

# Planning Services

## COMMITTEE REPORT

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### **APPLICATION DETAILS**

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APPLICATION NO:	7/2011/0019/DM
FULL APPLICATION DESCRIPTION:	Construction of footpath link to Ferryhill Carrs Nature Reserve (Retrospective)
NAME OF APPLICANT:	Mr J R Corrigan
ADDRESS:	Duncombe Cemetery, Land to the rear of Cleves Avenue, Ferryhill, Co Durham
ELECTORAL DIVISION:	Ferryhill
CASE OFFICER:	Mark O'Sullivan Tel. 01388 816166 Email. mark.o'sullivan@durham.gov.uk

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### **DESCRIPTION OF THE SITE AND PROPOSALS**

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1. Retrospective permission is sought for the construction of a footpath link between Ferryhill Carrs Nature Reserve and Duncombe Cemetery, Ferryhill. This path has been constructed without the benefit of planning permission along the ridge of a steep embankment some 100m to the east of Cleves Avenue. A low, wooden post and rail fence has also been constructed along the western boundary of this footpath, with a 2.1m high powder coated green palisade fence installed at its junction with the adjacent cemetery to the south.
2. This footpath follows the western ridge of the Ferryhill Carrs Nature Reserve along the top of a steep embankment which falls away to the east. This footpath link is separated from agricultural land to the immediate west by wooden post and rail fencing, with dense landscaped buffer to the immediate east along the embankment ridge.
3. The applicant has indicated that the main purpose of this footpath is to provide an additional means of access to this nature reserve from the Duncombe Cemetery car parking area, with this reserve not presently benefitting from any parking provision. This application would normally be determined under the Officer scheme of delegation but has been referred to committee at the request of a local member who is concerned about the danger to the public of walking through a cemetery and walkers falling from this footpath.

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### **PLANNING HISTORY**

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#### 4. ***Enforcement history:***

- H/7/2010/090 (Construction of footpath adjacent to 100 foot drop) – Decision pending

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### **PLANNING POLICY**

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#### 5. **National Policy:**

- **Planning Policy Statement 1 (*Delivering Sustainable Development*)** sets out the Government's overarching planning policies on the delivery of sustainable development through the planning system.
- **Planning Policy Statement 9 (*Biodiversity and geological conservation*)** sets out planning policies on protection of biodiversity and geological conservation through the planning system.

#### 6. **Local Plan Policy: Sedgefield Borough Local Plan:**

- **E11 (Safeguarding of sites of nature conservation interest)** – Seeks to safeguard sites of Nature Conservation Interest.
- **D1 (General principles for the layout and design of new developments)** – Principles for the Layout and Design of New Developments requires the layout and design of all new developments to take account of the site's relationship to the adjacent land uses and activities, that where necessary satisfactory landscaping be incorporated in the design and layout of the site, that this accommodates the needs and users of the development and provides satisfactory and safe provision for pedestrians and the private car.
- **D2 (Design for people)** – Explains how the requirements of users of a development should be taken into careful consideration, with particular attention given to personal safety and security and the access needs of users.
- **D3 (Design for access)** – Highlights the importance of securing satisfactory means of access for new developments and satisfactory and safe provision for pedestrians and cyclists.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at [www.durham.gov.uk](http://www.durham.gov.uk)*

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## **CONSULTATION AND PUBLICITY RESPONSES**

### **7. EXTERNAL/STATUTORY RESPONSE**

- **Natural England** have raised no objections to this proposal. If approved, Natural England would like to see the implementation of precautionary working methods to ensure that trees and hedgerows to the east of the path are duly protected from damage.  
*It is noted that this application seeks retrospective consent for the creation of this footpath link. As works have already been carried out on site, there is no need for precautionary working methods in line with this consultee's request.*
- **The Ramblers** support this application

