



## Planning Services

# COMMITTEE REPORT

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### **APPLICATION DETAILS**

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Application No:	DM/22/00380/FPA
Full Application Description:	Erection of 1no. retail unit (Class E)
Name of Applicant:	Mr Jonathan Gardiner
Address:	Former Windy Nook Picnic Area, Wolsingham, DL13 3DJ
Electoral Division:	Weardale
Case Officer:	George Spurgeon (Senior Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

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### **DESCRIPTION OF THE SITE AND PROPOSAL**

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#### The Site

1. The application site is located beyond the western edge of the village of Wolsingham, in the west of the County. The site itself comprises a parcel of land that measures approximately 0.72ha in area and features unmanaged grassland with an area of hardstanding covered with moss. The site is designated as natural green space in the Council's Open Space Needs Assessment (OSNA) 2018 reflecting its former use as a picnic area, with a disused stone toilet block remaining in situ to its north western corner. Access to the site is taken from the A689 to the north.
2. The site is enclosed by mature trees to all sides, and forms a small part of the larger Wolsingham River Gravels Local Wildlife Site that comprises woodland extending to both the east and the west. The site lies within a designated Area of Higher Landscape Value and 200m to the west of Wolsingham Conservation Area. Agricultural fields lie beyond the A689, with a grouping of buildings which are in use for agricultural purposes, some of which have been converted to residential properties, to the north west at Westfield Farm. To the north east lies the West End Garage vehicle repair shop, with the River Wear to the south. Open countryside lies beyond to the north, south and west.

## The Proposal

3. The application seeks full planning permission for the erection of a two storey retail building to be occupied by the applicants' existing business. Gardiners Farm and Country Store is a rural based business that have been trading for over 240 years, providing a wide range of products including country clothing, workwear and footwear, agricultural hardware and accessories, animal feed, bedding and pet supplies, and gardening tools and compost. The business currently operates out of an existing building located 3.8km away at The Batts, Frosterley, but is no longer able to operate at full capacity. This is as a result of a change in the ownership of the land around the building previously used by the applicant for parking and servicing and no longer being available for use in connection with the Gardiners Store.
4. The proposed building measures 61.6m wide by 15.6m deep, amounting to a footprint of 984sqm, including a 23sqm porch to the southern elevation. The ground floor would comprise a large retail sales area, a storage area, office, changing rooms, and toilets, along with a café. In addition, an area of 200sqm is also proposed to provide external retail space, with 175sqm of additional retail space, including a small office and storage room, proposed to be provided to a first floor mezzanine. The floorspace proposed to be created can be broken down into approximately 1,196sqm of retail space and 140sqm associated with the ancillary cafe.
5. Vertical timber cladding with brickwork below is proposed to be utilised to construct the external walls, with a dual pitched metal sheeted roof above. Solar panels are proposed to be installed on the south facing roof slope. 48no. car parking spaces (including 4 accessible bays), plus 4no. motorbike bays and 8no. cycle storage spaces are proposed. The development would see the removal of 17no. individual trees and 2no. small groups.
6. The application is being reported to the South West Area Planning Committee in accordance with the Council's scheme of delegation as it represents major retail development with a proposed floor area in excess of 1000m<sup>2</sup>.

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## **PLANNING HISTORY**

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7. An extension to the picnic area and the erection of a toilet block was approved under application 3/1977/0770 on the 1<sup>st</sup> of February 1978.

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## **PLANNING POLICY**

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### **National Policy**

8. A revised National Planning Policy Framework (NPPF) was published in September 2023. 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.

9. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
11. *NPPF Part 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.
12. *NPPF Part 7 - Ensuring the vitality of town centres* - Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
13. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 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.
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* - 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:**

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; noise; public rights of way and local green space; planning obligations; 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 9 (Retail Hierarchy and Town Centre Development)* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.
19. *Policy 10 (Development in the Countryside)* states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
20. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document 2023.
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 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* requires all residential and commercial development to be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.
23. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
24. *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.
25. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
26. *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.
27. *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 wastewater 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.
28. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views.

Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher Landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

29. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
30. *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.
31. *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.

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

#### **Neighbourhood Plan:**

32. 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:**

33. *Wolsingham Parish Council* – Support the application advising it would allow an old Wolsingham business to return to the town, to bring an unused site back into use, and provide new employment opportunities.
34. *Highways Authority* – Advise that the applicant has satisfactorily demonstrated that the required visibility splays of 2.4m x 160m can be achieved in both directions and sufficient car parking would be provided. Consequently, no objections to the application are raised.

35. *Lead Local Flood Authority* – Consider the principle of the proposed surface water management system to be acceptable but request further details; these are recommended to be secured via a suitably worded condition.
36. *Environment Agency* – Raise no objections but offer advice regarding the potential need for an environmental permit. This could be added as an informative to the decision notice if the application is to be approved.

