

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: 4/12/01003/FPA

FULL APPLICATION DESCRIPTION: Part change of use of agricultural land and building for employment use (B2 and Office), for the keeping and breeding of horses, siting of cabins for office and storage use, formation of horse exercise areas and runs, enclosures and electricity line pole and engineering works to the landscape for drainage purposes (retrospective)

NAME OF APPLICANT: Mr P Johnson

ADDRESS: East Durham Cathedral Farm Sherburn Durham DH6 1EY

ELECTORAL DIVISION: Sherburn

CASE OFFICER: Henry Jones
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DESCRIPTION OF THE SITE AND PROPOSALS

Site:

1. The application relates to land known as East Durham Cathedral Farm situated off Lady Piece Lane which connects Sherburn Village and High Pittington.
2. The application site comprises predominantly of open grassed land separated in areas by means of enclosures. An access point is located in the far north east of with a long hardsurfaced track leading past a section of equestrian training track, outdoor equestrian exercise area and circular exerciser and beyond a main large building and adjacent smaller portacabin storage buildings. Bordering the site to the west there lies a watercourse Coalford Beck.

Proposal:

3. The submitted planning application comprises of several elements and is largely retrospective in nature with the main elements of the application having already been implemented and which this planning application seeks to regularise and gain the necessary formal planning permission for.
4. The main building located on the site gained planning permission in October 2010 for use for agricultural purposes. This building has now been altered internally from that planning permission with the building now housing stables, an area dedicated as an

engineering business office, an area dedicated for the works and fabrication for an engineering business, storage areas, toilets as well as hay and agricultural storage. The application therefore seeks planning permission for the change of use for the keeping and breeding of the horses and for the running of a B2 and B1 business enterprise.

5. Adjacent to the main building, portacabins are sited which are utilised for a combination of storage and further office accommodation. An open horse exercise enclosure has been formed together with a circular horse exerciser and close to the access to the application site an electricity pole has been erected. Retrospective planning permission is sought for these elements.
6. Engineering works and remodelling of land between the main building and site entrance has occurred, the applicant stating that this has related to efforts to improve drainage from the land and a land drainage system part installed. Atop of this land a circular equestrian training track is proposed this element has not been wholly implemented.
7. In addition on the ground immediately adjacent to Coalford Beck a vast amount of landscape removal has occurred within an area which is designated as a local site of nature conservation as defined within the Local Plan. It is indicated on submitted plans that a replacement landscape scheme would be proposed in this area.
8. The application is before planning committee as the development constitutes a major development.

PLANNING HISTORY

9. In 2010 planning permission was granted for the erection of an agricultural building including retrospective consent for new gates, along with parking area and access track along eastern edge of field.

PLANNING POLICY

NATIONAL POLICY

10. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
11. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
12. The following elements are considered relevant to this proposal;
13. *NPPF Part 1 – Building a Strong and Competitive Economy*. The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.

14. *NPPF Part 2 – Ensuring the vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
15. *NPPF Part 3 – Supporting a Prosperous Rural Economy.* Planning policies should support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development.
16. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
17. *NPPF Part 7 – Requiring Good Design.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
18. *NPPF Part 8 – Promoting Healthy 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.
19. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
20. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at:

<http://www.communities.gov.uk/publications/planningandbuilding/nppf>

LOCAL PLAN POLICY:

21. *Policy E7 Development in the Countryside* advises that new development outside existing settlement boundaries will not normally be allowed. However, there are a number of exceptional circumstances where development outside existing settlement boundaries may be considered acceptable.
22. *Policy E8 Changes of Use in Countryside* advises that in order for such proposals be acceptable such buildings should be of permanent or substantial construction, any interest intrinsic to the building is retained, unsightly buildings are improved; no significant adverse effect on the character and appearance of the countryside, amenity of neighbouring occupiers or highway safety would result.

