

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	PL5/2011/401 and PL/5/2011/402
<b>FULL APPLICATION DESCRIPTION:</b>	PL/5/2011/401 – Four detached residential properties including private vehicular access road PL/5/2011/402 – Partial demolition of Grade II listed garden wall and proposed repair of remainder, partial demolition of boundary wall within curtilage of Hardwicke Hall Manor Hotel in association with residential development of four dwellings
<b>NAME OF APPLICANT:</b>	Mr A & D Bradley
<b>ADDRESS:</b>	Hardwicke Hall Manor Hotel, Hesleden Road, Hesleden, TS27 4PA
<b>ELECTORAL DIVISION:</b>	Blackhall
<b>CASE OFFICER:</b>	Henry Jones Senior Planning Officer 03000 263960 <a href="mailto:henry.jones@durham.gov.uk">henry.jones@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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The Site:

1. The site relates to the walled garden and immediate surrounds associated with the Grade II listed Hardwicke Hall Manor Hotel located off Hesleden Road, Hesleden. A heritage statement accompanying the application states that the first evidence of the building on the site dates from the 16<sup>th</sup> Century with subsequent re-builds and alterations of the main house during the 18<sup>th</sup> Century to substantially create the building which forms the focus of the property today. The property has been utilised for differing purposes in the past, including as a country house and an administration headquarters of the National Coal Board.
2. The hotel is accessed via a private road located off Hesleden Road and is set within a countryside location to the west of Blackhall and north east of Hesleden. The site is within an Area of High Landscape Value as designated by the Easington Local Plan (ELP). The private road which provides access to the hotel also serves Hardwick Hall Farm and the residential properties 1-5 Hardwicke Court, Four Winds and Wood Cottage.
3. The garden wall within which the residential development is proposed is Grade II listed, situated approximately 60m south of the hotel. The wall layout is oval shaped enclosing an overgrown space containing trees. Trees are also located beyond the

walled garden on the periphery of the application site. The trees are covered by a tree preservation order, TPO 8 Hardwick Hall 1983. Beyond the listed wall there is a further outer wall and between the two a small brick outbuilding.

#### The Proposal:

4. Two applications have been submitted. The application for planning permission seeks the erection of 4 no. two storey dwellinghouses within the walled garden with associated access and works.
5. The proposed dwellings exhibit simple traditional design with pitched roofs with natural slate roof covering, brick elevations and timber windows. The dwellings are each three bed and each dwelling has a width of 9m, maximum length of 10.6m with a ridge height of 7.6m. The proposed dwellings are arranged in a semi-circular pattern set around a central courtyard, each property with 2 no. parking spaces to the front.
6. Access would be formed via a new access road from the private road to the west. This access road would involve the demolition of a section of the wall forming the walled garden itself and a further section of the outer wall forming part of the curtilage of the hotel. A structural survey of the listed wall and a further survey and evaluation of the wall are included within the submissions which both propose recommendations of structural/repair works.
7. These works to the listed wall require listed building consent (the second application) as do the works to the outer boundary wall by reason of it being an in-curtilage feature covered by the Hardwicke Hall Manor Hotel listing.
8. The application is reported to Central and East Area Planning Committee at the request of the Local Ward Councillor and it constitutes a residential development of fewer than 200 dwellings on a site of less than 4ha.

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## **PLANNING HISTORY**

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9. Since Hardwicke Hall has been operating as a hotel relatively extensive planning history relates to the site.
10. In 1989 planning permission was granted for retrospective landfill works in association with the formation of additional car parking to the rear of the hotel. In 1992 planning permission and listed building consent was granted for a proposed extension to the rear of the hotel to provide additional kitchen and toilet facilities.
11. In 1995 planning and listed building consent applications for a proposed rear extension to provide staff accommodation were withdrawn. A sewage treatment plant was approved to serve the site in February 1997.
12. In February 1999 planning permission and listed building consent was granted for a major extension to the hotel comprising of 25 bedrooms, leisure facilities, new reception area, conference facilities and managed apartments. The main extensions gained planning permission in full with the conference facilities and managed apartments gaining planning permission in outline. The managed apartments were proposed within the walled garden. Indicative plans presented the managed apartments as a large central block of 1 ½ storeys incorporating a hipped roof and dormers.

13. These consents were then renewed to permit a further 5 year period in which for the development to commence.
14. In March 2005 a further application was approved in outline proposing conference and managed apartments. Once again the managed apartments were proposed within the walled garden.
15. The above planning and listed buildings consents to provide expanded facilities were not implemented and have expired.
16. The two current planning applications (PL5/2011/401 and PL/5/2011/402) were previously placed on the Committee Agenda 10<sup>th</sup> January 2012. Members resolved to defer determination to permit further time for the applicant and officers to discuss the applications.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

17. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). 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. 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’.
18. 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 relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
19. *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.
20. *NPPF Part 3 - Supporting a Prosperous Rural Economy.* 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.
21. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.

22. *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.
23. *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. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
24. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
25. *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.
26. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
27. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

<http://www.communities.gov.uk/documents/planningandbuilding/pdf/2116950.pdf>

28. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; flood risk; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; noise;; planning obligations; rural housing; use of planning conditions and; water supply, wastewater and water quality.

