

# COMMITTEE REPORT

---

## APPLICATION DETAILS

---

APPLICATION NO:	DM/15/02058/FPA
FULL APPLICATION DESCRIPTION:	Proposed dwelling and office/store (resubmission of refusal DM/14/02570/FPA)
NAME OF APPLICANT:	Mr Eddy Luke
ADDRESS:	1 Stockley Lane Oakenshaw Durham DL15 0TG
ELECTORAL DIVISION:	Willington and Hunwick
CASE OFFICER:	Tim Burnham Senior Planning Officer 03000 263963 <a href="mailto:tim.burnham@durham.gov.uk">tim.burnham@durham.gov.uk</a>

---

## DESCRIPTION OF THE SITE AND PROPOSALS

---

1. The application site lies within countryside to the south of Stockley Lane and to the west of the small rural village of Oakenshaw. The land is a grassed area within the ownership and to the north of the Cats Whiskers Cattery and associated dwelling 1 Stockley Lane. Neighbouring immediately to the west is a converted residential property no.3 Stockley Lane.
2. The development proposed is the erection of a two storey dwelling and a store/office building, all set within a new large landscaped curtilage of approximately 0.24ha. The application suggests the property would be occupied by the cattery owner's son and his wife who would at some time in the future take over the running of the cattery when the existing owner wished to retire. The current owners/managers of the cattery reside at 1 Stockley lane which is to the south of the application site.
3. The application is a resubmission of application DM/14/02570/FPA, which was refused under delegated powers in November 2014. The application essentially seeks approval for the same development, minus the provision of a detached double garage.
4. The application has been referred to the Committee at the request of Cllr Gunn on the grounds of the business need for an additional house.

---

## PLANNING HISTORY

---

5. The most relevant planning history is the previously refused application for the same development DM/14/02570/FPA – refused on 3<sup>rd</sup> November 2014.

6. Planning approval was originally granted for the cattery in 1995 under ref 3/1994/0656.

---

## **PLANNING POLICY**

---

### **NATIONAL POLICY**

7. On March 27th 2012 the Government published the National Planning Policy Framework (NPPF). 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.
8. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The following elements of the NPPF are considered most relevant to this proposal:
9. NPPF Part 4 – Promoting sustainable transport. Patterns of development should aim to minimise the need to travel and exploit opportunities for the use of sustainable transport modes. Access to the site should be safe and suitable for all people.
10. NPPF Part 6 - Delivering a wide choice of high quality homes states that new isolated homes in the countryside should be avoided unless there are special circumstances such as, among other things, the essential need for a rural worker to live permanently at or near their place of work in the countryside.
11. 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, and should contribute positively to making places better for people.
12. 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, minimising impacts on biodiversity and providing net gains in biodiversity where possible.

*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 [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/6077/2116950.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/6077/2116950.pdf)*

### **LOCAL PLAN POLICY:**

13. The following saved policies of the Wear Valley District Local Plan as amended by Saved and Expired Policies September 2007 are considered to be consistent with the NPPF and can therefore still be given significant weight in the determination of this application as it is a core principle of the NPPF that decisions should be plan led:
14. *Policy GD1 (General Development Criteria):* All new development and redevelopment within the district should contribute to the quality and built environment of the surrounding area and includes a number of criteria in respect of impact on the character and appearance of the surrounding area; avoiding conflict with adjoining uses; and highways impacts.

15. *Policy ENV1 (Protection of the Countryside)*: The District Council will seek to protect and enhance the countryside of Wear Valley. Development in the countryside will only be allowed for agriculture, farm diversification, forestry or outdoor recreation, or if it is related to existing compatible uses within the countryside as defined in other Local Plan policies listed in the supporting justification.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/media/3403/Wear-Valley-local-plan-saved-policies/pdf/WearValleyLocalPlanSavedPolicies.pdf>*

## **RELEVANT EMERGING POLICY:**

### **The County Durham Plan -**

16. The emerging County Durham Plan was submitted in April 2014 and has been examined in public. In accordance with paragraph 216 of the NPPF, decision makers 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. The most relevant part of the plan would be Policy 35 which relates to Development in the Countryside.
17. At the current time, this policy is being attributed very limited weight given the publication of the inspector's interim views and does not form a significant part of the decision making process.

---

## **CONSULTATION AND PUBLICITY RESPONSES**

---

### **STATUTORY RESPONSES:**

18. *Northumbrian Water*: Have been consulted on the development and have responded, stating that they have no comments to make.
19. *Coal Authority*: No objection, subject to imposing a condition which would require intrusive site investigations to be undertaken.
20. *Highways Authority*: No objection Subject to a condition requiring sight visibility splays to be maintained in accordance with those depicted in the site layout plan.