23. *Policy E14 Trees and Hedgerows* sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
24. *Policy E15 Provision of New Trees and Hedgerows* states that the Council will encourage tree and hedgerow planting.
25. *Policy E16 Protection and Promotion of Nature Conservation* is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
26. *Policy E18 Sites of Nature Conservation Importance* seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
27. *Policy EMP16 Employment in the Countryside* sets out the circumstances in which the Council will support proposals that create employment in the countryside.
28. *Policy EMP17 Farm Diversification* sets out the criteria against which proposals for farm diversification will be considered and these include the impact upon the character of the countryside, that the site can be served by roads capable of accommodating increased traffic and that there is no compromise to the openness to the Green Belt.
29. *Policy T1 Traffic – General* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
30. *Policy T10 Parking – General Provision* states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
31. *Policy T21 Safeguarding the Needs of Walkers* states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
32. *Policy R16 Equestrian Facilities* states that the establishment of such facilities in the countryside will be permitted where proposals in the green belt are consistent with Policy E1; adequate grazing land is available; new commercial establishments where

trekking facilities are needed are in close proximity to existing bridleways and other types of commercial establishments allow for adequate exercise of horses; establishments are sufficiently close to existing residential accommodation to allow proper supervision at all times; facilities are of an appropriate scale and design no harm to nature conservation assets result.

33. *Policies Q1 and Q2 General Principles Designing for People and Accessibility* states that the layout and design of all new development should take into account the requirements of all users.
34. *Policy Q5 Landscaping General Provision* sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
35. *Policy Q6 Structural Landscaping* advises that all new development located on the outer edge of settlements or exposed sites will be required to include peripheral structural landscaping within the site in order to minimise any adverse visual impact of the proposal.
36. *Policy Q7 Industrial and Business Development* seeks to promote an attractive image of the District and thereby stimulate inward investment through the provision of well-designed buildings which are appropriate to their designation.
37. *Policy U8a Disposal of Foul and Surface Water* requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
38. *Policy U9 Watercourses* states that development which may affect watercourses will only be permitted provided that they do not result in flooding or increase flood risk elsewhere; or they do not result in the pollution of the watercourse; or they do not adversely affect nature conservation interests; or they do not adversely affect the visual appearance of the landscape; and their environmental impact is properly assessed.

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:

<http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=494>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

39. The Highway Authority have raised no objections to the development provided that the 6m access radius shown on proposed plan is implemented.
40. Natural England have raised no objections to the proposal, advice is provided on measures of biodiversity enhancement.
41. Northumbrian Water have raised no objections to the development.

42. The Environment Agency have raised no objections to the development though have advised that there is a requirement to ensure that the proposed drainage which will result in a concentration of flows from the field created by a single discharge point does not cause scour issues to the beck.
43. Sherburn Parish Council have objected to the application stating that when the building on site was granted planning permission objections had been raised with regards to its unsuitability and that it then immediately housed an engineering business. Such a business is considered unsuitable in a rural location and that the site has been turned into an industrial estate with no animals having ever been sited on the land. The land remodelling suggests a car park is being created, objection is raised to the landscape removal impacts on wildlife habitats. A request for a Committee site visit is made. The Parish state that they have no confidence in the proposed stud farm enterprise materialising in the same manner the previous agricultural business did not. The claims that the industrial estate rent for the engineering business could not be paid is disputed given the amount of money that will have been spent on this site. Requests for enforcement action and to return the site to the countryside are made.
44. Pittington Parish Council have also commented on the application and refusal of the application is requested on the grounds of the introduction of an engineering business into the countryside location and the impact the development has so far had upon the countryside and biodiversity.

INTERNAL CONSULTEE RESPONSES:

45. Landscape have commented on the landscape removal previously implemented and have stated that this has created an eyesore. A compensatory scheme is necessary and this is required to be more detailed than has been submitted thus far.
46. Ecology have stated that should planning permission be granted then a condition requiring compliance with the recommendations of the extended phase 1 habitats survey must be attached.
47. The Spatial Planning Team have raised objections to the submitted planning application considering that whilst some support in principle can be found for the equestrian facility in the countryside and change of use of the building for business purposes the provision of portacabin buildings and the paraphernalia of development at the site is considered harmful to the character and appearance of the countryside and demonstrates that the correct balance between the social, economic and environmental sustainability issues has not been met. With regards to the equestrian facility it is considered that the applicant should demonstrate an acceptance of the equestrian use will not create pressure for a new dwelling on site in the future.
48. Officers have consulted with the Council's Drainage and Coastal Protection Engineer following the receipt of comments from the Environment Agency who advised on the requirements for the applicant to apply for consent for discharge into the beck and a need for the discharge rate to be controlled so as to prevent the prospect of scour as advised by the Environment Agency.
49. Environmental Health have assessed the proposal in relation to potential statutory nuisance and have raised no adverse comments having regards to matters of noise, odour and light.