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

37. *Spatial Policy* – Consider the proposed development to be supported by sufficient information to pass the sequential and impact tests set out by CDP Policy 9 and Part 7 of the NPPF, indicating that the vitality and viability of nearby town centres would not be adversely affected.
38. *Landscape Section* – Advise that the visual impact of the proposed development could be adequately mitigated through additional planting and an extension of the earth mound to the north east corner of the site. Additional details regarding building materials and finishes, surface materials and enclosures, and soft landscaping specifications are requested to be secured by condition.
39. *Arboricultural Officer* – Note that the proposed development would require the removal of 17no. individual trees and 2no. small groups. The trees to be removed comprise primarily category C and U trees with a couple of smaller category B trees. Advise that the removals will not have a significant impact on the amenity of the area. Whilst there would be some minor encroachment of the root protection areas of a small number of trees on the south side of the site they consider that the trees in question can accommodate this without significant impact. Consequently, no objections are raised.
40. *Ecology* – Raise no objections subject to a legal agreement to secure the provision of biodiversity enhancements offsite on land under the applicant's ownership, along with a Biodiversity Creation, Management and Monitoring Plan.
41. *Public Rights of Way Section* – Advise that footpath PRoW no.92 lies outside of the site to the east and would not be affected by the proposed development.
42. *Environmental Health Nuisance* – Raise no objections subject to a condition to secure further details of lighting and to restrict the opening times of the premises.
43. *Environmental Health Air Quality* – Advise that an Air Quality Assessment is not required but recommend that details of a Dust Management Plan are secured via a condition.
44. *Environmental Health Contamination* – Advise a conditional approach in relation to land contamination to secure further testing and monitoring.
45. *Archaeology* – Raise no objections as the ground has already been disturbed.

### **External Consultee Responses:**

46. *Northumbrian Water* – Confirm they have no comments to make as no connections to the public sewerage network are proposed.
47. *Crime Prevention Durham Constabulary* – Provide security recommendations regarding the specification of windows, doors and external lighting, which could be added as an informative to the decision notice if the application is approved.

### **Public Responses:**

48. The application has been advertised by way of a site notice, press notice and individual notification letters sent to neighbouring properties.
49. One letter of support has been received considering the site to be an appropriate location for the proposed development.

### **Applicants Statement:**

50. None received prior to publication.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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51. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the Principle of Development, Open Space, Highway Safety, Design and Visual Impact, Residential Amenity, Flooding/Drainage, Ecology, Ground Conditions, Carbon Emissions, and Other Matters.

### Principle of Development

52. 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 NPPF Paragraph 12. 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.
53. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

### Countryside Location

54. The application site occupies a position detached from the main built up area of Wolsingham and so is considered to be located within the open countryside. CDP Policy 10 seeks to direct development to built up areas but is permissible towards development in the countryside where allowed for by one or more listed exceptions or specific policies in the Plan. Of these, the most relevant to the application is exception b) which relates to the expansion of an existing business falling beyond the scope of a rural land based enterprise, where it can be clearly demonstrated that it is, or has the prospect of being, financially sound and will remain so.
55. Gardiners Farm and Country Store is the largest country store in the Weardale area, providing equipment needed for shooting, farming, equestrian, sports, and a wide range of country pursuits, with their portfolio ranging from small local projects to national work. The applicant advises that the business involves the selling of country clothing, workwear and footwear, agricultural hardware and accessories, animal feed, bedding and pet supplies, and gardening tools and compost to local farmers, gamekeepers and other businesses within Weardale, as well as local people and tourists. As such, whilst there is a connection with the countryside, the business is considered to fall beyond the scope of a rural land-based enterprise, which typically include agricultural, forestry, and equestrian uses.
56. The business currently operates from a site at The Batts, Frosterley, and the applicant has explained that they rely on land adjacent to the unit for parking and servicing which is owned separately and has recently changed hands, with the new owner being unwilling to continue the arrangement. The applicant has explained that this is having a detrimental impact on the ability of the business to operate and trade effectively, resulting in alternative sites to relocate the business being explored.
57. The existing site in Frosterley comprises a two storey building with an external retail space to the north, representing a total floor area of approximately 1,130sqm. This application seeks to erect a new two storey building with an increased floor area of 1,336sqm, also including an external retail area. Although no detailed financial information has been provided to demonstrate the profitability of the business, the submitted Planning Statement confirms that it has been operating from the site in Frosterley for 17 years, and from Wolsingham for many years prior to this. It is also noted that the existing store in Frosterley occupies a position within the open countryside to the eastern edge of the village. The application relates to an established business that has met an important local need for many years serving the Weardale community, including agricultural and other land based businesses, and employs seven local people. The support from Wolsingham Parish Council is also noted in this regard.
58. As the proposed development comprises the erection of a building in a different location to the one that currently exists it does not fully fall under the parameters of exception b), however given that the existing building is also located within a rural location, and the need to relocate the business as explained by the applicant, the proposed development is considered to broadly accord with the aims of CDP Policy 10. The proposed development would also accord with the

aims of NPPF Paragraph 84 which seeks to enable the sustainable growth and expansion of all types of business in rural areas and the retention and development of accessible local services and community facilities.

59. CDP Policy 10 p) goes on to state that new development in the countryside should not be solely reliant upon unsustainable modes of transport and that locations not well served by public transport must exploit any opportunities to make a location more sustainable, including improving the scope for access on foot, by cycle or by public transport. In addition, NPPF Paragraph 110 advises that appropriate opportunities to promote sustainable transport modes should be taken.
60. In this regard, there is no footpath to either side of the A689 and so access to the site will rely heavily on the private car. The applicant has given consideration to providing a formal link to PRow no.92, which lies outside of the site beyond its north east corner and provides a pedestrian link to the settlement. However, this has been discounted due to the topography of the site in this position and the tree removal required to facilitate the connection. Overall, it is accepted that there are no feasible opportunities to improve the sustainability of the site in this instance, with it noted that the existing Gardiners store occupies a position within the open countryside. Therefore, the proposed development is considered to accord with the aims of CDP Policy 10 p) and NPPF Paragraph 110.