<http://planningguidance.planningportal.gov.uk/>

## LOCAL PLAN POLICY:

### District of Easington Local Plan 2001 (ELP)

29. *Policy 1 – General Principles of Development.* Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
30. *Policy 3 – Protection of the Countryside.* Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
31. *Policy 7 – Protection of Areas of High Landscape Value.* Development which adversely affects the character, quality or appearance of Areas of High Landscape Value (AHLV) will only be allowed if the need outweighs the value of the landscape and there is no alternative location within the County.
32. *Policy 14 - Protection of Special Areas of Conservation.* Development which is likely to adversely affect such a site will only be approved where there is no alternative solution and there are reasons of an over-riding national interest. In cases where a priority habitat or species may be affected development will only be approved where it is necessary for reasons of human health or public safety or beneficial consequences of primary nature conservation importance arise.
33. *Policy 15 - Protection of Sites of Special Scientific Interest and National Nature Reserves.* This policy states that development which is likely to adversely affect a notified site of special scientific interest will only be approved where there is no alternative solution and the development is in the national interest.
34. *Policy 16 - Protection of Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodlands.* This policy states that development likely to adversely affect such a site will only be approved where there is no alternative solution within the county or district (as appropriate) and the development is in the national interest.
35. *Policy 18 – Species and Habitat Protection.* Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
36. *Policy 24 – Protection of Listed Buildings.* Development which adversely affects the character, appearance, special architectural features or setting of a listed building will not be approved. The retention of architectural or historic features will be encouraged. Demolition of a listed building will be only be allowed in exceptional circumstances.
37. *Policy 35 – Design and Layout of Development.* The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

38. *Policy 36 – Design for Access and Means Travel.* The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
39. *Policy 37 – Design for Parking.* The design and layout of new development should minimise the level of parking provision (other than for cyclists and disabled people) which, other than in exceptional circumstances, should not exceed the maximum levels guidance.

#### **RELEVANT EMERGING POLICY:**

##### The County Durham Plan

40. Paragraph 216 of the NPPF says that 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. The County Durham Plan was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council has withdrawn the CDP from examination. In the light of this, the CDP is no longer material.

##### Monk Hesleden Neighbourhood Plan

41. In September 2013 Monk Hesleden Parish was granted approval for designation of a neighbourhood area having regards to the Neighbourhood Planning (General) Regulations 2012. However, work on the neighbourhood plan has ceased. In addition the application site lies outwith the area which the designation specifically related to. As a result it is considered the Monk Hesleden Neighbourhood Plan is not material to the determination of the applications.

*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/ldf> (District of Easington Local Plan)  
<http://durhamcc-consult.limehouse.co.uk/portal/planning/> (County Durham Plan)

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

42. *Monk Helseden Parish Council* – Resolved to provide no comments on the applications.
43. *Highway Authority* – No objections are raised to the addition of 4 properties utilising the private road from B1281, however, a widening of the access road would be required and a speed hump relocated. Regular maintenance of the roadside vegetation on the B1281 either side of the existing road junction to ensure an adequate visibility splay is required. Should the proposed access where it breaches the listed wall be sought with a 3m width it should have a straight approach with a “give way” arrangement.

44. *Historic England* – No comments are made. The applications do not fall within their statutory remit for providing comment.
45. *Natural England* – No objections. It is stated that the development does not appear to affect any statutorily protected sites or landscapes or have significant impacts on the conservation of soils. Standing advice with regards to protected species is provided with no objections raised.
46. *Northumbrian Water* – No objections.
47. *Environment Agency* – Raise no objections. Foul waters would be discharged into an existing sewage treatment tank. Provided that the treatment tank is appropriately it would be able to cater for the level of discharge.

#### **INTERNAL CONSULTEE RESPONSES:**

48. *Design and Conservation* – Object to the proposals. Officers consider that the proposed development would cause demonstrable harm to the listed wall. This would be as a result of the direct effects of the proposed vehicular access impacting upon the fabric and completeness of the wall. The submitted wall survey and evaluation does not provide a complete picture of the condition of the listed wall due to the degree of undergrowth and ivy coverage restricting access and the full degree of conservation works necessary is unknown. The heritage statement and other supporting documents whilst capturing well the known significance of the listed wall do not identify the full significance of its oval shape, the role of the internal space or wider role in the setting of the Hall. The proposed residential dwellings and associated works would result in substantial harm to the setting of the listed wall as a result of the infilling of the space that it encloses. The submitted “Economic Statement and Case for Enabling Development” document is considered to fail the tests of an enabling case. The planning application is considered to fail to demonstrate the necessary public benefits or enabling case to outweigh the harm to the heritage assets.
49. *Landscape* – Object to the proposals. Officers are of the view that the visual intrusion of the two storey dwellings has been under estimated and under assessed. The visual impact of the development, as seen above the walled garden, will negatively affect the, the landscape character of the designated Area of High Landscape Value and the appearance of the countryside on the fringes of Blackhall Colliery settlement. The development would result in the loss of trees including distinctive Scots Pine. The walled garden by reason of its size and shape is likely rare. The development would result in adverse heritage impact.
50. *Tree Officer* - The site is subject to a Tree Preservation Order (TPO). Further details on the precise works and impacts upon trees are required.
51. *Senior Structural Engineer* – No objections are raised to the submitted structural report on the listed wall.
52. *Archaeology* – Object to the proposals. It is considered that the proposed development would have a detrimental impact upon the setting of the listed hall and wall. The submitted desk based archaeological assessment highlights the possibility of the Medieval manor complex extending into the development. It is considered that there is evidence of medieval period earthwork features to the south-west of the hall and that the settlement in that period extended beyond the existing complex. The submitted desk based archaeological assessment recommends that trial trenching is required.

