

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/00240/FPA
FULL APPLICATION DESCRIPTION:	Removal of condition 4 of permission 1/2011/0035 to permit the use of the residential annex as a dwelling (use class C3)
NAME OF APPLICANT:	Mr C Smith
ADDRESS:	The Granary Woodlea Manor Lanchester Durham DH7 0RP
ELECTORAL DIVISION:	Lanchester
CASE OFFICER:	Graham Blakey Planning Officer Telephone: 03000 264865 graham.blakey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to the annex of a property known as 'Woodlea Manor' a large stone built dwelling, near the 'five Land Ends' junction between Satley and Lanchester, situated on Browney Bank. The site is accessed from the highway on the south-east boundary on to the B6296. The site is heavily treed to the non-roadsides boundaries, with a land surrounded by a low dry-stone wall which rises in height toward the roadside boundary.
2. The annex building, located to the north-east corner of the site is two storeys in height. It was originally constructed as a garage / stable building, permission was subsequently granted for the ground floor to be used as an annex to the main, larger dwelling. External alterations have been made to the building and it features living accommodation that would be capable of use as a single dwelling without further external changes to the building.

The Proposal

3. Permission is sought to remove condition 4 of planning permission 1/2011/0035 which states –

'The storage, garage and stable building should not be occupied other than as a residential annex to Woodlea Manor, the main house, at ground floor level only and not as an unrelated unit of living accommodation. No further internal or external

alterations to the building shall take place without the prior written approval of the Local Planning Authority.

Reason - To determine the scope of this permission and to prevent the use of the building as a separate unrelated dwelling contrary to policies EN1 and EN2 of the Derwentside Local Plan.'

4. The application is reported to members for determination at the request of the local member.

PLANNING HISTORY

5. In 2002, outline planning permission was granted for the Erection of One Dwelling and Retention of Mobile Home for Temporary Period,
6. In 2003, a reserved matters application was approved for the erection of detached dwelling house with detached garage,
7. In 2005, planning permission was granted for the erection of a swimming pool extension and stable block/hay storage,
8. In 2006, a subsequent application was approved for the erection of garage, stable and storage building (resubmission) that was part of the above application,
9. In 2011 (ref: 1/2011/0035), an application to vary condition 3 of Planning Permission 1/2006/0243 to enable part of garage, stable and storage building to be used as a residential annex with external alterations (resubmission) was approved with conditions.
10. Finally, in 2015, an application was submitted to regularise external alterations to the appearance of the building that is subject to this application. These alterations had taken place without planning permission.

PLANNING POLICY

NATIONAL POLICY

11. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
12. 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'.
13. 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 below.

14. The following elements of the NPPF are considered relevant to this proposal;
15. *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.
16. *NPPF Part 4 Promoting Sustainable Transport.* Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
17. *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.

NATIONAL PLANNING POLICY GUIDANCE

18. *Rural Housing.* It is important to recognise the particular issues facing rural areas in terms of housing supply and affordability, and the role of housing in supporting the broader sustainability of villages and smaller settlements. A thriving rural community in a living, working countryside depends, in part, on retaining local services and community facilities such as schools, local shops, cultural venues, public houses and places of worship. Rural housing is essential to ensure viable use of these local facilities.
19. *Noise.* - Noise needs to be considered when new developments may create additional noise and when new developments would be sensitive to the prevailing acoustic environment. Consideration should be given to whether significant adverse effect or an adverse effect occurs or is likely to occur; or whether a good standard of amenity can be achieved. Paragraph 123 of the NPPF provides policy support to this aspect.

LOCAL PLAN POLICY:

The Derwentside Local Plan

20. *Policy GDP1 General Development Principles* – outlines the requirements that new development proposals should meet, requiring high standards of design, protection of landscape and historic features, protection of open land with amenity value, respecting residential privacy and amenity, taking into account 'designing out crime' and consideration of drainage.
21. *Policy EN1 Development in the Countryside* – will only be permitted where it benefits the rural economy or helps maintain or enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
22. *Policy EN2 Preventing Urban Sprawl* – Except where provision has been made in the plan, development outside built up areas will not be permitted if it results in: the

merging / coalescence of neighbouring settlements; ribbon development or; and encroachment into the countryside.

23. *Policy TR2 – Development and Highway Safety* – relates to the provision of safe vehicular access, adequate provision for service vehicle manoeuvring, etc.

