

# COMMITTEE REPORT

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## APPLICATION DETAILS

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Application No:	DM/23/00921/VOC
Full Application Description:	Variation of Condition 2 (occupancy restriction) pursuant to planning permission DM/20/01153/FPA to allow Chalet 1 to be occupied as a manager's dwelling linked to the proposed use of the site for camping/caravanning
Address:	Richy's Stables, Rowntree Lane, Hamsterley Bishop Auckland, DL13 3RD
Name of Applicant:	Mr Justin Breward
Electoral Division:	Evenwood
Case Officer:	Jayne Pallas Planning Officer 03000 268306 <a href="mailto:jayne.pallas@durham.gov.uk">jayne.pallas@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to a parcel of land 1.8 miles to the south of Hamsterley measuring approximately 0.83 hectares. The land is accessed from Nettlebed Lane (C32 highway) to the north via a double entrance gate. Public right of way No.46 runs parallel to the western boundary of the site, with a deciduous hedgerow providing partial screening. The northern boundary is lined with established hedging/vegetation and a mix of high timber fencing and stock fencing enclose the southern and western aspects of the site.
2. The application site currently benefits from planning permission for the siting of a stable building (personal use), 2 No. holiday chalets and for the installation of entrance gates from Nettlebed Lane. This permission has been partially implemented with the stable building, entrance gates and 1 No. holiday chalet erected on site. The second holiday chalet has not yet been built, however the supporting statement advises that this is to be erected in the near future (although no timeframe has been provided). The southern part of the site remains grassed paddock.

### The Proposal

3. Planning permission was granted under application DM/20/01153/FPA which granted permission for the erection of 2 No. holiday chalets on the land. Condition no.2 of this

planning approval restricted the occupation of the lodges for holiday purposes. The condition states:

*'The chalet buildings and use of the land within the areas edged blue on the Block Plan received 18th December 2020 shall be limited to holiday accommodation only, and shall not be used as a person's sole or main place of residence, or as a second home. The chalets shall be made available for commercial holiday lets only, no holiday let shall exceed a continuous period of 31 days, there shall be no return to the let by the same individual until a period of at least 14 days has elapsed between lets. The owners/operator of the development shall maintain an up-to-date record of all holiday let listings and of the names of all occupiers, including their main home addresses and phone number. This information shall be made available upon request to the Local Planning Authority.'*

4. The application seeks to vary condition 2 of DM/20/01153/FPA under a S.73 application to allow the full time residential occupation of holiday chalet 1 for a temporary period of 3 years as manager's accommodation linked to the proposed camping and caravanning business proposed at the site (currently under consideration (reference DM/23/00910/FPA). In the event of the approval of the camping and caravanning business and approval of this application the current unlawful occupation of the chalet by the applicant as his main dwelling would be addressed.
5. This application is being considered by committee at the request of Cllr Cosslett on the basis that the existing chalet already benefits from permission to be occupied for holiday letting purposes. This proposal would allow for the chalet to be occupied temporarily as permanent living accommodation and would utilise an existing building without any form of alteration, so would comply with the County Durham Plan. In addition, the Local County Councillor notes that the synergies between this application and the associated campsite application are an important material planning consideration that is worthy of consideration by Committee, given that it would allow the applicant to effectively manage the day-to-day needs of their new business enterprise if approved.

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## **PLANNING HISTORY**

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6. The site has an extensive planning history. Planning permission was originally granted under reference number DM/20/01153/FPA for the construction of stables and tack room, erection of 2 No holiday letting chalets, retention of static caravan, retention of containers and entrance gates. The applicant is currently residing on the site in breach of occupancy conditions relating to this approval.
7. A subsequent planning application (DM/21/03821/FPA) for the change of use of land to accommodate 30 No. camping pitches with shower/toilet facilities and associated parking was refused. This related to concerns regarding the landscape impact, the sustainability of the site, ecological impacts, the loss of equestrian grazing ground to serve existing uses on site, and the potential impact from the management of foul water.
8. Applications DM/22/01221/VOC and DM/22/03790/VOC for the variation of the occupancy condition of the chalets, to allow holiday chalet 1 to be occupied as a main residence for a temporary 18-month period and then a subsequently a 3 year period were refused in June 2022 and March 2023 respectfully. This related the principle if the development, the isolated location of the development and loss of tourism accommodation.

9. An application for an extension to the existing stables and tack room to create storage area (DM/23/00089/FPA) was approved in July 2023.
10. Application DM/23/00910/FPA for the change of use of land to accommodate 24 No. camping and caravanning pitches including provision of portable toilet/shower facilities, external sinks, drinking water stand pipes and associated parking is pending consideration.