### **INTERNAL CONSULTEE RESPONSES:**

21. *Landscape*: Note that the visual impact would be minor but note that there would be some change in landscape character with the large garden area sub divided and provision of dwelling with associated development. Some additional hedge planting is suggested.
22. *Landscape (Trees)*: Trees have been removed from the site and it is advised that replacements are proposed, these should be heavy standard native species 18-20cm girth appropriate to the local area.
23. *Ecology*: No objections.

### **PUBLIC RESPONSES:**

24. The application has been publicised by way of site notice and individual notification letters to neighbouring residents.
25. One letter of objection has been received. The contents of the letter are summarised below.
26. It is suggested that to approve additional building in a rural area on the basis put forward would set a precedent for further development on other sites on this basis. It is suggested that in order to go on holiday it would be possible to decline to accept animals for that period or hire temporary staff to look after the cattery for that period.
27. It is stated that if the applicant wishes to retire the business could be sold as a going concern or managers could be hired to run the business on behalf of the owner. The existing residential location of the applicant son and daughter in law is alluded to, which is said to be a short distance away in the village, it is suggested this undermines the argument for an additional property on the site.
28. It is suggested that it would be unlikely that the applicant's son and daughter in law who are professional workers would give up their careers to run the cattery on a full time basis. It is suggested the development of the site would conflict with the amenity use of woodland opposite. It is stated that the development would be visible from the passing road.

*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?app\\_id=1002&FormParameter1=DM%2F15%2F02058%2FFPA](http://plan-1:8080/IDOXSoftware/IG_search?app_id=1002&FormParameter1=DM%2F15%2F02058%2FFPA)*

#### **APPLICANTS STATEMENT:**

29. The application under consideration is a re-application submitted following discussions held with council officers to enable the proposals to be reconsidered and decided by Committee.
30. The applicant was of the opinion that the first (refused) application was dealt with in a decidedly negative fashion which found the case officer constructing a pre-determined negative picture of a/ the true need for a new dwelling and b/ the impact on the countryside:
31. We are aware at the same time of a particular anomaly within a long-standing planning policy which whilst acknowledging the need for twenty four hour care for animals bred for food, does not extend the same importance to animals being cared for as household pets. The anomaly appears to be exacerbated by the acceptance that whilst equine establishments can be granted consent to build, kennels and catteries do not qualify despite a demonstrated and proven need for care.
32. The policy appears to leave the case officer with no interpretive flexibility and therefore no alternative other than to recommend an application such as this for refusal.
33. The outcome of this application has far reaching consequences for the applicant. After establishing a rural business and labouring for almost twenty years to make it into a sound and successful enterprise, the applicant finds himself unable to retire and enjoy the fruits of his endeavours with the established business in the hands of willing and capable family members, keen to develop the obvious potential for expansion and improvement.

34. Suggestions have been made by a senior planning officer to the applicant that he should either close the business down or sell on and move away!
35. Contrary to the previous case officer's statement development of a single house on this site would not set a precedent for further development.
36. The prime purpose of the relevant policies governing an application of this description is to protect the countryside from harmful development. The proposal seeks to maintain an already established rural business and develop it with the potential for local employment in an entirely appropriate location.
37. In environmental terms the site (on a former colliery reservoir) has minimal visual impact on the countryside. The house is well designed to a scale commensurate with the needs of those for whom it is intended and is nestled discreetly within an envelope of established tree planting, hidden from any long distance view and from any highway approach. No new roads or other infrastructure are required to service the site.
38. A comprehensive and sensitively designed landscape proposal accompanies the application, and is developed from an intimate and detailed knowledge of the microclimate particular to Oakenshaw.
39. The applicant hopes that by presenting this application to the Committee he may appeal to the good sense and compassion of those who might better understand the genuine need for this proposal.

---

## **PLANNING CONSIDERATIONS AND ASSESSMENT**

---

40. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations, including representations received, it is considered that the main planning issue is whether there is an essential need for a rural worker's dwelling.

