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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	3/2013/0413
<b>FULL APPLICATION DESCRIPTION:</b>	<b>RETENTION OF STORAGE CONTAINER, ERECTION OF CABIN, SHED AND TWO POLYTUNNELS</b>
<b>NAME OF APPLICANT:</b>	<b>MR ANDREW CHARLES</b>
<b>ADDRESS:</b>	LAND NORTH OF RAILWAY TERRACE, WITTON LE WEAR, BISHOP AUUCKLAND, DL14 0AL
<b>ELECTORAL DIVISION:</b>	WEARDALE
<b>CASE OFFICER:</b>	<b>Adam Williamson</b> Planning Officer 03000 260826 adam.williamson@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The site

1. The application site is a parcel of agricultural land located to the east of Witton le Wear. The land measures approximately 1.3 hectares.
2. To the southern boundary with Low Lane and the Weardale railway line, the land is screened by mature trees and bushes. To the southeast of the site is a terrace of 12 dwellings which form Railway Terrace, with a shared vehicular access serving the site to the rear of the dwellings. To the north of the site are Witton le Wear allotments, whilst to the east is open agricultural land. To the west of the site is an area of paddock, with Pennywell, a residential bungalow beyond. The site has two accesses; a pedestrian access to the north between Pennywell and the allotments; and a vehicular access along the rear of Railway Terrace.

### The proposal

3. Planning permission is sought for the erection of two polytunnels, a timber cabin, a shed and the retention of a container.
4. The polytunnels would be sited to the north eastern end of the site. Construction had started on one of the polytunnels, but those works were stopped. One polytunnel would be a 'Keder' polytunnel, and would measure 10 metres in length by 3 metres in width, and 2.4 metres to the highest point. The other polytunnel would be a 'Northern' polytunnel, and would measure 14.6 metres in length by 3.7 metres in width, and 2.3 metres to the highest point. The polytunnels would be used to grow vegetables and fruit.
5. The proposed timber cabin would measure 5.6 metres by 3.5 metres in width, and 2.7 metres to the ridge. The cabin would be sited to the north western corner of the

site. It would be used for shelter and refreshments at times when the landowner is on the site.

6. The shed would measure 1.8m by 2.4m in width and 1.95m in height to the highest point of the monopitch roof. The shed would be located along the eastern boundary of the site. It would be used for feed storage and other general storage (compost, seeds etc).
7. The storage container is already located to the southern end of the site. The container measures 6 metres by 2.4 metres, and 2.4 metres in height. It has been painted dark green. The container is used for secure storage of more valuable agricultural implements and machinery used to maintain the land.
8. The structures are required in connection with agricultural use of the land, which will take place within three sections subdivided by stock proof fences. The northernmost third will be developed for food production, the middle section will be retained for grazing and the bottom section will be used for Willow production. The applicant intends to graze two pigs on the north western side of the site to cultivate the land for vegetable growing. The pigs will be on site from April and then sent to slaughter in late November. A mobile sty will be provided as shelter for the two animals. There will also be a mobile composting toilet, which could be moved around the site.
9. The application has been called to the Committee by Witton le Wear Parish Council who raise concerns over the keeping of pigs on the site, and access issues.

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## **PLANNING HISTORY**

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10. There is no planning history on the site.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

11. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). The framework establishes a presumption in favour of sustainable development. However, the NPPF does not change the statutory status of the development plan as the starting point for decision making. Proposed development that accords with an up-to-date Local Plan should be approved and proposed development that conflicts should be refused, unless other material considerations indicate otherwise.
12. Core principles include the protection of the countryside from inappropriate development and the conservation of heritage assets.

### **LOCAL PLAN POLICY:**

13. The development plan comprises the saved policies of the Wear Valley District Local Plan
14. **Policy GD1 (General Development Criteria):**  
Sets a number of general criteria including that all new development and redevelopment within the District should be designed and built to a high standard and should contribute to the quality and built environment of the surrounding area, while also not conflicting with adjoining uses, not causing pollution and not having detrimental highways impacts.