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## **PLANNING POLICY**

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### **National Policy**

11. 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.
12. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
14. *NPPF Part 5 – Delivering a sufficient supply of homes.* In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs. Planning policies and decisions should avoid the development of isolated homes in the countryside unless specific circumstances apply.
15. *NPPF Part 6 - Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. *NPPF Part 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.

17. *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.
18. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

### **National Planning Practice Guidance:**

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; determining a planning application, flood risk, flexible options for planning permissions, housing needs for different groups, use of planning conditions, and water supply, wastewater and water quality.

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

### **Local Plan Policy:**

20. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
21. *Policy 8 Visitor Accommodation* sets out that new visitor accommodation or extensions to existing visitor accommodation will be supported where it would be appropriate to the scale and character of the area and would not be used for permanent residential accommodation. The policy sets out that proposals will be supported where they meet identified visitor need, would be an extension to existing visitor accommodation that would help support the future business, would respect the character of the countryside and demonstrates clear opportunities to make the location more sustainable. Proposals for new or extensions to existing chalet, camping and caravan sites will be supported where they would not be unduly prominent in the landscape.
22. *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.
23. *Policy 11 Rural Housing and Employment Exception Sites* – New housing that is contrary to Policies 6 and 10 of the County Durham Plan will be permitted where the development would accord with specific exceptions, including that the development would be well related to a settlement. All proposals must be in scale and keeping with the form and character of the nearby settlements and the local landscape.

24. *Policy 12 Permanent Rural Workers' Dwellings* - Proposals for new permanent agricultural, forestry and other rural workers' dwellings outside the built up area will be permitted provided it can be demonstrated that there is an essential and functional need for a permanent full time worker to live at the site for the enterprise to function effectively, that the rural business activity has been established for at least three years and is currently financially sound, that the proposed dwelling would not be harmful to the rural landscape, that the scale of the dwelling would be commensurate with the established functional requirement of the enterprise and on the basis that the need could not be fulfilled by another existing dwelling or unit in the area.
25. *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 congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements.
26. *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; providing adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; providing convenient access for all users and adhering to the Nationally Described Space Standards (subject to transition period).
27. *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.

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

### **Neighbourhood Plan:**

28. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **Statutory Consultee Responses:**

29. Evenwood and Barony Parish Council – No comments or objections received.

### **Non-Statutory Responses:**

30. Spatial Policy – Advise that approval of the application would result in the chalet being wholly unavailable for visitor accommodation during the temporary period which would

harm the visitor economy. Justification is bolstered upon approval of the concurrent caravan/camping site proposal, however there is no justification for a worker to reside permanently on the site regardless of the outcome of application DM/23/00910/FPA. The financial accounts for the applicant's roofing business demonstrate that the business has been established for over three years and that it has been struggling financially. The Spatial Policy Team accept this position, however note that there is nothing contained within the financial accounts, or the supporting information, to indicate that fortunes are likely to change in the future to the extent which would allow the applicant to cease residing in the chalet. Other forms of support are available, including housing solutions and registered providers, which would allow the chalet to be available for tourism purposes and would generate income for the applicant.

31. Visit County Durham – Advise there is a general undersupply of visitor accommodation in the area.

### **Public Responses:**

32. The application has been advertised by means of a site notice and direct neighbour notification letters. 1 No. letter of support has been received in respect of the application highlighting the following points:-
  - The family fell on hard times during the Covid-19 pandemic and had no option to sell their home and move into the chalet. The family are hardworking and have young children, therefore need a safe and secure home. Use of the chalet would comply with planning policy which allows for the re-use of existing buildings in rural areas.

### **Applicants Statement:**

33. Policy 10 of the CDP is clear that the re-use of an existing building in the countryside is an acceptable form of development in principle. The proposal would be entirely appropriate in the context of this policy provision. This is further reinforced by paragraph 80 of the NPPF, which also support the re-use of existing buildings in the countryside.
34. The chalet benefits from a residential consent (Use Class C3), albeit one that it is restricted to holidaying purposes only, and its occupation as a temporary residence and manager's accommodation also falls squarely within Use Class C3. No material change of use is proposed.
35. It is acknowledged that the proposal would result in the temporary loss of existing tourist accommodation, however the suggestion that this would represent failure to comply with planning policy is incorrect. Policy 8 of the CDP relates only to the provision of new visitor accommodation and is therefore not of relevance to the determination of the application. The policy makes no provision to resist the loss of existing tourist accommodation, nor does any other policy in the CDP.
36. Planning permission exists for another holiday chalet on the site, which the applicant intends to construct in the near future alongside the proposed camping and caravanning operation. This would place significant day to day management demands on the applicant and his family and they would be best served to reside at the site while the business establishes itself.
37. Evidence has been presented to the Council demonstrating that, due to unforeseen personal circumstances, the applicant and his family have found themselves in the unfortunate position of not having access to a permanent residential property at the

present time nor do they have the financial means available currently to resolve their situation. The proposal would therefore allow the family a period of 3 years to find alternative permanent living arrangements.

