

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/14/03009/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of dwelling (resubmission of 6/2013/0397/DM)
<b>NAME OF APPLICANT:</b>	Mrs.T.Hull and Mr.T.Kirby c/o George F.White LLP
<b>ADDRESS:</b>	Land adjacent to Wellgarth, Hamsterley, Bishop Auckland, County Durham DL13 3PP
<b>ELECTORAL DIVISION:</b>	Evenwood ED Steve Teasdale Planning Officer
<b>CASE OFFICER:</b>	03000 261055 <a href="mailto:steve.teasdale@durham.gov.uk">steve.teasdale@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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SITE:

1. The application site is a grassed field/paddock located within the centre of the village of Hamsterley. The land slopes relatively steeply from north to south and is delineated from the open countryside to the south by a mature hedgerow and a stone wall to the north, which abuts a narrow area of registered village green adjacent to the highway. The field extends behind the residential properties of Wellgarth, Holly View and Orchard View and abuts the western boundary of Pear Tree Cottage, a Grade II Listed former farmhouse that is currently undergoing redevelopment including substantial extension. The field is currently accessed by the shared access over the village green, which is located adjacent to Pear Tree Cottage. The site is located centrally within a cluster of Listed buildings comprising of Pear Tree Cottage, the Grade II\* Listed Baptist Church and attached Grade II Listed Manse, and the Grade II Listed former Post Office.

PROPOSAL:

2. The application seeks planning permission for the erection of 1no. dwelling. The proposed dwelling would be single storey and located towards the front of the site between the shared access with Pear Tree Cottage and the boundary of the garden to the side of the neighbouring property, Wellgarth.
3. The application would normally be dealt with under delegated powers, but has been called to the South West Area Planning Committee at the request of Hamsterley Parish Council who have objected to the proposal.

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## PLANNING HISTORY

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4. 6/2013/0397/DM - Erection of 1 No. dwelling and machinery store – REFUSED for the following reason:

5. *“The proposed dwelling by reason of its design, access arrangements and the resultant loss of a visually and historically important green space which contributes to the setting of surrounding designated heritage assets, would cause substantial harm to the significance of those heritage assets contrary to policies GD1 and BENV3 of the Teesdale Local Plan and the guidance contained within section 12 of the NPPF.”*
6. In the vicinity of the site there have been three planning permissions to the rear of the neighbouring Pear Tree House. Two for the erection of 3 dwellings (6/2007/0397/DM and 6/2010/0292/DM) have expired. The most recent outline application for 2 dwellings on the same site was approved on 29<sup>th</sup> May 2014.
7. Planning permission and listed building consent (6/2013/0127/DM and 6/2013/0128/DM/LB) were approved on 23/09/2013 for the extension, alteration and conversion of the attached barns at Pear Tree Cottage which borders the application site of the current proposal.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

8. On March 27<sup>th</sup> 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. The following elements of the NPPF are considered most relevant to this proposal:
9. *NPPF Part 6 - Delivering a wide choice of high quality homes* states housing applications should be considered in the context of the presumption in favour of sustainable development. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities.
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 12 – Conserving and enhancing the historic environment* states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. The more important the asset, the greater the weight should be.

### **LOCAL PLAN POLICY:**

12. The following saved policies of the Teesdale District Local Plan are considered to be consistent with the NPPF and can therefore be given weight in the determination of this application:
13. *H4 Small Scale Sites of Less than 0.4 Hectares* – Presumes in favour of sites within the development limits of settlements, particularly where they have previously been developed.

14. *BENV3 Development Adversely Affecting the Character of a Listed Building or its Setting* – Does not support development proposals which would have an adverse impact upon listed buildings or their settings.
15. *ENV8 Development affecting a protected wildlife species* - Development which would significantly harm any animal or plant species afforded special protection by law, or its habitat, either directly or indirectly, will not be permitted unless mitigating action is achievable through the use of planning conditions and, where appropriate, planning obligations, and the overall effect will not be detrimental to the species and the overall biodiversity of the district.
16. *GD1 General Development Criteria* - 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 and satisfy the criteria in the policy.

