



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/01578/FPA
Full Application Description:	Retrospective application for alterations and change of use of general purpose agricultural building to agricultural livestock building to include the keeping of pigs (amended description)
Name of Applicant:	Mr Edwin Wood
Address:	Farm Buildings At Low Houses, Woodside, Newbiggin, Barnard Castle DL12 0UJ
Electoral Division:	Barnard Castle West
Case Officer:	Hilary Sperring (Planning Officer) Tel: 03000 263947 Email: hilary.sperring@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to a cluster of Farm Buildings at Low Houses, Woodside, Newbiggin, occupying a position within the open countryside and to the north west of Middleton-in-Teesdale. The site is positioned within the North Pennines National Landscape (formerly Area of Outstanding Natural Beauty).
2. To the west of the existing barn lies 1 Low Houses approximately 20m away, with properties 2 and 3 Low Houses located approximately 100m to the west of the barn. The residential property Gateside Farmhouse lies approximately 170m to the north east.
3. The barn is in place and was the subject of a Prior Notification application under Part 6 of the GPDO June 2021 for the erection of an extension to an agricultural building (DM/21/02291/PNA). At that time the building was described as being

to be used for general hay and farm machinery storage. Prior approval was required for the siting and design of the building and further details were submitted and approved as part of application DM/21/02685/PA.

4. However, alterations have been made to the building including the addition of concrete panelling to the open elevations with galebreaker / roller screens above and it is understood that the building has not been used for the stated purpose to store hay and farm machinery.
5. The site is served by an existing access taken from the B6277 and a number of public footpaths intersect the site, including Footpaths 2, 3, 4 and 5 (Newbiggin). The site lies within 300m of the River Tees to the south and lies within Flood Zone 3a and the Teesmouth and Cleveland Coast Special Protection Area (SPA) / Ramsar Nutrient Neutrality catchment area.
6. A number of SSSI's are located in close proximity to the site, including Middle Side & Stonygill Meadows 325m to the east, Park End Wood 405m to the south, Upper Teesdale 620m to the south west, and Teesdale Allotments 885m to the north east. Moor House-Upper Teesdale Special Area of Conservation (SAC) also lies 620m to the south of the site, forming part of the Upper Teesdale SSSI.

The Proposal

7. The submitted application form describes the proposal as the change of use of a general purpose agricultural building to an agricultural building used to house livestock on a retrospective basis. As above, the building was built under permitted development following an approval through the Prior Notification process as at that time it was stated to be used for the storage of hay and machinery.
8. However, the building has been, and is currently being, used for the keeping of pigs in a location that is within 400m of a protected building (a dwelling not occupied in connection with agriculture) and so it could not have been built utilising permitted development rights. As the building has not been used to store hay and farm machinery as stated at the time of the Prior Notification application, the building itself is unauthorised.
9. Therefore, a more accurate description of the proposal sought by the applicant would be '*retention of agricultural livestock building for the keeping of pigs*'. It is on this basis that the application is being determined.
10. The submitted information advises that the building will house approximately 240 weaner pigs: introduced as weaners at 7 kilos and leaving the unit for finishing at 30 kilos. Five batches of pigs will be produced per annum, on a 9-week cycle.
11. The application is being reported to the South West Planning Committee at the request of Councillor Bell due to concerns about the impact upon the viability of the farming business and neighbours' concerns about the impact upon residential amenity.

RELEVANT PLANNING HISTORY

12. The following planning applications are relevant to the current application:

Application Site

13. Application 6/2006/0355/DM by Raby Estates for the erection of an agricultural shed and demolition of derelict farmhouse was approved in October 2006. No conditions were imposed to restrict the use of the building or prohibit the housing of livestock. The application sought full planning permission and was silent on livestock, with the building not designed as a 'livestock' building.
14. This building was proposed to be demolished and a new building erected under Prior Notification application DM/21/01392/PNA. This included the removal of a traditional stone building and a section of drystone wall to provide space for a new 36.5 metre by 13.71 metre agricultural store. The building was described as to be used for general hay and farm machinery storage. Prior approval was required for further details of the exact location of the building in relation to existing landscape features, including dry stone walls and public footpaths and materials (May 2021). This scheme was never progressed.
15. Instead, the building subject of the 2006 permission was subsequently extended following the determination of applications DM/21/02291/PNA and DM/21/02685/PA regarding the Prior Notification for the erection of an extension of an agricultural building, measuring 36.5 metre by 14.05 metre. The building was described as to be used for general hay and farm machinery storage. Prior approval was initially required for further details (July 2021) before being subsequently approved (September 2021) following the eastern gable end being proposed to be overclad with natural stone.

Buildings to the West at Low Houses East and West

16. An Erection of General Purpose Agricultural Building was approved in September 1999 under application reference 6/1999/0274.
17. Application DM/14/01009/FPA for the demolition of this building and erection of a new agricultural shed to house livestock and for general purpose storage, featuring a footprint of 27.4 metres by 18.2 metres was approved in June 2014.
18. Condition 3 stated –

The building subject of this planning permission shall not be used for accommodation of any livestock other than cattle and sheep and the maximum number of cattle and sheep shall not exceed 50 and 100 (respectively) at any time.

In order to control the future use of the building in the interests of protecting the amenity of nearby residents in accordance with Policy GD1 of the Teesdale District Local Plan 2002.

19. Condition 4 stated –

No development shall take place until the arrangements for the storage and disposal of animal waste originating from the building hereby approved have been submitted to and approved in writing by the Local Planning Authority. The details shall include the location, number and frequency of use of any temporary manure heaps. Following written approval by the Local Planning Authority the management of manure resulting from the operation of the farm shall take place in accordance with the approved details.

To minimise odorous emissions from the site and to protect the amenities of local residents in accordance with Policy GD1 of the Teesdale District Local Plan 2002.

20. Condition 4 (waste management) of planning permission DM/14/01009/FPA was subsequently discharged under application reference DRC/14/00196.
21. The rectangular building to the west of this does not appear to have planning permission, having been extended post 2016 without notification (as shown on historic aerial imagery dating from 2019).

PLANNING POLICY

National Policy

22. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
23. *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.
24. *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.

25. *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.
26. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
27. *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.
28. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
29. *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.
30. *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.
31. *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 Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.
32. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally

recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

National Planning Practice Guidance:

33. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to: air quality; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; light pollution; natural environment; noise; public rights of way and local green space; 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)

34. *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.