*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/>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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38. Section 73 of the Town and Country Planning Act 1990 (as amended) applies to the determination of applications to develop land without the compliance with conditions previously attached. S73 states that on such an application the Local Planning Authority (LPA) shall consider only the question of the condition(s) subject to which planning permission should be granted. The LPA should decide whether planning permission should be granted subject to conditions differing from those subject to which the previous permission was granted or that it should be granted unconditionally. If the LPA decide that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, they should refuse the application.
39. In considering such an application, the Development Plan and any other material considerations under Section 38(6) of the Planning and Compulsory Purchase Act, are relevant in the determination. LPAs should, in making their decisions, focus their attention on national and development plan policies, and other material considerations which may have changed significantly since the original grant of permission.
40. The proposal seeks to remove an occupancy condition relating to holiday chalet 1, thereby allowing it to be occupied as a main residence for a temporary period of 3 years by the manager of the camping/caravanning site that the applicant proposes to operate within the paddock to the south. Approval of the application would in effect result in the formation of a new residential dwelling in the countryside, albeit for a time limited period for use as manager's accommodation. The issue for consideration is therefore whether the condition is reasonable and necessary having regard to the policy context. In this respect, the main planning issues for determining the acceptability of removing this condition relate to the principle of the development, locational sustainability and residential amenity.

The Principle of the Development:

41. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up to date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.
42. One of the key policies in the determination of this application is CDP Policy 10 which restricts new development in the countryside unless exceptional circumstances apply or permitted by other policies within the Plan. It establishes that visitor accommodation is an appropriate use in the countryside, where it accords with the requirements of CDP Policy 8. CDP Policy 10(h) is of particular relevance as it allows for the conversion of existing buildings which:

1. already makes a positive contribution to the character and appearance of the area and is capable of conversion without complete or substantial rebuilding, disproportionate extension, or unsympathetic alterations;
2. results in an enhancement of the buildings immediate setting;
3. does not result in the unjustified loss of a community service or facility; and
4. in the case of a heritage asset, represents the optimal viable use of that asset, consistent with their conversion.

#### *Loss of tourism accommodation*

43. In terms of CDP Policy 10(h), the LPA consider that the proposal would not meet the provisions of the above criteria. Notably Part 10(h.3) which relates to the loss of existing facilities. The LPA consider that visitor accommodation is de facto an existing facility in the countryside, which brings about economic and employment benefits to its rural location.
44. The CDP highlights the role that tourism accommodation in rural areas can have in delivering a positive impact on the local economy, including some social benefits. The visitor economy is important to County Durham, with approximately 14.39m day visitors, spending on average £22.97 per day, whereas overnight visitors spent on average around £209.61 per trip. As such, around 46% of all tourism expenditure in the county can be attributed to only 9% of the total visitors. Encouraging overnight stays is therefore a key issue for the tourism economy within County Durham.
45. Further to this the NPPF sets that the purpose of the planning system is to contribute towards the achievement of sustainable development. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives). These are categorised as economic, social and environmental objectives. The assessment of the development against the social and environmental objectives are detailed below, however in terms of the economic objectives, Part 6 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. In particular in rural areas, Paragraph 83 of the NPPF states that sustainable rural tourism which respect the character of the area should be enabled.
46. In this regard, there is a general undersupply of visitor accommodation in the area and this has been confirmed by Visit County Durham, the tourism management agency for the County. The loss of holiday chalet 1 for a 3-year period would conflict with the LPA's drive to boost the rural tourist economy within the County, with the property only reported to have been commercially let for a 1 month period before being used as a permanent residence.
47. The supporting text at paragraph 5.77 of CDP Policy 10 advises that "The change of use of any such building must be clearly justified on a case-by-case basis according to their individual circumstances including consideration of the proposed use's future viability and the impact the loss of that proposed use would have." The proposal would therefore require demonstration that the business is unviable, and that it has also been marketed for an adequate period of time at a price/value which reflects its current use and the restrictive condition in place. No such information has been provided to satisfy the LPA in this respect and the use of the chalet for residential purposes is dictated by the applicant's personal circumstances, rather than the viability of the business, with the applicant intending to re-establish it as a holiday let following the expiration of the temporary period and with plans to further develop the site for tourism purposes,



including the completion of the extant permission for a second chalet. It is therefore considered that the proposal would not be in accordance with CDP Policy 10.