#### Sequential Test and Town Centre Impact Assessment

61. The proposed development relates to the erection of a building to be used to sell a wide range of clothing, boots, hardware and other accessories, along with an ancillary café. As such, the proposed use represents a main town centre use in an out of town location and so CDP Policy 9 is also relevant. Policy 9 states that proposals for town centre uses not located within a defined centre are required to provide a sequential assessment.
62. This is in line with NPPF Paragraph 87 which advises that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
63. NPPF Paragraph 88 goes on to advise that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
64. Planning Practice Guidance (PPG) further advises that it is up to the applicant to demonstrate compliance with the sequential test, which will need to be proportionate and appropriate for the given proposal. Criteria that should be taken into account includes whether the suitability of more central sites to accommodate the proposal has been considered; and whether there is scope

for flexibility in the format and/or scale of the proposal, in terms of what contribution more central sites are able to make individually to accommodate the proposal. If there are no suitable sequentially preferable locations, the sequential test is passed. CDP Policy 9 states that where an application fails the sequential test it should be refused.

65. The application is supported by a sequential assessment contained with the submitted Planning Statement which has identified potential suitable available sites within 300m of the two closest local town centres of Wolsingham and Stanhope, which is considered to be appropriate. The Assessment sets out that the following requirements have been used to identify suitable sites:
- A single storey unit with a Gross Internal Area of at least 900m<sup>2</sup> that is capable of accommodating the requirements of the proposed country store, including the sale of large and bulky goods, including wholesale, of which it is not possible to disaggregate because customers often make purchases of large and small goods on the same visit;
  - Suitable and safe customer access points;
  - Customer parking within the vicinity;
  - Equalities Act Compliant level pedestrian access;
  - A site that is easily accessible by large vehicles, for deliveries and collection of large goods, and farm vehicles.
66. Case law sets out that the test is regarding whether an alternative site is suitable for the proposed development based on the requirements of the business, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.
67. In this regard, both the Local Centres of Wolsingham and Stanhope lie within a Conservation Area, are relatively small in size compared to the Gross Internal Area sought, and feature a range of local shops. The Local Centre of Wolsingham comprises units clustered around the marketplace, with access for the larger vehicles required to service the proposed building being constrained by the road layout. Stanhope Local Centre comprises the two storey properties located to the north side of Front Street and the Market Place, with the A689 restricting access for larger vehicles and with limited accessible customer parking to the shop fronts. The size of the units within each Local Centre also fall below that which is required by applicants' business.
68. PPG advises that use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification will need to be provided where this is the case, and land ownership does not provide such a justification.
69. In this regard, it is noted that whilst Frosterley does not have a defined Local Centre the existing premises is also located in a removed location. This was dictated as a result of the size, associated car parking spaces and accommodation of larger delivery vehicles within close proximity to the building for easy transport of large goods. The applicant is looking to relocate the business to an alternative site due to the current site no longer benefitting from an associated parking and servicing area following a change in the landowner.

Therefore, it is accepted in this instance that there are no units within, or on the edge of, the Local Centres of Wolsingham or Stanhope that are suitable and available to accommodate the applicant's business. Accordingly, the sequential test is passed and the application accords with NPPF Paragraphs 87 and 88.

70. NPPF Paragraph 90 goes on to advise that when assessing applications for retail development outside town centres, which are not in accordance with an up-to-date plan, Local Planning Authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold. In this regard, CDP Policy 9 states that proposals for comparison retail with a floor area in excess of 1,000m<sup>2</sup> proposed outside of a defined centre and that could impact on a Sub Regional, Large Town or District Centre, or any retail in excess of 400m<sup>2</sup>, that could impact upon Small Town or Local Centres, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG.
71. The proposed new building would accommodate approximately 1,196m<sup>2</sup> of retail space and 140m<sup>2</sup> of café floorspace and be sited on land outside but within 1km of Wolsingham Local Centre and 7.7km of that of Stanhope. The site lies 10.4km from the closest largest town centre (Crook), 17.7km away from the closest sub regional centre (Bishop Auckland), and 27.35km away from the closest district centre (Dragonville). The centres of Bishop Auckland and Dragonville are not considered to be impacted upon by the proposed development as the country store goods offered by the applicants' business do not directly compete with the offer provided by the retail units in these centres and the more urban surroundings for which they predominantly cater. The submitted Planning Statement includes an Impact Assessment relating to the Local Centres of Wolsingham, Stanhope, and Tow Law, and the larger town centre of Crook, which is considered to be appropriate.
72. NPPF Paragraph 90 advises that an Impact Assessment should include assessment of: a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
73. Paragraph 91 goes on to advise that where an application is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused. Similarly, CDP Policy 9 states that where an application would have a significant adverse impact on investment or the vitality and viability of a town centre, it should be refused.
74. PPG advises that the purpose of the test is to consider the impact over time of certain out of centre and edge of centre proposals on town centre vitality/viability and investment. The test relates to retail and leisure developments (not all main town centre uses) which are not in accordance with up to date plan policies and which would be located outside existing town centres. It advises that important considerations include the: scale of proposals relative to town centres; the existing viability and vitality of town centres; cumulative effects of recent developments; whether local town centres are vulnerable; likely effects of development on any town centre strategy; impact

on any other planned investment. Impact should be assessed on a like-for-like basis in respect of that particular sector; it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly.