PUBLIC RESPONSES:

50. A total of 3 no. letters of representation have been received with regards to the application. One letter of support has been received consider that the applicant will improve the appearance of the land and correctly look after the site. One letter has been received querying whether the Council have been able to negotiate the provision of a public right of way across the land to Pittington.
51. A letter of objection has been received from the then Cllr Carol Woods which raises the same concerns as Sherburn Parish Council which are summarised above.

APPLICANTS STATEMENT:

52. The application has been supported by a design and access statement and planning statement. The supporting documentation explains that the engineering business was formally based at Belmont Industrial Estate but that the rent costs proved too high, necessitating the move to East Durham Cathedral Farm. Predominantly administrative work occurs at the site though some engineering and fabrication works do occur, the majority though occurs offsite at contractors sites.
53. The applicant states that they are keen to develop an enterprise for the keeping and breeding of horses and this accounts for the stabling within the main building, outdoor arena, exerciser and proposed track. The remodelling of the land has occurred to improve the drainage at the site. The swaths of landscaping removed it is stated was undertaken by the previous land owner just prior to the applicant purchasing this neighbouring land. The applicant states that the intention is to reseed and replant these sections of the land.
54. The proposal is considered against the provisions of the Local Plan and NPPF and is considered to be in accordance with this guidance.

The above 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:

<http://217.23.233.227/WAM/showCaseFile.do?action=show&appType=planning&appNumber=4/12/01003/FP>
[A](#)

PLANNING CONSIDERATIONS AND ASSESSMENT

55. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, impact upon the character and appearance of the area, impacts on highway safety, flood risk and ecology.

The Principle of the Development

56. The application effectively consists of differing elements with planning permission effectively sought in part for an engineering business and a business for the keeping and breeding of horses and a continued agricultural element.
57. Any intention to continue grazing on the land and use of the main building for agricultural storage has essentially already been established under the previous planning permission. The key considerations are therefore the remaining two enterprises and their associated development.

58. Objection from the two Parish Councils and former Local Councillor include objection to the principle of the development, particularly considering the location of the engineering business to be unsuitable at the rural location. The Spatial Policy Team have considered the application and have stated that some support for the principle of both the equestrian facility and engineering business can be found particularly within the part 3 of the NPPF which supports rural enterprises. However, reference is made to the content of Policy E8 of the Local Plan regarding changes of use of buildings in the countryside and the Spatial Policy Team point out that this policy considers that major extension work should not be necessary. The siting of portacabins on the land is made reference to and that this is contrary to the provisions of this policy.
59. The Spatial Policy Team refer to Policy R16 of the Local Plan as the key policy with regards to the horse breeding business and point out that a key consideration is whether residential accommodation is sufficiently close to allow proper supervision.
60. With regards to Policy R16 officers consider that the horse breeding business accords with its provisions in principle. Adequate grazing land is available for the number of stables housed within the building, a horse exerciser exists and further track proposed. With regards to the issue of proximity to the residential accommodation to allow for adequate supervision, the applicant is not living on site though does reside approximately 3 miles away in Durham. The site contains CCTV surveillance equipment and alarm systems which the applicant states are linked direct to his telephone. The applicant has not suggested any need for him to reside on site to aid with the business venture. Officers appreciate the potential for abuse with business ventures in rural locations and subsequent efforts to form residential accommodation. However, equally any future effort to site a residential property on the land would have to be fully justified. In addition the demonstration that up until now no greater supervision than exists to adequately supervise the site is a material consideration for a future application. Changes to permitted development rights afforded to changes of use which came into effect 30th May 2013 which permit changes from office use to residential development are recommended for removal via condition on any approval so that the Local Planning Authority retains control over the acceptability of such a change in the future.
61. Officers agree with the Spatial Planning Team that there is a degree of conflict with Policy E8 of the Local Plan given that additional portacabins are sited on the land to provide additional storage and office accommodation. Policy EMP17 of the Local Plan also relates to farm diversification proposals and considers that changes of use where consistent with Policy E8 of the Local Plan are acceptable in principle.
62. However, the NPPF is very supportive of rural enterprise and commits at paragraph 28 to “support the sustainable growth and expansion of all types of business and enterprise in rural areas, both through conversion of existing buildings and well designed new buildings”. In addition when considering the suitability of businesses outside established and more central areas paragraph 25 states that the sequential approach to site selection should not be applied to applications for small scale rural offices or other small scale rural development and this adds further weight to the potential suitability of smaller business enterprises in a range of locations.
63. It is acknowledged, however, that the site does lack in some sustainability credentials given its degree of isolation, particularly with regards to the engineering operations which are housed within the building. A particularly large-scale engineering operation at this location would not be sustainable and for this reason