48. Consistent with CDP Policy 10 is Paragraph 80 of the NPPF which seeks to avoid the development of isolated homes in the countryside unless the proposal meets the listed criteria. Notably Paragraph 80 (c), where the development would re-use redundant or disused buildings and enhance its immediate setting. The LPA do not accept that the building is disused, or the tourism accommodation is redundant moving forward.
49. Also relevant to this application is CDP Policy 8, which supports proposals for visitor accommodation in the open countryside where it is necessary to meet an identified need (or an extension to existing accommodation which helps support future business viability) or is a conversion of an existing building and it respects the character of the countryside and demonstrates clear opportunities to make its location more sustainable. The agent contests the relevance of CDP Policy 8 in the determination of this application, stating that the Policy relates to new visitor accommodation (and extensions to existing visitor accommodation) only and that there is no provision within the policy to resist the loss of tourist accommodation. It is acknowledged that CDP Policy 8 does not capture the scenario whereby existing visitor accommodation is proposed to be taken out of that use, and that is a reflection of the fact tourism can contribute to the growth of an area's economy, with the income derived from it helping to support other businesses and services in the locality. Given the overall identified lack of accommodation, it remains the LPA's stance that all cases which would result in its loss need to be scrutinised and fully justified. As above, no such information has been provided in support of the application that such a business unviable and the application does therefore does not draw support from Policy 8.

*Use as managers accommodation for a temporary period*

50. The proposed scheme also seeks retrospective planning permission for the siting of a caravan unit to be used as permanent manager's accommodation on the site. The applicant currently resides in this unit. CDP Policy 12 is relevant to this element of the proposals which sets out that new rural workers dwellings will only be permitted where:-
  - The nature and demands of work involved means that there is an essential existing functional need for permanent full-time worker to live at the site in order for the enterprise to function effectively.
  - The rural business has been established for three years and is currently financially sound.
  - The scale of the dwelling is commensurate with the established functional requirements of the enterprise.
  - The functional need could not be fulfilled by another existing dwelling on the unit or in the area.
51. This policy replicates the requirements of Paragraph 80 of the NPPF which sets out that planning policies and decisions should avoid the development of isolated homes in the countryside unless there is an essential need for a rural worker, to live permanently at or near their place of work in the countryside.
52. The application to use the site for 24 No. camping/caravan pitches is pending consideration, however it is noted that this is a resubmission of the same proposal which was refused planning permission under reference DM/21/03821/FPA in June 2022.

53. Given the above it is considered that a functional need for the applicant to reside on the site to support the use of the site for potential camping/caravanning purposes is not met. Whilst being on site 24 hours a day may be convenient for the applicant, there would be no functional need for a worker to reside at the site to support the operation of the business. Commonly camping and caravan sites would have specific check in and check out times and more often than not bookings are made remotely. It is also noted that such uses have concentrated peak seasons, where in winter and colder months site activities would be expected to be limited. Furthermore, as the proposed campsite is not yet operational, the scheme fails to meet the length of establishment criteria and cannot be evidenced as financially sound. As such, the proposal would not meet the aims of Policy 12 of the County Durham Plan and therefore could not be supported in principle.
54. In relation to whether any functional need could be undertaken from other dwellings in the vicinity, it is highlighted that the settlement of Toft Hill is located 4.2 miles/7 mins drive away, with a range of housing stock available. The edge of West Auckland is also located 1.4 miles away where there is again a range of housing available. Evenwood is located 3.6m/7 mins away. Given the travel time to these settlements and others in the vicinity of the site, it is considered that without significant capital outlay, the remote monitoring facilities could easily be adopted to provide surveillance of the site from these surrounding settlements and the applicant could rapidly respond to matters. Furthermore, no information has been provided to demonstrate that any functional need would relate to a full-time worker on the site. As set out below, the applicant is self employed as a roofer and intends to continue in this employment.
55. Further to this it is noted that this application is for a temporary period of 3 years where the use would then revert back to a tourism use. However, this would run counter to the applicants argument that a functional need is required to operate a future business, no clarification has been provided on how this claimed functional need would be met after the temporary 3 year period.