#### **EMERGING POLICY:**

17. The emerging County Durham Plan was Submitted in April 2014 and has been through 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. To this end, the following policies contained in the Submission Draft are considered relevant to the determination of the application and can be given some weight given the advanced stage of the Plan:
18. Policy 15 – Development on Unallocated Sites in Built up Areas – Is permissive of development on unallocated sites in built up areas provided it is appropriate in scale, design and location to the character and function of the settlement; 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).
19. Policy 18 – Local Amenity - In order to protect the amenity of people living and/or working in the vicinity of a proposed development, permission will not be granted for development proposals which would have a significant adverse impact on amenity such as by way of: noise; vibration; odour; dust; fumes and other emissions; light pollution; overlooking; visual intrusion and visual dominance; loss of light or loss of privacy.
20. Policy 44 – Historic Environment – Requires development to conserve the fabric, character, setting and cultural significance of designated and non-designated heritage assets and seek opportunities to enhance structures and areas of significance throughout County Durham.

*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.planningportal.gov.uk/england/government/en/1020432881271.html> for national policies; <http://www.durham.gov.uk/Pages/Service.aspx?ServiceId=8716> for the Teesdale Local Plan.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

21. Hamsterley Parish Council – Objects and expresses concerns on the following grounds;
  - The proposed development is not sympathetic to the surrounding listed buildings that are adjacent to and immediately opposite the site.
  - Specifically, the Councillors feel that a modern house, even in sympathetic materials, in the immediate proximity of Pear Tree Cottage is inappropriate.
  - The listed Baptist Chapel opposite would be adversely affected in terms of outlook. The Parish Council still feels that this would be regrettable, given the recognition of this building as one of the oldest such chapels in the country.
  - There are considerable concerns about access, which the Councillors note are shared by the DCC Highways Department response.
22. Highway Authority – No objections. Attention is drawn to the likely intensification of use the shared access over the narrow strip of registered village green which was reinforced using a geotextile membrane as part of the approved development of Pear Tree Cottage.
23. Northumbrian Water Ltd. – No comments

### **INTERNAL CONSULTEE RESPONSES:**

24. Design and Conservation – No objections; noting that while it would still be preferable for this site to be retained in its open form, design solutions have been employed to reduce the impact so refusal on such grounds is unlikely to be sustained.
25. Archaeology Section – No objections.
26. Tree Officer – No objections.
27. Ecology Section – No objections.
28. Landscape Section – Does not support the proposal and considers that it would have an unacceptable adverse impact upon landscape character and visual amenity.

### **PUBLIC RESPONSES**

29. Three letters of objection have been received from local residents living at Chapel Close, Hamsterley House, and Pear Tree Cottage immediately adjacent to the site. The points raised can be summarised as follows;
  - The land is greenfield and has always been undeveloped
  - Views of the open countryside would be disrupted
  - There is no demand for more housing in the village
  - There would be an adverse impact upon nearby designated heritage assets
  - Residential amenity and safety would be compromised by the shared access
  - Increased use of the access would damage the village green
30. Concerns had also been raised because the access had not been included in the red line boundary, however, that was amended along with the relevant ownership

notices. Comments had already been received about the access from the relevant land owners as reflected above and therefore they have not been prejudiced by the amendment.

*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 Spennymoor Council Offices.*

#### **APPLICANTS STATEMENT:**

31. The proposed development of a single dwelling and associated curtilage is considered to be acceptable in principle. Whilst the development partially complies with saved policy H4 contained within the Teesdale Local Plan, this policy is largely out of date and a greater emphasis should be placed on the provisions of the NPPF, with which the development does comply.
32. The proposed development would not harm the setting of the surrounding Listed buildings or the character and appearance of the wider village setting. Indeed, every effort has been made to ensure that the proposed development will respect the form and setting of these heritage assets.
33. In consideration of all the above factors, it is apparent that the proposed development has overcome the previous reason for refusal and is in line with the provisions of the NPPF, saved policies of the Teesdale Local Plan and policies within the Draft County Durham Plan (where relevant).

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#### **PLANNING CONSIDERATIONS AND ASSESSMENT**

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34. 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 considerations including representations received, it is considered that the main planning issues in this instance relate to principle of development; scale and design, access, impact upon privacy and amenity, and ecology.