**15. Policy ENV1 (Protection of the Countryside):**

Development in the countryside will only be allowed for purposes of agriculture and other compatible uses.

**16. Policy ENV3 (Area of Landscape Value):**

Development will not be allowed which adversely affects the special landscape character, nature conservation interests and appearance of the Area of Landscape Value.

**17. Policy BE8 (Setting of a Conservation Area):**

Development which impacts upon the setting of a Conservation Area and which adversely affects its townscape qualities, landscape or historical character will not be allowed.

**EMERGING POLICY:**

18. The emerging County Durham Plan was submitted in April 2014 ahead of Examination in Public. In accordance with paragraph 216 of the NPPF, decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. At this time the weight that can be attached to the emerging policies for this type and scale of proposal is very limited:

19. Policy 18 (Local Amenity) permission will not be granted for development which would have a significant adverse impact on amenity.

20. Policy 35 (Development in the Countryside) development in the countryside will only be allowed for agriculture and other appropriate purposes.

21. Policy 39 (Landscape Character) development will not be allowed where it would cause significant harm to the character, quality or distinctiveness of the landscape.

22. Policy 44 (Historic Environment) Development will be required to conserve the fabric, character, setting and cultural significance of designated and non-designated heritage assets.

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**CONSULTATION AND PUBLICITY RESPONSES**

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**STATUTORY RESPONSES:**

23. *Witton le Wear Parish Council* have objected to the proposal on the grounds of disturbance by the keeping of pigs on the site; the village is unspoilt; the smell would be detrimental to the village and access is a major issue.

**INTERNAL CONSULTEE RESPONSES:**

24. *Environment, Health and Consumer Protection* has suggested conditions for no livestock to be housed within 50m of the nearest residential dwelling and for procedures to be agreed for waste disposal to minimise noise and odour impact.

**PUBLIC RESPONSES:**

25. The application was publicised by site notice and letters were sent to neighbouring properties. 81 letters of objection have been received. The main points raised in the

objections are summarised below:

- The land has no right of access to the rear of Railway Terrace and the access past the allotments is not suitable for a farm business.
- Traffic from the site will impinge on residents' quality of life.
- The keeping of pigs will cause noise, smell and attract vermin.
- The various structures will be an eyesore.

#### **APPLICANTS STATEMENT:**

26 We are intending to buy two Sandy and Black weaners in April and fattening for slaughter in late November. If this works well, and there is land in the vegetable area that would benefit from further cultivation we would consider repeating the process in 2015.

27 Any pig waste as manure will be incorporated into the soil as part of the foraging process. Once the pigs are removed I will be dividing the ground into growing areas separated by paths and any surplus manure will be concentrated in the growing areas.

28. We bought the 'paddock' on the assurance from our solicitor that the Statutory Declaration included in the legal documentation provided by the seller is a legitimate precedent for a continuing right of access.

29 We will not be selling produce from the site as we are aware that vehicle access is an issue.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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30 Having regard to the requirements of section 38(6) of the Planning and Compulsory Purchase Act 2004, relevant guidance, development plan policies and all material planning considerations including representations received, it is considered that the main planning issues in this case relate to the principle of development, landscape impact, setting of the conservation area and residential amenity.

### Principle of development

31 The application site was previously in use as sheep grazing and lies in open countryside by reason of falling outside the development limits of Witton le Wear. Normally new development in the countryside will only be allowed for the purposes of agriculture, farm diversification, forestry, outdoor recreation, or existing compatible uses. This is reflected in Wear Valley Local Plan Policy ENV1.

32 It is important to note that this application is for the erection and retention of buildings related to a continued agricultural use of the land. The use of the land itself, including the keeping of pigs, as well as growing of vegetables and horticulture is not development by virtue of Section 55(2)(e) of The Town and Country Planning Act 1990 as those activities fall within the definition of agriculture as set out in Section 336 of the Town and Country Planning Act 1990. Moveable pig arcs associated with the agricultural use of the land are chattels on the land, not requiring planning permission, hence they are not included in this application and their location on the site cannot be controlled. The compost toilet is also a chattel as it is a small moveable structure to be picked up and moved and therefore it too does not require planning permission.

