

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/22/00969/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Construction of a new building to be used as a customer display area in association with a previously approved builders merchants premises; the repositioning of a previously consented storage shed (LPA ref: DM/19/03858/FPA); and the siting of 2.4m and 3m high storage palettes and three rows of material storage racks within the site
<b>NAME OF APPLICANT:</b>	Mr David Anderson (Joseph Parr Ltd)
<b>ADDRESS:</b>	Site Of Former Olivers Garden Centre Holmhill Lane Chester Moor DH2 3RQ
<b>ELECTORAL DIVISION:</b>	Chester-le-Street South
<b>CASE OFFICER:</b>	Scott Henderson Senior Planning Officer Telephone: 03000 256286 <a href="mailto:scott.henderson@durham.gov.uk">scott.henderson@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The site was formerly Oliver's Garden Centre, approved for that use (sui generis) in 1985 and operated as such until around five years ago. The site has subsequently been subject to unauthorised uses including caravan storage and storage of vehicles from nearby car sales garages, all of which have been enforced and removed.
2. The application site is a roughly triangular area of land bounded by the main east coast railway line (ECML) to the east, the A167 dual carriageway to the north and Holmhill Lane to the west and south. The site has been cleared of all buildings and structures. The site is surrounded by security fencing of different types on all boundaries and is secure. There is a single point of access from Holmhill Lane, with double gates recessed into the site to allow large vehicles to sit off the public highway while waiting for the gates to be opened. The former Garden Centre's sealed parking area and compact hard-surface overflow parking areas are evident at the front (Holmhill Lane) of the site.

3. The boundary to the east of the site with the ECML is formed of a retaining wall with a palisade fence above. The railway line is at a higher level. To the north of the site mature planting is evident on the embankment outside the site as the A167 dual carriageway dips below the railway under a viaduct, which is listed, north of the road where the woodland valley (that forms part of The Hermitage's grounds) is included in a 'Parks and Gardens of Local Interest' designation. South west of the site, across Holmhill Lane is a small grassed paddock on rising land that separates the nearest dwelling, Chester Moor Farm, from that highway. Chester Moor Farm is surrounded by mature garden planting and is set at 45 degrees and at a higher level from the site. Beyond this dwelling there is a small residential development consisting The Dene - 14 large detached dwellings and a courtyard development of 5 dwellings, accessed from Holmhill Lane 60m south of the site entrance, and further south, The Oval - 12 semi-detached dwellings in a cul-de-sac accessed directly from the A167, 300m from the site entrance. At the entrance to The Dene is an open steel-frame of a barn that following a prior notification in 2016 was granted consent for conversion of an agricultural building into single dwelling.
4. The site is entirely within the designated Green Belt and borders an Area of High Landscape Value.

### The Proposal

5. The application proposes the construction of a new building to be used as a customer display area, a new storage shed and the siting of 2.4m and 3m high storage pallets and three rows of material storage racks within the site. Ten staff car parking spaces are proposed in the south of the site with 14 customer spaces in the north. These include 2 EV spaces and 2 accessible spaces. Access into the site is to be retained from Holmill Lane. The proposals also feature new tree planting and a SUDS scheme with a pond to the south.
6. This application is being considered by Committee at the request of Councillor Bill Moist to consider the impact on the Green Belt.

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## **PLANNING HISTORY**

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- DM/21/01635/CPO Certificate of Lawfulness of Proposed Development for the change of use from garden centre to builders merchants, including the erection of a covered open storage unit, external material storage and ancillary car parking  
Granted 13<sup>th</sup> July 2021
- DM/20/02327/VOC Variation of Condition 2 of approval DM/19/03858/FPA to allow revised single apex roof design to main building and minor alterations to fenestration  
Approved 7<sup>th</sup> October 2020
- DM/19/03858/FPA Change of use from garden centre to builder's merchants, including the recladding of existing building, erection of covered open storage unit, external material storage and ancillary car parking  
Approved 13<sup>th</sup> March 2020
- DM/19/03602/AD 2 no. existing signs to be replaced, 1 no. new sign to existing boundary fencing and 2 no. new fascia signs to front elevations of main building  
Approved 18<sup>th</sup> December 2019