53. *Ecology* – No objections. The recommendations contained within the submitted method statement should be conditioned.
54. *Economic Development and Regeneration* – Improvements to hotels and potential enhancements to safeguard and create jobs or tourist custom in the County can be broadly supported. The suggestions that receipts from the residential development would be utilised towards improvements to the main hotel and listed wall is welcomed. However, inadequate justification and evidence has been submitted for the proposal to be properly assessed as an enabling development. Detailed costings, development appraisals related to the work sought is not provided. A section 106 legal agreement or heads of terms demonstrating how proceeds would be attributed to works has not been submitted and would have demonstrated greater commitment. Support cannot be offered to the scheme in its current form.

#### **PUBLIC RESPONSES:**

55. The application was advertised within the press, on site and letters were sent to neighbouring properties. A total of three letters have been received, all in support. Comments are summarised below.
56. *Alan Cox (Former Blackhall Division Councillor)* – Supports the application. The proposals would support the future success of the business and the hotel provides a service to the local community and clients from all over the country and worldwide. A request is made that the application be heard at Planning Committee.
57. *Councillor Crute (Blackhall Division)* – Requests that the application be heard at Planning Committee.
58. *East Durham Business Service* – Support the proposals.

#### **APPLICANTS STATEMENT:**

59. The application is supported by a Design and Access Statement, Heritage Statements, Planning Policy Statement and Economic Statement and Case for Enabling Development.
60. Hardwicke Hall Manor Hotel is a family run business which caters for both commercial and tourist visitors, holds private functions as well as providing a full bar and restaurant service. The hotel is three stars rated and is currently the only significant remaining hotel in the East Durham area.
61. Planning permission has previously been granted for the expansion of the hotel facilities including managed apartments located within the walled garden. However, this permission was never implemented due to financial constraints that saw a threefold increase in the estimated development costs.
62. The proposed development that will secure a capital contribution that will be invested into the business thereby securing its long term sustainability and protect the 31 jobs directly associated with the business. The funding will permit works for the preservation of the listed wall with other potential further works to the listed hall such as roof repair and central heating upgrade identified should remaining capital permit.
63. The supporting documents consider that many key planning considerations are met through the development including its contribution to sustainable economic development; constituting an exceptional case to rural restraint policies; contribution



to the provision of needed executive housing and conservation of the heritage assets. Most emphasis, however, is placed on the contribution the development would make to the sustaining of the existing hotel business and the benefits of this to the local community, economy and employment.

*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://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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64. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to; the principle of the development; the case for special circumstances and listed building discussion; landscape and visual impacts; highway safety/issues; residential amenity and ecology.

### Principle of Development

#### *The Development Plan*

65. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The CDLP remains a statutory component of the development plan and the starting point for determining applications as set out at paragraph 12 of the NPPF. However, the NPPF advises at paragraph 215 that local planning authorities (LPAs) are only to afford existing Local Plans material weight insofar as they accord with the NPPF.
66. Furthermore, paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
    - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
    - ii) specific policies in this Framework indicate development should be restricted.
67. The application site lies beyond any settlement boundary as defined in the Easington Local Plan (ELP). ELP Policy 3 states that development outside the “settlement limits” will be considered as development in the countryside and unless specifically allowed for by other policies, such development will not be approved. There is no saved policy within the ELP which relates to housing in the countryside. The

application in seeking housing beyond a settlement boundary is in conflict with ELP Policy 3. Policy 1, advising on the general principles of development, reiterates this advice.

68. Nationally, recent planning case law has found that policies within existing Local Plans that refer to settlement boundaries can be considered to be policies for the supply of housing. Furthermore, the Secretary of State has previously concurred with a Planning Inspector who considered that where policies for the supply of housing are based on housing figures of some age, which did not represent an objectively assessed need, are "out of date" irrespective of the position on 5 year housing land supply (discussed separately below).
69. Given the age of the ELP and housing supply figures that informed it, the housing supply policies therein do not reflect an up to date objective assessment of need. Policies 1 and 3 must now be considered "out-of-date", for the purposes of Paragraph 14 of the NPPF and no weight can be afforded to them in relation to their advice on housing supply.
70. Consequently, it is considered that in this instance, the proposal should not be assessed against its compliance with ELP Policies 1 and 3 having regard to their advice on housing land supply but instead should be assessed against advice contained within Paragraph 14 of the NPPF.