- 33 Whilst the proposed activities on the site are not of a sufficient size to constitute an agricultural business, the buildings and structures proposed are for agricultural purposes and are considered to be commensurate in size to the holding. The principle of development is therefore in accordance with Wear Valley Local Plan Policy ENV1 and the proposal would not undermine the wider overarching aims of achieving sustainable patterns of development in the local area set out in the NPPF.

#### Landscape impact

- 34 The site lies within an area designated in the Wear Valley Local Plan as an Area of High Landscape Value (ALV) and is subject to Wear Valley Local plan Policy ENV3 which does not allow development which would adversely affect the ALV. The ALV designation is not entirely consistent with the NPPF and has not been carried through in the emerging County Durham Plan, which has now been submitted for examination. Policy ENV3 therefore carries less weight in the consideration of this application and accordingly it is more appropriate to consider the proposal under the more general requirements of Policy GD1, which among other things seeks to ensure new development would not have a detrimental impact on the landscape quality of the surrounding area. This policy suitably encompasses the aims of Policy ENV3.
- 35 The site is typical of the local landscape (west Durham Coalfield area) as identified in the Local Landscape Character Assessment in that agricultural land use is mixed with arable fields and improved pastures bounded by hawthorn hedges with scattered hedgerow oak and ash.
- 36 The structures for which permission is sought are the two polytunnels, the cabin, the shed and the storage container. The polytunnels and cabin would be concentrated to the north west of the site, the shed would be along the eastern boundary and the storage container is already located to the southern end of the site.
- 37 The objections claim the structures will be an eyesore; however, public viewpoints of the site are extremely limited by topography and existing trees with only brief glimpses of the south of the site possible through mature trees from a very short section of Low Lane to the south. While storage containers are not usually appropriate in the countryside, they can be accepted if they are suitably located to minimize visual impact. In this case, the storage container is located in the southern section of the site behind dense bushes and trees, and painted dark green so it is barely visible from Low Lane. The cabin, shed and polytunnels would be located further to the north and east of the site furthest away from Low Lane where as a result of their small scale and timber construction they would not be highly visible from wider public vantage points. In addition they would lie adjacent to the allotments where there are already many shed-type, greenhouses and horticultural structures.
- 38 Given the very limited visibility of the proposed structures and existing container, as well as the presence of the adjacent allotments, it is considered that the development would not have a detrimental impact on the landscape quality or character of the surrounding area and therefore accords with Wear Valley Local Plan policy GD1.

#### Setting of the conservation area and designated heritage assets

- 39 The application site falls outside the Witton le Wear Conservation Area, but is close to the boundary of the conservation area, which lies to the south and west. Regard

must therefore be given to any impact on the setting of the conservation area and any other designated heritage assets nearby.

- 40 However, as discussed above, there is very little to no immediate inter-visibility between the site and the conservation area. The nearest listed building is The Post Office 115 metres to the west. It is only the impact of the buildings and their use that can be taken into account as the keeping of pigs on the land is not development. The topography, existing buildings and mature vegetation all prevent prominent public views of the site from the wider surrounding area and together with the low key use of the polytunnels, cabin, shed and container (for growing, storage, on site facilities), there is unlikely to be a detrimental impact on the setting of the designated heritage assets by reason of the appearance or use of the proposed structures.
- 41 The proposal therefore accords with Wear Valley Local Plan policy BE8 and the guidance in the NPPF.