should planning permission be granted officers consider a condition should be attached limiting the floorspace attributed to this use.

64. Officers consider that the NPPF is essentially offering strong support to business enterprise in rural locations provided that other impacts such as visual impacts are acceptable. Other key considerations are considered elsewhere in this report but officers consider that with the support of the NPPF in particular in mind, objection in principle to the office, general industrial and horse breeding enterprise should not be raised. However, it is considered appropriate to restrict the amount of the main building dedicated to engineering works having regards to the sustainability credentials of the site and also remove permitted development rights for enlargements and alterations to this element of the development.

Impacts Upon the Character and Appearance of the Area

65. Policies E8, R16 and EMP17 of the Local Plan seek to ensure that changes of use in the countryside, new equestrian facilities and farm diversification proposals have an acceptable impact upon the character and appearance of the area. Policy Q7 advises on the need for suitably designed industrial and business developments. Part 7 of the NPPF advises on the importance of good design within development proposals.
66. Public and Parish Council responses to the application raise objections over visual impact whilst the Spatial Planning Team has also raised concern with particular reference to the use of portacabins.
67. The main building situated at the site has previously been granted planning permission and so the visual impact of this building to which the change of use partly relates is essentially established.
68. With regards to the portacabins sited on the land officers acknowledge that generally speaking these are not well designed buildings nor welcomed on sites. They are utilitarian in appearance often a temporary or stop gap measure and officers would not dispute a better designed solution to provide extra storage or office accommodation could have been produced.
69. However, equally once outside of the application site and in the longer distance views neither are the portacabins particularly prominent or jarring. Furthermore a landscape scheme which can be conditioned on any approval, can also be implemented to better screen and reduce impact further still.
70. The remaining physical works within the application namely horse exerciser, exercise runs, enclosures and electricity pole officers consider are also not so significant features in the landscape to be obtrusive or unsightly in their own right.
71. Previously, significant landscape removal has occurred on the land immediately adjacent to Coalford Beck and this area is a local wildlife site and designated under Policy E18 of the Local Plan as a site of nature conservation importance. Undoubtedly the previous landscape works has essentially decimated this particular area and this is again picked up in the Parish Council and public responses as well as referred to in the comments of the Council's ecology and landscape teams. Such works had they formed part of application before occurring, would certainly have been considered in conflict with Policy E18.

72. Policy E18 advises that where development works must occur in these areas (or in this instance have simply been undertaken) then commensurate measures must be taken to minimise the adverse effects associated with the scheme and reasonable effort is made by appropriate habitat creation or enhancement in the vicinity to compensate for any unavoidable damage. The sentiments have again reiterated by the landscape and ecology teams.
73. The application has been accompanied by a schematic landscape planting plan and reference to replanting is made within the supporting documentation. The detail submitted in itself is not sufficient. However, a more detailed and appropriate landscape proposal to reinstate that lost and indeed improve the entirety of the appearance of the site can be resolved via condition on any approval.
74. The access route to the site incorporates sets of high gates and boarding, the applicant considers are required for security purposes. Officers consider that these gated entrance arrangement is somewhat inappropriate in a rural location, lower and more sympathetic farm access gates would be better. However, due to the distance at which the entrance enclosures are sited from the highway they do not in their own right require planning permission.
75. In conclusion officers consider that the associated portacabins, enclosures, exerciser and proposed exercise track have an acceptable impact upon the character and appearance of the area and that they are not so jarring or obtrusive to warrant refusal of the application. The previously undertaken landscape removal adjacent to the beck has significantly harmed a locally designated site of nature conservation and this impact is unacceptable. Equally the applicant has submitted an indicative replanting scheme and a condition can seek to ensure that a fully developed landscape proposal is implemented that not only mitigates the harm already undertaken in this area but also improves the character and appearance of the site overall.