75. The submitted Impact Assessment identified there to be no comparable businesses operating in any of the town centres of Wolsingham, Stanhope, Tow Law, or Crook. The Assessment concludes that due to the small scale of the retail centres within the catchment, the particular units occupying them, and the low vacancy levels and high demand for stores there, it is unlikely that the proposed development would have a significant impact on trading patterns, or the vitality and viability of the local centres concerned.
76. In this instance, it is acknowledged that the proposals would see the relocation of an existing business from an out of town centre site in Frosterley to a new building with have a slightly increased but comparable floor area. However, the proposed development is not considered to have a greater impact on nearby local centres than already exists. In addition, it is considered that the applicants' business helps to meet particular needs of the local Weardale community, with many of the goods provided not overlapping with those on offer by shops in nearby local centres, with this including large bulky goods not typically found in town centres. The closest comparable offer comes from Carrs Billington Country Store located on Montablo Road in Barnard Castle, 26.3km away from the application site, which similarly lies outside the defined town centre, in this instance on a protected employment site (Harmire Industrial Park). Therefore, it is not anticipated that the proposed development would directly compete with or draw trade away from existing town centres.
77. Overall, the proposed development is not considered to adversely impact upon the vitality or viability of surrounding town centres and accords with CDP Policy 9 and Part 9 of the NPPF.
78. Subject to a detailed analysis of the impacts of the development, including against the general design principles of CDP Policy 10, the erection of the proposed retail store is considered to be acceptable in principle.

#### Open Space

79. CDP Policy 26 states that development proposals will not be permitted that would result in the loss of open space or harm to green infrastructure assets unless the benefits of the development clearly outweigh that loss or harm and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements. Where valued open spaces or assets are affected, proposals must incorporate suitable mitigation and make appropriate provision of equivalent or greater value in a suitable location. Where appropriate there will be engagement with the local community.
80. NPPF Paragraph 92 advises that planning decisions should enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure. NPPF Paragraph 98 advises that access to a network of high quality open spaces and opportunities for sport and physical

activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.

81. The application site is designated as Accessible Natural Green Space (ANGS) in the Council's Open Space Needs Assessment 2018 (OSNA), having formerly been used as a picnic area.
82. The OSNA sets out the Accessible Natural Green Space Standards which are that dwellings should be served by at least one accessible 20ha site within 2km; one accessible 100ha site within 5km; and one accessible 500ha site within 10km of homes. The application site forms a small part of a larger parcel of ANGS which measures approximately 20ha. The proposed development would see approximately 0.72ha of this lost to facilitate the erection of the new building and associated parking areas. Given that the vast majority of the ANGS would be retained following the completion of the development with only a relatively small area lost, the proposed development is not considered to prejudice the enjoyment of the wider area of ANGS which would continue to be available for use by nearby residents. In addition, the site has not been used as a picnic area for several years and it is noted that no objections have been received relating to the loss of the site as ANGS.
83. The site lies within the West Durham Local Plan Monitoring Area in which the OSNA identified gaps in the provision of ANGS regarding the 20ha within 2km standard, however it acknowledges that many of these areas are served by an extensive rights of way network providing access to wider countryside and open moorland. In this instance, there is a complex of PRowS which provide access to the wider countryside, including the Weardale Way to the south which connects Stanhope to Witton-le-Wear via Wolsingham amongst other settlements.
84. Overall, the site is no longer in use as a picnic area and its loss as ANGS in the context of the wider parcel of ANGS that would remain and the access to the countryside via various PRowS would not deprive residents of valuable open space. The benefits of the proposed development in allowing an existing and well-established local business to continue to operate, employing local people and serving the needs of other businesses and residents in the Weardale area are considered to outweigh the loss of open space in this instance, according with CDP Policy 26 and Part 8 of the NPPF.

#### Highway Safety/Access

85. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, CDP Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. CDP Policy at criterion q) does not permit development where it would be prejudicial to highway safety.
86. The NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. In addition, NPPF Paragraph 111 states that

development should only be refused on transport grounds where the residual cumulative impacts on development are severe.

87. The proposed junction access to the site from the A689 is to be built to adoptable standards, with a 6m wide 10m junction radii. The Highways Authority have confirmed that the submitted information sufficiently demonstrates that the required visibility splays of 2.4m x 160m can be achieved in both directions. The applicant has confirmed that any signage to the site would be set back over 2.5m from the adopted highway to ensure the maintenance of the visibility splay, with any future signage to be separately assessed under an application for advertisement consent.
88. The Council's Parking and Accessibility SPD 2023 requires retail stores with a floor area exceeding 1000sqm to be served by one car parking space per 25sqm. In this instance, the proposed floor area equates to a requirement to provide 50no. car parking spaces and 8.no cycle parking spaces. A total of 48no. car parking spaces are proposed (including 4 accessible bays), plus 4no. motorbike bays, along with 8no. cycle storage spaces, which is considered to be sufficient to serve the premises. A minimum distance of 6m is provided behind all parking bays which provides sufficient room for vehicles to adequately manoeuvre in and out when parking.
89. Overall, it is considered that the proposed development will not adversely affect highway safety, according with CDP Policies 10 and 21, and Part 9 of the NPPF.

#### Design and Visual Impact

90. CDP Policy 10 at part l) seeks to protect townscape qualities, including important vistas and the intrinsic character and beauty of the wider countryside, and at part o) seeks to avoid development that would impact adversely upon the setting, townscape qualities, or form of a settlement which cannot be adequately mitigated or compensated for.
91. CDP Policy 29 outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
92. CDP Policy 39 states development affecting Areas of Higher Landscape Value (AHLV) 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.
93. Parts 12 and 15 of the NPPF also seek to promote good design, while contributing to and enhancing the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside and optimise the potential use of the site. Specifically, NPPF Paragraph 130 states that planning decisions should aim to ensure developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and the surrounding built environment and landscape setting, and establish or maintain a strong sense of place, using

streetscapes and buildings to create attractive and comfortable places to live, work and visit.

