

# COMMITTEE REPORT

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## APPLICATION DETAILS

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| APPLICATION No:               | DM/14/01389/OUT  |
| FULL APPLICATION DESCRIPTION: | 1 no. Dwelling - Outline - all matters reserved except access            |
| NAME OF APPLICANT:            | Mr Michael Boyle<br>Relley Farm Cottage<br>Front Street                  |
| ADDRESS:                      | Broompark<br>Durham<br>DH7 7RJ   |
| ELECTORAL DIVISION:           | Deerness   |
| CASE OFFICER:                 | Tim Burnham, Planning Officer, 03000 263963<br>tim.burnham@durham.gov.uk |

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## DESCRIPTION OF THE SITE AND PROPOSAL

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### SITE

1. The application site is a parcel of land which sits to the north east of Relley Farm Cottage and to the north of the B6302 Broom Lane. The site currently forms a grazing field which is surrounded by trees. Broompark Picnic Area lies further to the south west. To the north lies open countryside while Relley Farm and Relley Steading sit to the east. Beyond this sits the east coast railway line. The site is situated within the Durham City Green Belt and outside of any settlement boundary.

### PROPOSAL

2. Outline planning approval is sought for the erection of 1no. 4+bedroom dwelling. The application is also seeking to agree in principle the use of an access point from the B6302. Although indicative plans showing the type of building that could be built have been submitted, matters such as appearance, landscaping, layout and scale are reserved at this stage and would need to be agreed at a later date should any approval be given.

3. The application has been referred to planning committee by Cllr Jean Chaplow on the basis of the special circumstances which surround this planning application.

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## PLANNING HISTORY

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4. There is no recent relevant planning history at the site.

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## PLANNING POLICY

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## NATIONAL POLICY

5. 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.

6. 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'. The following elements are considered relevant to this proposal;

7. NPPF Part 1 – 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 of a low carbon future.

8. NPPF Part 4 – Promoting sustainable transport. Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

9. NPPF Part 6 - Delivering a wide choice of high quality homes. To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.

10. 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.

11. NPPF Part 9 - Protecting Green Belt Land. This part of the NPPF sets out the Government's approach to the type of development that would be suitable on Green Belt land and outlines measures for its protection.

12. NPPF Part 10 – Meeting the challenge of climate change, flooding and coastal change. Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.

13. 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 and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land

instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

#### **LOCAL PLAN POLICY:**

14. Policy E1 (Durham City Green Belt) This Policy seeks to restrict development within the Green Belt to Agricultural or Forestry development, essential facilities for outdoor sport and recreation, limited infilling or redevelopment of existing major developed sites, replacement of an existing dwelling, re use or conversion of an existing building or limited extensions and alterations to existing dwellings.

15. Policy E7 (Development outside Settlement Boundaries) This Policy outlines when development outside a settlement boundary would be deemed acceptable.

16. Policy E14 (Protection of existing trees and hedgerows) This Policy states that the Council will require development proposals 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.

17. 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. As far as possible, Unacceptable harm to nature conservation interests will be avoided. Mitigation measures to minimise unacceptable adverse impacts upon nature conservation interests should be identified. The nature conservation value of the district will be enhanced through the creation and management of new wildlife habitats and nature conservation features in new development schemes.

18. Policy E24 (Archaeological Remains) Sets out that the council will ensure that prior to the development commencing an appropriate programme of archaeological investigation, recording and publication has been made.

19. Policy H4 (Villages with No settlement boundary, Ribbon Development and Sporadic Groups of Houses) This Policy states that the extension or redevelopment of villages with no settlement boundary, of ribbons of development or of sporadic groups of houses will not be permitted.

20. Policy H5 (New Housing in the Countryside) Sets out that new build housing development will only be permitted where it is essential that a person needs to live near their place of work.

21. Policy H10 (Backland and Tandem Development) states that the development of such sites typically at the rear of existing houses in the form of back gardens will not be allowed unless a safe and satisfactory access can be provided, the amenities of new and existing occupiers are not adversely affected and the proposals are in scale and character.

22. Policy T1 (Traffic Generation - 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.

23. 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.

24. Policy Q8 (Layout and Design - Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.

25. 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.

26. Policy U13 (Development on unstable land) This policy states that development on unstable land will only be permitted where there is no risk to users of the development or where appropriate remediation measures can be undertaken.