Highway Safety

76. Policy T1 of the Local Plan seeks to ensure that all development is acceptable in terms of highway safety whilst Policy T10 seeks to limit parking provision in development to promote sustainable transport choices and reduce the land take of development. Policies E8 and EMP17 also require any changes of use and farm diversification proposals to be appropriate from a highway safety perspective. Part 4 of the NPPF also seeks to promote sustainable transport choices.
77. The main access to the application site previously formed part of the original planning permission for the erection of the main building. Consideration should be had to suitability of that access with the changes that have occurred in the use and function of the site.
78. The Highway Authority have raised no objections in principle to the use of the access for the functions of the site now sought. However, this is on the condition that the 6m access radius shown on proposed plan is implemented and officers can ensure this via condition.

79. Officers have previously noted that a second access has been formed farther to the south east and the applicant has not applied for its retention under this application. Officers have discussed the matter with the agent and requested the Highway Authority visit the site. Concerns have been raised by the Highway Authority with regards to the visibility of this access and this matter is to be pursued separately from this application.

Flood Risk and Drainage

80. Part 10 of the NPPF in part advises on flood risk information requirements on applications and the criteria when determining applications and this is further supported by the technical guidance note that accompanies the NPPF. Policy U8A of the Local Plan advises on surface and foul water disposal and Policy U9 relates to development watercourses.

81. Sections of the site immediately adjacent to the watercourse Coalford Beck lie within flood zones 2 and 3. However, the sections of the site farther east where the buildings are sited and track proposed all lie within flood risk zone 1, essentially the least vulnerable to flooding. The application has been accompanied by a flood risk assessment, however and this also provides details on the field drainage works. The flood risk assessment considers that the development subject to the application does not involve the development of significant additional areas of hardsurfaced land reducing any potential increase in impact. The application is not considered within the flood risk assessment to alter the natural drainage characteristics of the land and the land drainage network would assist in draining the near surface soils but would not increase the overall run-off from the site. The drainage system proposed also incorporates an attenuation basin.

82. The Environment Agency have been consulted on the application and no objections have been raised though they have stated that there is a requirement to ensure that the proposed drainage which will result in a concentration of flows from the field created by a single discharge point does not cause scour issues to the beck. Having regards to the comments of the Environment Agency, officers have contacted the Council's drainage and coastal protection engineer who have advised on the requirements for the applicant to apply for consent for discharge into the beck and a need for the discharge rate to be controlled so as to prevent the prospect of scour as advised by the Environment Agency. Officers consider a condition can be applied to any planning permission to resolve the final discharge and drainage solutions.

83. The application is also accompanied by detail of a package treatment plant that will handle foul sewerage. Again in the consultation with the Environment Agency no objections have been raised. Northumbrian Water have raised no objections to the development.

84. Overall officers do not raise objections to the development proposal on the grounds of matters of flood risk or drainage.

Ecology

85. Policy E16 of the Local Plan seeks to conserve nature conservation assets and prevent harm to protected species through development. This aim is replicated through Part 11 of the NPPF most notably at paragraphs 118 and 119. The application site in part encompasses a site of nature conservation importance to which Policy E18 of the Local Plan relates.