#### *Applicants' personal circumstances*

56. Notwithstanding the above, a case to use the property as managers accommodation, the applicant has furthered a case that due to his personal circumstances it is necessary to live on the site. The applicants planning statement sets out that the chalet originally was bought into use as holiday accommodation in March 2022 and was occupied as such for that month. However, the applicant and his family moved into chalet in April 2022 due to having no permanent residence at that time. Prior to moving to the site, the family resided with family members at an address in Bishop Auckland (between November 2019 and April 2022). The supporting statement advises that this was intended as a temporary arrangement following the sale of their home in Auckland Park, however the family were unable to purchase a new property due to financial implications resulting from the Covid-19 pandemic upon the applicant's roofing business and having already committed to the construction of the chalet.
57. The Planning Statement advises that since moving into chalet the applicant has searched for both properties to buy and rent within a 3 mile radius of the site, with this distance dictated by wanting to be close to the horses stabled there. The agent has submitted information regarding current properties available to buy/rent within a 3 mile radius, detailing why none of these are deemed suitable for the family. The supporting documentation also states that the family have sought support from the Citizens Advice Bureau, however, have been informed that no support is available as both the applicant and his partner are in employment. They have also approached Believe Housing via the Council but have been told that they do not qualify for support in terms of housing options.

58. Prior to moving into the chalet at Richys Stables, the agent has advised that the horses were stabled on land in Shildon, which was within 1.7 miles of the applicant's previous home at Auckland Park and approximately 1.2 miles from the home of the family members in Bishop Auckland where they temporarily resided.
59. The supporting documentation advises that the applicant is self-employed and operates a roofing business which is active in the Bishop Auckland area. To support the claim that the business has suffered as a result of the Covid-19 pandemic, the applicant has provided account details covering a three-year period. The submitted information advises that the situation relating to the applicant's roofing business continues to worsen, with the business currently operating at a loss so far this year. The applicant is however confident that the situation will improve once the economic situation the UK currently finds itself in settles down and therefore remains optimistic that the financial viability of the business will improve in the next 3 years. In addition, the agent notes that the applicant's financial improvement/recovery would be complemented should the parallel application for the operation of a camping and caravanning business at the site be approved. In turn this would also help to improve the deliverability of the second chalet on the site that already has planning permission.
60. The accounts relating to the applicant's roofing business show varying profitability over the last 3 years and demonstrate that the business is struggling at present. The applicant's overall financial situation however is not fully understood by the LPA. The supporting information details that the applicant's property was sold in November 2019 (prior to the Covid-19 pandemic) and it is unclear what profits arose from this, particularly given that the family then resided with family members until moving into Chalet 1 in April 2022. Over this period, the site has been developed with a stable building and one holiday chalet and the applicant seeks to further invest in developing the site for camping/caravanning purposes, alongside the construction of the second holiday chalet and the erection of an extension to the existing stable block. This suggests that there is some level of capital reserve available to the applicant to fund the planned development at the site, which could be redirected to locating alternative living accommodation.
61. Furthermore, no compelling evidence has been submitted to demonstrate how the applicant intends to be on a sounder financial footing at the end of the temporary period to allow chalet to be brought back into use as a holiday let. This not only deprives the tourism sector of vital accommodation to meet identified visitor needs, but also deprives the family of an income stream which would help to improve their financial circumstances. This has now been the case for a 15-month period since the family began residing permanently in chalet. In addition to this no information has been provided on the applicant's partners finances and/or income from employment.
62. Overall whilst the applicant's personal circumstances are acknowledged by the LPA, insufficient evidence has been submitted to support the claim that the family have been unable to locate alternative accommodation in an existing property, including detailed information relating to the advice received from the Council's Housing Solutions Team. Furthermore, although convenient to reside within 3 miles of the site to care for the horses stabled there, given the rural nature of the site, only small settlements with a limited supply of housing fall within this catchment, excluding the larger town of Bishop Auckland (approximately 5 miles away) and the surrounding settlements such as St Helen Auckland and West Auckland. These settlements would provide a greater choice of existing housing to meet the needs of the family, with close access to shops, education and facilities to meet their day-to-day needs. It is therefore deemed unreasonable to discount properties within these settlements, which are within a reasonable travel time/distance to the site and the horses stabled there. In addition,

the horses were seen to be stabled at the site during a visit by the LPA on the 15th March 2022, some 5.5 miles away from the applicant's address at that time.