### **EMERGING PLANNING POLICY**

27. 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. Further, the Planning Practice Guidance explains that in limited circumstances permission can be justifiably refused on prematurity grounds: when considering substantial developments that may prejudice the plan-making process and when the plan is at an advanced stage of preparation (i.e. it has been Submitted). To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application:

28. Policies 10, 14 and 15 are particularly relevant, relating to development on unallocated sites. They state;

29. **Policy 10 – Western Relief Road** In order to improve traffic flows through and around Durham City, land, as shown on the proposals map, is allocated for the construction of the Northern Relief Road in Durham City to connect the Red House roundabout at its Western end with the A690 as its eastern end near Junction 62 of the A1M. Within the corridor of interest for the Northern Relief Road, as shown on the proposals map, development will only be permitted if it does not prejudice the implementation of the road scheme. The Northern Relief Road and associated highway improvements will be funded by the Community Infrastructure Levy.

30. **Policy 14 Green Belt** within the Green Belt, as shown on the Proposals Map, the construction of new buildings will be regarded as inappropriate and will not be permitted. Exceptions to this, where they accord with other policies in the Plan and minimise impact on openness through appropriate landscaping, design, scale, siting and appropriate use of materials, are:

- a. Buildings necessary for the purposes of agriculture or forestry;
- b. Essential facilities for outdoor sport and recreation, for cemeteries, and for other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
- c. Limited and proportionate extensions or alterations to a building;
- d. Replacement of an existing building for the same use and of a size that is not materially larger than the one it replaces;

- e. Limited infilling or redevelopment of existing major developed sites, as shown on the Proposals Map, providing the proposal has no greater impact on openness, does not lead to a major increase in the developed proportion of the site and does not exceed the height of existing buildings; and
- f. Limited infilling or the partial or complete redevelopment of previously developed land which would not have a greater impact on the openness of the Green Belt.

Other forms of development which may not be inappropriate in the Green Belt, providing they preserve the openness and do not conflict with its purpose include:

- g. Mineral extraction;
- h. Waste development;
- i. Engineering operations;
- j. Transport Infrastructure;
- k. The re-use or conversion of an existing building which is permanent and of substantial construction; and
- l. Development brought through a Community Right to Build Order.

Large scale renewable energy projects will only be permitted where very special circumstances are demonstrated. Micro Renewable technologies will be considered in line with Policy 21 (Renewable and Low Carbon Energy). In all cases applicants will be expected to demonstrate that there are no discernible impacts on the Green Belt.

**31. Policy 15 – Development on un-allocated sites** All development on sites that are not allocated in the County Durham Plan or in a Neighbourhood Plan will be permitted provided the development:

- a. Is appropriate in scale, design and location to the character and function of the settlement;
- b. Does not result in the loss of a settlement's last community building or facility (of the type which is the subject of the proposal) unless it can be demonstrated that it is no longer viable or has not been purchased by the community following the procedures set out in the Community Right to Bid;
- c. Is compatible with and does not prejudice any intended use of adjacent sites and land uses; and would not involve development in the countryside that does not meet the criteria defined in Policy 35 (Development in the Countryside).

*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.cartoplus.co.uk/durham/text/00cont.htm>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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32. Cllr Jean Chaplow has noted the special circumstances which surround this planning application.

33. Highways Development Management has offered no objection to the application.

34. Northumbrian Water: No objection.

35. Environment Agency: No objection.

### **INTERNAL CONSULTEE RESPONSES:**

36. Planning Policy: object to application as the principle of the development is considered unacceptable within the Green Belt.

37. Archaeology: No objection, condition requested.

38. Environmental Health: No objection.

39. Ecology: No objection.

40. Drainage: No objection.

41. Landscape: No objection.

42. Landscape (Trees): No objection.

#### **PUBLIC RESPONSES:**

43. The application has been advertised through neighbour notification, a press notice and a site notice. One letter of objection has been received on behalf of an adjoining occupier. The letter of objection states that the application is contrary to Policy E1 of the City of Durham Local Plan and states that there are no special circumstances which would justify approval of this development. The letter suggests that the development would impact upon the openness and visual amenity of the Green Belt and would increase the developed proportion of the site. It is stated that the application is contrary to Policy H4 and it is put forward that any detrimental consequences of the proposed western relief road are a separate matter with Planning Policy not in the position to provide mitigation.

