

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/14/02796/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Earthworks including infilling and levelling (part retrospective) to facilitate use of land for agriculture, erection of a general purpose agricultural building, timber screen fencing, temporary siting of 2 No. storage containers and retention of 1 No. caravan to provide site facilities (non-residential).</b>
<b>NAME OF APPLICANT:</b>	<b>Mr P Carter</b>
<b>ADDRESS:</b>	<b>Land to the South of Bradyll Street, Kelloe, Durham</b>
<b>ELECTORAL DIVISION:</b>	<b>Coxhoe</b>
<b>CASE OFFICER:</b>	<b>Laura Martin</b> <a href="mailto:Laura.martin@durham.gov.uk">Laura.martin@durham.gov.uk</a> <b>03000 261960</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to an area of land to the south east of the settlement of Kelloe. The site was part of the housing regeneration of the 1950's and the existing houses on the site were cleared and the inhabitants rehoused in new housing within the village.
2. Due to the above the site is very undulating in nature and was not formally levelled following the demolition works. In addition the site is within multiple ownerships and the ownership of part of the site is unknown. Notices were served as part of the application process, however no others owners have been forthcoming.
3. The application site covers some of the now demolished houses, and evidence of the former houses can be seen at various points in the form of kerbs and exposed brick.
4. The site is bounded on the eastern side by a metalled access track, which links the site to the village of Kelloe, with unused open land on the other three sides.

### The Proposals

5. Consent is sought for earthworks including infilling and levelling (part retrospective) to facilitate use of land for agriculture, erection of a general purpose agricultural building, timber screen fencing, temporary siting of 2 No. storage containers and retention of 1 No. caravan to provide site facilities (non-residential).

6. In relation to the earthworks which include infilling and levelling of the site this is required in order to re-grade the site to allow grazing and agricultural operations to take place, and much of this work has already been undertaken. The majority of the works in this respect are infilling of foundations and cellars left over from the demolition works.
7. The general agricultural building proposed would be located on the lowest of the levelled areas. The structure would measure 12.65m by 5.87m with a total height of 5.08m and an eaves height of 3.8m. The building would be constructed of olive green plastic profiled sheeting with translucent sheets as skylights. To access the building timber stained double doors are proposed.
8. In relation to the caravan which is to be retained on site, this would be used as a base for the applicant whilst working on the site and would not be for residential purposes.
9. Timber screen fencing is also proposed in a u-shape to partially enclose and screen the agricultural building and the caravan at the site. The fencing would measure 2.5m in height and would be timber posts with vertical boarding.
10. Two steel containers are proposed to be retained by the applicant until such time as the agricultural building is erected on site. The applicant has advised this would be for storage of food and equipment during the winter months until the building could be erected in the spring if approved.
11. The applicant has, as part of the application, provided a plan showing areas of the site for the growing of vegetables and grazing of animals. In addition to these areas of planting, the site is also to be planted with Hawthorn hedging and trees to screen the fencing and along the access track and site boundaries.
12. The application is reported to the planning committee at the request of the Local Member Cllr Mac Williams.

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## **PLANNING HISTORY**

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DM/14/00162/FPA Erection of timber screen fencing and the siting of 5 storage containers and 1 touring caravan Application Withdrawn

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

13. 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 dependent.
14. 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'

15. The following elements are considered relevant to this proposal:-
16. Part 1 - 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.
17. Part 3 - 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.
18. Part 7 - 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.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

**LOCAL PLAN POLICY:  
City of Durham Local Plan**

19. Policy Q1- General principles- Designing for people
20. E7- Development outside settlement boundaries
21. EMP17A Agriculture and Forestry development
22. T1- Traffic generation

**EMERGING POLICY:**

23. 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:
24. Policy 16- Sustainable development in the built environment
25. Policy 39- Landscape character
26. 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://content.durham.gov.uk/PDFRepository/DurhamLocalPlan.pdf>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

27. Parish Council- raise concerns regarding the application in respect of land ownership, retrospective nature of the application, impact upon landscape setting and undesirable precedent the application could create.
28. Environment Agency- no comments

### **INTERNAL CONSULTEE RESPONSES:**

29. Landscape Section- question the reclamation methods utilized by the applicant and its ability to be a successful small holding.
30. Highways Section- raise no objections
31. Public Rights of Way- raise no objections but advise that the adjacent track should be open for public usage.

### **PUBLIC RESPONSES:**

32. The application was advertised by means of site notices and by letters to neighbouring properties within the area. 3 letters of objection have been received raising concerns relating to:-
  - Highway Safety.
  - Impact upon residential amenity
  - Noise, odours and pollution.
  - Unknown ownership
  - Impact upon landscape and countryside setting
  - Removal of trees and hedging
  - Retrospective nature of application
33. One letter of support has also been received stating that the area should be brought back into use.