Provision for economic development includes agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of design and scale suitable for intended use and well related to existing development.

Provision for infrastructure development includes essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity.

Provision for development of existing buildings includes change of use of existing building, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.

35. *Policy 14 (Best and Most Versatile Agricultural Land and Soil Resources)* states that development of the best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits. All development proposals relating to previously undeveloped land must

demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice.

36. *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.
37. *Policy 26 (Green Infrastructure)* states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
38. *Policy 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. Provision for all new residential development to comply with Nationally Described Space Standards.
39. *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.
40. *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.
41. *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.

42. *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.
43. *Policy 38 (North Pennines Area of Outstanding Natural Beauty)* seeks to conserve and enhance the AONB. In making decisions great weight will be given to conserving landscape and scenic beauty. Development in or affecting the AONB will only be permitted where it is not, individually or cumulatively, harmful to special qualities or statutory purposes. Any development should be designed and managed to highest environmental standards and have regard to conservation priorities, AONB Management Plan and guidance in AONB Planning Guidelines, Building Design Guide and Moorland Tracks and Access Roads Planning Guidance Note as material considerations.
44. *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.
45. *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.
46. *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.
47. *Policy 42 (Internationally Designated Sites)* states that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.

Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017.

Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.

48. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.

Supplementary Planning Documents

49. Trees, Woodlands and Hedges SPD (2024) – Provides guidance on good practice when considering the impacts of development on trees, woodlands, and hedgerows, as well as new planting proposals.
50. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
51. Parking and Accessibility SPD (2023) - Provides guidance on parking requirements and standards.

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

Neighbourhood Plan:

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

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham>

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

53. *Middleton in Teesdale Parish Council* – Supports the application, with no further comments to add.
54. *Environment Agency* – Following the submission of an appropriate Flood Risk Assessment, no objections are raised.
55. *Natural England* – Initially raised concerns over the impacts on the development upon the air quality of the Middle Side & Stonygill Meadows SSSI and the Moor House-Upper Teesdale SAC, however raised no objections on these grounds following the receipt of additional information. Also initially raised concerns regarding the impact upon the water quality of the Teesmouth and Cleveland Coast SPA / Ramsar site.
56. *Highways Authority* – Advise that there have been no traffic accidents within the last 3 years either at the access or in the nearby vicinity. The access is already established and is used by a mixture of residential and large agricultural type vehicles. The quantum of proposed vehicular trips is considered minimal impact upon the highways network. Seek further information on the form of tracking of HGV within the site and entering/ exiting onto the B6277.
57. *Lead Local Flood Authority (Drainage and Coastal Protection)* – Advise that if new impermeable areas are proposed then a surface water management scheme should be submitted to consider attenuation and treatment, otherwise no objections are raised.

Internal Consultee Responses:

58. *Environmental Health and Consumer Protection (Nuisance)* – Object to the granting of planning permission as development likely causes a statutory nuisance and do not consider that relevant conditions can be imposed to mitigate the impact.
59. *Landscape Section* – Provide comments relating to previous applications, siting materials and suggest consideration is given to cladding the concrete panels on the north elevation with stone to match the eastern elevation and tie in with adjacent traditional buildings.
60. *Ecology* – Request the submission of further information regarding the impact of the development on the air and water quality of protected sites and advise that due to the likely increase in nitrates being discharged to the Teesmouth and Cleveland Coast SPA / Ramsar site the development will be expected to achieve Nutrient Neutrality.

61. *Public Rights of Way Section* – Raise no objections.

62. *Animal Health Team* – No response received.

External Consultees

63. *National Landscapes* – Concur with comments from the Landscape Officer.

Public Responses:

64. The application has been advertised by site notice and individual notification letters sent to neighbouring properties.

65. Letters of objection from 4 individuals, including from the occupiers of 1 Low Houses, Gateside, Wrentnall Cottage, have been received. Letters of support from 3 individuals have also been received, from the new occupiers of 1 Low Houses, as well as the occupiers of 3 Low Houses and Garth Head.

66. These are summarised under the relevant headings below:

Objections

Residential Amenity

- Odour and smell, from pigs and piles of manure, in excess of Environment Agency benchmarks, preventing use of outdoor space and daily activities,
- Noise from pigs, activity and vehicles,
- Decline in air quality,
- Fly Infestations and attraction of vermin,
- Health hazards, including risk of diseases from pigs,
- Overshadowing by the building,
- Failure to log complaints and investigate,
- Dumping of manure next to neighbouring properties.

Highway Issues

- Access not adequate,
- Impacts upon and damage to single lane track,
- Increase in lorries and haulage traffic,
- Substandard visibility,
- Vehicle and pedestrian safety risks,
- Difficulties for vehicles to turn and manoeuvre,
- Potential blocking of access track and emergency vehicles should they require access,
- Speed of vehicles,
- The number and frequency of vehicles is higher than stated,
- Impacts upon and blocking of Public Rights of Way

Design and Landscape

- Construction materials do not preserve the local character of buildings, landscape, or the North Pennines National Landscape,
- Failure to stone clad the building in breach of previous conditions,
- Size, siting and location of the building and silo,

Drainage

- Potential contamination of watercourses and private water supply from the improper management of pig waste.

Ecology

- Threat to rare birds and bats from noise, odour and waste,
- Disruption of natural habitat,
- Environmental degradation,
- Insufficient information regarding nutrient neutrality and ecological impacts.

Other Matters

- The building itself is unauthorised as it was never used to store hay and machinery,
- The lack of need for a building of this size given the scale of agricultural activity taking place on the farmstead,
- Lack of necessary reports, tests and supporting information,
- Reference is made to a Community Protection Order to remove manure piles,
- Inconsistencies in the application form,
- Highlight other previous applications and breach of conditions, the retrospective nature of application, and consider that activities should cease until planning matters have been resolved,
- The length of time it has taken to process the application,
- Increased electric costs as residents have to dry clothes inside,
- Fencing shared with residents not sufficient to protect them from pigs,
- Loss of views.

Support

Current resident of 1 Low Houses:

- Farmers diversifying is a positive,
- The Council should be helping farmers rather than hindering,
- Highlight the importance of farmers.