#### **APPLICANTS STATEMENT:**

44. As a result of the Council's plans for a Western Relief Road, adjacent to their property, Mr and Mrs Boyle who have lived at Relly Cottage since 1998, submit this outline planning application for one dwelling with the support of their County Councillor Jean Chaplow and their Local Parish Council. It is Mr and Mrs Boyle's contention that as one of the few owner occupiers directly and personally affected by the Durham Local Plan their application warrants the status of '*very special circumstances*', especially noting that 2500 houses are planned at the northern end of the Relief Road and a total loss to the Durham Green Belt of 4%.

45. Under NPPF guidelines, developments in the Green Belt are only possible when either '*very special circumstances*' are deemed to exist or within the framework of an adopted Local Plan. This makes the timing of Mr and Mrs Boyle's application particularly crucial. This application is made as the 2004 Local Plan ends but before the 2015 Plan is adopted, so at this juncture, Officers have a narrow window within which to adjudicate on proposals.

46. The NPPF has deliberately left '*very special circumstances*' open to interpretation, allowing Planning Officers to use their discretion on a case by case basis when making such sensitive and subjective judgements. \*\* See below '*DCC Principle of Development*' NPPF 88 : '*very special circumstances*' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations'.

47. In our case the detrimental consequences created by the Western Relief Road, the huge '*harm*' to the '*the openness of the Green Belt*' which the Western Relief Road will inflict on the Green Belt and the unfairness of the suggestion that these consequences cannot be mitigated by Mr and Mrs Boyle's development.

48. NPPF 90: *‘Certain forms of development are also not inappropriate in Green Belt’*.i.e. *transport infrastructure*. This NPPF guideline has been used by the Durham Local Plan to allow for the Western Relief Road not requiring the deletion of Green Belt. Similarly Mr and Mrs Boyle seek approval under NPPF guidelines for a single dwelling which also does not require deletion of Green Belt.

49. Local Plan E1 par 3: “Limited infilling” & H4 par 1 “ Comprise no more than a single dwelling infilling a small gap between existing buildings” 2 “Does not involve the development of an open space that is important to the street scene and” 3 “is appropriate in scale, form and materials to the character of its surroundings” NPPF 49: *‘Housing applications should be considered in the context of the presumption in favour of sustainable development’* and *‘economic growth’*”

50. As the Relly settlement has been in existence since medieval times it is clearly sustainable, only evolving into its present 3 dwelling lay-out around 20 years ago. Thus the additional dwelling would bring continued ‘economic growth’ to the local economy and boost the DH7 executive housing stock.

51. The Pre-planning advice accepted both the likely disturbance to Relly Cottage by the close proximity of the Western Relief Road and the site location of the proposed new dwelling. Mr and Mrs Boyle would make design amendments to meet any and all Council requirements and their offer to make any appropriate contribution under Section 106 stands.

52. Following three years of consultations with Council Officers a fair and reasonable outcome to the unique circumstances which exist at Relly Cottage is sought and Mr and Mrs Boyle request that Durham County Council grant approval for their outline planning application.

53. \* \* CE/12/01628/FPA *“The term ‘very special circumstances’ is not defined in planning legislation or guidance, and there is no set criteria, for example, which a scheme must meet to be considered as one where very special circumstances would exist. The term ‘very special circumstances’ is therefore a label which attaches to the situation where there are matters which, on balance, are considered to outweigh the identified Green Belt harm.”*

*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://plan-1:8080/IDOXSoftware/IG\\_search?sort=5&dir=asc&FormParameter1=DM%2F14%2F01389%2FOUT&app\\_id=1002](http://plan-1:8080/IDOXSoftware/IG_search?sort=5&dir=asc&FormParameter1=DM%2F14%2F01389%2FOUT&app_id=1002)*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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54. 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 residential development at the site, highways issues and other issues.

### **The Principle of the development of the site**

55. The site sits within the City of Durham Green Belt. As such the site is subject to the provisions of Policy E1 of the City of Durham Local Plan and Part 9 of the National Planning Policy Framework. Both local and National planning policies operate along the same lines.

56. The NPPF states that Green Belts serve five purposes - to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration by encouraging the recycling of derelict land other urban land.

57. The National Planning Policy Framework advises that planning authorities should regard the construction of new buildings within Green Belts as inappropriate. Exceptions to this include buildings for agriculture and forestry, outdoor sport, outdoor recreation and cemeteries, extension or alteration of a building or replacement of a building (both subject to limitations) limited infilling in villages and limited affordable housing where in accordance with local plan policy and limited infilling or the partial or complete re development of previously developed sites.

58. The NPPF states that inappropriate development is by definition harmful to the Green Belt and should not be approved except in very special circumstances.

59. The document also states that when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. It states that very special circumstances will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.