##### Principle

35. The application site was formerly part of a small agricultural enterprise until the Grade II listed farmhouse and byre (Pear Tree Cottage) and the remaining agricultural land were sold separately into private ownership. The adjacent Pear Tree Cottage has been extensively enlarged and refurbished to form a good sized family home. The remainder of the land was purchased by the applicant, who proposes to build a single dwelling at the front of the site.
36. Whilst the site currently retains its agricultural appearance as paddock land, it lies within the development limits of Hamsterley as defined by the Teesdale District Local Plan and therefore in spatial terms, the proposal would comply with Policy H4 of the local plan. The land is not previously developed, but this requirement of Policy H4 is considered to be largely superceded by the NPPF, which places less emphasis on whether a site is greenfield or brownfield and more emphasis on sustainable development. Hamsterley is a village of about 550 population, and provides a range of facilities including churches, school, village hall, public house and club and is therefore a sustainable location for a small scale of development. The principle of the proposal is considered to be substantially in accordance with the NPPF.

37. In respect of emerging policy, the definition of a “built up area” for the purposes of Policy 15 of the County Durham Plan includes land which is physically very well contained by existing built development and its development would not result in encroachment into the countryside. It could also include small gaps in a built up frontage. The application site therefore falls within this definition. A single dwelling would be appropriate in scale and location to the character and function of the settlement; would be compatible with use of adjacent sites and land uses; and would not involve development in the countryside. Although the Council can demonstrate a 5 year housing supply, housing targets are not ceilings and a single dwelling would not have any material impact on the housing delivery strategy of the County Durham Plan. Therefore, subject to detailed design and heritage considerations the proposal would be consistent with the aims and objectives of the emerging County Durham Plan.
38. The principle of residential development would therefore accord with current and emerging local planning policies and the core principles and aims of the NPPF Part 6. There were no objections to the principle of development in the previously refused application.

#### Scale, design and impact on the surrounding area

39. Hamsterley does not have a designated conservation area, but several listed buildings lie within the vicinity of the application site. To the north side of Saunders Avenue is a block of listed buildings; The Manse (Grade II). The Baptist Church (Grade II\*) and the former Post Office (Grade II). These are set back with front gardens and there is a separation distance of approximately 30 metres to the proposed dwelling. Pear Tree Cottage (Grade II) lies some 15 metres to the east. Within the site is a historic well, which is regarded as a non-designated heritage asset. Regard must therefore be given to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as NPPF Section 12 requirements in assessing the impact of the proposals on the setting and significance of the surrounding heritage assets, in addition to the general impact on the character and appearance of the area.
40. The previously refused application was considered to have a detrimental impact on the setting and significance of the adjacent designated heritage assets. However, since the previous refusal of planning permission, some notable things have changed.
41. Most significantly, Pear Tree Cottage has itself been considerably extended and it no longer retains its simple and modest character which the original proposal would have dominated in visual terms. It has also established a reinforced access over the narrow strip of village green, which would be shared with this proposal. Additional use might affect the physical condition of the access, but it is difficult to envisage that it would be to a significantly greater extent than existing now that it has a reinforced surface, and it has to be noted that a legal right of access already exists into the field which could be traversed by large agricultural vehicles with a damaging effect on the narrow strip of village green. Neither the use of and condition of the access would therefore have a significantly harmful effect on the setting of Pear Tree Cottage.
42. This amended proposal has also been substantially amended to reduce the scale and form of the dwelling and set it back relative to Pear Tree Cottage. The dwelling has been reduced from two storeys to single storey, and a large detached outbuilding has been removed from the scheme. The application site slopes significantly from north to south, and the proposed dwelling has been carefully designed to exploit these changing levels to reduce its prominence. The front of the

building would have a simple appearance featuring only one window and a glazed entrance door feature running up part of the roof plane, aiming to replicate in many respects conversion of a rural building. Random natural stone would be used for this elevation, with natural slate for the roof. The ridge height would only be 6 metres above the natural ground level at this point.