Worker of applicant, living at 3 Low Houses, very near the shed:

- Has not experienced smell, noise or nuisance,
- Enterprises such as these help to keep young people in the Dale,
- Impact on livestock, if the enterprise ceases,

Elected Members

67. Councillor Henderson strongly opposes the application raising concerns over odours and human health given the proximity of the building to residential properties.
68. Councillor Bell supports the application, considering that odours from the use of the building are not significant and will be dissipated before reaching neighbouring residential properties, with the size of the pigs and bedding also considered to reduce odours. Given the reduction in farm subsidies, considers that the application should be supported. Notes that no PRow's have been obstructed.

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

Applicants Statement:

69. Why the application for a small pig weaner shed at Low Houses Farm should be approved.
70. As many of you may know the challenges facing farmers are getting greater and greater with more and more business closing their family farms due to financial struggles. What we have repeatedly been told as an industry is to diversify our business so that's what I am doing. We can't grow crops this high up The Dale but we can invest in better livestock housing, the addition of the pigs is another egg in our basket to run along with the cows and the sheep.
71. I understand there have been some complaints about the idea of pigs (or any other livestock) in the shed but these are completely ridiculous and I welcome anyone to come and have a look at the situation for themselves. The shed will house 240 weaner pigs which my various modelling assessments show would not impact on the residents of Gateside Cottage or the environment. It also provides part time work for some local people in The Dale which is a big plus.
72. I hope everyone can see common sense and understand that farms need to diversify to survive. The country needs feeding and The Dale can't just become a retirement home for incomers!

PLANNING CONSIDERATION AND ASSESSMENT

73. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise.
74. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making, along with advice set out in the

Planning Practice Guidance notes. Other material considerations include representations received.

75. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Residential Amenity, Highway Safety Issues and Public Rights of Way, Landscape and Visual Impact, Drainage and Flood Risk, Ecology and Biodiversity Net Gain, Ground Conditions and Land Stability, Other Matters, and Public Sector Equality Duty.

Principle of Development

76. 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.
77. 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.
78. Information submitted with the application advises that the Wood family are fourth generation farmers and have lived and farmed in upper Teesdale for over 100 years, with Woodside Farm having been farmed by the applicant for over 3 years. Woodside Farm constitutes of a holding of 114 hectares of permanent grassland / meadow, including a cluster of agricultural buildings on the land to the north of the B6277 approximately 380m away from the unauthorised building that is subject of this application. In addition, the applicants' parents farm the adjacent holding of approximately 300 acres.
79. The applicant's main income from the farm has traditionally been from sheep and cattle. At the time of application submission, it was advised that between the applicant and his parents they have approximately 20 sheep and 60 head of cattle. However, in order to future proof the farm the applicants have diversified into pork production, in the hope that the diversification would help secure the business for the next generation.
80. The building will house approximately 240 weaner pigs: introduced as weaners at 7 kilos and leaving the unit for finishing at 30 kilos. Five batches of pigs will be produced per annum, on a 9-week cycle.

81. The building itself is in place. As outlined above, the building was the subject to a Prior Notification Application (DM/21/02291/PNA) for the erection of an extension of an agricultural building, with the building at that time described as to be used for general hay and farm machinery storage. (Prior approval was required for further details, with details duly submitted, considered and approved). It is understood that the building was subsequently used for housing pigs (January 2022) which is contrary to the conditions contained within the Town and Country Planning (General Permitted Development) Order 2015 due to the proximity of residential properties. Therefore, planning permission is required for the building itself and its use to house pigs.
82. The NPPF recognises the importance of supporting economic growth in rural areas, including the sustainable growth and expansion of business in rural areas, both through conversion of existing buildings and development and diversification of agricultural and other land-based rural business.
83. The site lies within the open countryside and so County Durham Plan (CDP) Policy 10 is relevant. This policy is permissible towards development that is necessary to support an existing agricultural enterprise or associated farm diversification scheme. Whilst agricultural development on the existing farm holding is broadly acceptable, the acceptability of using a building in this location specifically to house pigs rests on the consideration of detailed matters outlined below, including the general design principles of all development in the countryside set out by CDP Policy 10.

Residential Amenity

84. CDP Policy 31 CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and should be integrated effectively with any existing business and community facilities. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated.
85. In relation to Air Quality, CDP Policy 31 sets out that “Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibrations 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.”
86. In addition, CDP Policy 29, all development is required to provide high standards of amenity and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
87. Criterion r) of CDP Policy 10 also states proposals should not impact adversely upon residential or general amenity.

88. 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. Paragraph 135 f) seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.
89. There are a number of residential properties to the west / south west of the building including 1, 2, and 3 Low Houses. 1 Low Houses is situated approximately 20 metres to the south west of the building. It is understood that this property is not connected with any agricultural holding.
90. To the north along the roadside are other residential dwellings including Gateside (approximately 170 metres to the north east), Croft Head (approximately 215 metres to the north) and East Field (approximately 300 metres to the north west). These properties all sit alongside the B6277.
91. A number of objections have been received to the application, including from the previous occupiers of 1 Low Houses. Anonymous objections have also been received along with objections on behalf of the occupiers of Gateside, which, as identified above, is located approximately 170 metres from the building.
92. Objectors have raised numerous issues regarding the impact of the proposals upon residential amenity, quality of life and health. These include impacts upon their daily activities, and their ability to use their properties, outdoor space and amenity areas. They highlight the noise from the pigs themselves as well as associated activities and vehicles, along with odours and smells, manure and management of waste, flies, increased vermin, and possible diseases linked to pigs. They draw attention to the applicant's failure to log complaints and investigate.
93. A letter of support has been received from the current occupiers of 1 Low Houses (understood to be a family member of the applicant). However, it is of note that the previous occupiers of this property raised objections to the proposals, including noise, smell and impacts upon residential amenity and the use of the property and associated amenity area. The LPA has no control over the occupancy of this property and has a responsibility to consider the impacts of the development on the amenity of its occupants.
94. Letters of support have also been received from the occupier of 3 Low Houses (who works on the farm) and the occupiers of Garth Head. (It is noted that the representation of support from Garth Head makes reference to being within 400 metres of the pig livestock shed and that they have never been bothered by smell or noise. However, this property actually appears to be located within Newbiggin approximately 1100 metres from the building).
95. The applicant has explained that their intention is to hold pigs on site for up to nine weeks, five times per annum, that being a period of forty-five weeks out of fifty-two weeks in a year that pigs will be onsite, within close proximity to nearby

sensitive receptors, the boundary of the nearest sensitive receptors abuts the development site. No explanation or justification has been provided for the construction of a building to house pigs within a 'cordon sanitaire', that is within 400m of a protected building. In this respect, it is noted that the applicant owns existing agricultural buildings on land within their farmstead located to the north of the B6277.