#### *Five Year Housing Land Supply*

71. The National Planning Policy Framework (NPPF) outlines the Government's objective of ensuring that the planning system delivers a flexible, responsive supply of land. The NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements); however there is also an additional buffer of 5% to ensure choice and competition in the market for land. Where there has been a history of persistent under delivery of housing, LPAs should increase the buffer to 20% to provide a realistic prospect of achieving the planned supply and to ensure choice and competition in the market for land. Based on completion rates in recent years it is accepted that 20% is currently applicable in County Durham.
72. In the determination of recent planning applications the Council considered that a five year supply of housing land could be demonstrated. This was based upon the most up to date Objectively Assessed Need (OAN) in relation to housing which was derived from the findings of the Inspectors Interim Report in relation to the County Durham Plan Examination in Public. However, with this Interim Report now quashed this OAN cannot be utilised to inform on the five year housing land position. A revised OAN is currently being calculated but is not complete. The Council is therefore currently unable to calculate and therefore cannot demonstrate a five year housing land supply.
73. Paragraph 49 of the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. In turn where a five year supply of deliverable housing sites cannot be demonstrated then paragraph 14 of the NPPF is engaged and an application is to be assessed in this context. However, paragraph 14 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the ELP are out-of-date as outlined above.

### *Locational Sustainability of the Site*

74. The application site lies beyond any settlement boundary but as stated above no weight can be attributed to ELP Policy 3. The NPPF does not advocate the use of settlement boundaries nor does it preclude development on the edges of settlements though advocates that development should be sustainable.
75. The grouping of buildings at Hardwicke Hall (including adjacent properties) is detached from the built-up settlement of Blackhall Colliery with the application site approximately 170m to the west. Blackhall Colliery is contained to the east of the application site by the Hardwick Dene which provides a clear natural and physical boundary to the settlement.
76. Blackhall Colliery has a range of services and facilities including shops, two primary schools and a medical practice with bus services on Coast Road running through the centre of the settlement. A footpath runs on the south side only of the B1281 which connects the private access drive at Hardwicke Hall to Blackhall Colliery, however, walking distances to many of these services are quite lengthy with Coast Road approximately a 1.3km walking distance from the location of the proposed housing.
77. As a result it is considered that the proposed dwellings would not constitute a logical extension to a settlement and rather represent more isolated development within the countryside to which paragraph 55 of the NPPF advises against unless special circumstances would apply.

### *Conclusion of the Principle of the Development*

78. ELP Policies in relation to housing supply are not up-to-date. As a result the acceptability of the development rests on whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted.
79. As the development constitutes an isolated residential development paragraph 55 of the NPPF is relevant and provides specific advice on those special circumstances in which the development can be considered acceptable. Should the development not meet the advice contained within paragraph 55 it is considered that the NPPF is indicating that the development should be restricted as per the advice contained at paragraph 14.

### *The Case for Special Circumstances and Listed Building Discussion*

80. The originally submitted documentation in support of the applications sought, on economic grounds, to justify the housing development despite an accepted conflict with rural restraint policies and guidance in this regard.
81. The original supportive documentation to the development outlined that the housing development would generate a significant injection of capital in order to secure the future of the business and the associated benefits that would result in regards to the service the hotel provides in East Durham, the benefits to the local economy and employment opportunity. Other benefits of the development are cited within the documentation as the provision of executive housing and the conservation of the listed wall.

82. During the course of the determination of the applications a further “Economic Statement and Case for Enabling Development” (the Economic/Enabling Statement) has been submitted to present further the supportive case for the development and is the first formal introduction of an enabling case justification for the development. The underlying premise of the Economic Statement is stated as being the enabling aspect of the proposed development that will secure a capital contribution that will allow the business to invest financially in improvements to the fabric of the hotel building and grounds and thereby secure its long term sustainability and protect the 31 jobs stated as directly associated with the business. Originally submitted documentation in support of the development referenced the contribution the financial receipt from the development would make to the repaying of a loan debt, though this is not referenced within the more up to date Economic/Enabling Statement.
83. The Economic/Enabling Statement considers that the operating profitability of the hotel is insufficient to provide available capital to fund any significant upkeep, maintenance or improvement works to the listed hall, wall or outbuildings within the grounds of the hotel. The Economic/Enabling Statement considers that the financial receipts from the proposed residential development can be used to fund the preservation of the listed wall with other potential further works to the listed hall such as roof repair and central heating upgrade identified should remaining capital permit.
84. The Economic/Enabling Statement reinforces the considered benefits that the investment would bring in securing the future of the hotel and associated economic and tourist benefits.
85. Paragraph 55 of the NPPF states that in principle an isolated housing development can be accepted where there are special circumstances which includes where the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets.
86. Similarly, paragraph 140 of the NPPF states that LPAs should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset outweigh the disbenefits of departing from those policies.
87. Enabling development is not a statutory term but was confirmed as a legitimate planning tool in 1988 by the Court of Appeal. Historic England within its guidance “Enabling Development and the Conservation of Significant Places” (Historic England Guidance) define enabling development as “development that would be unacceptable in planning terms but for the fact that it would bring public benefits sufficient to justify it being carried out, and which could not otherwise be achieved.” It is an established and useful planning tool to secure the long-term future of a place of heritage significance, and sometimes other public benefits, provided it is satisfied that the balance of public advantage lies in doing so.
88. The Historic England Guidance provides detailed advice for applicants, Local Authorities and interested parties in respects to the wide range of enabling development issues such as the need to fully understand the heritage assets, the assessment of financial appraisals accompanying applications, decision making, securing the benefits and monitoring and enforcement. The Historic England Guidance includes a policy establishing the key criteria which an enabling development case should meet to be found acceptable. This includes but is not restricted to:

- That the development will not materially harm the heritage values of the place or its setting; it will secure the long-term future of the place;
- The development is necessary to resolve problems arising from the inherent needs of the place, rather than the circumstances of the present owner, or the purchase price paid;
- Sufficient subsidy is not available from another source;
- The amount of development is the minimum necessary; and
- The public benefit of securing the future of the significant place through such enabling development decisively outweighs the disbenefits of breaching other public policies.

89. It is considered that the application does not present an enabling development which meets this guidance and in turn it is considered that the proposals do not represent an appropriate enabling argument having regards to NPPF paragraphs 55 and 140.
90. The development proposals themselves would cause harm to heritage assets. Section 66 of The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.
91. The NPPF at paragraph 128 emphasises the importance of understanding the significance of heritage assets including any contribution made by their setting. Whilst the submitted heritage statements capture well the known significance of the listed wall, the full significance of its oval shape, which is rare, the role of the internal space or wider role in the setting of the Hall itself is not fully identified.
92. Despite this the proposed residential dwellings would result in substantial harm to the setting of the listed wall as a result of the infilling of the space that it encloses. The Historic England Good Practice Advice in Planning note “The Setting of Heritage Assets” provides detailed advice in regards to the setting of heritage assets including the contribution that setting makes to significance highlighting that significance derives not only from its physical presence and historic fabric but the surroundings in which it is experienced as well as perceptual and associational attributes. The large expanse of hardstand on the inside of the walled garden comprising of the resin bonded gravel courtyard that provides parking and manoeuvring space is considered to contribute to the detrimental impact upon the setting of the listed wall.
93. The creation of a vehicular access would have a direct and substantially harmful impact upon the fabric and completeness of the wall. It is acknowledged that during the course of the applications the width of the breach has been narrowed to reduce impact but nevertheless the harmful impact would occur.
94. Furthermore though the full understanding of the relationship of the listed wall, the garden it encloses and the listed hall is not clear it is considered that a degree of harm, likely less than substantial harm, would occur to the setting of the hall as a result of the proposed residential development. The aforementioned harm to the setting of the listed wall and the association of the listed wall and enclosed space with the hall result in harm to the setting more widely of the listed Hall.
95. As a result, it is considered that the proposals by reason of the effects upon the fabric of the listed wall and the effects of the proposed dwellings upon the setting of

the listed wall and listed hall result in harmful impacts upon the heritage assets. It is considered that in the case of the listed wall that this would be substantial harm and in the case of the listed hall less than substantial harm. These effects would be contrary to section 66 of the Listed Building Act as well as the requirements of ELP Policy 24 and Part 12 of the NPPF. ELP Policy 24 is considered consistent with the provisions of the NPPF and can therefore be afforded weight in the determination of the application. Design and Conservation Officers have objected to the applications.

96. Whilst the applications propose reparatory works to the listed wall which would, in principle, provide a beneficial impact upon the heritage asset, the presence of undergrowth and ivy coverage means that a complete understanding of the condition of the wall and in turn a fully informed schedule of works cannot be prepared or costed. The level of work required to the wall may far outweigh the monies produced from development or conversely the amount of development required may be far less to facilitate the repair of the wall. In the absence of a full understanding of the works necessary to the wall, nor development appraisal submissions, it is unknown. The information supplied to support a proposal for an appropriate enabling development should cover all financial aspects of the proposed enabling development, at a sufficient degree of detail to enable scrutiny. This applies both to the definition of need of the enabling development – the condition of the place and the means and cost of addressing its problems and the definition of the scale of development necessary to meet that need.
97. The remaining further works to the listed hall such as roof repair and central heating upgrade are not provided in detail and are stated as being potential works should remaining capital permit. Again no financial information in regards to these works are provided.
98. The applications are considered to fail to meet other tests of the enabling development policy contained within the Historic England Guidance. The development would appear to result in the fragmentation of the of the management of the heritage assets with the residential properties within the walled garden sold and the listed wall itself in shared ownership or maintenance responsibility. It cannot be quantified that the long term future of the heritage assets would be secured having regards to the absence of development appraisal information. Means of securing the works proposed is not clear. The originally submitted “Planning Policy and Heritage Statement” does reference a willingness to a condition or legal agreement in relation to the works proposed to the listed wall though the more up to date Economic/Enabling Statement does not reference this. No suggestions of phasing of the development proposals have been made having regards to the Historic England advice that the benefits of the enabling development should be secured as early as possible and that the beneficial impacts of the development should be a step ahead of any detriment. Overall it is considered that the proposed enabling case does not meet the tests of an appropriate enabling development as referred to within paragraphs 55 and 140 of the NPPF.
99. It is acknowledged that the applicant has sought to emphasise the general economic and public benefits that the development proposals would bring aside from any specific enabling case debate. It can be appreciated that, in broad terms, the financial receipt from the development may have a beneficial impact upon the economics of the operation business. In turn should the business in economic terms, be in a more healthy condition than at present it can also be appreciated that this may place the hotel business in a better position for the future with the associated employment and tourism service. The supportive comments received from the East Durham Business Service and Alan Cox are noted. However, in order to overcome the objections to the isolated nature of the residential development

proposed and the resultant harm to heritage assets it is considered that any special circumstances or public benefits must be more demonstrable and more clearly secured than the applications propose.