### **APPLICANTS STATEMENT:**

I would like my application to be approved for the following reasons, I have always been keen to develop a small holding for the purpose of growing my own vegetables and rearing my own stock organically. I plan to grow my own veg, have chickens for eggs, and goats for livestock. A general purpose building would mean that I could do many tasks under one roof. Storage of feeds, livestock, tools, etc.

I have removed several tons of waste from the land and continue to do so. For the last 60 years this land has been used as a dumping ground. I do appreciate that there is still a long way to go with the soil improvement, tree and hedge planting. This will be undertaken and several improvements made for grazing.

If there are any questions or concerns the committee would like to put to myself, I would be more than happy to address them.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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34. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
35. The main considerations in regard to this application are the principle of the development, design, scale and layout, highway safety, residential amenity and other considerations.

### **Principle of development**

36. Policy E7 of the City of Durham Local Plan states that planning permission for development in the countryside, outside the settlement boundaries will only be permitted where allowed by other planning policies. Policy EMP17A states that planning permission will be granted for agricultural development provided the proposal is justified in terms of its size and location and appropriate measures are incorporated to mitigate the effect of the development upon the landscape and local communities.
37. In this respect it is considered that the proposed building and works would be in association with an agricultural operation and is of an agricultural nature in terms of design and scale. Therefore in this respect it is considered that whilst the development is outside of the defined settlement limits for the village of Kelloe it would be in conjunction with an agricultural operation on site and as such is acceptable in principle.
38. In respect of the NPPF, Part 3 states that economic growth and prosperity should be encouraged in rural areas and be supported where appropriate. In this respect it is considered that the agricultural building and associated works would allow the use of this derelict piece of land for a use which is considered to be appropriate within its countryside setting. Therefore the development is considered also acceptable in principle in relation to national planning policy.
39. Whilst only limited weight can currently be afforded to the emerging local plan, Policy 35 part b) states that planning permission for development in the countryside will be granted for the efficient or continued viable operation of agriculture. Therefore in this respect as previously noted due to the use of the proposed building and associated works on the site the principle of the development is accepted.

### **Design, Scale and layout**

40. Policy EMP17A states that planning permission will be granted for agricultural development provided that it is justified in terms of size and location and appropriate measures have been incorporated to mitigate the effect of the development upon the landscape and local communities. In relation to the proposed general purpose building this has been designed to be agricultural in nature and of a scale which would be considered to be commensurate with the size of the holding. As part of pre-submission discussions the original design of the structure was amended and reduced to reflect the needs of the holding and as such it is considered that the development is in accordance with local plan policy EMP17A which requires development to take this into account.

41. In terms of the location of the building this is centrally located within the site, and due to the proposed timber fencing and the topography of the site the proposed building would have minimal impact upon the visual amenity of the area.
42. The timber screen fencing in itself will further be screened by planting which would once again further limit the impact of the development in terms of its landscape setting.
43. The 2 no. steel containers have been on site for some time without the benefit of planning permission. The applicant wishes to retain them on site for necessary storage while the new building would be under construction. They would be located to the south of the proposed barn behind the timber fencing which would therefore limit views of the structures from Kelloe or residential properties whilst the building is being erected. In addition to this, as previously noted, the containers would only continue to remain on site for a further temporary period and any potential impact they may have would be extremely limited.
44. In relation to the touring caravan which is to be retained at the site, this is once again screened by the timber fencing and planting proposed. In addition this would also be for non-residential use only which would ensure that there would be no residential clutter associated with the caravan at the site. A condition restricting this use and its removal if no longer required would also be attached to any approval at the site.
45. In relation to the concerns expressed for the removal of trees and hedging at the site, these were not protected and as such works of this nature can occur without the need for formal planning consent. Trees and shrubs have been removed from the site in order to create the grazing areas and the applicant has advised that the site will be replanted. A condition in relation to landscaping and its implementation would be attached to any approval at the site.

### **Highway Safety**

46. Access to the site is via an adopted highway which is capable of carrying traffic to and from the site at the anticipated levels. In relation to the increased traffic movements to and from the site resulting from the development, it is not considered that these would be significant to warrant refusal of the application.
47. The Highways Section and Public Rights of Way have not raised any objections in respect of the application and consider that the public highway is capable of accommodating the levels of vehicular movements at the site.
48. It is therefore considered that the proposed development would be in accordance with policy T1 of the City of Durham Local plan which requires development should not generate traffic which would be detrimental to highway safety and/or have a significant effect on the amenity of neighbouring properties. As previously discussed it is not considered that the levels of traffic would increase so significantly to warrant refusal of the application.