96. Colleagues within the Council's Environmental Health Nuisance Action Team (NAT) have been consulted and have provided a detailed response to the application objecting on the grounds of several potential statutory nuisance parameters.
97. When Environmental Health are consulted on planning applications they consider the potential for statutory nuisance under the Environmental Protection Act 1990. Matters arising in relation to statutory nuisance include noise, odour, light, health etc. To determine a statutory nuisance, the enforcement body must establish the matter is unreasonable or excessive or the person responsible is acting in an unreasonable or negligent manner. They must also establish the alleged matter is interfering with the rightful peaceful enjoyment of a person's property. In terms of consultations on planning applications, they also consider amenity and how the development is likely to change the character of an area.
98. The retrospective nature of the application is noted, with the building having been used for the keeping of pigs since 2022, and that the Nuisance Action Team have previously been involved in responding to several complaints relating to the keeping of pigs in the building. Two complaints relating to odour from pigs were received in 2022 and two further complaints were received this year (2024), also in relation to odour from pigs.
99. It should be noted that a member of the NAT has visited the site in response to these complaints.
100. In relation to this application, the NAT have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990. Following this assessment, they object to the granting of planning permission as the development likely causes a statutory nuisance for the reasons stated below. They do not consider that the impact could be satisfactorily mitigated through the use of conditions.
 - Noise from the keeping of pigs, including ancillary operations involving vehicles, plant and equipment as well as noise from the pigs themselves, is likely to give rise to statutory nuisance to nearby sensitive receptors. Section 79(g) EPA 90.
 - Odour from the keeping of pigs is likely to give rise to statutory nuisance to nearby sensitive receptors. Section 79(d) EPA 90.

- Any animal kept in such a place or manner as to be prejudicial to health or a nuisance Section 79(f) EPA 90.
 - Insects emanating from the development are likely to give rise to statutory nuisance to nearby sensitive receptors. Section 79(fa) EPA 90.
 - Lighting associated with the development is likely to give rise to statutory nuisance to nearby sensitive receptors. Section 79(fb) EPA 90.
101. It is appreciated that the NAT comments relate to statutory nuisance and that planning applications must consider the amenity impacts of proposals, although it is noted that what constitutes a statutory nuisance is a higher bar than a matter that would adversely affect residential amenity.
102. Following the initial response from the NAT, the applicant had amended the application to remove the keeping of pigs and to use the building to only house cattle and sheep. Whilst having certain reservations, the NAT provided a response to agree to the proposed use with certain conditions being applied. However, the applicant then sought to further revise the description of the proposal to include the keeping of pigs within the building and it is on this basis which the application is being considered.
103. The NAT have advised that their main concerns are in relation to nuisance impacts arising from odours and noise and these will be discussed in further detail under the sub-headings below.
104. Other health concerns are raised from the keeping of pigs, given their close proximity to humans at nearby dwellings. They advise that a great deal of the potential for health impact will relate to the management and biosecurity of the farming practices undertaken onsite and that given the proximity to nearby residents they could not rule out the potential for health concerns for the closest residents to the site.
105. No details of external lighting have been provided but it is considered that the development could be operated without any such lighting and that this could be secured via a suitably worded condition.
106. Concerns have been raised regarding the storage of manure on site relative to the position of nearby residential properties and a watercourse. Reference is also made to potentially taking action under a Community Protection Order, however this process falls outside the remit of the planning process. Nevertheless, it is considered that details of a waste management plan could be secured via a suitably worded condition, to ensure that waste is suitably stored and managed.
107. For completeness, it is not considered that the building results in material overshadowing or dominance to sustain a refusal of the application.

Odour

108. In relation to odour, the supporting text to CDP Policy 31 advises at paragraph 5.324 that, “*The location of development in areas where there is a sensitive use (including residential, education and hospitals) which may be unacceptably impacted on by odour emissions from new development or changes to existing development should be dealt with through the design of the development and the planning stage rather than needing to seek to abate a statutory nuisance under Environmental Protection legislation. Having quantified the degree of risk of odour emissions from the development then consideration can be given to the mitigation measures included in the policy.*”
109. The keeping of pigs within the building would see the generation of odours greater than if the building were to be used to store hay and farm machinery. Odours would arise from the practice of rearing hundreds of pigs, specifically from body odours, manure and feed. It should be noted that residents have raised concerns over odours from piles of manure being stored on the site which has attracted flies and other vermin and prevents residents from using their outdoor areas and from opening windows. They also raise concerns that the applicant has failed to log, investigate or respond to complaints.
110. The application is supported by a document titled 'A Dispersion Modelling Study of the Impact of Odour from the Pig Rearing Houses at Woodside Farm, near Newbiggin in County Durham' May 2023. The report concludes that the rearing of 240 pigs within the building would exceed the Environment Agency's benchmark for moderately offensive odours. The NAT have advised that that the report demonstrates the development will breach the Technical Advice Notes (TANs) in relation to odours arising from the keeping of pigs on the site upon nearby sensitive receptors, and that this highlights that a statutory nuisance in terms of odour has likely arisen from the development.
111. Notwithstanding the above, the NAT advises that they have numerous reservations with this report, including that the assessment has not been undertaken in accordance with the provisions of the Institute of Air Quality Management (IAQM) (detailed within their document 'Guidance on the assessment of odour for planning' July 2018 version 1) and the lack of a 'multi-tool odour assessment'.
112. In addition, no site specific modelling has been undertaken which would be expected given that the proposal is in use. Therefore, the risk and level of harm to sensitive receptors may actually be higher and worse than that concluded within the submitted report, despite the report itself concluding that acceptable levels of odour would be exceeded.
113. The application is supported by an Odour Management Plan which proposes several measures to manage odours arising from the keeping of pigs on the site. These include:
- A ventilation system for the building comprising manually controlled galebreaker screens to one side to allow airflow into the building providing fresh air for the livestock.