## Landscape and Visual Impacts

100. The application site lies within a designated Area of High Landscape Value (AHLV) to which ELP Policy 7 relates. This Policy states that development which adversely affects the character, quality or appearance of the AHLV will only be allowed if the need outweighs the value of the landscape and there is no alternative location within the County. The policy is considered only partially NPPF compliant as whilst the NPPF acknowledges the importance of protecting the character of valued landscapes it does not recommend local landscape designations.
101. Landscape Officers object to the development proposals. The visual impact of the development, as seen above the walled garden, will negatively affect the landscape character of the designated AHLV and the appearance of the countryside on the fringes of Blackhall Colliery.
102. Whilst the provision of the dwellings proposed would represent isolated development in the countryside and therefore requires the demonstration of special circumstances so as to be acceptable, in wider landscape terms, the siting of the dwellings would be well contained. Trees both within the site and beyond the site adjacent to the B1281 and within Hardwick Dene would effectively screen the development from many public vantage points. When approaching Hardwicke Hall from the private access road off the B1281 the dwellings would then become more prominent where they project above the listed wall.
103. The application site is covered by a Tree Preservation Order (TPO). The application is accompanied by a tree report and plan identifying the trees. Works including removals could result due to the siting of the proposed access where it breaches the listed and outer walls and as a result of the development within the walled garden itself. The Council's Tree Officer considers that inadequate information has been submitted to determine the precise works to trees necessary. Many of the trees within and adjacent to the walled garden are self-seeded specimens, however, trees of greater value including mature pine trees are within the immediate vicinity of the works.
104. Site visits have been held with representatives of the Council's Landscape Team and the arboricultural consultants of the applicant to discuss further the implications of the development upon trees. Whilst no further arboricultural information has been forthcoming following these discussions it is considered that in the event of any approval, conditions could be added to resolve final works and protection measures.
105. Notwithstanding the isolated nature of the site and the concerns expressed regarding impacts upon heritage assets in landscape terms the impact upon the character and appearance of the AHLV within which the site is located is considered limited and specific objection to the proposals on these grounds are not raised.
106. No objections are raised to the proposed dwellings themselves in terms of their appearance and design. The proposed dwellings comprise of a simple and traditional design. Quality materials are proposed with the use of brick, slate to the roof coverings and timber windows. The submitted design and access statement presents in detail the design evolution of the scheme and the consideration given to several renditions of the proposals. No objections are raised to the development

having regard to the advice within ELP Policy 35. Policy 35 is consistent with the NPPF and can be afforded full weight in the determination of the application.

107. However, as previously referred to, the large expanse of hardstand on the inside of the walled garden comprising of the resin bonded gravel courtyard that provides parking and manoeuvring space is considered to contribute to the detrimental impact upon the setting of the listed wall.

#### Highway Safety/Issues

108. The Highway Authority raises no objections to the principle of the addition of four properties utilising the private road from the B1281. However, a widening of the access road would be required and a speed hump relocated. Regular maintenance of the roadside vegetation on the B1281 either side of the existing road junction to ensure an adequate visibility splay is required. Conditions could be added to any approval to resolve the final details in this regard.
109. The originally submitted plans proposed that the access, where it breaches the listed wall had a width of 4m. An amended plan reduced this width to 3m so as to reduce the impact upon the heritage asset. The alignment of this access route was also amended so as to reduce potential impacts upon trees. However, the Highway Authority has advised that this amended alignment is not straight enough and would require revision together with formation of a “give way” arrangement. A condition could be added to any planning permission to agree the precise alignment of the access through the outer and listed wall.
110. As a result no objections to the development are raised with regards to highways issues with the development considered compliant with Part 4 of the NPPF and ELP Policies 36 and 37 which are considered consistent with the NPPF and can therefore be afforded weight in the decision making process.

#### Residential Amenity

111. The application site is somewhat divorced from neighbouring property. Hardwicke Hall itself is located approximately 60m north of the nearest proposed dwelling with the nearest residential property being Wood Cottage at approximately 70m to the west. Taking into consideration the separation distances involved and the screening afforded to the proposed development by the listed and outer walls and landscape features it is not considered that any detrimental impact upon the occupiers of neighbouring property would occur through the loss of privacy or amenity. The layout and design of the proposed dwellings would also provide for adequate amenity for the prospective occupiers.
112. Hardwicke Hall Farm is located approximately 130m to the north-west of the walled garden within which the proposed dwellings would be cited. Though movements associated with the farm could share the access route with the proposed dwellings it is considered that the scale of operations and distances involved between the farm and dwellings are such that the farm would not result in detrimental impacts upon the prospective occupiers through for instance noise, disturbance or odour.
113. The demolition and construction activities associated with the development would generate a degree of noise, vehicular movements and potentially dust. However, the scale of the development proposals is relatively modest and the works associated with the construction phase would be temporary in nature. As a result no objections are raised to the development on the grounds of the impacts upon amenity as a result of the construction/demolition phase of the development.