RELEVANT EMERGING POLICY:

The County Durham Plan

24. 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 is to withdraw the CDP from examination, forthwith. In the light of this, policies of the CDP are no longer material to the determination.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. Highways – No objections to this proposal from the highways aspect.

INTERNAL CONSULTEE RESPONSES:

26. None.

PUBLIC RESPONSES:

27. Neighbours have been consulted by way of direct notification, and a site notice posted. Lanchester Parish Council have commented upon the application and made the following comments: -

- Members object to the removal of condition 4. Referring to their comments on the planning application to convert the building to an annex (1/2011/0035). In their letter on that application dated 2 March 2011 the Parish Council objected to the application stating:

‘If approval was to be given to the development that a condition on the approval be made to state that it can only be used as an annex to the main dwelling and not as a separate residential dwelling’

Parish Members ask that this condition remain.

APPLICANTS STATEMENT:

28. 'This is in relation to the use of the approved annex building as a separate dwelling for permanent residential use un-associated with the main dwelling, Woodlea Manor. Below are some points that should be taken into account in determining the planning application.
29. Constructed over 10 years ago for use as a stable block, garage and storage building associated with the main dwelling, through various permissions granted by the Council, the building has been converted to a residential annex. There has been no deliberate intention to circumvent planning laws relating to the protection of the countryside, demonstrated through the planning history and length of time since initial construction.
30. The annex was originally occupied by my elderly mother, however due to a change in circumstances it was not in her best interests to relocate from Yorkshire where she is now currently being cared for. Over time the use of the building was adapted to changing circumstances, from my initial needs as a garage and storage building associated with the use of Woodlea Manor, through the conversion to an annex and to my urgent need for use of the building as a separate dwelling. A use needs to be found for the building regardless of whether the current application is approved and the tailored set of circumstances of the current case are unlikely to be repeated, therefore pressure will always remain to change the use of the building of other purposes.
31. The annex has not been used to any great extent since 2011, but has been used since March 2015 as a permanent home for occupation by my wife and myself. The period of non-use has necessitated the upkeep of the building. The circumstances surrounding the use of the annex as a dwelling have centred on the inability to sell the whole property. Woodlea Manor is rented to a third party. The property has been on the market for over two years and there has been little interest in its sale. Woodlea Manor is no longer suitable for my needs and the income from renting the property is essential financially, which ideally would eventually be sold.
32. The advice from a selling agent is that a subdivision of the property would enable a more manageable sale process which could be participated in by a wider range of purchasers. The applicant refers to a letter provided in support of the application from Fine and Country, the selling agents which they advise supports this assertion.
33. It is my intention to pursue the sale of the property and retain the annex for my occupation. The prospect of moving elsewhere is unlikely to improve my long term health issues and cause undue distress at this stage in my life.
34. Woodlea Manor and its associated annex are located in the countryside where it is appreciated new dwellings are normally only permitted for key workers. The site is however amongst a range of dwelling with 'The Firs' and 'Woodlea' either side of the property. Whilst not a village or hamlet, it is clearly within the built up frontage to the road. Under certain circumstances there are policies that permit the conversion of total buildings to alternative uses, whilst it is not always envisaged this will be residential, the circumstances of the case deem that a residential use is the most appropriate.
35. The adjacent dwelling known as Woodlea was granted permission despite the countryside protection and key worker policies. Whilst this property may have had existing use rights what in essence had been created is a permanent new dwelling outside established settlements.

36. The annex is an existing building, no alterations are proposed. The use of the annex as a dwelling would have no further impacts on the appearance of the countryside, other than those which exist already. The subdivision of the curtilage will not result in a more intensive appearance and can be managed sensitively to ensure that the site does not appear to be less rural in appearance.
37. The consultation responses to the immediately withdrawn application indicate that there isn't any local objection to the proposal. The highway authority has confirmed there is no objection from a vehicle safety perspective.
38. There is a unique history and set of circumstances associated with the annex which is likely to be difficult to repeat elsewhere and would not create a precedent for future similar developments. If necessary I would be willing to accept a personal use condition to restrict the dwelling to myself and immediate family.'