- Daily checks of the stocks, the temperature within the building, and potentially odorous spillages.
 - Cleaning out of the building as soon as possible after destocking, approximately every 9 weeks, in readiness for the next batch of pigs.
 - The spreading of manure on surrounding fields in line with DEFRA Codes of Good Agricultural Practice.
 - The storage of manure at Woodside farmstead approximately 400 metres to the north-east. Manure would be stored for a period of up to 1 year and follow Defra's guidance on the storage of solid manure in temporary field heaps.
 - Any odour complaints to be reported to the site manager and logged.
114. The NAT advise that the measures contained within the submitted Odour Management Plan do not provide sufficient confidence in the means of control in relation to preventing unreasonable odour impact upon nearby sensitive receptors. Pigs have been housed in the building at intervals since 2022 and the NAT have in the past and still are investigating odour complaints. Given the proximity of the use to residential properties, and the results of the dispersion modelling, it is not considered possible to manage the odours generated by the keeping of pigs on the site so that a statutory nuisance would not arise.
115. A Report on the Modelling of the Dispersion and Deposition of Ammonia from the Pig Rearing Houses at Woodside Farm, near Newbiggin in County Durham, was subsequently provided. The NAT have reviewed this report and advised that no consideration has been given in relation to the impact of the proposal on nearby sensitive (human) receptors. They go onto advise that the applicant has provided no documentation, such as odour assessments, that would persuade them that the proposal would not interfere with the amenity of nearby sensitive receptors, nor to satisfy the officer that no statutory nuisance would arise from the keeping of the pigs and the ancillary operations involved with their housing.
116. The NAT note that references are made in relation to Environment Agency permit provisions but advised that given the scale of the proposal no environmental permit would be required by the operator. Therefore, the only controls that may be applied are through the planning process.
117. Overall, the information relating to odour submitted by the applicant demonstrates that the rearing of pigs within the building on the site has a detrimental impact on the amenity of nearby residents and likely causes a statutory nuisance. Given the proximity to these sensitive receptors, there is not considered to be any suitable mitigation measures to reduce the level of odour pollution to acceptable levels. Therefore, the proposals conflict with CDP Policy 31.

Noise

118. Planning Practice Guidance (PPG) clarifies that noise is a complex technical issue and that it is necessary to identify whether the overall effect of noise exposure is, or would be, above or below the significant observed adverse effect level and the lowest observed adverse effect level for the given situation.

119. The supporting text to CDP Policy 31 at paragraph 5.328 advises that, *“It will be necessary to determine the impact of noise producing sources on prevailing ambient background levels and achievement of the World Health Organisation’s recommended maximum noise levels in residential areas. Development proposals will be unacceptable where any resulting noise from new development would constitute a Statutory Nuisance under Part III of the Environmental Protection Act 1990 or where the noise impacts, although not sufficient to constitute a Statutory Nuisance, would nonetheless have an unreasonable adverse effect on amenity.”*
120. The keeping of pigs within the building inevitably generates noise from pigs squealing, as well as from vehicle movements involving the transfer of pigs and feed to and from the site, and other activities including the use of equipment to clean out the pens within the building. Objections from residents have been received regarding the noise generated from the development adversely affecting their amenity.
121. No Noise Impact Assessment has been provided to calculate noise levels at the site and sensitive receptors. Instead, the application is supported by a Noise Management Plan which contains mitigation measures as to how noise generated would be managed. This document outlines the following details:
- Manual feeding is proposed to be restricted to working day hours, with all grower pigs fed ad-lib.
 - Feed delivery occurs typically twice per batch mainly during normal working hours.
 - Pigs are moved during the day and maintained in stable batches typically once per batch and mainly during normal working hours.
 - Washing out occurs over a one day period after every batch of pigs (9 week cycle) with a pressure washer used and with the operations undertaken during normal working hours.
 - Any noise complaints will be recorded and investigated using the Noise Complaint Report form contained within Technical Guidance Note IPPC SRG 6.02 (Farming) Noise Management at Intensive Livestock Installations.
122. In consultation with the NAT, this document is considered entirely inadequate, comprising a proposed noise management plan rather than an environmental sound survey detailing noise generated with the operation of the development, including noise from plant, vehicles, equipment and pigs. Noise is considered to be a significant issue for nearby residents, as evidenced by complaints received whilst pigs have been kept in the building and the objections received to this application.
123. Insufficient information has been received to demonstrate that the noise levels arising from the proposed use of the building are and would continue to be within acceptable parameters. Given the proximity of the site to sensitive receptors, it is considered that noise from the keeping of pigs, including ancillary operations involving vehicles, plant and equipment as well as noise from the pigs themselves would have a detrimental impact upon the amenity of nearby

residents, and likely causes a statutory nuisance. There is not considered to be any suitable mitigation measures to reduce the level of noise pollution to acceptable levels. Therefore, the proposals conflict with CDP Policy 31.

Summary

124. The keeping of pigs in the building on the site is considered to have a detrimental impact on the amenity and living conditions of nearby residents in terms of odour and noise pollution. Due to the proximity of nearby residential properties, it is not considered that there are any mitigation measures that could be employed by the application to reduce odour and noise pollution to acceptable levels.
125. The Environmental Health Nuisance Action Team have advised that the proposed development would have an unreasonable impact on nearby sensitive receptors and represents a statutory nuisance. They confirm that they have responded to several complaints regarding odours arising from pigs being housed in the building and are aware of recent concerns having been made in relation to the housing of pigs on the site. Therefore, they consider that the 'cordon sanitaire' principal should be considered in relation to this application and object to the granting of planning permission. They advise that there are no relevant conditions that could be imposed to mitigate the impacts.
126. The intensified use of the building has resulted in increased noise, associated with not only the pigs themselves, but associated activities and traffic. In addition to the smells and odours are considered to be objectionable/offensive and this is supported by the complaints and objections which have been received to the application in addition to comments received from the NAT.
127. Taking into account the above, and the proximity of the building to non-farm related residential properties, the proposals are considered to give rise to unacceptable levels of noise and odour which result in adverse impacts upon residential amenity. This is considered contrary to CDP Policy 31 as the proposal leads to unacceptable levels of air quality, inappropriate odours, noise and sources of pollution, which cannot mitigated to reduce the impact on the environment, amenity of people or human health to an acceptable level. The proposals also conflict with CDP Policy 10 criterion r), in that the proposals impact adversely upon residential and general amenity.
128. It is worth noting a decision from the Local Government Ombudsman in relation to decisions made by Teesdale District Council to grant planning permission for agricultural buildings to house up to 120 intensively reared calves in Windmill, located between 60 to 100m away from residential properties. In that case, the Council's Environmental Health team advised that the proposed development would not cause a statutory nuisance in relation to noise and odours, with the Planning Officer subsequently concluding that there would be no adverse impact upon residential amenity. It is worth noting that in this case, the Council's Environmental Health team have advised that the proposed development would result in a statutory nuisance, which is a higher threshold than an adverse impact upon residential amenity.