94. The site lies in an area identified in the County Durham Plan as an Area of Higher Landscape Value (AHLV) and is made up of Secondary woodland and wood pasture, although no trees within the site are covered by a Tree Preservation Order (TPO).
95. The proposed building would have a rectangular form with an eaves height of 5.9m and a ridge height of 8m. Materials are considered to consist of vertical timber cladding and brickwork with a metal sheeted roof. Overall, the building is considered to be of an appropriate scale and massing, with the design approach accepted in principle subject to a condition to secure further details of external building materials.
96. The building would be sited to the eastern portion of the site where it would be screened from users of the A689 to the north and PRoW no.92 to the north east by intervening trees. Landscape Officers have advised that whilst there are potential views from the complex of footpaths on higher ground to the south, views would be filtered and mitigated by intervening planting and distance.
97. Visual effects would be generated by the new built form through the clear stems of existing trees, the new site entrance and associated highway requirements, lighting, means of enclosure and signage. However, the Landscape Officer has advised that these effects could be adequately mitigated by enhancing the existing roadside planting with an appropriate understory mix to increase the effectiveness of screening and to extend the existing mounding to the north east corner of the site. Accordingly, a condition is recommended to secure details of a landscaping scheme to include details of additional roadside planting, hard and soft landscaping throughout the site, and the potential extension of the mound to the north east corner of the site. A condition is also recommended to secure details of means of enclosures.
98. The applicant has provided a lighting plan indicating the position of low level bollard lighting on timers along the access road and car parking area, 2.4m high wall mounted downward facing LED lighting on timers to the entrance to the building and servicing area, and four areas of 3.5m high security downward facing LED lighting around the building. No manufacturers details have been provided at this stage, but based on the information provided Environmental Health Officers have advised that the information submitted to date is acceptable, although they have recommended that manufacturers details be provided to demonstrate the lighting profile and that the lighting can be controlled and adjusted. Overall, it is considered that the proposals would not adversely affect the character and appearance of the surrounding landscape in terms of light pollution, however a condition is recommended to secure the details requested by Environmental Health prior to the first use of the building.
99. CDP Policy 40 states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals for new development will be expected to retain existing trees where they can make a positive contribution to the locality or to the

development, maintain adequate stand-off 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. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.

100. The application is supported by an Arboricultural Impact Assessment (AIA), Method Statement (AMS) and Tree Protection Plan (TPP) which identify the presence of 357 trees on the application site. The proposed development would require the removal of 17no. individual trees and 2no. small groups (a total of 26no. trees). The trees to be removed comprise primarily category C and U trees with a couple of smaller category B trees. The removals will not have a significant impact on the amenity of the area. There is some minor encroachment of the root protection areas of a small number of trees on the south side of the site, however the trees in question are considered to be capable of accommodating this without significant impact. The trees to be retained will be adequately protected by fencing and ground protection measures, with the Council's Arborist considering the submitted AIA, AMS and TPP to be comprehensive and acceptable. A condition is recommended to secure adherence to the TPP and to secure details of a replacement tree planting scheme as part of the landscaping scheme to mitigate for the tree loss, in line with the requirements of CDP Policy 40.
101. Overall, and subject to these conditions, the proposed development is considered to be of an appropriate design for the area that would conserve the special qualities of the Area of Higher Landscape Value, according with CDP Policies 10, 29, 39 and 40, and Parts 12 and 15 of the NPPF.

#### Residential Amenity

102. 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.
103. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
104. In addition, criterion r) of Policy 10 is not permissible towards development that would impact adversely upon residential or general amenity.
105. The closest residential properties to the site are those at Westfield Farm to the north west which comprise a farmhouse and an attached converted agricultural building that lie approximately 80m away from the site entrance and 115m from the proposed building itself. The next closest dwellings lie over 200m to the east. Given this distance, the proposed development would not adversely affect the amenity of any neighbouring residents in terms of visual dominance, or loss of light or privacy.

106. The proposed development would generate noise from vehicle movements, including from larger vehicles delivering / collecting goods, and staff and customers arriving and leaving the site. Given the nature of the proposals comprising retail with an ancillary café and in the context of traffic travelling along the A689, a road with a national speed limit of 60mph, it is not anticipated that any noise generated would be such that it would adversely affect the amenity of surrounding residents, subject to a condition to restrict the opening times of the premises. It is noted that the existing premise is open 8am to 5pm on weekdays and 9am to 5pm on Saturdays, with the closest sensitive receptors lying a similar distance away to those near to the current application site. In relation to the newly proposed building, the applicant has requested similar but slightly expanded opening hours and has agreed to a condition requiring the premises to close at 6pm on weekdays, to open at 8:30am on Saturdays and to allow opening between 10am to 4pm on Sundays and Bank Holidays. This is considered appropriate given the countryside location of the site and accordingly a condition is recommended to secure adherence to these times.
107. As discussed in the section above, the applicant has provided a lighting plan indicating the position of external lighting which has been accepted in principle by Environmental Health Officers subject to a condition to secure manufacturers details, and to demonstrate the lighting profile and that the lighting can be controlled and adjusted. Subject to this condition, the proposals are not considered to adversely affect the amenity of nearby residents in terms of light pollution.
108. Given the scale of the proposed development, the construction phase is likely to be relatively brief and a condition is recommended to restrict construction working hours and to secure details of a Construction Management Plan to ensure the amenity of surrounding residents is safeguarded during the construction phase of the development.
109. Overall, subject to conditions, the proposals are considered to provide a good standard of amenity for existing and future residents, according with CDP Policy 31 and Part 12 and 15 of the NPPF.