- 2/08/00069/FUL Side extension to existing garden centre to provide additional retail floorspace in connection with existing use and insertion of new shop doors Approved 22<sup>nd</sup> April 2008
- 2/04/00416/ADV Directional sign (retrospective) Approved 23<sup>rd</sup> June 2004
- 2/89/00444/FUL Extension to Retail Glasshouse. Conditionally Approved (CLS) 9<sup>th</sup> November 1989
- 2/88/00104/FUL Extension of Existing Glasshouse Building. Conditionally Approved (CLS) 14<sup>th</sup> April 1988
- 2/85/01006/REM Garden Centre (Reserved matters of 2/85/00006/OUT) Conditionally Approved (CLS) 27<sup>th</sup> August 1985
- 2/85/00006/OUT Outline Application for Garden Centre. Conditionally Approved (CLS) 15<sup>th</sup> February 1985

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal: A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
8. *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.
9. *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.
10. *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.

11. *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.
12. *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.
13. *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.
14. *NPPF Part 13 – Protecting Green Belt land.* The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.
15. *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.
16. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment, protecting biodiversity and recognising the intrinsic character and beauty of the countryside. There is further advice for ground conditions and pollution.

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

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

17. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

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

## LOCAL PLAN POLICY:

### The County Durham Plan (CDP)

18. *Policy 10 Development in the Countryside.* Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and general design principles.
19. *Policy 20 Green Belt.* Development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out several exceptions as well as other forms of development which may be inappropriate in the Green Belt.
20. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
21. *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.
22. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
23. *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.
24. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that

the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.

25. *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.
26. *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.
27. *Policy 39 Landscape* states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
28. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
29. *Policy 41 Biodiversity and Geodiversity* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
30. *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.

## **SUPPLEMENTARY PLANNING DOCUMENTS**

31. The Council adopted a SPD in 2022 dealing with Residential Amenity Standards. The SPD promotes high quality design which is sensitive and in keeping with the area in which it is located.

## Neighbourhood Plan:

32. There is no neighbourhood plan for this area.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

33. *Highways Authority* - comment that upgrades are required in respect of the access to the site and the proposed car parking must be implemented, but subject to that no objections are raised.
34. *Network Rail* - did not comment, however offered no objections in principle to the previous applications on the site.

### INTERNAL CONSULTEE RESPONSES:

35. *Spatial Policy Officers* write:

The site is within the green belt and regarded as an area of high landscape value. It is therefore a sensitive location for development. Policy 20 (Green Belt) of the CDP 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.

The NPPF (2021) should therefore be used to assess this proposal in respect of Green Belt implications. 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.

In this case the proposal does not fall under any of the exceptions, and given that a new building and structures are proposed it is unlikely to preserve the openness of the Green Belt and will conflict with the purposes of including the site within it. They are therefore likely to be regarded as inappropriate and the 'Very special circumstances' test will need to be satisfied.

Policy 10 (Development in the Countryside) seeks to protect the countryside from inappropriate development stating that development in the countryside will not be permitted unless allowed for by specific policies in the Plan (set out within footnote 54), or where the proposal relates to one or more of the following exceptions contained within Policy 10 itself. In this instance the 'Economic Development' element of Policy 10 and part b.) would be relevant as it relates to the expansion of an existing business falling beyond the scope of a rural land based enterprise (as would be the case here). It requires a demonstration that the enterprise is financially sound and will remain so. Financial accounts of the business would assist with demonstrating it is viable. Policy

10 also provides general design principles for all development in the countryside and applications must therefore meet criteria 1-t of the policy.

Policy 39 (Landscape) seeks to protect the character, quality or distinctiveness of the landscape and expects new development to incorporate appropriate measure 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. Given the sensitive location of this site, comments should be sought from specialist colleagues to determine whether the development will be acceptable, and whether any potential mitigation may be required to lessen any harm. This can then be weighed against the benefits of the development.