63. In terms of other policies in the plan that may allow development in this rural location, the most relevant is CDP Policy 11 relating to rural housing and employment exception sites. The policy states that new housing which is contrary to CDP Policies 6 and 10 will be permitted where it can be demonstrated that it meets a number of criteria, including; being well related to a settlement, and meeting an identified need for affordable or specialist housing. In this instance, the site is both visually and physically isolated from all surrounding settlements and would not meet an identified need for affordable or specialist housing. The proposal is therefore deemed to be inconsistent with the criteria outlined in CDP Policy 11.
64. In summary, having assessed the principle of the development to remove the planning condition to allow residential occupation of the holiday chalet for a temporary 3 year period as a manager's dwelling, it is considered that the change of use would undermine the LPA's drive to boost the rural tourist economy, contrary to Policy 8 of the CDP. Furthermore, the proposal has failed to demonstrate that it would accord with any exception provisions within Policy 10 of the CDP or would receive support from Policies 11 or 12 of the CDP, particularly relating to the functional need to support a full time worker on an established financially sound business. The proposal would result in the formation of an isolated dwelling in an unsustainable location, in conflict with Policies 6, 10, 11 and 12 of the CDP and Part 5 of the NPPF, which seek to prevent new housing in the open countryside, unless exceptional circumstances apply. Consideration is given below to the impact of the development and whether any material planning considerations exist to outweigh this policy conflict in the planning balance.

#### Locational Sustainability:

65. CDP Policy 10 (p) does not permit development in the countryside where it would be solely reliant upon unsustainable modes of transport, with new development in countryside locations not well served by public transport expected to exploit any opportunities to make the location more sustainable, including by improving the scope for access on foot, by cycle or by public transport.
66. In addition, CDP Policy 21 requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users.
67. CDP Policy 29 also requires that development proposals provide convenient access for all users whilst prioritising the needs of pedestrians, cyclists, public transport users, people with a range of disabilities and emergency and service vehicles whilst ensuring that connections are made to existing cycle and pedestrian networks.
68. NPPF Paragraph 105 advises that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. NPPF Paragraph 110 states that appropriate opportunities to promote sustainable transport modes should be taken, whilst Paragraph 112 amongst its advice seeks to facilitate access to high quality public transport.
69. The agent acknowledges that the site is located in the countryside, but contests that it is isolated in spatial terms due to the proximity of nearby existing residential properties. The agent is of the view that the 3 No. surrounding properties and their associated

buildings create a sense of place and one that resembles a small hamlet, rather than an isolated location as suggested by the LPA. The Planning Statement outlines that the number of vehicle trips to and from the site generated from the use of holiday let would most likely exceed those that would be generated by its continued use as a main residence by the applicant.

70. The site is isolated both physically and visually from any surrounding settlement, accessed to the north by Crane Row Lane/Nettlebed Lane running between Woodland to the west and Windmill to the east. There are no services nearby and therefore occupants would be required to travel to the surrounding service centres to access essential services and facilities. The site is approximately 5 miles from the edge of the settlement of Bishop Auckland, with no public transport links, and therefore any occupants would be reliant upon the private motor vehicle. Nettlebed Lane is not served by a footpath or streetlighting, preventing safe access to the site on foot. This distance and to also to closer settlements such as Evenwood 3.6m away would be in excess of based on good practice guidance set out in the Chartered Institute of Highways and Transportation (CIHT) documents including 'Guidelines for Providing for Journeys on Foot' and 'Planning for Walking', The Department for Transport's 'Manual for Streets'. It is also noted that the majority of this would be on an unlit country road without street lighting which would discourage accessibility by foot.
71. With regard to the number of vehicle trips generated, the Spatial Policy Team advise that there is a distinct difference in the types of services and facilities that would be accessed by permanent occupiers of the chalet in comparison to holiday guests. Visitors of the holiday let are likely to reside outside of the local area and are therefore more likely to make recreational trips. Permanent residents of the chalet would have a greater need to access other services, such as health and shopping facilities, as well as employment and educational settings. For this reason, the CDP seeks to focus permanent residential units in built-up areas, where services and facilities can be readily accessed.
72. Taking into consideration the above, it is considered that the removal of the occupancy condition to allow the full time residential occupation of the holiday chalet as a manager's dwelling for a period of 3 years would conflict with Policies 10, 21 and 29 of the CDP and Parts 2, 5 and 9 of the NPPF. This is because the proposal would result in a residential unit on a site which is considered locationally unsustainable, poorly related to the existing pattern of development and where future occupiers would be heavily reliant upon trips by private vehicles to access shops, services, education and employment opportunities. Whilst the site has planning approval for 2 No. holiday chalets, this is a small-scale operation and the economic benefits of providing additional visitor accommodation in the locality was considered to outweigh the harm resulting from the isolated nature of the site.

#### Residential Amenity:

73. CDP Policy 31 (Amenity and Pollution) states 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 can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and/or community facilities do not have any unreasonable restrictions placed upon them as a result.