#### Drainage

110. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 advises that when determining planning applications, Local Planning Authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 169 goes on to advise that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
111. CDP Policies 35 and 36 relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme

on flood risk and ensure that it incorporates a Sustainable Drainage System (SUDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.

112. The site is not located within a Flood Zone or an area identified as being at high risk of surface water flooding, although it is noted that the land approximately 40m away to the south is designated as being within Flood Zone 3 and the Lead Local Flood Authority (LLFA) have referenced the presence of Critical Flood Zones in the vicinity of Wolsingham.
113. The application is supported by a draft Drainage Strategy report, an outline Drainage Strategy drawing, and a Preliminary Permeable Paving Design. The Drainage Strategy report confirms that infiltration testing has been carried out with the results concluding that the site is suitable for infiltration. The associated drawing shows the parking and hard surfaced areas of the site to consist of permeable paving that would connect to an underground soakaway storage structure located to the south east corner of the site, with a silt trap to provide treatment. The first 5m of the access road is proposed to be impermeable to meet Highways requirements and so a channel drain is proposed to be installed along its northern edge, connecting to a smaller soakaway to the east.
114. The LLFA have confirmed that the principle of the proposed surface water management system is acceptable but request further details in the form of construction details of permeable paving and the soakaway, how the two elements would be connected, and verification of the existing soakaway pipe construction if to be utilised for infiltration. Accordingly, a condition is recommended to secure these details. To discharge the condition, the applicant would also be expected to provide details to confirm that there will be no onflow to the River Wear which lies approximately 85m to the south of the site.
115. The Drainage Strategy report identifies the closest sewer to be 175m to the north east under the A689 and so a connection to this would require significant works. Therefore, foul water is proposed to be discharged to a nearby treatment plant via pumping plant and drainage field located to the west of the site access. The principle of this approach is in line with the hierarchy of preference set out by CDP Policy 36. As non-mains drainage or proposed to be utilised to dispose of foul water the Environment Agency have been consulted and have confirmed they have no objections but advise that the applicant may need to apply for an Environmental Permit. An informative could be added to the decision notice to remind the applicant of their responsibilities in this regard.
116. Overall, the submitted details are considered to be sufficient to accord with CDP Policies 35 and 36 and Part 14 of the NPPF, with the proposal not considered to increase the risk of flooding on or off site.

## Ecology

117. NPPF Paragraph 180 d) advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP

Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.

118. The site forms a small part of the larger Wolsingham River Gravels Local Wildlife Site and the application is supported by a Preliminary Ecological Appraisal (PEA). The Appraisal identified the potential for bats foraging, commuting and roosting around the site, and potential for roosting within the toilet block and ash trees. Nesting birds (Blackbird and sparrows) were also found to be present in the toilet block. The River Wear was found to have otters present but no holts or commuting routes were noted on site, with there being no water bodies present on site.
119. A Habitat Survey for potential Protected Species was undertaken in May 2022, with further checking surveys and a bat activity survey undertaken in June 2023. The bat activity survey concluded that the former toilet block building has a low potential for supporting roosting bats and observed 5 bats foraging along the south of the site but no activity along the roadside.
120. A condition is recommended to secure adherence to the mitigation and enhancements measures recommended by the PEA. These include restricting the timing of clearance works to outside bird nesting season, to design all lighting on site to be downward facing and directed away from the southern woodland to prevent impact on foraging bats present within the woodland, to retain the former toilet block building, and to install bird and bat boxes to the new building. A plan has been submitted to show the position of 4 bat and 4 bird boxes to the south elevation of the building which the County Ecologist has indicated their satisfaction with. The Ecologist has also indicated their satisfaction with the submitted lighting plan.
121. The submitted Arboricultural Impact Assessment identified that all trees were assessed for bat roost potential and identified that 7no. trees have a low bat roost potential. Of these, 6 are proposed to be retained with Cherry tree T200 to be removed due to its poor condition. The County Ecologist has confirmed that this is acceptable and that no further surveys in this regard are required.
122. The application is supported by a Biodiversity Net Gain Statement and completed version of the Defra metric Biodiversity Impact Assessment Calculator. These identify that the proposed development would see the loss of 1.85 habitat units, resulting in an overall on-site net loss in biodiversity of -9.51%. This is primarily due to the loss of grassland which cannot be sufficiently offset through enhancement of the retained areas of grassland within the site.
123. As such, to deliver biodiversity net gains the applicant proposes to enhance part of a 3.5ha parcel of land in Stanhope which is in their ownership. The applicant has provided a plan showing the location of this parcel of land, which is considered to be capable of offsetting the onsite net losses. The County Ecologist has indicated their acceptance to secure a Habitat Creation, Management and Monitoring Plan prior to the commencement of development via a legal agreement in this instance.

124. Subject to a condition and a legal agreement, the proposed development is considered to accord with CDP Policies 41 and 43, and Part 15 of the NPPF.

#### Ground Conditions

125. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. NPPF Paragraph 183 requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
126. The application site does not lie within a Coalfield Development Risk Area. The Council's Contaminated Land Officer has advised that the site is located within close proximity of a historical landfill and so recommends a pre-commencement condition to secure the submission of a contaminated land scheme.
127. Subject to such a condition, the proposed development is considered to comply with CDP Policy 32 and NPPF Paragraph 183.