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 <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=NVKYEAGD0A500>

PLANNING CONSIDERATIONS AND ASSESSMENT

39. This application seeks to remove a condition of the planning permission relating to an outbuilding within the curtilage of Woodlea Manor which requires the building to be occupied solely as an annex at ground floor level only (with storage associated with the main dwelling at first floor level) and not as a separate unit of residential accommodation. In addition the condition prevented any internal or external alterations from taking place. The removal of this condition would enable the building to be occupied as a separate dwelling to Woodlea Manor creating an additional residential unit. The applicant has been occupying the annex in breach of the condition since March 2015 with Woodlea Manor being rented to a third party as a separate residential dwelling. Recent Government advice in the form of a Ministerial Statement makes intentional unauthorised development 'a material consideration that would be weighed in the determination of planning applications and appeals'. Therefore given the retrospective nature of the proposal this carries weight in the decision making process.
40. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development through the sustainability of the application site and the impact upon the character and the appearance of the surrounding area.

Principle of the Development

41. The main issue in regard to the principle of allowing a separate dwelling in this location is whether the proposal constitutes sustainable development. The proposal should, therefore, be considered in the context of paragraph 14 of the Framework which sets out the presumption in favour of sustainable development. It also states that where the development plan is absent, silent or out of date permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits. Due weight should be given to relevant policies in existing plans according to their degree of consistency with the Framework. The closer the

policies in the plan to the policies in the Framework, the greater the weight that may be given.

42. Paragraph 7 of the NPPF outlines the three dimensions to sustainable development: economic, social and environmental. Paragraph 8 of the Framework makes it clear that to achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously through the planning system. Finally, the advice in paragraph 55 which states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities will also be relevant.
43. In terms of the environmental aspects of sustainability the application site lies 1.8 miles to the north east of the village of Satley, which contains a public house and motor garage, and 2.2 miles south west from the Kings Head Public House in the centre of Lanchester. Lanchester contains a selection of services such as doctors, three schools, shops, churches and the village has bus links to Consett, Durham and beyond. Linkages to both settlements are via a B-classified road of rural appearance which has no constant footpath link in either direction and is not lit for significant portions of the distances mentioned above. Also, the topography of the surrounding landscape means that the Browney Valley has to be traversed to reach the village of Satley and the trip to Lanchester requires travelling across the hilltop to the Smallhope Burn Valley in which the village resides. The scale of the distances involved and the nature of the routes would promote the utilisation of the private motor car by occupiers of the new dwelling. Residents would be reliant on the use of the private car given the relatively remote location of the site resulting in the application site being considered to be in an unsustainable location.
44. The use of the building as an annex would operate differently to that of an independent dwelling. An annex provides additional accommodation to a main dwelling but is expected to retain a functional relationship with the main dwelling by sharing facilities, services etc. For example the occupiers of the annex may share visits to local shops and services due to the link with the main dwelling. A separate dwelling would operate entirely independently requiring separate journeys being made to shops, services etc as a result of the separate occupation. This would result in increased vehicle movements as well as putting greater pressure on rural services such as refuse collection, doctors etc. The development would not therefore meet the environmental requirements of sustainability in terms of its location.
45. These distances are also significant in terms of the social benefits that the proposal would have. The development of one rural property some considerable distance from local communities is unlikely to contribute to supporting strong and vibrant communities with good access to local services supporting health, social and cultural well-being. This has implications upon the social benefits of the development and the ability of a separate dwelling to maintain or enhance the vitality of the rural communities.
46. Similarly, the change from annex to separate residential dwelling does not involve any external alteration to the building. These changes were retrospectively agreed through a planning application in 2015 as part of the original use as an annex. The lack of any work to enable the development or any other economic benefits attributed to the additional dwelling would not therefore contribute to the economic sustainability of the application site.
47. Paragraph 55 of the NPPF promotes sustainable development in rural areas however the proposal does not meet any of the criteria set out within this paragraph. The proposal does not comprise the re-use of a redundant or disused building. In

this context 'redundant' is considered to mean 'superfluous' and 'disused' to mean not used at all. Rather, it is the proposed re-use of an ancillary building to the main dwelling house. The building is perfectly capable of continuing to provide an ancillary use, irrespective of the appellant's request not too. The building is not a heritage asset nor does this proposal represent development of exceptional quality or innovative nature of design. The proposal would not lead to an enhancement of the immediate setting and cannot be justified on these grounds.