### **Residential Amenity**

49. The nearest residential properties to the site are No.1 and No. 2 Bradyll Street. These properties have a view over the site and the access road to the parcel of land. In relation to the impact upon the current levels of residential amenity enjoyed at the

site it is not considered that the works would have a significant detrimental effect. The agricultural use of the land would be considered appropriate in this countryside location. As previously noted a large proportion of the works such as the building and the caravan would be screened by the proposed planting and timber fencing. In addition to this the 2 no. steel containers would only be on a temporary basis until the agricultural building is erected on site.

50. In relation to No. 1 Bradyll Street this property benefits from a side window which overlooks the access to the site. Concerns have been raised in relation to the loss of privacy to the property due to persons accessing the site and passing this window. As previously noted this is a public adopted highway and as such the public do have the right to pass and repass adjacent to this window. Therefore in this respect it is not considered that the levels of increased activities and movements to the site would be to such a level to warrant refusal of the application upon this basis.
51. The issue of noise and odours has also been raised as a concern in relation to the development. The proposed general purpose agricultural building and associated works are not considered to raise any issues in relation to noise or odours. In addition the nearest residential properties are approximately 100 metres from the location of the building and majority of the works and as such noise and odours are not considered to be an issue at the site. The building is intended for storage of equipment and feed in association with the small holding at the site, and in relation to the noise and odour issues this type of usage is not considered to create issues in this respect.
52. In terms of the use of the land the applicant does not require consent to operate the land as an agricultural small holding to which a number of the complaints relate.
53. In relation to the infilling of the site the applicant has indicated that this has been done using the waste material from the demolition of the properties previously on site. He has advised that these works have been able to be carried out without the import of additional building materials onto the site.
54. Concerns by residents have also been expressed in relation to the depositing of green waste at the site. The Environment Agency is dealing with this as a separate matter and it is understood that the applicant has all necessary permits in place in respect of this practice. This is therefore not a matter that can be taken into account in the determination of the application.

### **Other Considerations**

55. In respect of the partly retrospective nature of the application, as legislation allows for the submission of a retrospective application this is not a material planning consideration which can be taken into account in the determination of the application. The development has been assessed on its merits, and is considered to be acceptable.
56. In terms of precedent this application may set if approved, once again each development should be assessed on its own merits, and just because one site was considered acceptable does not automatically mean that another will.
57. In relation to the ownership of the land the applicant has advertised in the press to find owners of the land and has notified those which he is aware of. In planning terms this is the only requirement on the applicants part in terms of notification and as such this is not a planning matter which can be taken into account in the determination of the application. It is a matter for the applicant to consider whether

he should proceed with the development if there are any outstanding uncertainties over ownership.

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## CONCLUSION

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58. The proposed general purpose building has been designed to be agricultural in nature and of a scale which would be considered to be commensurate with the size of the holding. The agricultural use of the land does not require planning permission.
59. Screening and planting are proposed as part of the application and a condition relating to landscaping and its implementation would be attached to any approval at the site. A condition would also be imposed to require removal of the containers at the appropriate time.
60. Taking all relevant planning matters into account it is considered that the proposal is acceptable given that it accords with both national and local policy. It is not considered that the policies contained within the emerging County Durham Plan would conflict with the intentions of the existing local plan or the NPPF.

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## RECOMMENDATION

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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. Plan References; Drawing No. 3, 1, 2, and 4 Rev A and location plan received 7 January 2014. Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policies
3. The two no. steel containers hereby approval shall be removed within 6 months of the date of this approval or upon completion of the agricultural barn, which ever occurs sooner.  
Reason: In the interest of visual amenity and to comply with saved policies Q1, E7, EMP17A and T1 of the City of Durham Local Plan.
4. The touring caravan hereby approved shall not at anytime be used for residential purposes and shall only be used to provide site facilities in connection with the operation of the agricultural holding. The touring caravan shall be removed from the site if the agricultural activities cease permanently.  
Reason: In the interest of visual amenity and as the site is not considered suitable for a residential dwelling and to comply with saved policies Q1, E7, EMP17A and T1 of the City of Durham Local Plan.
5. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.



Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The local planning authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with saved policies Q1, E7, EMP17A and T1 of the City of Durham Local Plan.

6. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with saved policies Q1, E7, EMP17A and T1 of the City of Durham Local Plan.