#### Carbon Emissions

128. Criterion c) of Policy 29 requires all development to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source.
129. Criterion d) of Policy 29 requires all development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials, during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable waste and prioritising the use of local materials.
130. In addition, CDP Policy 29 states that all major new non-residential development will be required to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good' (or any future national equivalent).
131. The application is supported by a BREEAM Assessment and a Sustainability Statement.
132. The BREEAM Pre-assessment and Strategy sets out a route to BREEAM certification for the project and provides an indication of scoring and opportunities for achieving BREEAM as 'Very Good' A scoring scenario has been outlined within the submitted report, which demonstrates that, if supported by relevant and appropriate documentary evidence, the proposed development would result in the 'Very Good' achievement. As it has been demonstrated that the scheme could achieve a 'Very Good' BREEAM rating provided that appropriate measures are taken, a condition is recommended to ensure these measures are undertaken and to secure a verification report to confirm compliance.

133. The Sustainability Statement proposes measures including the installation of photovoltaic panels on the south facing roof slope of the new building, air source heat pumps to cool retail and cafe areas, double glazing with low solar transmittance values for glazing on south-facing facades, and the use of energy efficient fabric and hot water heating system. The Statement concludes that adopting the proposed strategy would provide a total carbon reduction of 6.32 tonnes per annum (a 55.46% reduction) when compared against Part L2 of the Building Regulations. Accordingly, a condition is recommended to secure adherence to the design principles set out in this document. The applicant has also confirmed that no connection to the gas network is proposed.
134. Given the above, the proposal is considered to accord with the sustainability aims of CDP Policy 29 and Part 2 of the NPPF.

#### Other Matters

135. CDP Policy 27 requires all new residential development to be served by a high speed broadband connection. This will need to be directly accessed from the nearest exchange and threaded through resistant tubing to enable easy access to the cable for future repair, replacement and upgrading. Where it can be demonstrated that this is not appropriate, practical or economically viable, developers will be encouraged to provide appropriate infrastructure to enable future installation. No details of how the dwellings will be served by a high speed broadband connection have been submitted with the application, but it is considered appropriate to secure these details via a suitably worded condition.

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## **CONCLUSION**

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136. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
137. The application site occupies a position in the open countryside, physically detached from the settlement of Wolsingham which lies to the east. The proposed development relates to the relocation of an existing business, Gardiners Country Store, from an existing countryside position to the east of Frosterley. The applicant has explained that the relocation of the business is being explored due to issues around the ownership of the land used by for parking and servicing which is having a detrimental impact upon the business. The business is well established having operated from its current site for 17 years, and from Wolsingham for many years prior to this, and serves the Weardale community by offering a range of products including country clothing, workwear and footwear, agricultural hardware and accessories, animal feed, bedding and pet supplies, and gardening tools and compost. Overall, the proposed development is considered to broadly accord with CDP Policy 10 and NPPF Paragraph 84.

138. The application is supported by a Sequential Test and Impact Assessment, acknowledging that the proposed development relates to a main town centre use (retail) in an out of town location. Given the needs of the business, particularly in terms of the required Gross Internal Area and associated area for parking and servicing in connection to bulkier products offered by the store, it is accepted that there are no suitable and available site within the Local Centres of nearby Wolsingham or Stanhope. Given the nature of the offer, the business does not compete directly with existing shops within nearby town centres and it is noted that the proposals relate to the relocation of an existing business, with the impact upon nearby town centres not considered to be impacted to a greater extent that is currently the case. Therefore, the proposed development is not considered to adversely affect the vitality or viability of existing town centres, according with CDP Policy 9 and Part 7 of the NPPF.
139. Whilst the application site is designated as Accessible Natural Green Space by the Council's Open Space Needs Assessment owing to its former use as a picnic area, it has not been used as such for several years and currently has an overgrown and unkempt appearance. The site forms a small part of a much larger parcel of open space that would be retained after the development and so the proposals are not considered to prejudice residents enjoyment of open space or the surrounding countryside. The benefits of allowing an existing business to continue to operate are acknowledged and considered to outweigh the loss of open space, according with CDP Policy 26 and Part 8 of the NPPF.
140. The proposed development is considered to be served by a safe and suitable access along with sufficient car parking spaces, to be of an appropriate design, to not adversely affect the amenity of neighbouring residents or increase flood risk. The proposed development would be heated by photovoltaics and air source heat pumps, and would provide biodiversity net gains offsite that are to be secured via a legal agreement.
141. It is therefore considered that the application is acceptable and complies with Policies 9, 10, 21, 26, 27, 29, 31, 32, 35, 36, 39, 40, 41 and 43 of the County Durham Plan and Parts 2, 6, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.

#### Public Sector Equality Duty

142. 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.
143. 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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That the application be **APPROVED** subject to a legal agreement to secure the long term management and maintenance, including a Habitat Creation Management and Monitoring Plan, of biodiversity land offsite.

And subject to the following conditions:

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Site Location Plan RA-2021-022 E1  
Site Plan as Proposed RA-2021-022 P2C  
Proposed Plans and Elevations RA-2021-022 P1B  
Outline Drainage Strategy R1208-200A  
Permeable Surfacing Plan R1208-215

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 9, 10, 21, 26, 27, 29, 31, 32, 35, 36, 39, 40, 41 and 43 of the County Durham Plan and Parts 2, 6, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.*

3. No development other than ground clearance or remediation works shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

*Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.*

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

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

5. No development other than ground clearance or remediation works shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

1.A Dust Action Plan including measures to control the emission of dust and dirt during construction.