74. CDP Policy 10 stipulates that new development should not impact adversely upon residential or general amenity. In addition, CDP Policy 29 states that all residential development will be required to comply with the Nationally Described Space Standards (NDSS). A Residential Amenity Standards Supplementary Planning Document (SPD) has been adopted by the Council, which recommends that residential dwellings benefit from gardens which are at least 9m long.
75. Part 15 of the NPPF seeks to prevent new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air and noise pollution. Paragraph 130 of the NPPF advises that planning policies and decisions should promote a high standard of amenity for existing and future users.
76. The NDSS sets out that a that a single storey 3 bedroom 4 bedspace (persons) dwelling should provide a minimum of 74 m<sup>2</sup> of Gross Internal Area (GIA) along with 2 m<sup>2</sup> of built in storage. A single bedroom is required to be at least 7.5 m<sup>2</sup> of floor area and a double or twin room at least 11.5m<sup>2</sup> of floor space.
77. The floor plans of the chalets show a 3-bedroom unit with two bathrooms and an open plan kitchen, living and dining room with a GIA of approximately 85m<sup>2</sup>, which on the assumption that 4 persons accommodating the unit would comply with the required standard. One of the bedrooms would achieve the minimum size for a double room, while the remaining 2 bedrooms would achieve the minimum size for a single room. Each room would also be served by a window opening providing natural daylight and outlook. In this regard, it is considered that the scheme would provide an adequate level of amenity to future occupiers in accordance with Policies 29 and 31 of the CDP.
78. The Residential Amenity Standards SPD advises that gardens should be no less than 9m in length, unless site specific circumstances allow for a reduction in size. The holiday chalets are served by an enclosed grassed amenity space to the south, which would satisfy the provisions of the SPD in this regard. However, given the openness of the existing boundary treatment, there would be an element of overlooking of this space by any future occupiers of the remaining chalet 2 when constructed and used for visitor accommodation. This however would not be considered sufficient to warrant the refusal of the application, as this issue could be resolved via the erection of a replacement boundary treatment.
79. To conclude, the development is considered to adequately protect residential amenity in accordance with objectives outlined in the SPD, Policies 10, 29 and 31 of the CDP and Paragraph 130 of the NPPF.

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## **CONCLUSION**

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80. This application seeks to remove a condition to control the use of one of the chalets to allow occupation by a manager of a future business. When determining a S73 application the LPA should be considering only the question of the conditions subject to which planning permission should be granted. However, in approving the application a new planning permission for the development as a whole is granted.
81. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions. The key considerations in this case relate to the principle of development, locational sustainability and impact on residential amenity.

82. It is concluded that the removal of the condition to allow one of the chalets to be occupied by a manager of a proposed camping and caravan would undermine the LPA's drive in boosting the rural tourist economy, contrary to CDP Policy 8. Furthermore, the proposal has failed to demonstrate that it would fall within any of the exception provisions of CDP Policy 10 or provide a functional need for an established and viable rural enterprise contrary to CDP Policy 12. The full-time occupation of the holiday chalet as a manager's dwelling, even for a temporary period, would result in housing in an unsustainable location where residents would be unduly reliant upon trips by private vehicles to access everyday shops, services, education and employment opportunities contrary to CDP Policies 10, 12 and 21.
83. Whilst the applicant's personal circumstances are acknowledged, insufficient evidence has been submitted to demonstrate that alternative accommodation could not be sought elsewhere at an existing residential site. It is deemed unreasonable to discount properties within the nearby larger settlement of Bishop Auckland or the surrounding smaller settlements (such as West Auckland, St Helen Auckland etc), which are all within a reasonable travel time/distance to the site and where there is a greater housing stock available. In any event it is concluded that the personal circumstances of the applicant are not sufficient to outweigh the conflict with policies of the CDP.
84. The development has been assessed against all relevant policies of the County Durham Plan, it is concluded that the development would conflict with the identified policies, there are no material considerations which would outweigh the identified harm as a result of the policy conflict, or which would indicate a decision should be otherwise and therefore the application is recommended for refusal.

#### Public Sector Equality Duty

85. 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.
86. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified

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### **RECOMMENDATION**

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87. That the application be **REFUSED** for the following reason:-
1. The removal/variation of the condition to allow the residential occupation of a chalet as manager's accommodation would result in the formation of an isolated dwelling in an unsustainable countryside location, without meeting relevant exception tests for such development in the countryside. These tests include the requirement to demonstrate the functional need of a full-time worker to serve an established, financially sound rural enterprise. The proposal would also result in the temporary loss of tourism accommodation removing the economic and social benefits of such development in a rural area. The personal circumstances of the applicant are not considered to outweigh this harm and policy conflict. The development is therefore considered contrary to Policies 8, 10, 12 and 21 of the County Durham Plan and Parts 5, 6 and 9 of the National Planning Policy Framework.