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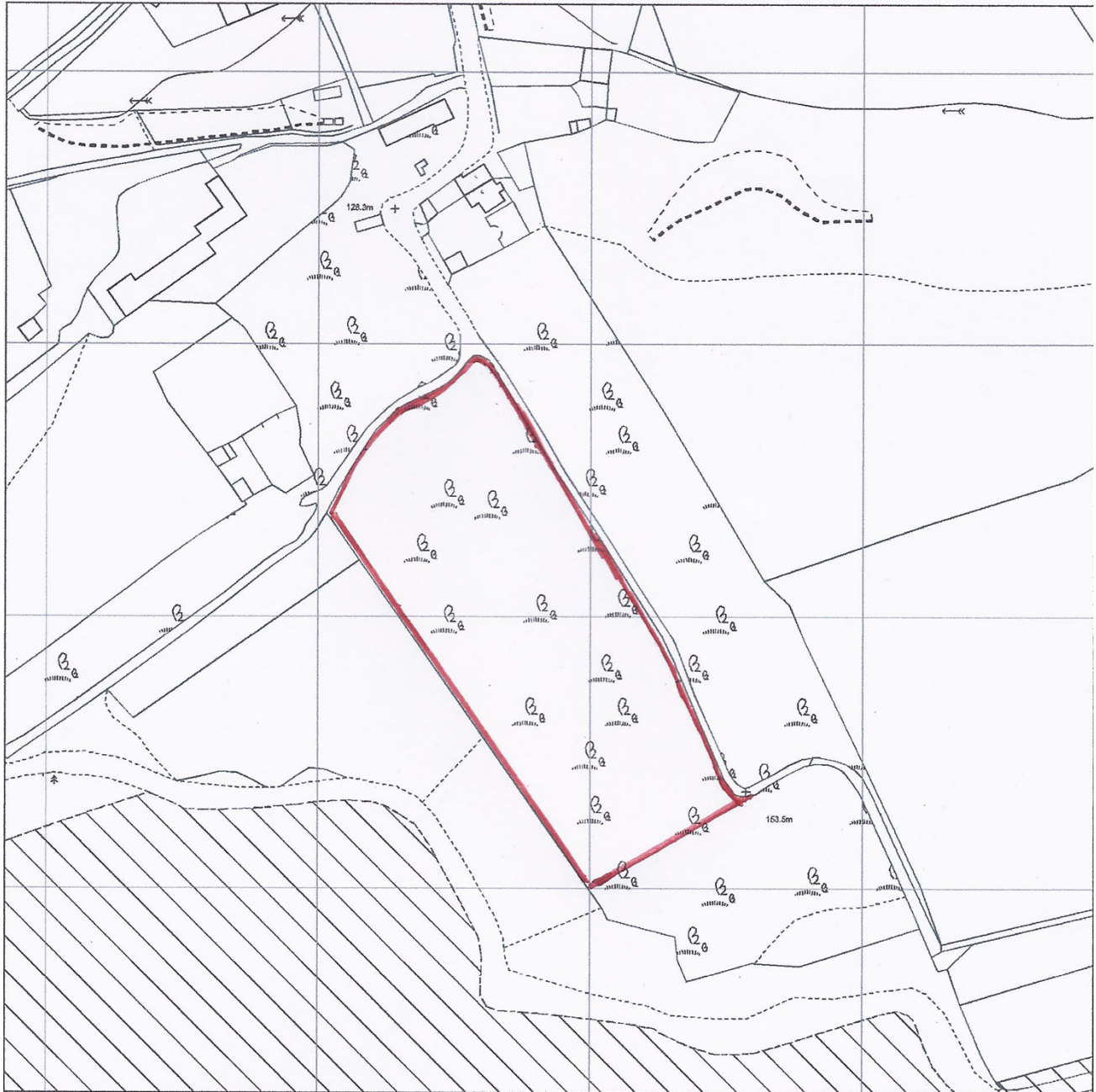
## **STATEMENT OF PROACTIVE ENGAGEMENT**

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.

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## **BACKGROUND PAPERS**

- Submitted Application Forms and Plans.
- Design and Access Statement
- City of Durham Local Plan 2001
- National Planning Policy Framework
- Consultation Responses



**Planning Services**

**Earthworks including infilling and levelling (part retrospective) to facilitate use of land for agriculture, erection of a general purpose agricultural building, timber screen fencing, temporary siting of 2 No. storage containers and retention of 1 No. caravan to provide site facilities (non-residential) at Land To The South Of Bradyll Street, Kelloe, DH6 4PL.**

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**Comments**

**Date. 9 December 14.**

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