114. No objections to the development are raised with regards to residential amenity with the development considered compliant with Part 11 of the NPPF and ELP Policy 36 which is considered consistent with the NPPF and can therefore be afforded weight in the decision making process.

## Ecology

115. Under the requirements of Conservation of Habitats and Species Regulations 2010 (and as amended in 2012) it is a criminal offence to (amongst other things) deliberately capture, kill, injure or disturb a European Protected Species (EPS), unless such works are carried out with the benefit of a licence from Natural England. Regulation 9(3) of The Habitat Regulations requires local planning authorities to have regard to the requirements of the Habitats Directive in exercising its functions. Case law has established that local planning authorities must consider whether the applicant might obtain a protected species licence from Natural England. This requires an examination of the derogation provisions if there is likely to be a disturbance of an EPS.
116. The application is accompanied by a bat risk assessment. The submitted bat risk assessment found no evidence of bat usage at the site, however, given the condition of the wall and presence of holes within its fabric there is the potential for the wall to provide roosting habitats. As a result a method statement has been prepared and proposes precautionary working methods and timings. This method statement can be conditioned on any approval as advised within the comments of the Ecology Officers. As no protected species licence from Natural England is considered to be required there is no requirement to examine the proposals against the derogation provisions.
117. With regards to statutory designated sites, the Sites of Special Scientific Interest (SSSIs) and Special Areas of Conservation (SACs) at Castle Eden Dene and Durham Coast are located approximately 800m and 1.2km from the site. The Northumbria Coast Special Protection Area (SPA) and RAMSAR site is located approximately 2km from the site. Natural England raise no objections to the development with regards to the potential impacts upon statutory designated sites. With regards to non-statutory designated sites Blackhall Grasslands local nature reserve is located approximately 1.1km from the site and Hesleden Dene local wildlife site is located 1.3km from the site. Ecology Officers raise no objections to the development with regards to potential impacts upon statutory or non-statutory designated sites.
118. As a result no objections are raised to the development on ecological grounds with the development considered compliant with Part 11 of the NPPF and ELP Policies 14, 15, 16 and 18 which are considered consistent with the NPPF and can therefore be afforded weight in the decision making process.

## Other Issues

119. The applications have been accompanied by an archaeological desk-based assessment. This assessment considers that there is the potential for impact upon archaeological resource and recommends that this be further evaluated through the excavation of trial trenches.
120. Archaeology Officers object to the application and highlight the need for trial trenching as recommended within the desk-based assessment having regards to the evidence of medieval period earthwork features to the south-west of the hall and that

the settlement in that period extended beyond the existing complex with potential for the medieval manor complex extending into the development site. No results of trial trenching have accompanied the application. However, in an event of an approval it is considered that a condition could be utilised to ensure such trial trenching is undertaken.

121. The application site lies within flood risk zone 1 and is therefore located on land least likely to suffer from tidal or fluvial flooding. Foul waters would be discharged into an existing septic tank. The Environment Agency has stated that provided the existing sewage treatment tank is appropriately maintained it would be able to cater for the level of discharge. Surface waters are proposed to discharge to the Hardwicke Dene at greenfield run-off rates. A condition could resolve final details. Officers raise no objections on the grounds of flood risk having regards to Part 10 of the NPPF.
122. The planning application has been accompanied by a contaminated land risk assessment and this considers that the site is low risk with no requirement for a further phase 2 intrusive investigation.

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## **CONCLUSION**

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123. In order to justify the refusal of planning permission Paragraph 14 of the NPPF requires any adverse impacts of a proposed development to significantly and demonstrably outweigh any benefits, or that specific policies within the NPPF indicate that the development should be restricted.
124. The proposed residential development would not constitute a logical extension to a settlement but rather more isolated development which is not a sustainable location for new housing. Paragraph 55 of the NPPF advises against the provision of isolated new homes in the countryside unless special circumstances apply.
125. The planning application presents an enabling and public benefit case. However, it is considered that proposals fail to meet the requirements of an appropriate enabling case. Harm to heritage assets would result from the development proposals. No other demonstrable or significant benefits are considered to apply to that would outweigh the adverse impacts of isolated housing and the harm to heritage assets and this is in knowledge of the benefit that the proposals would have to housing land supply.

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## **RECOMMENDATION**

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

PL/5/2011/0401 (Planning Application)

1. The Local Planning Authority considers that the proposed development would represent an isolated residential development for which no acceptable special circumstances have been demonstrated and as a result the proposed development does not represent sustainable development. The development is considered contrary to paragraph 55 of the NPPF.
2. The Local Planning Authority considers that the proposed development by reason of its partial demolition works, scale, siting and design would result in substantial harm to the fabric, character and setting of the Grade II listed Garden Wall and less than substantial harm to the setting of the Grade II listed Hardwicke Hall Hotel. The public

benefits of the development do not outweigh the harm and the development is contrary to paragraphs 133 and 134 of the NPPF and Policy 24 of the Easington Local Plan.