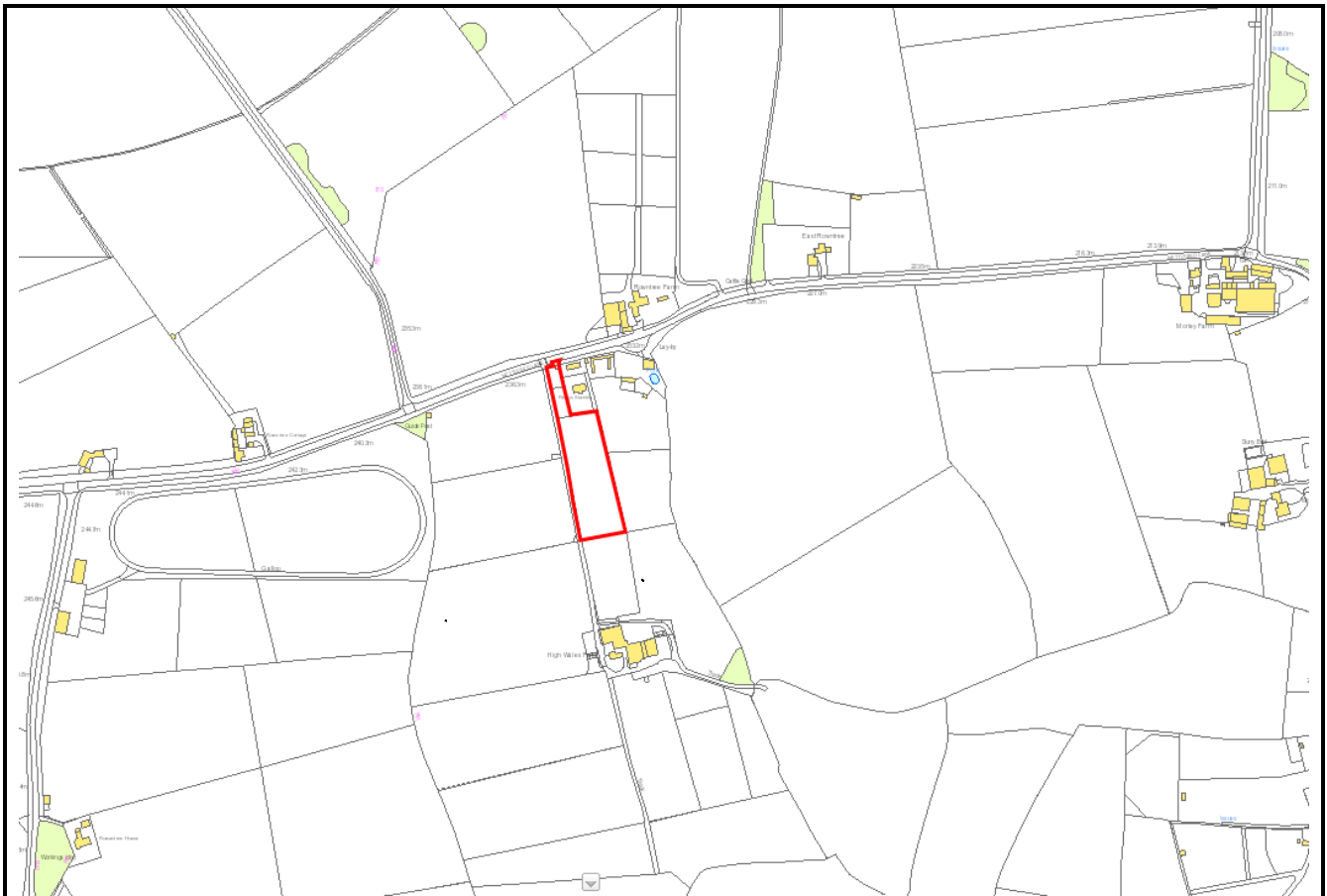
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### **BACKGROUND PAPERS**

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Submitted application form, plans, supporting documents and subsequent information provided by the applicant  
Statutory, internal and public consultation responses  
The National Planning Policy Framework  
National Planning Practice Guidance Notes  
County Durham Plan  
Residential Amenity Standards SPD (2020)





<p><b>Planning Services</b></p>	<p>DM/23/00921/VOC          Variation of Condition 2 (occupancy restriction) pursuant to planning permission DM/20/01153/FPA to allow Chalet 1 to be occupied as a manager's dwelling linked to the proposed use of the site for camping/caravanning</p>	
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	<p><b>Date</b></p>	<p><b>Scale</b> NTS</p>