#### Residential amenity

- 42 The majority of objections received have centred on the potential amenity impacts of keeping pigs on the land with concerns raised about noise, odour and vermin.
- 43 It is acknowledged that pigs have the potential for generating odour and noise, however, the keeping of pigs on agricultural land does not require planning permission, and unless they are permanently housed in a building that requires planning permission, their keeping and waste disposal arrangements do not come under planning control.
- 44 In this case the applicant has suggested that there will only be two pigs kept on the land between April and late November and they will therefore not require permanent housing. A single mobile pig arc will be placed on the land for their shelter, but that is classed as a chattel which does not need planning permission and is therefore not included as part of this application. If the applicant wanted to increase the number of pigs on the land and required a permanent building to house them, it would most likely need planning permission and the merits in terms of noise and odour impacts could then be considered as part of any planning application; but under the current proposal without permanent housing those impacts cannot be taken into account.
- 45 In this respect the comments from Environmental Health and the suggested conditions relating to separation distances and animal waste disposal are noted, but the conditions could only be applied if permanent animal housing was proposed, which it is not. It would nevertheless be appropriate to condition that the proposed buildings are not used to house pigs.
- 46 With that condition, the location of the proposed polytunnels, cabin/shed and container are all sufficient distance away from neighbouring residential properties to ensure they would not have a detrimental impact on the residential amenity of neighbours. The compost toilet does not need planning permission because the small housing structure is moveable.
- 47 Other concerns have been raised in the objections about the impact of traffic on residents' quality of life. However, the proposal does not involve the formation of a new access, or a change in use, and any traffic would be in association with the continued lawful agricultural use of the land. There are also concerns that produce could be sold from the site leading to further traffic, but while the applicant has confirmed this will not take place, the small scale sale of produce and any associated

vehicle activity is nevertheless likely to be considered ancillary to the agricultural use of the land and could not be controlled.

48 It is therefore considered that the proposed buildings and container would not have a detrimental impact on the amenity of neighbours. The proposal therefore accords with Wear Valley Local Plan policy GD1.

#### Other matters

49 A number of comments have been received about whether the applicant has any right of access along the track to the rear of Railway Terrace. This is disputed by the applicant. Rights of access are nevertheless private matters and not a material planning consideration which can be given any weight in the determination of this application.

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## CONCLUSION

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50 The proposed buildings and container are required for the continued agricultural use of the land and are therefore in accordance with Wear Valley Local Plan policy ENV1. The keeping of pigs and any temporary animal housing is not development and cannot therefore be controlled by this planning application, or conditions, and any associated vehicular activity would be in connection with the lawful agricultural use of the land on an existing access.

51 The site is well screened from public viewpoints and the scale, design and siting of the proposed buildings and container would not have a detrimental impact on the landscape, character and amenity of the surrounding area, nor would they have an adverse impact on the setting of the Witton le Wear conservation area.

52 There has been a significant level of public objection to the proposal and regard has been given to the matters raised, but for the reasons set out in the report it is considered that there are not any reasons which would form sound material planning grounds for the refusal of this application. It is therefore considered that the proposal is in accordance with policies GD1, ENV1 and BE8 of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007.

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## RECOMMENDATION

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

#### Conditions:

1. The development shall not be begun later than the expiration of three years from the date of this permission.
2. The development hereby approved shall be carried out in strict accordance with the following approved plans:

Plan Ref No.	Description	Date Received
	Site Location Plan	10.01.2014
1	Proposed block plan	20.11.2013

2	Keder Polytunnel	10.01.2014
3	Cabin and Compost toilet	10.01.2014
4	Container	10.01.2014

3. No pigs shall be housed, or reared within the buildings or container hereby approved.

**Reasons:**

1. 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. To define the consent and ensure that a satisfactory form of development is obtained.
3. In the interests of residential amenity in accordance with policy GD1 of the Wear Valley District Local Plan as amended by the Saved and Expired Policies September 2007.

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**STATEMENT OF PROACTIVE ENGAGEMENT**

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53 In arriving at the recommendation to approve the application the Local Planning Authority has assessed the proposal against the NPPF and the Development Plan in the most efficient way to ensure a positive outcome through appropriate and proportionate engagement with the applicant and carefully weighing up the representations received.