48. Saved Policy EN1 of the LP states that development in the countryside will only be permitted where it benefits the rural economy, and where proposals should be sensitively related to existing settlement patterns. The Policy is consistent with paragraph 17 of the NPPF which recognise the intrinsic character of the countryside and the need to protect it.
49. The applicant has contested that the proposal represents a unique set of circumstances whereby they reside within the annex and rent out the main house. At the time of writing this report this was no longer the case and the applicant is sole occupier of the site, residing solely in the annex building. Subdividing the plot into two separate dwellings for the purposes of selling on the site is not a material planning consideration. Similarly the applicant's financial position of the application cannot be taken into account. The applicant has referred to the recent approval of a new dwelling adjacent. 'Woodlea' (to the west of the application site) is sited as a precedent for new development in the area. The proposal formed a replacement of the previous dwelling that occupied the site and is therefore not relevant in consideration of this application.

Impact upon the Character and Appearance of the Area

50. The current annex building is located to the north east corner of the curtilage; being L-shaped it fits into this corner of the site. The building is clearly subservient to the main house which forms the focal point for the site. Both buildings are elevated above the road to the south due to the topography of the area, meaning they are both visible in their entirety with relative ease from the roadside.
51. Approval of the application would not result in alteration to the ancillary building as stated by the applicant. As well as restricting the occupancy of the annex the condition which the applicant is seeking removal of also stated that there should be no external or internal alterations to the property without the further consent of the Local Planning Authority. It can be noted that the building has been altered and this resulted in a retrospective application for the external works which was granted planning permission in 2015.
52. When approaching from the west, south or east there would not be a noticeable difference in how the building would be perceived, in that the development would be contained within the existing boundary of the residential curtilage. The proposal would however lead to the subdivision of the curtilage with a hedge being planted to form the boundary between the two properties. This would alter the appearance of the area and change the character of the area. At present Woodlea Manor is viewed as a large dwelling with the annex in the grounds appearing as a subservient outbuilding commonly associated with a dwelling of this scale. The separation of the curtilage into the two separate areas will alter this relationship resulting in the area associated with Woodlea Manor appearing compromised. In addition the separate residential occupation would inevitably introduce a higher degree of residential paraphernalia than that associated with a single residential dwelling, with some indication of this having already been witnessed on site. It is also likely that the proposal may lead to pressure for further outbuildings to be erected on site.

Woodlea Manor is a substantially sized dwelling and occupiers of this type of property are likely to expect garaging for their vehicles and perhaps other outbuildings. Approval of the application is therefore likely to result in an application for a replacement garage commensurate with the size of the dwelling.

53. Overall, the proposal could result in some limited impact which in their own right would not be sufficient to withhold consent.

Other Issues

54. Residential amenity is assessed with reference to Policy GDP1 (h) of the Local Plan and the subdivision of the domestic curtilage of Woodlea Manor that would occur as a result of this proposal would have implications upon the future occupiers of the main house through the continued use of a shared access between the two proposed dwellings. This would be an uncommon occurrence to properties of the scale of Woodlea Manor where often exclusivity would be considered a positive to such substantial dwelling. This would be adversely affected by the proposal to separate the ancillary building from the main house and carries some weight against the removal of the condition. It should be noted that the applicants in their supporting statement for the application for the conversion of the garages/stables to the annex in 2011 did state that they would not wish for the building to be occupied as a separate dwelling as it would impact on their amenity.
55. The Council's Highways Officer has raised no objection to the continued use of the shared access for what would be two dwellings and so the proposal would be considered to accord with Policy TR2 (Highway Safety) of the Local Plan.

CONCLUSION

56. The proposal raises significant concerns in regard to sustainability. The substantial distances involved in reaching the nearest settlements of Satley and Lanchester are a significant barrier to an environmentally sustainable form of development.
57. The separation would also lead to little economic or social benefits to these settlements, with the vitality of these rural centres not being supported through the proposed development. Similarly, the lack of any construction work would mean no short term economic benefit from the proposal. Limited impact upon the character and appearance of the area may occur, however the application site remains in an unsustainable location.
58. In light of the recent ministerial statement the fact that the application is retrospective also weighs against the proposal.

RECOMMENDATION

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

59. Removal of condition 4 of planning permission 1/2011/0035 to restrict the use of the building to an annex to 'Woodlea Manor' would result in the creation of a separate single dwelling in an unsustainable location that would not contribute to the three

roles of sustainability: environmental, economic or social as defined within the NPPF. The proposal would therefore be contrary to paragraphs 7 and 8 of the NPPF, and saved Derwentside Local Plan Policy EN1.