PL/5/2011/0402 (Listed Building Consent)

1. The Local Planning Authority considers that the proposed development by reason of the partial demolition of the Grade II listed Garden Wall and resultant effect on fabric and character would result in substantial harm. The public benefits of the development do not outweigh the harm and the development is contrary to paragraph 133 of the NPPF and Policy 24 of the Easington Local Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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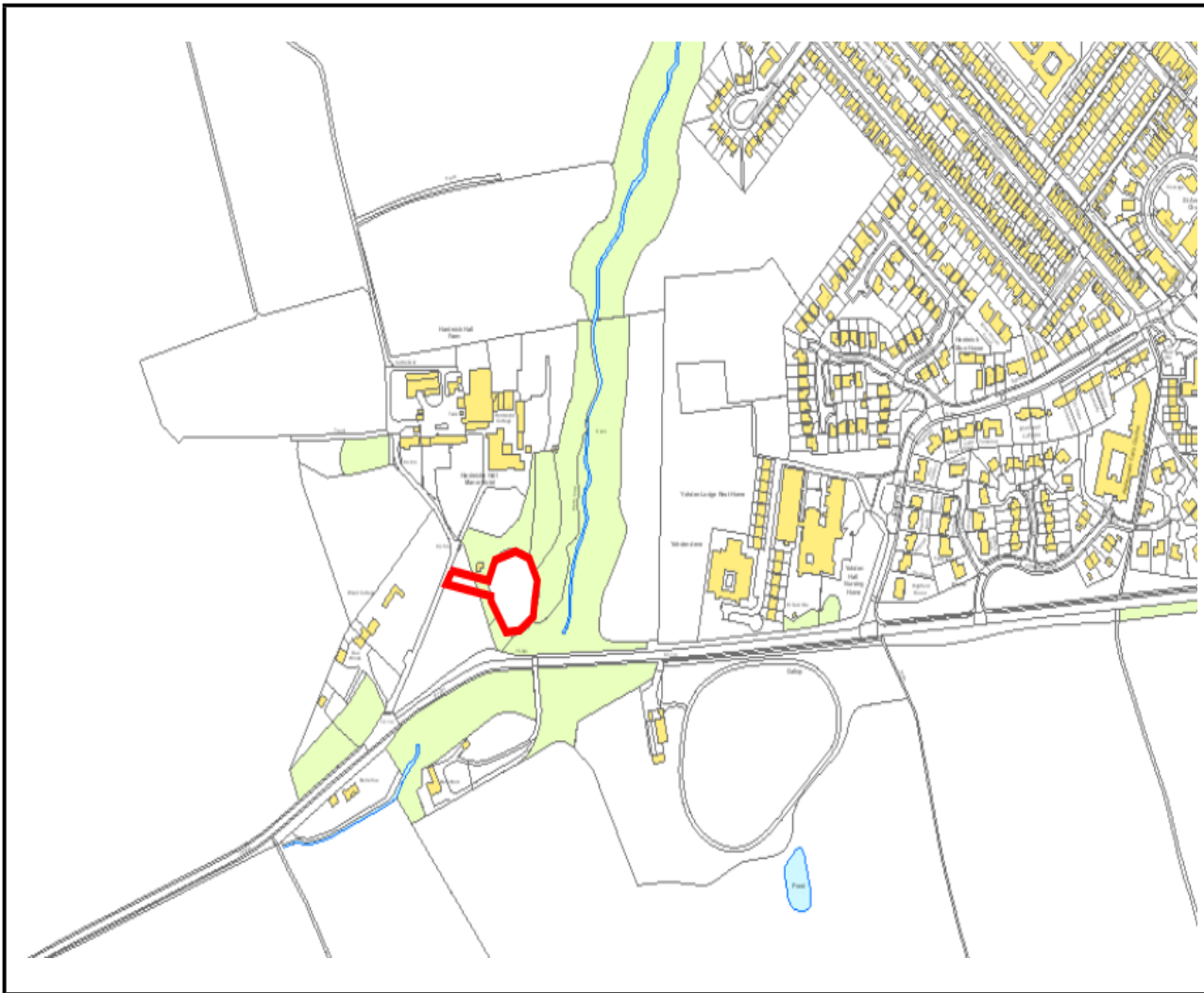
The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. *(Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

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## **BACKGROUND PAPERS**

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- Submitted application forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- District of Easington Local Plan
- Historic England publications “Enabling Development and the Conservation of Significant Places” and “The Setting of Heritage Assets”
- Statutory, internal and public consultation responses



**Planning Services**

PL5/2011/401 and PL5/2011/402

PL5/2011/401 – Four detached residential properties including private vehicular access road

PL5/2011/402 – Partial demolition of Grade II listed garden wall and proposed repair of remainder, partial demolition of boundary wall within curtilage of Hardwicke Hall Manor Hotel in association with residential development of four dwellings

Mr A & D Bradley

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**Comments**

**Date**  
10<sup>th</sup> November 2015

**Scale**  
Not to scale