129. The Ombudsman's report in that case concluded:

"The impact of a proposed land use and/or development on the amenity of neighbouring properties is a material consideration when deciding whether a planning application should be approved or refused. The test is whether the impact on amenity would be sufficient to justify refusal not whether the development would result in a statutory nuisance. In 2006 and 2008 the Teesdale planning officers failed to consider the impact of allowing the unrestricted use of a 249 sq metre building within 90 metres of a residential property for intensively housing many beasts."

130. It should be noted that the Ombudsman made a number of recommendations, including the payment of financial compensation to the affected residents.

Highway Safety Issues and Public Rights of Way

131. Criterion q) of CDP Policy 10 states that proposals should not be prejudicial to highway, water or railway safety.

132. CDP Policy 21 requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document.

133. CDP Policy 26 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.

134. Paragraph 114 of the NPPF advises that in assessing specific applications for development, it should be ensured that, amongst other matters, b) a safe and suitable access to the site can be achieved for all users; and d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

135. Paragraph 115 advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

136. Objectors have raised concerns over vehicular and pedestrian safety, specifically arising from the intensification of use the existing single lane track, including from haulage traffic and lorries, which they consider to provide inadequate access to the site; inadequate visibility at the junction entrance from the B6277; difficulties for larger vehicles seeking to turn and manoeuvre within the site; and the blocking of the access and possible impeding of emergency vehicles should they require access. Concerns are also raised that the number and frequency of vehicles are higher than stated by the applicant.

137. As outlined above, access to the site is taken from an existing access from the B6277 from the north, along a track which serves the existing residential properties and farm buildings. Public Footpath 4 runs along the access track, whilst Footpath 2 runs to the north of the building, and Footpath 3 to the west between the building and 1 Low Houses.
138. There has therefore been a level of traffic using the access and track in the past which has been associated with the residential properties but also farming activity in the area. It is acknowledged that the use of the barn of the keeping of livestock and pigs intensifies the use.
139. The Highways Engineer has been consulted noting the applicant proposes to use the existing access and private track leading to the site. They consider the B6277 currently has very low traffic volumes due to the rural nature of the surrounding area and confirm that there have been no traffic accidents within the last 3 years either at the access or in the nearby vicinity. They note the access is already established and is used by a mixture of residential and large agricultural type vehicles. They go on to note that the applicant states the proposed vehicular trips will be '4 loads in a 9-week period' via HGV type vehicles, with such a quantum considered to have minimal impact on the highway network. Whilst it is appreciated that objectors consider these traffic movements to be higher, it is not anticipated that the use of the building to house the number of pigs would generate a level of vehicular trips to and from the site that would have a significant impact on the capacity of the surrounding highway network.
140. The Highways Engineer also note that the applicant states there is sufficient internal area for HGVs to turn around within the site and enter and exit the B6277 in a forward gear. To clearly demonstrate this is achievable, they requested the submission of a plan to provide tracking of a 16.5m long HGV both within the site and entering/exiting onto the B6277.
141. Such details have not been provided, however it is understood that the land to the north of the building is utilised to provide space for vehicles to manoeuvre. As outlined above, the track serves both properties and an existing working farm. Whilst it is acknowledged that manoeuvring may be tight, in the main this will take place on private land/track. In the context of the NPPF the proposals are not considered to have such an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe to warrant the refusal of the application.
142. Comments have also been received in respect of existing Public Rights of Way and possible obstruction(s). The Public Rights of Way around the site are not proposed to be altered as part of the application.
143. Colleagues from the Public Rights of Way Department have visited the site and have raised no objections to the application. They advise that the Council are making arrangements for the roadside signpost (which has rotted away) to be replaced, footpaths to be waymarked in certain key places, 'no vehicle' signage updated, and a stile / gap in fencing installed.

144. Overall, whilst the objections from residents are acknowledged, the proposals are not considered to adversely affect highway or pedestrian safety to such an extent to warrant the refusal of the application on the grounds of highway safety in the context of the Paragraph 115 of the NPPF. The proposals are considered to accord with Policies 10, 21 and 26 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

Landscape and Visual Impact

145. CDP Policy 10 states that General Design Principles for all Development in the Countryside New development in the countryside must accord with all other relevant development plan policies and by virtue of their siting, scale, design and operation must not:
- l. give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for;
 - o. impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for.
146. CDP Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
147. In addition, CDP Policy 38 seeks to conserve and enhance the North Pennines National Landscape (formerly AONB), whilst CDP Policy 39 states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects.
148. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance 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.
149. Objectors highlight the size, siting and location of the building, along with construction materials. They do not consider that the proposals integrate with existing buildings and that the appearance is out of character with the surrounding area, landscape, countryside and adversely impacting upon the AONB (now National Landscape). Impacts upon views, including public views,

are raised along with the failure to include stone cladding, in breach of the previous approval.