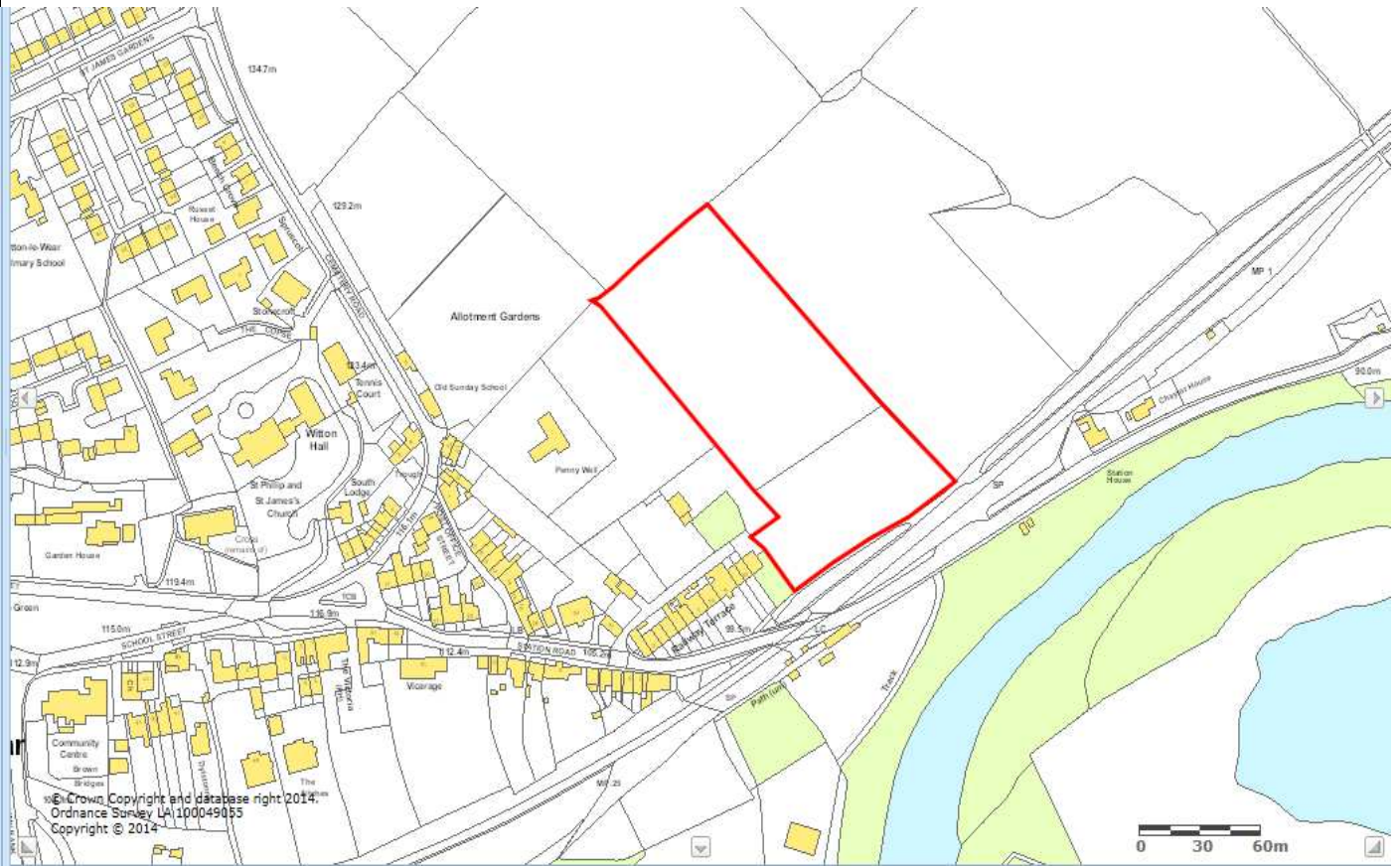
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**BACKGROUND PAPERS**

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Submitted Application Forms, Plans and Statements  
National Planning Policy Framework  
Wear Valley District Local Plan  
Consultee comments and public consultation responses





**Planning Services**

LAND NORTH OF RAILWAY TERRACE, WITTON LE WEAR, BISHOP AUCKLAND, DL14 0AL

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**Comments**

RETENTION OF STORAGE CONTAINER, ERECTION OF CABIN, SHED AND TWO POLYTUNNELS

**Date 10.06.2014**

**Scale 1:2500**