86. Under the requirements of the Conservation of Habitats and Species Regulations 2010 it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a protected species, unless such works are carried out with the benefit of a licence from Natural England.
87. Regulation 9(3) of the Conservation of Habitats and Species Regulations 2010 requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species license from Natural England. This requires an examination of the derogation provisions. The Local Planning Authority must not usurp the functions of the licensing authority in this regard. It is for Natural England to decide licensing applications; the local planning authority must only be satisfied that there is a possibility of a required license being granted. The 2010 Regulations contain three "derogation tests", which are that the development must meet a purpose of preserving public health or public safety or other imperative reasons of overriding public interest including those of social or economic nature and beneficial consequences of primary importance for the environment; there must be no satisfactory alternative; and favourable conservation status of the species must be maintained.
88. Landscape clearance works have previously occurred. The ecological description of this local wildlife site makes reference to plant species only not animals or indeed protected species. Equally, however, the presence of protected species at the time of those works occurring could not be ruled out. Equally an assessment at this stage cannot effectively prove if those works caused any harm to protected species or not.
89. However, an assessment of the situation more presently can be made to inform on the ecological value. The applicant has supplied an extended phase 1 habitat survey. This report finds no evidence of bird nesting activity, Great Crested Newts, reptiles, bats or water voles. A possible otter track was found though this was not confirmed and the site is not considered to support suitable holt or resting place for otters. Similarly the grassland onsite provides some suitable badger foraging opportunities and a form of mammal burrow was found however, there was no evidence to suggest badgers were actually using the site.
90. No evidence of any other protected species were found at the site. As a result there is no need for a detailed consideration against the "derogation tests".
91. Natural England have raised no objections to the proposal but state that consideration should be had to biodiversity enhancements. The Councils Principal Ecologist has considered the development and the submitted phase 1 habitat survey and the advice provided is that should the application be approved then the recommendations within the habitat survey should be conditioned. These recommendations comprise of avoidance of the bird breeding season, checking for badgers, management of invasive weeds, replanting and enhancement of the floodplain mire habitat. These recommendations can be conditioned and the replanting proposals incorporated into a wider compensatory landscaping scheme having regards to Policies E16 and E18 of the Local Plan.

Other Issues

92. The engineering operations within the main building in particular have the potential to generate noise and this can pose amenity issues for residents. Policy E8 of the Local Plan advises that changes of use of buildings in the countryside must not affect the amenity of neighbouring residents. However, due to the isolation of the application site and building within which the works occur, officers do not consider

that the noise or disturbance would affect residents. The content of the objections received do not make specific reference to noise issues. It should be noted that Environmental Health have raised no adverse comments on the proposal in relation to noise though have stated that having regards to the potential for a statutory nuisance which is not a planning matter. The Local Planning Authority should be considered with matters of amenity not statutory nuisance.

93. Remaining points of objection received from the consultation exercise state that they have no confidence in the proposed stud farm enterprise materialising in the same manner the previous agricultural business did not and the claims that the industrial estate rent for the engineering business could not be paid is disputed given the amount of money that will have been spent by the applicant on this site.
94. Officers can appreciate the concern over the potential for the site to change use given that the originally approved use for the site was altered shortly afterwards. However, the use before the Local Planning Authority under this application is that which must be considered at this stage. If a further unauthorised change of use occurs then this matter would again have to be considered on its own merits at that time.
95. Officers also appreciate the point raised that the amount of money spent at the site would be significant and does pose questions over the claims made that previous rent could not be afforded. However, the assessment of the application must again focus upon the merits of the change of use that has occurred and if the change of use is considered acceptable then the scheme can be supported, or if not then it can be refused. However, officers do not consider that the application could simply be refused because the reasons for the move sound unconvincing.
96. A comment has been received asking whether the provision of a public right of way across the land to Pittington can be provided. Officers had previously approached the applicant but a further formalised footpath has not formed part of the proposal submitted. The applicant has submitted a letter stating that two existing public footpaths provide for such a route including via the roadside. Potentially however, this matter can be discussed or pursued again, separate to the planning application and involving officers within the Public Rights of Way Team.

CONCLUSION

97. The development subject to this planning application is predominantly retrospective. Aspects of the development are in some conflict with Local Plan Policies namely Policies E8 and EMP17 as additions to the existing building in the form of portacabins have been sited to provide appropriate levels of accommodation.
98. Furthermore previous landscape removal within a designated local wildlife site has caused harm to this area contrary to Policy E18 of the Local Plan.
99. However, the changes of use to form the office and engineering works place and for the keeping and breeding of horses are in their own right considered acceptable uses of land at the site having particular regards to the content of the NPPF.
100. The harm caused to the landscape and wildlife site as a result of land remodelling and landscape clearance can be mitigated and compensated for through replacement and replenishment schemes which officers consider conditions can

address. No objections are raised having regards to other key material planning considerations and as a result approval of the application is recommended.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