36. *Ecology Officers* consider that the development shows a net loss of biodiversity, the first port of call is to redesign the layout to provide a net gain through the retention and enhancement of extant habitats. A biodiversity management and monitoring plan will be required for the retained habitats, this can be in draft format with its finalisation being secured via a legal agreement. The applicant should look at design options that deliver biodiversity net gain ensuring that the development meets the requirements of the NPPF and Local Plan.
37. *Environmental Health (Contamination)* note that there is the risk of land contamination on the site and therefore a requirement for a phase 2 investigation. Given this suggested contaminated land conditions should apply to ensure physical investigation of the site, mitigation, where identified as required with where necessary include gas protection measures and thereafter verification of the methods and operations undertaken. Informatives are suggested to cover the eventuality for unforeseen contamination being encountered.
38. *Environmental Health (Nuisance Action Team)* do not envisage that the proposal would have a significant impact in terms of statutory nuisance or amenity.
39. *Lead Local Flood Authority* consider there is insufficient information provided to determine the suitability of the surface water drainage proposal.
40. *Tree Officers* consider that the proposed development would have a low and acceptable impact on existing trees. The additional tree planting will enhance the tree cover and biodiversity on the site.
41. *Landscape Officers* note that the site does not lie within any national or local landscape designations but is adjacent to an Area of High Landscape Value. It contains no protected trees but is within designated Green Belt. They note that the proposed buildings, storage structures and hard surfaces would create a stark spectacle in comparison to the surrounding rural countryside and would bring about adverse and permanent landscape effects. The proposed planting would serve as mitigation, but the wide expanses of hard surfaces would still dominate with proposed buildings and storage racks being additional development to the existing site. The proposed development would increase the extent of built form on the site with potential impacts on the openness of the Green Belt,

#### **PUBLIC RESPONSES:**

42. 38 consultation letters were sent out, with the application also advertised by site notice and in the press. 18 public representations have been received, all objecting.



43. The stated reasons for objection are:

- Inappropriate development in the Green Belt
- No 'special circumstances' to justify development with the Green Belt
- Traffic generation and deliveries to the site will be dangerous
- Insufficient parking on the site
- Noise and disturbance to local residents from the site

## **APPLICANT'S STATEMENT**

44. The applicants submitted a statement in support of the proposal to justify 'very special circumstances' as to why the development can be justified within the Green Belt as follows:

1) The extant use is a Garden Centre and new buildings could be permitted via NPPF Para 149. This would allow the erection of a replacement building under Para 149 (d). The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

2) Additionally, it is the intention of the applicant to implement the active approval, DM/21/01635/CPO, which would then permit a degree of appropriate new buildings also under NPPF Para 149 (c) as an extension to the approved storage unit and under (d), the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

3) One important VSC to be considered is sustainable development which is contained in Paragraph 8 of the NPPF: the economic, social and environmental benefits. It can be a series of circumstances which in themselves might not be very special, but could amount to very special circumstances in combination. Refer to 5) below.

4) It is considered that the site is unique and this is considered another VSC. To explain, the applicant has sought an appropriate site within between its two other sites which are in Teesside and North Tyneside. The selective criteria were;

a) An out-of-town location with good access

b) a site which would enable the Joseph Parr Ltd to proceed with its intention to change the current public perception of Builders' Merchants via the adoption of 'green' policies' which would not only have environmental benefits for the common good but also to project its image as a responsible and caring company.

c) A site of sufficient size to allow the implementation of ecological and environmental procedures.

d) a previously-developed site with either an existing or similar use with established traffic patterns, so as not to create conflict with any adjacent uses.

Joseph Parr Ltd strongly considers that the application site is the only one, after extensive and protractive searches, which meets all of the above factors, and is considered, therefore, unique

5) The application site is large enough and has existing landscaped areas which not only meet Joseph Parr's own ecological aspirations but enable the company to conform, to both lesser and greater degrees, with Durham County Council's many existing and emerging ecological/environmental policies, together with others proposed by bodies such As RIBA etc.

It is the applicant's opinion that none of other sites which have been considered have the ability to incorporate these important factors. Please refer to Appendix 01 which quantifies the special character of the application site when compared to Joseph Parr's other operations and also competitors' site.