### Essential rural worker need for the dwelling

41. The Statutory Development Plan in this case comprises the saved policies of the Wear Valley District Local Plan. The policies of the emerging County Durham Plan carry very little weight at this stage. Other important material considerations include the National Planning Policy Framework (NPPF).
42. The development site sits outside of the Oakenshaw settlement boundary defined in the Proposals Map of the Wear Valley District Local Plan and is therefore within the open countryside. Wear Valley Local Plan Policy ENV1 considers the principle of development in the countryside and seeks to protect the countryside from inappropriate development. It only allows development in the countryside for the purposes of agriculture, farm diversification, forestry, outdoor recreation, or if related to other existing compatible uses in the countryside. Development related to other existing compatible uses can include a dwelling for other types of established rural business where there is an essential need. This is wholly in accordance with NPPF paragraph 55 which seeks to avoid new isolated homes in the countryside unless there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work in the countryside. The application site is not visually isolated; however it is isolated in respect of the need to access local

services and facilities by private car. Accordingly, having regards to paragraph 215 of the NPPF, Wear Valley Local Plan Policy ENV1 still carries significant weight.

43. The cattery is currently owned and managed by the applicant who resides in the existing dwelling on the site. The proposed dwelling is said to be for the applicant's son and his son's wife. The supporting information with the application states that the son is a doctor at University Hospital Durham and his wife is a pharmacist. Both work in their respective professions 4 days a week, but have on occasions helped with the cattery on free days and during holidays. It is suggested that they will take over the management of the cattery on a full time basis when the current owner eventually retires. This will allow the current owner to remain in the existing dwelling when he retires and a full time on-site presence will be retained by the new dwelling to meet licensing requirements.
44. In order to satisfy the requirements of NPPF paragraph 55 and Wear Valley Local Plan Policy ENV1 for a dwelling in the countryside there must be an essential need for a rural worker to live permanently at or near their place of work in the countryside.
45. In this respect a cattery does not fall into the same category as agriculture, forestry or other rural businesses directly related to the land. While a cattery is suited to a rural location away from built up areas, it is not essential that it is in a rural location. It is not therefore appropriate for the applicant to directly compare the circumstances of this case to other agricultural and equine related residential proposals. The proposal must be considered on its own individual merits.
46. It is not disputed that the licensing requirements of the business dictate that there has to be a round-the-clock presence on site to deal with welfare and emergencies. There is however already a dwelling on the site from which the cattery has been managed since its establishment and together they form a single planning unit.
47. It is understandable that the applicant wishes to remain in the existing dwelling on retirement, which would render that dwelling unavailable for the cattery. It is also recognised that it would be convenient for the current and future management to both live on the site during any period of managed transition.
48. However, the whole application is based on a premise of what might happen at some unspecified time in the future, rather than a clearly established essential need for the new dwelling at this time. As the existing owner/manager has yet to retire the essential need to live on site is currently met.
49. While this situation could change when the current owner/manager retires, this proposal at the present time would result in a second dwelling on the site for which there is currently not an essential demonstrated need. This second dwelling would be occupied by persons who are not currently engaged full time in the running of the business and there is no guarantee that they will abandon their professions to run the cattery on a full time basis once the dwelling is constructed.
50. Even in agricultural cases consideration has to be given first to temporary accommodation options during establishment or transitional periods before permanent accommodation will be considered acceptable. Similarly, there should be no consideration given to a permanent new dwelling on this site without evidence that the occupants of the dwelling have been engaged in the full time running of the business over a reasonable period of time and remain committed to it in the long term. Other temporary or nearby accommodation options should be explored in any interim period.

51. Taking all of the above into account, special circumstances have not been demonstrated that would justify the approval of a second permanent dwelling in this location as the proposed dwelling is not required to meet an essential need for a rural worker to live permanently at or near their place of work in the countryside at the present time. The proposal is in substantial conflict with NPPF paragraph 55 and Wear Valley Local Plan Policy ENV1.

#### Other matters

52. The dwelling itself would be well designed, but its size, equivalent to that of the existing dwelling and the extensive curtilage would represent a large scale of development in the countryside. Because of its size and its location closer to Stockley Lane than existing development it would be visible from Stockley Lane when travelling east and result in some harm. It would however be completely screened by the conifer belt when travelling west. Because the visual impact would be limited to just the one direction and noting that the Council's Landscape Section has no objection in wider landscape impact terms, subject to further planting, the visual impact of the proposal in a non-designated landscape is not considered to be sufficient reason on its own to justify refusal. This does not however take away from the fact that there is no justification for the dwelling as discussed above.

53. In respect of highways matters the site would be accessed from an existing access road off Stockley Lane, which is shared with the existing dwelling and cattery. There is no objection from the Highway Authority subject to maintaining appropriate sight visibility splays.

54. The site falls within the Coal Authority high risk area and the Coal Authority initially objected to the proposal. Further information was submitted resulting in the Coal Authority removing its objection subject to further intrusive site investigations being conditioned.

55. The Oakenshaw Community Association has plans to develop the wooded area immediately to the north of the site as an amenity area with public access; however the presence of the proposed dwelling would not be likely to prejudice the use of that land for its intended purpose.