### **8. INTERNAL CONSULTEES**

- **Durham County Council Health and Safety unit** has raised no objections to this application. An initial site visit was carried out to this site shortly after a complaint was made by a local member last year. It was concluded that "although the wooded embankment is steep, there is little risk of anyone falling and injuring themselves as the distance of the path from the embankment and the surrounding undergrowth is sufficient to negate the risk under normal use". If approved, the following recommendations have been made:
  - A suitable gate should be fitted between the first and second field to prevent the access of livestock
  - Nails should be removed from the posts at the gap in the original fence to prevent injuries

In a further email dated 04 March 2011, the Durham County Health and Safety Officer has confirmed that they have since reviewed the site visit file notes regarding the initial site visit and in their professional opinion confirms the footpath to "not present a significant health and safety hazard to the users of it".
- **Durham County Council Highways Engineers** have raised no objections to this proposal
- **Durham County Council Forward Plans** have raised no objections to this proposal
- **Durham County Council Landscape Architect** offers full support to this application. Suggested that consideration be given to the erection of boundary fencing with warning signage along the eastern boundary
- **Durham County Council Police Architectural Liaison Officer** has raised no objections to this proposal

- **Durham County Council’s Public Rights of Way Officer** has raised no objections to this proposal. The path would be a welcome link to the nature reserve. “It is understood that the maintenance of the path will be the responsibility of the Town Council. It has been suggested that a post and rail fence be erected along the eastern boundary to prevent any falls and you may wish to explore with the Town Council any safety issues in relation to this”.  
*These comments have been taken into consideration through the inclusion of a suggested informative advising the applicant to consider the erection of an additional post and rail fence to the east of the new footpath.*
- **Durham County Council Ecology Officer** has raised no objection to this proposal. It is recommended that a fence could be erected adjacent to the footpath to improve safety and prevent any additional access points being created in the reserve.
- **Durham County Council Arboriculture Officer** has raised no objections to this proposal. Advisory note that the woodland boundary may benefit from a new hedgerow or boundary fencing,
- **Durham County Council strategic Leisure Manager** has raised no objections to this proposal,

## 9. PUBLIC RESPONSES

2no. site notices were displayed in close proximity to the application site in prominent locations, with neighboring properties also notified in writing. A 14 day re-consultation exercise was carried out after a member of the public questioned the initial application site address. 1no. letter of objection was received in response to this exercise from a local member who has raised the following concerns:

- There have for several years been 2 paths to the Carrs already used by the public. A third was totally unnecessary
- This third pathway brings with it very real dangers which may one day lead to the death of someone’s child
- Previous incidents nearby caused by young people being presented with ‘open doors’ into dangerous areas. The proposed pathway into the Carrs nature reserve increases the open access to an area which by any standard introduces new dangers

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## **APPLICANT’S STATEMENT**

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10. The applicant has provided the following detail in support of this application:

- “The footpath has been constructed to provide a link between the cemetery car park and the SSSI National Nature Reserve, Ferryhill Carrs which has no provision of its own for car parking”.
- “This was done in full consultation and with the support of the relevant Countryside Officer and the Friends of Ferryhill Carrs Group”.
- “The gate at the cemetery end of the footpath is in keeping with the existing palisade fence along the full length of the cemetery boundary”.
- The access gate from the cemetery is to remain fixed open during the day in line with the opening hours of the cemetery. At night this gate will remain locked. Management of this gate will fall to Town Council employees.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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11. Key considerations in the determination of this application are:

- Public safety
- The environmental impacts of the scheme

12. **Public safety:**

Concerns have been raised over the proximity of this link footpath to a steep embankment to the immediate east. It is perceived that users of this footpath may fall down this embankment.

13. In determining this application it must be noted that access to this footpath is to be carefully

managed by the Town Council who will control the access gate from Duncombe cemetery in accordance with the cemetery opening times. This means that access to this footpath during darker hours will be restricted when attempting to access through the cemetery which will also be closed to the public. Should vehicle drivers wish to access the site outside of these opening hours, an existing footway north of Cleves Avenue will remain accessible, with it unlikely that pedestrians will wish to utilise this new link footpath which will in effect become a cul-de-sac when the gated access to the cemetery is locked.