150. As outlined, the site is within the North Pennines National Landscape. The proposal lies adjacent to a number of PROW and will be seen in near and wider views and higher ground to the north including B6277.
151. The main building was the subject of previous applications. Alterations to the building from the approved include the addition of precast concrete panels in previous open sides along with galebreakers / roller screens above, predominantly to the north elevation. The footprint of the building has not been extended.
152. The Landscape and National Landscape Officers have provided comments. The Council's Landscape Officer makes reference to previous consultation comments in relation to DM/21/02291/PNA and that the proposal has created an uncharacteristically long structure in the landscape which would have been better orientated at right angle to the neighbouring traditional buildings (and orientated with the grain of the existing modern agricultural buildings to the southwest). However, the orientation was accepted due to practicalities on agricultural grounds due to site restrictions in terms of space and access to adjoining field and in wider views the building is not an isolated structure, but seen in the context of the other buildings and existing modern agricultural buildings from public vantage points and is considered to be of a design and construction which is suitable for and commensurate to the intended use.
153. The chosen materials are generally in keeping with, the rural character and appearance of the surrounding area; It is seen from higher ground and against a backdrop of rising ground in views from the north, and the roof has been clad in a dark visually recessive coloured fibre cement to accord with the North Pennines AONB Design Guide 2009 which states that roofs on agricultural buildings should be dark colour. However, given the visibility of the northern elevation from public vantage points (including the adjacent Public Right of Way), the Landscape Officer advised that consideration should be given to cladding the concrete panels on the northern elevation with stone to match the eastern elevation and tie in with the adjacent traditional buildings on site.
154. These comments are appreciated, as are objectors highlighting that the stone cladding as annotated on previous approved plans is yet to be completed on the eastern elevation of the building.
155. The northern elevation of the building was previously open and as outlined changes to the building include the addition of moveable precast concrete panels with galebreakers / roller screens above. However, in this context and given the moveable nature of the panels the addition of stone cladding on the northern elevation is not considered practicable or necessary. It is appreciated that the cladding on the eastern elevation remains to complete.
156. In terms of the feed silo (not shown on the plans), whilst it does exceed the height of the existing buildings within the farm group and two smaller silos may

have been more appropriate, the silo is seen within the context of the existing farmstead in wider views and its dark green colour, the existence of taller trees within the vicinity and being seen against rising ground in wider views helps to mitigate its visual impact.

157. Taking into account the previous applications, comments received and objections, the proposal is considered to be acceptable in terms of design, impacts upon the surrounding area, landscape and National Landscape, in compliance with Policies 10, 29, 38 and 39 of the County Durham Plan, alongside Parts 12 and 15 of the National Planning Policy Framework.

Drainage and Flood Risk

158. 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 173 of the NPPF 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 175 of the NPPF goes on to advise that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
159. CDP Policies 35 and 36 relate to flood water management and infrastructure.
160. CDP 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.
161. CDP Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
162. The site lies within Flood Zone 3a. As outlined the building itself is existing. Alterations have included the addition of concrete panelling to the open elevations with galebreaker / roller screens above.
163. The proposed use of the building is classified as having a low flood risk vulnerability according to the flood risk vulnerability classification table contained within the technical guidance to the NPPF. Therefore, the use is considered compatible for the level of flood risk in this location.
164. The Environment Agency initially objected, in the absence of a flood risk assessment recommending that the application is refused.

165. Further details have been provided in the form of Flood Risk Mitigation Measures. This outlines that in order to ensure mitigate the risks of flooding and in order to ensure that there is not a reduction in flood storage capacity the river levels on the River Tees, located to the south of the site, will be monitored. This is currently already done as existing farmland extends up the river bank, while existing buildings are in a closer proximity. In the event of flooding the following measures will be implemented
- All stock will be removed from the building and moved onto higher ground.
 - All valuable equipment and machinery will be removed from the building and moved onto to higher ground.
 - The siding door on the northern elevation existing building along with the stock gates on the side will be fastened open to allow the free flow of any flood water through the building.
166. It is considered that the above measure will ensure mitigate the risk of damage to equipment and stock loss, while ensuring that flood waters would not be impeded in the event of a flood.
167. The Environment Agency have provided further comments and having reviewed the additional information have no objection to application considering that the submitted Flood Risk Assessment identifies and mitigates against the flood risk posed by the agricultural building by designing it to flood.
168. It is acknowledged that concerns have been received from nearby residents regarding the proximity of manure storage relative to a watercourse and that the field where manure is being stored being liable to flooding.
169. As detailed in the Ecology section below, farmyard manure is proposed to be disposed of at the nearest anaerobic digestive facility to prevent additional nitrates from being discharged into the River Tees, which would need to be secured via a suitably worded condition. It is anticipated that a suitable solution to manage waste generated from the pigs reared at the site could come forward and be secured via a suitably worded condition if the application were to be approved. Such details would be expected to demonstrate that wastewater would not be discharged to any nearby watercourses.
170. Ultimately, issues regarding the discharge of wastewater and/or pollution to nearby watercourses and private drinking water supplies would fall under the remit of the Environment Agency (the regulator for licensing abstractions, pollution control and the quality of the water environment). Correspondence has been provided from the Environment Agency advising that they undertook an unannounced visit to the farm in July 2023, noting that at that time the shed contained young pigs which were well bedded on straw and that they saw no evidence of any effluent escaping or having escaped from the shed. Overall, the Environment Agency have provided comments on the application and have not objected.

171. Overall, taking into account the above, the application is considered in accordance with CDP Policies 35 and 36 and Part 14 of the National Planning Policy Framework.

Ecology and Biodiversity Net Gain

Impact on Protected Species and their Habitats

172. Part 15 of the NPPF seeks to ensure that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. CDP Policy 41 seeks to resist proposals for new development which would otherwise result in significant harm to biodiversity or geodiversity, which cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. Proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks.
173. The site lies within the Teesmouth and Cleveland Coast Special Protection Area (SPA) / Ramsar Nutrient Neutrality catchment area and within close proximity to a number of SSSI's, including Middle Side & Stonygill Meadows 325m to the east, Park End Wood 405m to the south, Upper Teesdale 620m to the south west, and Teesdale Allotments 885m to the north east. Moor House-Upper Teesdale Special Area of Conservation (SAC) also lies 620m to the south, forming part of the Middle Side & Stonygill Meadows SSSI.
174. Under the Conservation of Habitats and Species Regulations 2017 (as amended) (Habitat Regs), the Local Planning Authority must consider the nutrient impacts of any development proposals on habitat sites and whether those impacts may have an adverse effect on the integrity of a habitats site that requires mitigation, including through nutrient neutrality. In this respect Natural England have identified that the designated sites of the Teesmouth & Cleveland Coast Special Protection Area/Ramsar (SPA) is in unfavourable status due to excess Nitrogen levels within the River Tees.
175. The Habitat regulations therefore require the Authority to make an 'Appropriate Assessment' of the implications of the development on the designated sites in view of the sites conservation objectives. Where an adverse effect on the site's integrity cannot be ruled out, and where there are no alternative solutions, the plan or project can only proceed if there are imperative reasons of over-riding public interest (IROPI) and the necessary compensatory measures can be secured.
176. Initial comments received from Natural England raised objection to the application, raising air and water quality concerns on the Teesmouth and Cleveland Coast SPA/Ramsar site and the Middle Side and Stonygill Meadows SSSI which underpins the Moor House and Upper Teesdale Special Area of Conservation (SAC).