43. Behind this modest frontage element would be an extension set some 1200mm lower. Natural slate would be used for the roof covering, but the walls would be constructed from brick, which is acceptable in the context subject to final approval of samples. Notwithstanding the Landscape section concerns, there would be ample space between the historic well and the new dwelling and there are no objections from Archaeology or Design and Conservation on this matter.
44. The dwelling would be set back from the existing dry stone wall along the frontage to provide greater spaciousness as seen from the road and importantly, would allow views of Pear Tree Cottage when looking east along Saunders Avenue. It would have a subordinate appearance when viewed from Saunders Avenue and while the Parish Council views are noted, it is considered that the proposed dwelling would not compete in visual terms with other nearby properties, particularly Pear Tree Cottage. It would therefore sit comfortably within the street scene and in relation to the adjacent listed buildings in terms of design and scale and therefore represents a considerable improvement from the previously refused application.
45. There is still no doubt that the site contributes to the character of the village and setting of the nearby listed buildings. The erection of a dwelling would change the character of the site, as well as prevent general views of the countryside beyond, as noted in the response from the Landscape Section. However, while aims of retaining the undeveloped character of the site and views out to the countryside are desirable, the site was not excluded from the development limits of the village; it has no conservation area protection and is not subject to any landscape designation. In addition, the landscape immediately beyond the site does not have any national designation and the current local Area of Landscape Value designation is soon to be removed when the emerging County Durham Plan is adopted, all of which diminishes the importance of those views in general landscape terms.
46. The amended dwelling would now be acceptable in scale and design. The spaciousness of the front of the site and unassuming character of the dwelling's front elevation, similar to that of a converted rural building, would retain some sense of agricultural character to the site viewed from Saunders Avenue and the Baptist Chapel. This is however subject to removal of the overly domestic front footpath and new pedestrian opening within the front wall, which can be secured by condition. The quality of the proposed development, as described above, and its set back from the road would therefore offset to an acceptable degree the loss of the open aspect of the site and while the outlook from the Baptist Chapel would be changed, the change would not be to an unacceptable degree or extent that it would result in substantial harm to its setting, or that of any of the other nearby listed buildings. On this basis, it is considered that continued resistance to development of the site could no longer be justified, a view supported by the Design and Conservation Section. There are other similar developments within the village which have occupied frontage land previously in agricultural use. This is primarily how Hamsterley has developed since the 19<sup>th</sup> century, with very little development in depth and the proposal would continue this pattern.
47. Accordingly, while the Landscape Section remains concerned on a number of points, some of those being heritage matters, it is considered that the revised scheme has responded appropriately to the previous refusal reasons and produced a scheme

that would sit acceptably within the local context, including the setting of nearby listed buildings. The Design and Conservation Section, as well as the Archaeology Section have not objected to the proposal on heritage grounds and their views in that respect carry greater weight.

48. It is therefore considered that this revised proposal is acceptable having regard to Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and that it would meet objectives outlined in policies GD1 and BENV3 of the Teesdale District Local Plan, policy 44 of the emerging County Durham Plan and the aims within the NPPF Sections 7 & 12.

#### Access

49. Access to the site would be by way of an existing vehicular crossing shared with Pear Tree Cottage, over which the applicant has access rights. The crossing over the narrow strip of village green was a matter discussed thoroughly and ultimately accepted in 2013 as part of the approved proposals for extension and restoration of Pear Tree Cottage. The intervening grass verge has now been reinforced with geotextile membrane.
50. It is acknowledged that the proposed dwelling would increase use of the access surface. This has also been noted by the Highway Authority, but their concern is not in respect of highway safety, but rather the effect on the visual condition of the access, and this has already been considered in the section above.
51. The objection from the neighbour at Pear Tree Cottage has raised concerns about potential conflict between vehicles and people from two separate properties using the access. These concerns were also raised for the previously refused application, but they did not form part of the refusal reasons. Shared accesses are common and do not raise highway safety concerns for a small number of properties and again, there is already a shared access arrangement into the field, which could be used by large farm vehicles. This applies equally to the Parish Council concerns about the safety of the access.
52. The Highway Authority has no objection to the access on highway safety grounds and given rights of access already exist, the proposal would not result in a severe cumulative impact on highway safety, which is the required test within the NPPF. The proposal therefore accords with Teesdale Local Plan Policy GD1 and the NPPF.