14. Furthermore the Durham County Health and Safety Officer has raised absolutely no objections to this proposal in health and safety terms, stating how “although the wooded embankment is steep, there is little risk of anyone falling and injuring themselves as the distance of the path from the embankment and the surrounding undergrowth is sufficient to negate the risk under normal use”.
15. As previously explained, consideration should be given to constructing a boundary fence along the eastern boundary of this footpath to better protect future users from straying towards this embankment. However, even taking this into account, it is noted that there is sufficient separation between the edge of this footpath and the embankment which is occupied by dense vegetation. The aforementioned Health and Safety Officer remains satisfied with this separation distance.
16. This application is considered to accord with the principles of adopted Sedgfield Bough Local Plan Policies D1, D2 and D3 as well as National PPS9 which together seek to ensure the needs of the users of the development are taken into careful consideration, with specific attention given to the personal safety of individuals, access needs for all future users and security.
17. On this occasion it is considered that this footpath provides a welcome link to a well used footpath which crosses the Ferryhill Carrs Nature reserve, improving access to this attractive, protected area for all future users.
18. Should the Committee be minded to approve this application, consideration should be given to imposing a condition requiring the creation of a boundary fence along the eastern fringe of this footpath in accordance with the advice given by statutory consultees.
19. ***The environmental impacts of the scheme:***  
As previously explained, this footpath extends along the western boundary of the Ferryhill Carrs Nature Reserve. Adopted Sedgfield Borough Local Plan policy E11 stipulates that such areas should be safeguarded, with development proposals considered detrimental to the interests of nature conservation not normally permitted.
20. On this occasion, it is considered that the environmental impacts of this scheme are negligible with no objections raised in this context. This footpath link does not detract from the character or setting of the adjacent nature reserve in any way, improving accessibility to this valuable ecological area for the public whilst ensuring preservation.
21. In view of the foregoing, this application is also considered to accord with the principles of PPS9 regarding biodiversity and geological conservation, with no objections raised by ecology officers.

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## **CONCLUSION**

22. No objections are raised over this proposal which will provide for an improved means of pedestrian access to the Ferryhill Carrs Nature reserve via Duncombe cemetery. The health and safety aspects and the ecological impacts of this application have been carefully considered, with this application considered to accord with the principles set out in national PPS1, PPS9 and Sedgfield Borough Local Plan Policies D1, D2, D3 and E11.

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## **RECOMMENDATION**

**That the application be APPROVED**

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- **INFORMATIVES**

The applicant may wish to consider the installation of a post and rail wooden fence along the eastern boundary of this footpath link along the ridge of the embankment. This new fence should be of a similar scale and design to that installed to the west of this footpath in the interests of delivering a sensitive design.

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## **REASONS FOR THE RECOMMENDATION**

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- **INFORMATIVE: REASON FOR GRANT OF PLANNING PERMISSION**

In the opinion of the Local Planning Authority, the proposal represents development that would not be detrimental to the local countryside, nature conservation or archaeological interests, the living conditions of local residents or public safety.