STATEMENT OF PROACTIVE ENGAGEMENT

60. The Local Planning Authority in arriving at its decision, has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant 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.)

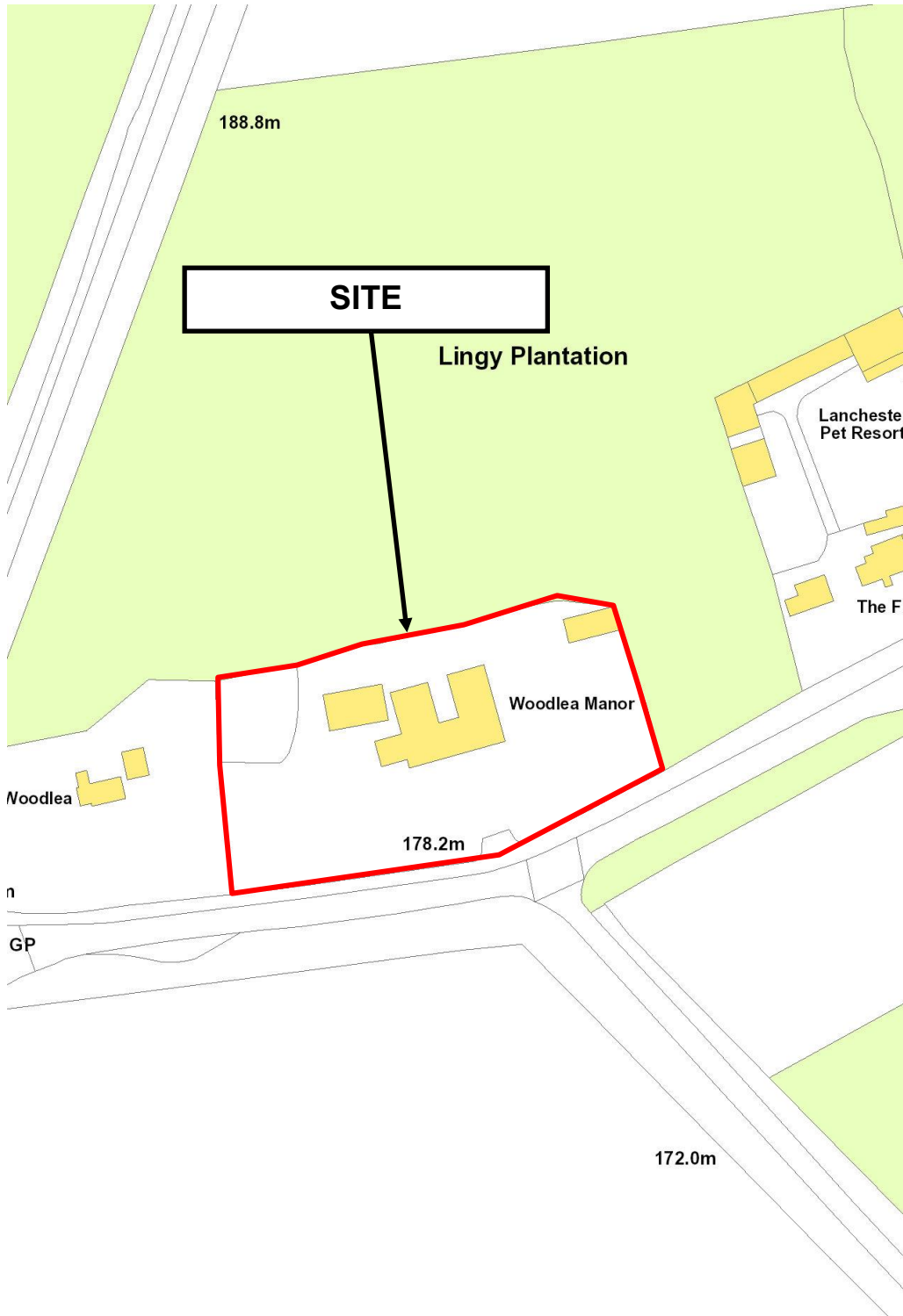
BACKGROUND PAPERS

Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2012)

National Planning Practice Guidance

Derwentside Local Plan (saved Policies 2007)



Planning Services

The Granary, Woodlea, Lanchester, Durham, DH7 0RP

Application Number DM/16/00240/VOC

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Comments

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