2.Details of methods and means of noise reduction/suppression.

3.Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.

4.Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.

5.Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

6.Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.

7.Routing agreements for construction traffic.

8.Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.

9.Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

10.Management measures for the control of pest species as a result of or construction works.

11.Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.*

6. No development other than ground clearance or remediation shall commence until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

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

7. No development above damp proof course shall commence until details of the make, colour and texture of all walling and roofing materials have been submitted to and approved in writing by the Local Planning Authority.

*Reason: In the interests of the character and appearance of the surrounding Area of Higher Landscape Value area in accordance of Policies 29 and 39 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

8. No development other than ground clearance or remediation works shall commence until a scheme for the provision of surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016. The development thereafter shall be completed in accordance with the details and timetable agreed.

*Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 of the County Durham Plan and Parts 14 of the National Planning Policy Framework.*

9. No development other than ground clearance or remediation works shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

A replacement tree planting scheme.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

The extension of the earth mound to the north east corner of the site.  
Finished topsoil levels and depths.  
Seeded or turf areas, habitat creation areas and details etc.  
The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

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

10. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

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

11. Prior to the first use of the building hereby approved, full engineering details of the access road shall be submitted to and approved in writing by the Local Planning Authority. The access road shall be completed in accordance with the approved details prior to the first use of the building.

*Reason: To ensure the development is served by a safe and suitable access in the interest of highway safety, according with Policy 10 and 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.*

12. The development shall be undertaken in accordance with the actions contained within Section 5 of the BREEAM Pre-Assessment and Strategy by Sustain 3D dated 05.10.2022. Prior to the first beneficial use of the development a verification report compiled by a suitably competent person demonstrating that the development has achieved a minimum of a 'Very Good' BREEAM rating shall be submitted to and approved in writing by the Local Planning Authority.

In the event that such a rating is replaced by a comparable measure of sustainability for building design, the equivalent level of measure shall be applicable.

*Reason: To ensure the development complies with the requirements of Policy 29 of the County Durham Plan.*

13. Prior to the first use of the building, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

*Reason: In the interests of the character and appearance of the surrounding area in accordance of Policies 29 and 39 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

14. Prior to the first use of the building, details of a covered cycle storage area capable of accommodating a minimum of 8 bicycles at one time, and a covered motorcycle storage area capable of accommodating a minimum of 4 motorcycles at one time, shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the storage areas shall be installed and made available for use prior to the first use of the premises.

*Reason: To allow the cycle spaces to be used in inclement weather and to accord with the Council's Parking and Accessibility Standards 2023.*

15. The electric vehicle charging points shown on Proposed Site Plan RA-2021-022 P2A shall be installed and made available for use prior to the first use of the building.

*Reason: To accord with the Council's Parking and Accessibility Standards 2023.*

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

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

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

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

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

17. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

*Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

18. The Class E a) retail floor space hereby permitted shall not exceed 1196sqm, and the ancillary café shall not exceed a floor area of 140sqm, as shown on drawing Proposed Plans and Elevations RA-2021-022 P1B.

The retail floor space hereby approved shall be used for the sale of country clothing, workwear and footwear, agricultural hardware and accessories, animal feed, bedding, pet supplies, gardening tools and compost, locally sourced products and ancillary items thereto, and shall not be used for any other purpose including those set out in Class E of Schedule of the Town and Country Planning (Use Classes) Order 1987 or any other Order revoking, amending or re-enacting that Order with or without modification. The building shall not be subdivided into smaller units.

*Reason: To enable the Local Planning Authority to maintain control over the range of goods sold from within the development, and to ensure that the proposal does not detract from the vitality and viability of nearby town centres in accordance with Policy 9 of the County Durham Plan and Part 7 of the National Planning Policy Framework.*

19. The premises shall not be open to customers outside the hours of 8am to 6pm Monday to Friday, 8:30am to 5pm on Saturdays, and 10am to 4pm on Sundays and Bank Holidays.

*Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

20. Prior to the first use of the building, details of all external lighting to be installed shall first be submitted to and approved in writing by the Local Planning Authority. The detail provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light and include a manufacturers specification to demonstrate the lighting profile and that the lighting can be controlled and adjusted. Thereafter, the external lighting shall be erected and maintained in accordance with the approved details.

*Reason: In order to minimise light spillage and glare, in accordance with Policy 31 and 43 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.*

21. The development shall be undertaken in strict accordance with the submitted Preliminary Ecological Appraisal Revision 2 undertaken by All About Trees dated July 2023. This shall include but not be limited to the installation of 4 bat and 4 bird boxes to the south elevation of the proposed building as shown on As Proposed plan RA-2021-022 P1B prior to the first use of the building.

*Reason: In the interests of conserving protected species and their habitats in accordance with Policy 43 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

22. The development shall take place in accordance with the principles set out in the Sustainability Statement by Sustain 3D dated 30th October 2022, including the installation of photovoltaic panels and air source heat pumps to heat the building.

*Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in Policy 29c) of the County Durham Plan and Part 2 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP)  
County Durham Plan Settlement Study 2018

Residential Amenity Standards Supplementary Planning Document 2023

Statutory consultation responses

Internal consultation responses

External consultation responses



<p><b>Planning Services</b></p>	<p>Erection of 1no. retail unit (Class E)</p>	
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	<p>Date: 7<sup>th</sup> November 2023</p>	