Paragraph 11 of the NPPF states that there is a presumption in favour of proposed development for buildings or infrastructure which promotes high levels of sustainability. Planning consent on Green Belt land relies on the outstanding design criteria and to achieve success, an application must be mindful of this. The scheme incorporates enhanced landscaping plans, including biodiversity improvement, such as increased planting and run-off water attenuation. Furthermore, DCC policies contain the following extract:

“When considering development proposals, the Council will take a positive approach that reflects the presumption in favour of sustainable development contained in the Framework. The Council will always work proactively with applicants jointly to find solutions which mean that proposals can be approved wherever possible, and to secure development that improves the economic, social and environmental conditions in the area.”

6) The proposals have many economic and social benefits, such as job creation which have been addressed in Bradley Hall’s Planning Statement and MMA’s Design and Access Statement and Environmental Design document which have been previously submitted.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/simpleSearchResults.do?action=firstPage>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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45. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development in the Green Belt, highway safety and access, layout and design, landscape and visual impact, residential amenity, ecology and drainage.

### The Development Plan

46. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.

### Principle of the Development

47. This application proposes the redevelopment of a disused brownfield former garden centre site situated in the countryside and within the North Durham Green Belt. The site had been in this use since its approval in 1985 until recently. Google Earth images from 2001 onwards (2001, 2006, 2008, 2009, 2012, 2014, 2015) show the site in use as the garden centre, with the central core of buildings surrounded by various forms of open storage, product displays - including erected conservatories, storage

containers and ancillary buildings. The garden centre ceased trading comparatively recently in 2018 and the site was then cleared of some the smaller buildings, structures and the external storage (Google Earth images 2017, 2018) to facilitate unauthorised storage of vehicles - caravans and motor trade cars - a use subsequently enforced by the Local Planning Authority and discontinued. Since that time the last remaining buildings on the site have been demolished and were removed in October 2020. The site is therefore within Green Belt and wholly cleared of existing buildings.

48. The most recent planning activity on the site was the approved application (DM/21/01635/CPO Certificate of Lawfulness of Proposed Development) for the change of use from garden centre to builders merchants, including the erection of a covered open storage unit, external material storage and ancillary car parking which was granted on 13th July 2021. This application was considered after the demolition of the principal building on the site (the glasshouse). It concluded that the unexpected demolition of the glasshouse precluded its recladding and re-use given that it no longer existed, but that the change of use to builder's merchants and other previously approved ancillary buildings and storage racks could be implemented lawfully. Therefore, as it stands no lawful permission exists for the erection of a new building for a customer display area and hence an application for planning permission has been submitted.
49. It is considered that the main issues in the determination of this application are
  - a. Whether the proposal is inappropriate in the Green Belt having regard to the NPPF and any relevant development plan policies (Policy 20 of the CDP); and the effect on the openness of the Green Belt;
  - b. Whether the proposal would satisfy the requirements of development in the countryside (Policy 10 of the CDP);
  - c. Would any harm by reason of inappropriateness, and any other harm, be clearly outweighed by other considerations so as to amount to the very special circumstances necessary to justify the proposal.

## Green Belt

50. Paragraph 149 of the NPPF whilst stating that the construction of new buildings is inappropriate in the Green Belt, provides a number of exceptions to this which includes at paragraph 149 (g) 'the partial or complete redevelopment of previously developed land'. Whilst there is no dispute that the proposal accords with paragraph 149 (g) in respect of it being the redevelopment of previously developed land, to not amount to inappropriate development, it must also 'not have a greater impact on the openness of the Green Belt than the existing development'.
51. In this case the site has recently been wholly cleared of buildings. It must be acknowledged that the approval of the recent Certificate of Lawfulness DM/21/01635/CPO allows the lawful implementation of elements of the scheme now proposed, most notably the material storage sheds, and bulk material storage racks albeit in slightly different locations. This is considered to be the fallback position.
52. Whilst it is acknowledged that the fallback position would have an affect on the openness of the Green Belt, should it be implemented, it is considered on balance that the quantum of the newly proposed development would by virtue of its scale, mass and design have a greater impact that on the openness of the Green Belt over that of the fallback position.
53. Notwithstanding the fallback position, it is considered that the proposed development would result in new built development where (following the demolition of the

glasshouse in 2020) there is currently none, which due to their presence will have a greater impact on openness of the Green Belt contrary to paragraph 149 of the NPPF and Policy 20 of the CDP.