#### Privacy and amenity

53. The closest neighbouring dwelling would be Pear Tree Cottage, 15 metres away to the east. A pair of roof lights would be installed in the west facing roof slope, and habitable room windows would predominantly be in the west facing elevation. The only east facing windows would serve a utility room and two ensuite bathrooms. As a result, the proposed design and window layout carefully avoids conflict with other properties in terms of privacy and amenity. In addition, use of the access by a single dwelling, particularly when there is already an existing right of access into the site, would not impact on the amenity of neighbouring properties. The proposal is therefore in accordance with Teesdale Local Plan Policy GD1 and policy 18 of the emerging County Durham Plan.

#### Ecology

54. The application was accompanied by an Ecology Survey. Existing hedgerows and mature trees are to be retained and there were no identified impacts on protected



species. The Ecology Section is satisfied with the findings of the report and has no objections. No specific mitigation is required. The developer will have a responsibility to comply with legislation regarding nesting birds if any vegetation clearance is carried out within March to August.

55. The proposal accords with Teesdale Local Plan policies GD1 and ENV8, as well as the NPPF.

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## **CONCLUSION**

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56. While the site is greenfield land, and in that respect not strictly in accordance with Teesdale Local Plan Policy H4, it is nevertheless within the development limits and wholly in conformity with the more up to date NPPF and policy 15 the emerging County Durham Plan.
57. The development would take place within the settings of a number of listed buildings, however the design and scale of the dwelling has been substantially amended since the previous refusal so that the impact would not be of such a magnitude that it would cause unacceptable harm to the setting and significance of those heritage assets, or in general landscape terms.
58. Access would be via an existing access shared with Pear Tree Cottage over which access rights exist. The Highway Authority has no objection on highway safety grounds.
59. The proposed design and window layout carefully avoids conflict with other properties in terms of privacy and amenity.
60. There are no objections on ecology grounds.
61. The objections of Hamsterley Parish Council and local residents, together with the comments of the Landscape Section have been considered and taken into account in arriving at a recommendation on the proposal. However, because the proposed dwelling is considered acceptable in respects of its design, the way it relates to surrounding listed buildings and in all other respects, there are no longer compelling reasons for resisting development on the site, which lies within the development limits of the village.
62. The proposal is therefore considered to accord with Policies BENV3, ENV8 and GD1 of the Local Plan, emerging County Durham Plan policies 15, 18 and 44, as well as 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.

*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 Reference Number	Date received
Site Location Plan	1 <sup>st</sup> December 2014
BDL702742-P01B	1 <sup>st</sup> December 2014
BDL702742-P02A	7 <sup>th</sup> October 2014
BDL702742-P03A	7 <sup>th</sup> October 2014
BDL702742-P04A	7 <sup>th</sup> October 2014

*To define the permission and ensure that a satisfactory form of development is obtained in accordance with Policies BENV3 and GD1 of the Teesdale District Local Plan 2002.*

3. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling, roofing and window materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

*In the interests of the appearance of the area and to comply with Policies BENV3 and GD1 of the Teesdale District Local Plan 2002.*

4. No development shall commence until a scheme for the provision of foul and surface water drainage works has been submitted to and approved in writing by the Local Planning Authority. The drainage shall be completed in accordance with the details and timetable agreed.

*To prevent pollution of the water environment in accordance with Policy GD1 of the Teesdale District Local Plan 2002.*

5. Notwithstanding the details shown on the approved plans there shall be no pedestrian access opening formed within the front boundary wall and no associated footpath created from the front entrance of the dwelling across the front garden area to the front boundary wall.

