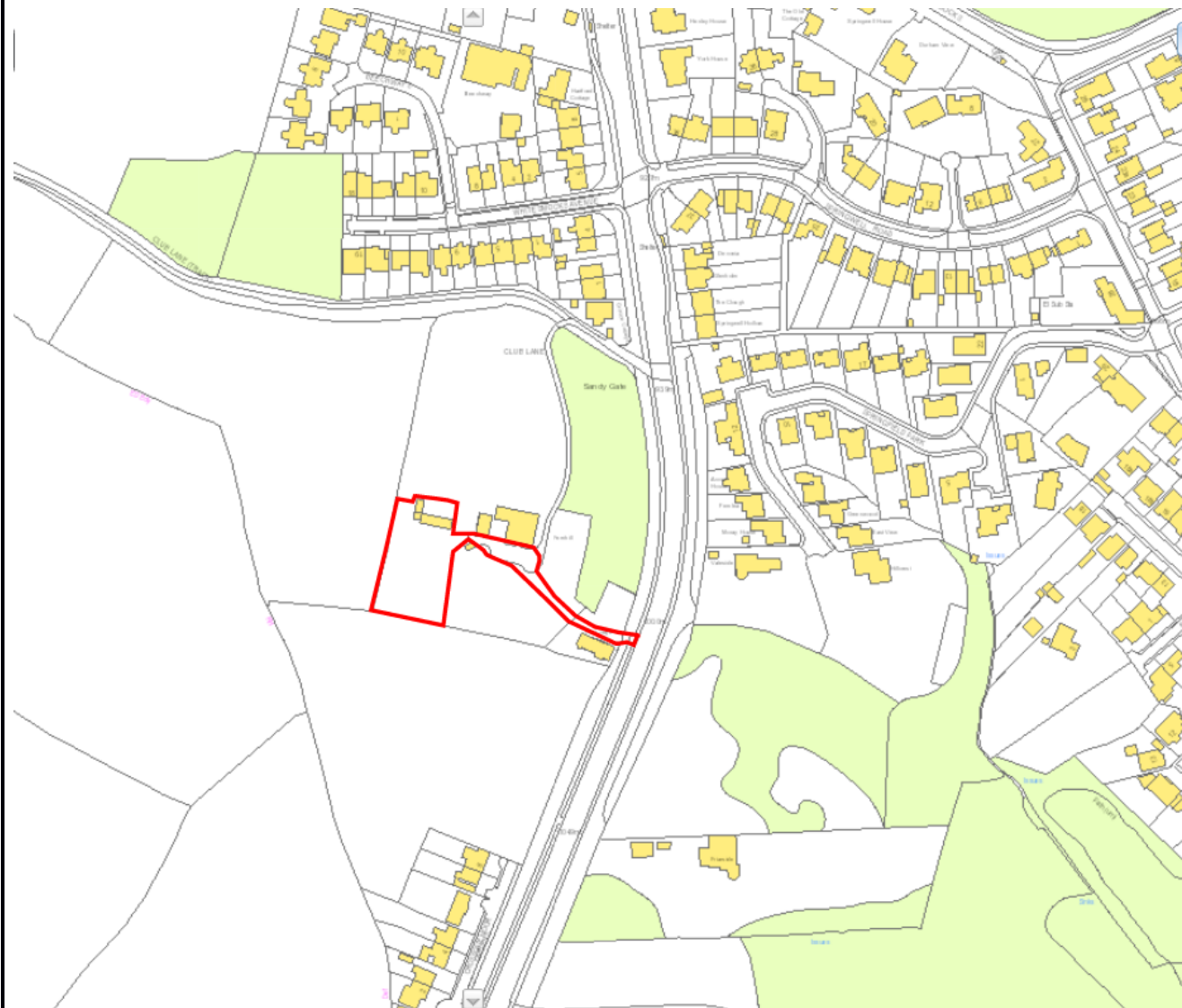
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant 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.

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- City of Durham Neighbourhood Plan 2020
- Statutory, internal and public consultation responses
- Residential Amenity Standards SPD (2023)
- County Durham Building for Life SPD (2019)
- County Durham Parking and Accessibility Standards 2019



**Planning Services**

Proposed redevelopment of stables to provide 1 no. 3 bed dwelling

Fernhill, Newcastle Road, Durham, DH1 4JZ

Ref: DM/22/02671/FPA

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**Comments**

**Date** 14 March 2023

**Scale** Not to Scale