### Very Special Circumstances

54. 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.
55. The applicants have presented a list of what they consider to be Very Special Circumstances repeated in the Applicant's Statement section above.
56. Two of the six reasons offered relate to the replacement of an existing building which in this case is not applicable due to the site being wholly cleared of buildings.
57. The applicant considers that the development would offer the opportunity to provide ecological and landscape benefits. It is acknowledged that development of the site could indeed offer such benefits, but it is felt that this would not amount to a very special circumstance. Such enhancements would be a requirement for any development of this nature in order to be considered acceptable when assessed against Policies 39 and 41 of the County Durham Plan.
58. The applicants also consider the economic and social benefits which would be created through job creation to be a very special circumstance. Job creation is clearly a desirable outcome which can be weighed in favour of development and it is acknowledged that the proposal could lead to 19 FTE positions. However, on its own this would not be considered so significant or exceptional to be considered a very special circumstance, given its proximity to 2 large conurbations (Chester-le-Street and Durham City). According to the Office of National Statistics, long-term unemployment is between 1.6% in Chester-le-Street and 0.9% within Durham City area and therefore the job creation is not considered to outweigh the long-lasting and permanent harm to the openness of the Green Belt.
59. The potential landscape, ecological and economic benefits that the proposal could generate are clearly positive but are not considered to be so unusual, exceptional or significant as to outweigh the identified harm to the openness of the Green Belt. It is not accepted that Very Special Circumstances exist in this case as is required by paragraph 147 of the NPPF.

### Conclusion on Green Belt impact

60. The Government attaches great importance to Green Belts. Substantial weight should be given to any harm to the Green Belt and in this case, it is considered that the proposal is inappropriate, having a greater impact on openness and therefore causing harm to the openness of the Green Belt. This is as well as the other harms identified in terms of the building being located in the open countryside. Despite the other considerations put forward by the applicants, these do not outweigh this harm. Consequently, Very Special Circumstances necessary to justify the development do

not exist and the proposal is considered to fail against the NPPF and Policy 20 of the CDP.

#### Development in the Countryside

61. The site is considered to be within the open countryside as it is located outside the existing built development of a settlement. Policy 10 of the CDP states that development in the open countryside will not be permitted unless allowed for by specific policies in the CDP, or where the proposal relates to one or more exceptions. There are no such specific policies in this case.
62. In terms of the exceptions, the proposal would not satisfy the requirements of economic development given the site has been cleared, does not constitute an expansion of an existing business and does not relate to the establishment of a new agricultural or rural land based enterprise. Furthermore, in response to the 2 remaining Policy 10 exceptions, the proposal would not constitute infrastructure development or the development of an existing building. The proposal would not therefore accord with Policy 10 of the CDP.

#### Landscape and visual impact

63. Policy 39 (Landscape) of the CDP, requires new proposals to not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Development affecting Areas of Higher Landscape Value defined on Map H, will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. Part 15 of the NPPF requires planning decisions to protect and enhance valued landscapes.
64. The site does not lie within any national or local landscape designations but is adjacent to an Area of High Landscape Value. It contains no protected trees but is within designated Green Belt. When considered against the now open character of the site, the proposed buildings, storage structures and hard surfaces would create a stark spectacle in comparison to the surrounding rural countryside and would bring about adverse and permanent landscape effects. The proposed planting would serve as mitigation, but the wide expanses of hard surfaces would still dominate with proposed buildings and storage racks being additional development to the existing site. The proposed development would increase the extent of built form on the site with potential impacts on the openness of the Green Belt. Notwithstanding the impact in relation to Green Belt policy, the proposal is not considered to accord with Policy 39 of the CDP.
65. Policy 40 Trees, Woodlands and Hedges states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
66. The proposal would retain the existing and add additional trees to the site. It is considered that it would accord with Policy 40 of the CDP in this regard.