60. The development of one residential dwelling does not fit within the listed exceptions and is therefore to be regarded as inappropriate development that would be harmful to the Green Belt.

61. As part of the emerging county Durham Plan, a western bypass to Durham has been identified within Policy 10. Officers understand that if this proposal were to come to fruition, the road would run on a north/ south axis intersecting with the B6302 immediately to the north of Broompark Picnic Area and to the west of Relley Cottage.

62. Officers note that this policy clearly identifies the future thinking of the authority. However, given the current stage of the Local Plan and the fact that this policy is subject to significant comment and concern, Officers are able to afford only limited weight to this Policy at the current time.

63. Further, Environmental Health Officers have questioned whether a new dwelling in the location proposed would suffer less impact from the proposed western bypass. They note the site that has been chosen is in an elevated position, which would clearly leave any new dwelling also susceptible to impacts from the proposed road.

64. Given that the plans for the western bypass outlined in Policy 15 can only be afforded limited weight in the decision making process, Officers do not consider that very special circumstances have been demonstrated. The development is therefore considered inappropriate and harmful to the Green Belt.

65. The development would be contrary to the aims of the Green Belt on at least three counts.

66. The development would detract from the aims of the Green Belt to assist in safeguarding the countryside from encroachment; to preserve the setting and special



character of historic towns ( In this instance Durham City) and to assist in urban regeneration by encouraging the recycling of derelict land other urban land. The openness of the Green Belt would be harmed.

67. Officers have given this matter substantial weight in considering the principle of the development, as required by the NPPF. Officers consider that the principle of the development would be contrary to part 9 of the NPPF and Policy E1 of the City of Durham Local Plan.

68. Alterations to the GreenBelt can only be proposed through the local plans process where they are subject to the relevant public scrutiny and inquiry as part of a longer term strategy.

69. Further, Policy E7 relates to development outside of settlement boundaries and is interlinked with Policy H5 in relation to housing. Policy H5 indicates that new housing outside of settlement boundaries will only be appropriate whereby the dwelling is associated with a proven and compelling agricultural or forestry need that cannot be satisfied by existing accommodation. The application is in open Countryside and outside of any settlement boundary, therefore the application is also considered unacceptable in relation to Policies E7 and H5.

70. Officers consider the application contrary to Policy H4 in that the development does not comprise of the infilling of a small gap between existing buildings.

### **Highways Issues**

71. An access point for the dwelling has been put forward for consideration by the applicant. The access point would effectively share the current vehicular access point to Relley Cottage before branching north to feed into the application site.

72. Highways Development management have carefully assessed the suitability of the proposed access and have concluded that this would be acceptable. Officers therefore consider the development appropriate in terms of Highways Safety. Additional information has been submitted by the applicant to alleviate Tree Officers concerns about the impact of the access on trees at the site. Tree Officers consider that an access could be located in this location which would have an acceptable impact on trees through appropriate construction methods.

### **Other issues**

73. Given the undeveloped nature of the site a Phase 1 habitat survey has been undertaken. The site has been identified as having limited ecological value and the Senior Ecology Officer has advised that he offers no objection. Overall, the granting of Planning Permission would not constitute a breach of The Conservation of Habitats and Species Regulations 2010 as there is unlikely to be any interference with a European Protected Species.

74. Landscape officers have stated that a dwelling could be accommodated in this location which would not have an unacceptable adverse impact upon the landscape quality or appearance of the area of landscape value. They note that the dwelling is well screened from the surrounding area and countryside and provided boundary screening would be retained no objections would be offered. It is likely that a dwelling of appropriate scale and character with acceptable amenity impacts to nearby dwellings could be built. However, while there would not be harm to the area of landscape value and a dwelling could likely be accommodated here of appropriate scale, character and amenity impacts, Officers consider there would be harm to

the openness of the Green Belt and the issues need to be considered separately. The Harm to the Green Belt is an overriding matter to which significant weight must be given.

75. A non mains drainage system is proposed. Initial details of this have been submitted and the Environment Agency has raised no objections to this arrangement. The council's Drainage and Coastal Protection team would require drainage details in the event of any approval. Archaeological interest has been identified within the area and archaeology officers have recommended an appropriate condition.

76. The site is within the Coal Authorities 'High Risk' area. A coal mining risk assessment is needed to ensure that the site is, or can be made safe and stable for development although this has not yet been submitted. While ideally these assessments should be submitted upfront it is Council Policy not to invalidate an application if such a risk assessment is lacking. This information can be conditioned and developers are required to submit a coal mining risk assessment via condition upon which the Coal Authority would be consulted and the developer would be required to carry out any necessary remedial measures as part of any planning approval.