- **INFORMATIVE: LOCAL PLAN POLICIES RELEVANT TO THIS DECISION**

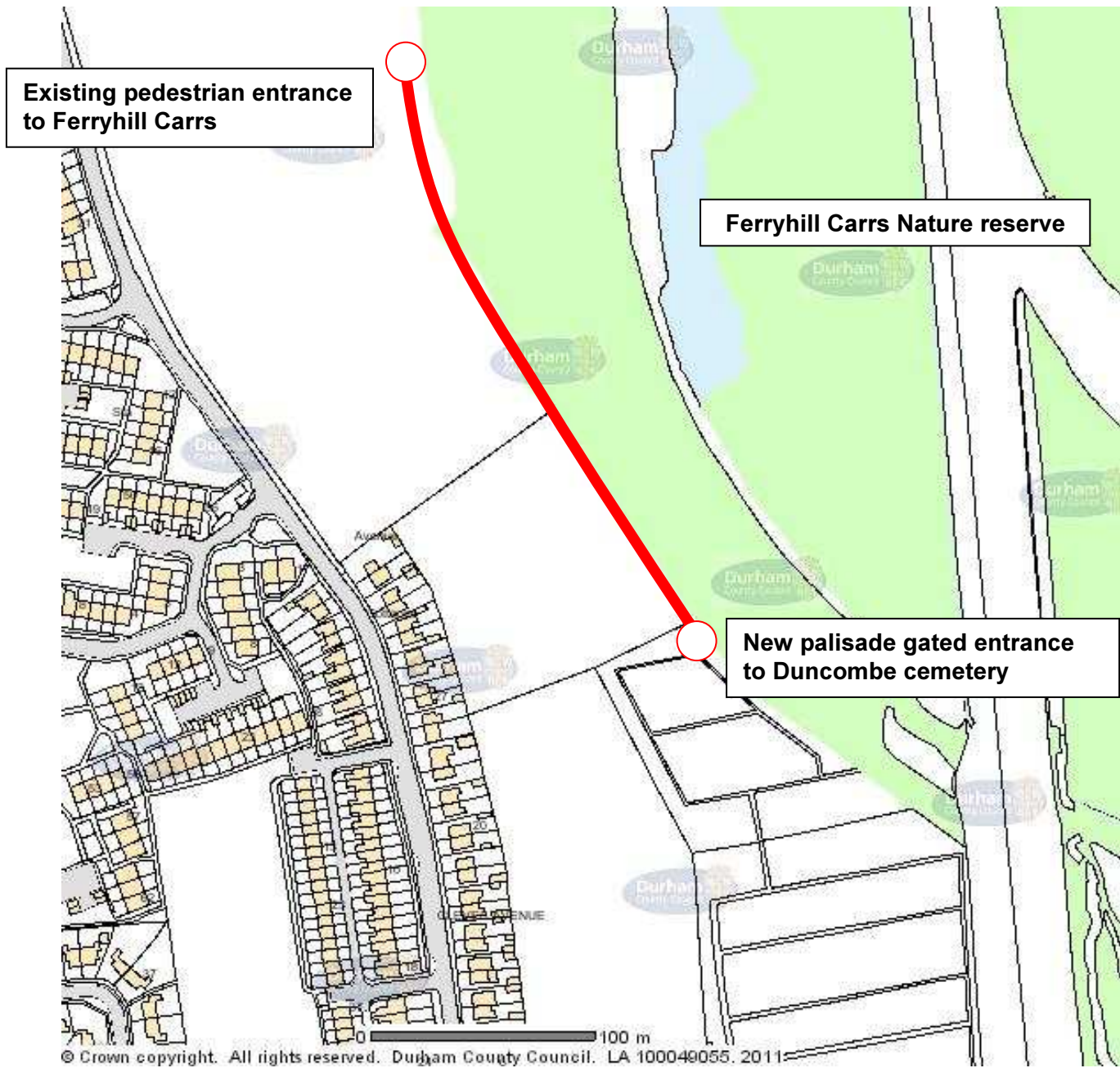
The decision to grant planning permission has been taken having regard to the key policies in the Sedgefield Borough Local Plan as set out below, and to all relevant material considerations.

- Planning Policy Statement 1 (*Delivering Sustainable Development*)
- Planning Policy Statement 9 (*Biodiversity and geological conservation*)
- E11 (*Safeguarding of sites of nature conservation interest*)
- D1 (*General principles for the layout and design of new developments*)
- D2 (*Design for people*)
- D3 (*Design for access*)

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## **BACKGROUND PAPERS**

- **Submitted Application Forms and Plans**
  - **Sedgefield Borough Local Plan 1996**
  - **Planning Policy Statement 1 (*Delivering Sustainable Development*)**
  - **Planning Policy Statement 9 (*Biodiversity and geological conservation*)**
  - **E11 (*Safeguarding of sites of nature conservation interest*)**
  - **D1 (*General principles for the layout and design of new developments*)**
  - **D2 (*Design for people*)**
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