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

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

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

Gated Entrance EDCF_012 received 31st January 2013
Container EDCF_015 received 20th December 2012
Pole Mounted Transformer EDCF_24 Rev A dated December 2012
Horse Exerciser EDCF_017 Rev B received 20th December 2012
Container used as office EDCF_016 received 20th December 2012
Proposed Layout of existing building EDCF_011 Rev B received 31st January 2013
Plan of Site EDCF_013 Rev C received 20th December 2012
Proposed Land Drainage 3796-C-D1-01 dated February 2013-05-30
Site Plan EDCF_020 received 31st October 2012
Plan of Site EDCF_022 Rev B received 31st October 2012
Proposed Location of Storage EDCF_019 received 31st October 2012

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to relevant Policies E7, E8, E14, E15, E16, E18, EMP16, EMP17, T1, T10, T21, R16, Q1, Q2, Q5, Q7, U8A, U9 of the City of Durham Local Plan 2004

3. Notwithstanding any details of materials submitted within the application no further works on the circular horse exercise track shall be implemented until details of the surface material treatment for said track has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of the appearance of the area having regards to Policies E7, E17 and R16 of the City of Durham Local Plan.

4. The development hereby approved shall be carried out in accordance with a scheme of landscaping and habitat creation to be submitted to the Local Planning Authority within a period of 3 months from the date of this permission. Said scheme shall incorporate but not be restricted to a scheme for replanting adjacent to Coalford Beck and shall incorporate the principles and recommendations on replanting as described within section 5.2 of the submitted Extended Phase 1 Habitat Survey by Delta-Simons Environmental Consultants received 11th July 2013. Full details of species, sizes, numbers and densities of all planting/habitat creation shall be provided within the submitted scheme. The scheme shall include maintenance procedures and management methods to ensure its

establishment and retention in perpetuity. The works agreed to shall be carried out within the first planting season following the written approval of the scheme by the Local Planning Authority.

Reason: In the interests of visual amenity and compensatory habitat and landscape provision having regards to Policies E16, E18, Q5 and Q6 the City of Durham Local Plan.

5. No further development on site shall commence until precise details of the siting of the proposed attenuation pond as shown on plan 3796-C-D1-01 and full details of the discharge rates of the drainage discharge point to Coalford Beck have been submitted to and approved in writing by the Local Planning Authority.

Reason: In the interests of flood risk and to prevent damage to an existing watercourse having regards to Policies U8A and U9 of the City of Durham Local Plan.

6. The area of the main building dedicated for use for the engineering business operations comprising of welding, fabrications and similar and associated activities shall be restricted to the 131.5m² floor area as annotated as “machinery” on building layout drawing EDCF_011 Rev B.

Reason: To define the consent and restrict the scale and nature of the engineering business activities on the site having regards to the sustainable credentials of the site having regards to Policies E8 of the City of Durham Local Plan and Part 3 of the NPPF.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within class J Part 3 of Schedule 2 (changes of use) of the said Order shall be carried out.

Reason: To permit the Local Planning Authority further control over the acceptability of changes of use of office accommodation to residential accommodation within the locality having regards to Policy E8 of the City of Durham Local Plan and Part 6 of the NPPF.

8. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2010 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no development falling within classes A, B, C and D of Part 8 of Schedule 2 (changes of use) of the said Order shall be carried out.

Reason: To permit the Local Planning Authority further control over the acceptability of enlargements or alterations to industrial uses within the locality having regards to Policy E8 of the City of Durham Local Plan and Part 3 of the NPPF.

9. No development shall take place unless in accordance with the recommendations detailed within the section 5.2 of the submitted Extended Phase 1 Habitat Survey by Delta-Simons Environmental Consultants received 11th July 2013.

Reason: To conserve protected species and their habitat in accordance with Policy E16 of the City of Durham Local Plan 2004 and Part 11 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

101. Officers have held meetings with the applicant and kept them continually updated with progress on the planning application. Equally officers have discussed the application with those interested with in its consideration and sought to answer their queries in regards to the proposal.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation

City of Durham Local Plan 2004

National Planning Policy Framework

Internal consultee responses

Public responses

Responses from statutory and other consultees

Planning Circular 11/95



Planning Services

Part change of use of agricultural land and building for employment use (B2 and Office), for the keeping and breeding of horses, siting of cabins for office and storage use, formation of horse exercise areas and runs, enclosures and electricity line pole and engineering works to the landscape for drainage purposes (retrospective)

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Date 10th September 2013