#### Highways Safety and Access

67. Policy 21 of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Paragraphs 110 and 111 of the NPPF repeat this. Whilst there were some issues identified by County

Highways Officers that related mainly to the access and on site car parking, the applicant has provided sufficient detail in response to indicate that these issues could be resolved through the imposition of appropriate conditions and on that basis no objections are raised from a Highways perspective.

### Residential Amenity

68. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
69. Policy 29 requires development to provide high standards of amenity and privacy, and minimise the impact of development upon occupants of existing adjacent and nearby properties. 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.
70. The site is approximately 50m distant from the nearest noise sensitive residential properties located at The Dene. A number of residents has objected to the proposal on the grounds of noise and disturbance. Consultation was carried out with specialist officers within Environmental Health who do not envisage that the proposal would have a significant impact in terms of statutory nuisance or amenity. Based on the submitted Noise Assessment and comments from Environmental Health the proposal is considered to accord with Policies 29 and 31 of the CDP and the Residential Standards SPD.

### Ecology

71. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Although not yet defined by the applicant, it is considered that requirements for net biodiversity gain can be achieved within the site and are capable of being secured by planning condition.

### Ground conditions

72. Implications from contamination from the former uses of the site can be addressed through the imposition of standard conditions as requested by officers within Environmental Health. It is considered that the proposal accords with Policy 32 of the CDP.

### Drainage and Flood Management

73. The submitted plans indicate areas of the site set aside for reed beds, septic tanks, SUDS pond and use the permeable hard surfaces. Colleagues in the Lead Local Flood Authority have requested additional information but at the time of writing this has not been supplied by the applicant. However, it is considered that a suitable surface water drainage strategy is capable of being designed (secured via a planning condition)

within the constraints of the site and no objection on the basis of Policy 35 and 36 is recommended.

## Other Considerations

74. All other material issues (traffic impact, impact on Green Belt, parking, noise disturbance) raised in the submitted objection letters, , have been considered as part of the assessment above.

## Public Sector Equality Duty

75. Officers have considered whether there are implications in the proposals including the loss of the existing land, the nature of the proposed development and the development period that would affect rights under the Human Rights conventions and the Equalities Act 2010 over and above those implicit in the planning assessment, concluding that in this instance there are none. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
76. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **CONCLUSION**

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77. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
78. It is considered that the proposal is inappropriate, having a greater impact on openness and causing harm to the openness of the Green Belt. This is as well as the other harms identified in terms of the building being located in the open countryside. Despite the other considerations put forward by the applicants, these do not outweigh this harm. Consequently, very special circumstances necessary to justify the development do not exist and the proposal is considered to fail against the NPPF and Policies 10, 20 and 39 of the CDP.

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## **RECOMMENDATION**

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

1. The application proposes inappropriate development, harmful to the Green Belt and is not supported by very special circumstances that would individually or cumulatively outweigh the harm, contrary to the requirements of Policy 20 of the County Durham Plan and Part 13 of the NPPF.
2. The application represents new development in the countryside without appropriate justification or evidence of need contrary to the requirements of Policy 10 of the County Durham Plan.

3. The proposed development would create unacceptable harm to the character, quality and distinctiveness of the landscape contrary to the requirements of Policy 39 of the County Durham Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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Submitted application form, plans, supporting documents and subsequent information provided by the applicant  
Statutory, internal and public consultation responses  
The National Planning Policy Framework  
National Planning Practice Guidance Notes  
County Durham Plan  
Residential Amenity Standards SPD (2023)





**Planning Services**

DM/22/00969/FPA

Construction of a new building to be used as a customer display area in association with a previously approved builders merchants premises; the repositioning of a previously consented storage shed (LPA ref: DM/19/03858/FPA); and the siting of 2.4m and 3m high storage palettes and three rows of material storage racks within the site

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**Date** 30<sup>th</sup> March 2023

**Scale** NTS