177. During the course of the application, further details have been provided and discussions undertaken with Natural England.
178. With regards to air quality of designated sites, Natural England have indicated their satisfaction that the submitted information provides the LPA with sufficient information to inform a Habitats Regulation Assessment. This is because ammonia emissions and nitrogen deposition would not exceed relevant thresholds and that there are no other similar projects in the vicinity.
179. In terms of water quality, farmyard manure is proposed to be disposed of at the nearest anaerobic digestive facility. Natural England have confirmed that they are satisfied this would not adversely affect any designated protected sites. In the event of an approval, a condition would be required to secure this and to include a trigger for the submission of further information if the approved details were to change in the future to allow further appropriate assessments to be undertaken.
180. The applicant has confirmed that no effluent from the keeping of pigs in the building or manure on the surrounding land is discharged into the River Tees. They have explained that a straw bedding system is in place within the building to prevent this. As above, the Environment Agency have advised that they undertook an unannounced visit to the farm in July 2023, noting that at that time the shed contained young pigs which were well bedded on straw and that they saw no evidence of any effluent escaping or having escaped from the shed.
181. The Council's Ecologist is in the process of undertaking a Habitat Regulations Assessment. Subject to some further clarifications regarding the management of wastewater, it is considered that it is likely to be able to reach a position where it can be concluded that the proposed development would not adversely affect the integrity of any designated sites, in line with the requirements of CDP Policy 42.
182. If such a conclusion were to be reached, the Habitat Regulations Assessment is required to be agreed by Natural England. The Local Planning Authority are confident that Natural England would agree to such an assessment, when completed, and on this basis a refusal of the application of these grounds is not recommended. However, should members wish to go against the officer recommendation of refusal and support the application, members could only be minded to approve the application subject to the completion, and Natural England's agreement, of the Habitat Regulations Assessment.
183. For clarity, in the event that the necessary clarification regarding the management of wastewater were not provided to the Council's satisfaction, then this would form a second reason for refusal.
184. Objectors have raised issues relating to threat to ecology, disruption of natural habitats and birds, wildlife, environment and the building and associated footfall / transport contrary to conservation efforts. The building itself is already in situ and the introduction of pigs is not considered to adversely affect any other

protected species or their habitats. Therefore, there is no conflict with CDP Policy 43.

Biodiversity Net Gain

185. From the 2nd of April 2024, the requirements of Schedule 14 of the Environment Act 2021, as inserted into Schedule 7A of the Town and Country Planning Act 1990, apply to all planning applications unless falling under one of the listed exemptions. This application was valid from the 2023 and so is not legally required to deliver biodiversity net gains of at least 10%. If the application were to be approved, a condition to secure a landscaping scheme to ensure a net gain is achieved in line with the requirements of CDP Policy 41 could be imposed.

Summary

186. Overall, the proposed development is considered to accord with CDP Policies 41, 42, and 43, as well as Part 15 of the NPPF.

Other Issues Raised

187. Objectors highlight the planning history and lack of scrutiny of previous applications for such a large shed given the scale of agricultural activities undertaken at Low Houses. Also highlighting the phasing of the Basic Payment Scheme (cited as justification for the proposal) would be known to the applicant at the time, and concluding that the intention was all along to use the shed for intensive livestock farming, contrary to conditions. Whilst it is acknowledged that the application is retrospective and that activities have continued to be undertaken whilst the application is being considered, these are not reasons in themselves to warrant refusal.
188. Concerns have also been raised regarding the logging of complaints and the applicant's failure to adhere to previous permissions and controls. Whilst they are not reasons in themselves to warrant the refusal of the application, they do highlight the difficulties of managing the pig rearing operation in such close proximity to residential properties without adversely impacting their occupants.
189. Objections relating to lack of necessary reports, tests, supporting information and inconsistencies within the application form and submission are appreciated. The information submitted is however considered sufficient to consider and determine the application.
190. Previous applications and breach of conditions are also acknowledged, along with the retrospective nature of the application but are not in themselves a reason to refuse the application.

CONCLUSION

191. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
192. In this instance, it is concluded that the development has and will give rise to unacceptable levels of noise and odour which result in adverse impacts upon residential amenity. This is considered contrary to CDP Policy 10 criterion r) also CDP Policy 31 as they lead to unacceptable levels of air quality, inappropriate odours, noise and sources of pollution, which cannot be mitigated to reduce the impact on the environment, amenity of people or human health to an acceptable level.
193. Despite objections, subject to conditions, the development is considered to have an acceptable impact upon the character and appearance of the surrounding area/landscape. The proposal is also considered acceptable in respect of access and highway safety, and flooding.
194. A Habitat Regulations Assessment is still required to be completed by the Council and agreed by Natural England. Although this has not yet taken place the Local Planning Authority are confident that a positive conclusion could be reached that Natural England would be likely to agree to and so the application is not recommended for refusal on this basis.
195. A number of representations have been received which both object to and support the application. These have been fully considered and whilst not endorsing all points of objection raised, taking into account the above, the development is considered to have an adverse impact upon residential amenity and the amenity of neighbouring users. Overall, any benefits associated with the development are not considered sufficient to outweigh the significant policy conflict, there are no material considerations which indicate otherwise and therefore the application is recommended for refusal.

Public Sector Equality Duty

196. 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.
197. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

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

1. The development is considered to result in unacceptable levels of noise and odour pollution which adversely impacts upon the amenity of nearby residents, contrary to Policy 10 criterion r) and Policy 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

- o Trees, Woodlands and Hedges SPD (2024)

- o Residential Amenity Standards SPD (2023)

- o Parking and Accessibility SPD (2023)

- o Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham (2019)

Statutory consultation responses

Internal consultation responses

External consultation responses



<p>Planning Services</p>	<p>Retrospective application for alterations and change of use of general purpose agricultural building to agricultural livestock building to include the keeping of pigs (amended description) Farm Buildings At Low Houses, Woodside, Newbiggin Barnard Castle DL12 0UJ</p>	
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