*The provision of a pedestrian opening in the front boundary wall and associated footpath would be overly domestic and detract from the aims to retain a rural character and appearance in the development to preserve the setting of adjacent listed buildings. To comply with Policies BENV3 and GD1 of the Teesdale District Local Plan 2002.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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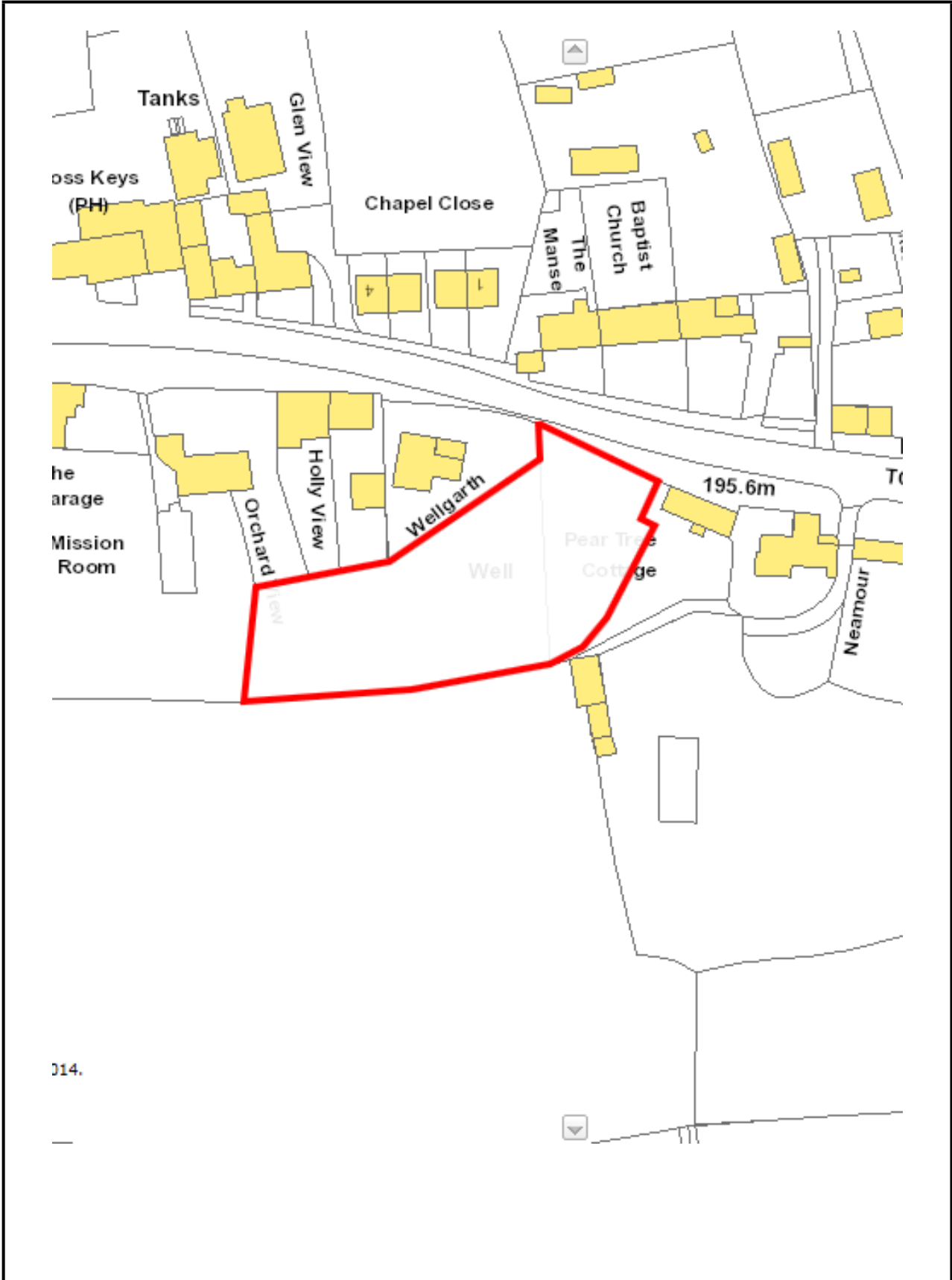
The local planning authority has engaged with the applicant in a proactive manner by discussing the proposal prior to formulating a recommendation.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
Teesdale District Local Plan 2002  
County Durham Plan (submission version)  
Consultation responses  
Representations received from the public and other representative bodies



**Planning Services**

Application ref. DM/14/03009/FPA  
 Land adjacent to Wellgarth, Hamsterley,  
 Bishop Auckland, Co.Durham

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**Date November 2014**

**Scale NTS**