56. The acceptability of these matters does not however outweigh the proposal's in principle conflict with local and national planning policy with regards to development in the countryside.

---

## **CONCLUSION**

---

57. Apart from the removal of a garage from the scheme this is the same proposal that was refused in November 2014. There have been no relevant changes in planning policy in the intervening period which would lead to a different recommendation.

58. It is again considered that the proposal is based on an uncertain premise of what might happen at some unspecified time in the future. The proposal would result in a second dwelling on the site for which there is currently no demonstrated essential rural worker need and would be occupied by persons who are not currently engaged full time in the running of the cattery business. The proposal is therefore in conflict with NPPF paragraph 55 and Wear Valley Local Plan Policy ENV1.

---

---

---

## **RECOMMENDATION**

---

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

1. The proposal would result in a second dwelling on the site for which there is currently no demonstrated essential rural worker need. The proposal is therefore in conflict with NPPF paragraph 55 and Wear Valley Local Plan Policy ENV1.

---

## **BACKGROUND PAPERS**

---

Submitted application form, plans supporting documents provided by the applicant

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Wear Valley Local Plan

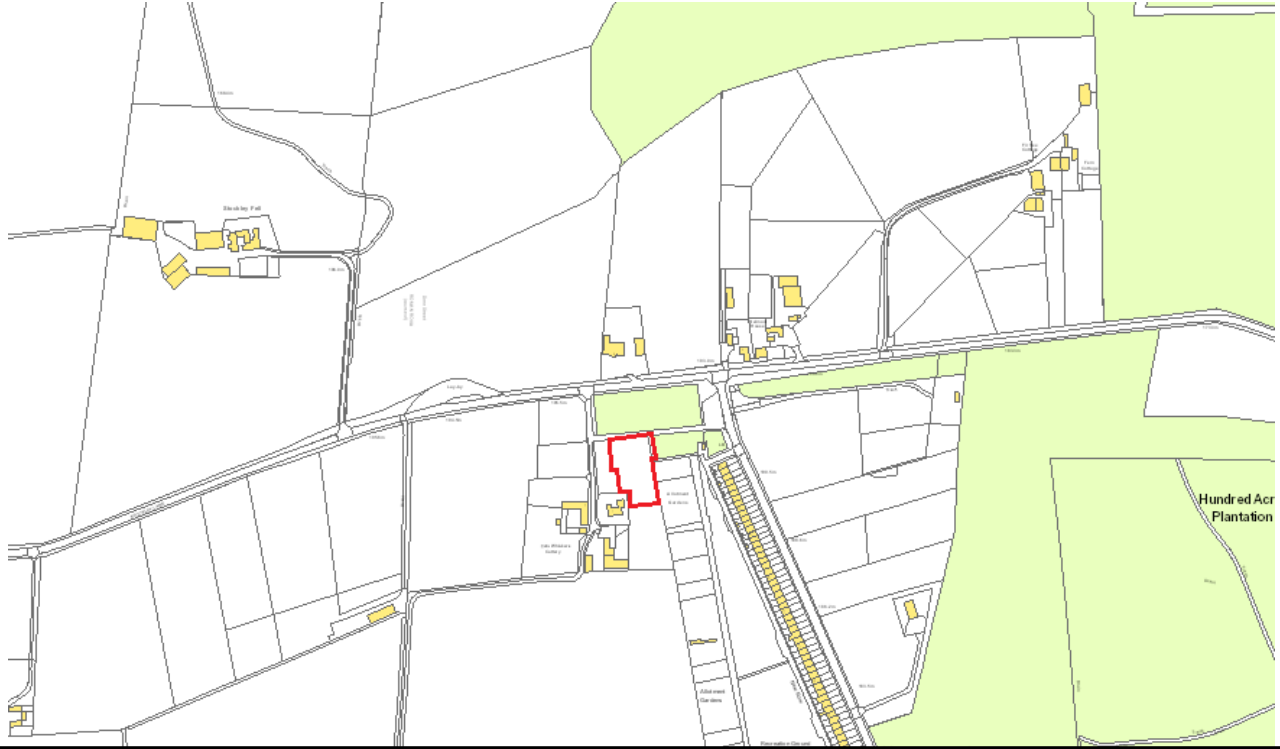
The County Durham Plan (Submission Draft)

Statutory consultation response

Internal Consultation responses

Public consultation responses





Proposed dwelling (resubmitted)



**Planning Services**

This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright.  
Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.  
Durham County Council Licence No. 100022202 2005

17<sup>th</sup> September 2015