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## **CONCLUSION**

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77. Officers consider the application contrary to Part 9 of the National Planning Policy Framework, and Policies E1, E7, H4 and H5 of the City of Durham Local Plan 2004 as the proposal would represent inappropriate development that would be harmful to the Green Belt.

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## **RECOMMENDATION**

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

1. The development would represent inappropriate development within the Green Belt with no very special circumstances to justify the proposal contrary to Part 9 of the National Planning Policy Framework and Policy E1 of the City of Durham Local Plan 2004.
2. The scheme would represent unacceptable housing development outside the City of Durham settlement boundary contrary to Policies E7, H4 and H5 of the City of Durham Local Plan 2004.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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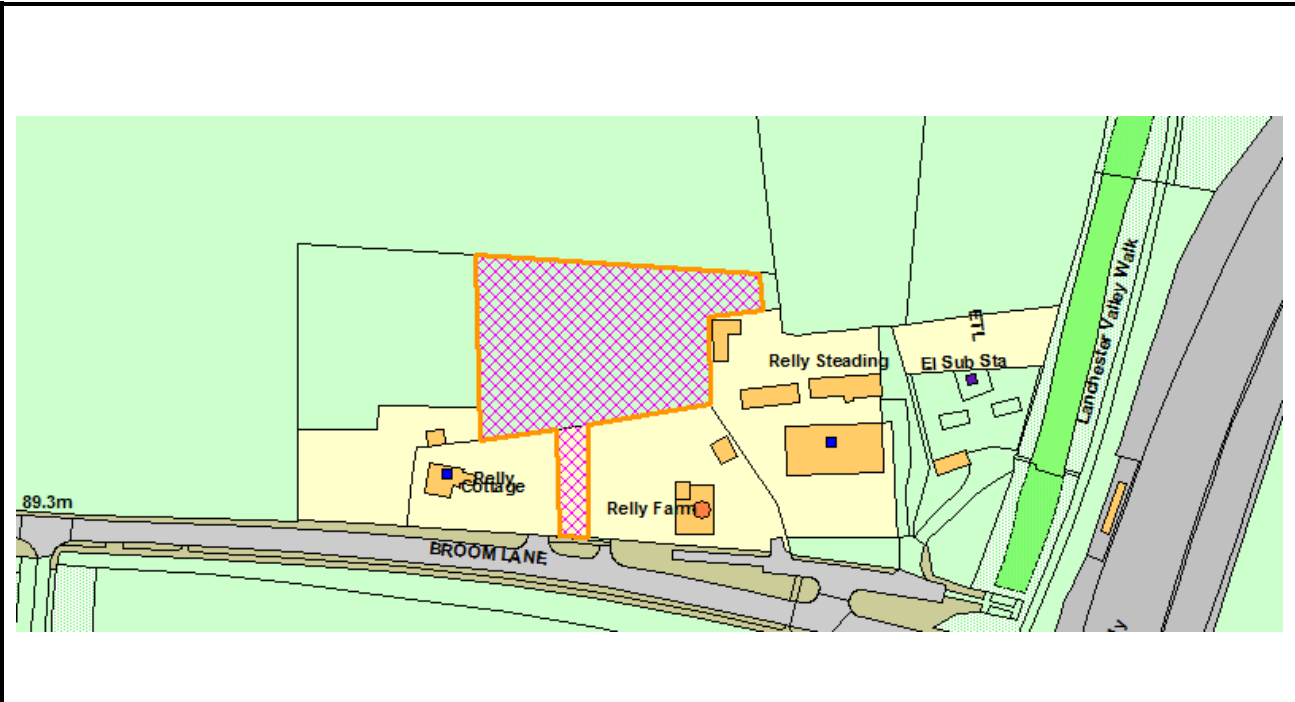
78. In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process. The application has been reported to committee within the 8 week target provided to the applicant on submission.


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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
City of Durham Local Plan 2004  
County Durham emerging local plan  
Response from Councillor Chaplow  
Consultee responses



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|  <p><b>Planning Services</b></p>  | <p>1 no. Dwelling - Outline - all matters reserved except access</p> |
| <p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.<br/>         Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.<br/>         Durham County Council Licence No. 100022202 2005</p> | <p><b>Date 08<sup>th</sup> July 2014</b></p>                         |