

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01811/FPA
FULL APPLICATION DESCRIPTION:	New bungalow with integral garage within existing house curtilage and new access for existing dwelling.
NAME OF APPLICANT:	Mr and Mrs P May
ADDRESS:	Hollydene, North Lodge, Chester-le-Street, DH3 4AZ
ELECTORAL DIVISION:	North Lodge Louisa Ollivere Planning Officer
CASE OFFICER:	Telephone:03000 264 878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site forms the western part of the residential curtilage of a detached house called Hollydene which is located on a private road of dwellings known as North Lodge. North Lodge is situated to the north of Chester-le-Street Town Centre and is to the east of the A167. Access to the site is taken from the private access road that leads to the A167. Surrounding the application site are other detached dwellings and a number of mature trees that are protected under a group Tree Preservation Order.

The Proposal

2. Detailed planning permission is sought for a 3 bed bungalow with an integral double garage and for the extension of the existing driveway to serve the new property. A new access driveway to the existing dwelling of Hollydene is also proposed. The new dwelling would have a northern orientation. The materials proposed for the dwelling are a mixture of brick and ivory coloured render with interlocking grey tiles for the roof which is to be hipped. Outline planning permission was granted for a dwelling and garage in 2013 and is shortly to expire. The site has had the benefit of Planning Permission since 2008.
3. The application is reported to Committee due to the applicant being a County Councillor.

PLANNING HISTORY

4. An outline application for the erection of 1 no detached dwelling with garage (all matters reserved except access and landscaping) was approved in 2008 (08/00207/OUT).
5. In 2011 planning permission was granted to extend the time limit for implementation of the outline application (2/11/00017/EOT).
6. In October 2013 outline planning permission was granted for one dwelling with a garage and some matters reserved (2/13/00233/OUT).

PLANNING POLICY

NATIONAL POLICY:

NATIONAL PLANNING POLICY FRAMEWORK

7. In March 2012 the Government consolidated all planning policy statements, circulars and guidance into a single policy statement, termed the draft National Planning Policy Framework (NPPF). The overriding message from the Framework is that planning authorities should plan positively for new development, and approve all individual proposals wherever possible. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent. There is a presumption in favour of sustainable development. It requires local planning authorities to approach development management decisions positively, utilising twelve ‘core principles’ that should underpin both plan-making and decision taking, the most relevant of these in this instance being:
8. NPPF Part 4 – Promoting Sustainable Transport - notes the importance of transport policies in facilitating sustainable development and contributing to wider sustainability and health issues. Local parking standards should take account of the accessibility of the development, its type, mix and use, the availability of public transport, levels of local car ownership and the need to reduce the use of high-emission vehicles.
9. NPPF Part 6 – Delivering a wide choice of high quality homes. Housing applications should be considered in the context of a presumption in favour of sustainable development. Local Planning Authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create inclusive and mixed communities. Policies should be put in place to resist the inappropriate development of residential of residential gardens where development would cause harm to the local area.
10. NPPF Part 7 – Requiring Good Design. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning. Planning policies and 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.
11. 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.

12. 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.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

13. The National Planning Practice Guidance (NPPG) both supports the core government guidance set out in the NPPF, and represents detailed advice, both technical and procedural, having material weight in its own right. The advice is set out in a number of topic headings and is subject to change to reflect the up to date advice of Ministers and Government.
14. Design -The importance of good design. Good quality design is an integral part of sustainable development. The National Planning Policy Framework recognises that design quality matters and that planning should drive up standards across all forms of development. As a core planning principle, plan-makers and decision takers should always seek to secure high quality design, it enhancing the quality of buildings and spaces, by considering amongst other things form and function; efficiency and effectiveness and their impact on wellbeing.
15. Natural Environment - Section 40 of the Natural Environment and Rural Communities Act 2006, which places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making throughout the public sector.
16. Tree Preservation Orders and trees in conservation areas - A Tree Preservation Order is an order made by a local planning authority in England to protect specific trees, groups of trees or woodlands in the interests of amenity. An Order prohibits the: cutting down, topping, lopping, uprooting, wilful damage, wilful destruction of trees without the local planning authority's written consent. In the Secretary of State's view, cutting roots is also a prohibited activity and requires the authority's consent.

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

LOCAL PLAN POLICY:

17. The following section details the saved policies in the Chester-le-Street Local Plan thought most relevant to the consideration of this application:
18. Policy NE11: Tree preservation and planting- Identifies the requirement to take into account protected trees on site particularly those protected by Tree Preservation Orders.

19. Policy HP6 – Residential development within settlement boundaries- Identifies that residential developments within the defined Chester-le-Street Area will only be permitted provided the site is classed as previously developed land and fulfils the general criteria of policy HP9.
20. Policy HP9 – Residential Design Criteria –Sets out the criteria to which all residential developments should comply to, including adequate privacy levels, satisfactory levels of amenity space and satisfactory access arrangements.
21. Policy HP10 – Backland Development – Sets out that Backland development will only be permitted where a satisfactory vehicular access can be provided, the amenity of both new and existing properties can be safeguarded and the proposal is in keeping with the scale and character of the existing development.
22. Policy T15 – Access and safety considerations in design – Identifies that development proposals should provide safe access to the site, should not create levels of traffic which would exceed the capacity of the local road network while providing safe movement for pedestrians.
23. Policy T17 – General Transport Policy – Sets out that all new developments should have regard to and be consistent with the provision of a safe and accessible transport network by reducing the reliance on the private car, and encouraging cycling and walking as an effective means of transport.

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/Pages/Service.aspx?ServiceId=494>

EMERGING POLICY:

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 has withdrawn the CDP. In the light of this, policies of the CDP can no longer carry any weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

25. Highways Officer: No objections.
26. Northumbrian Water: Advise that a public sewer crosses the site and may be affected by the development and that they would not permit a building over or close to their apparatus and advise that the sewer may need to be diverted or the development relocated or suitable protection measures may be required prior to the commencement of the development.

INTERNAL CONSULTEE RESPONSES:

27. Landscape Officers: No objection but advise that there is a need for protective fencing to be erected around the trees to be retained and that the two trees that are to be removed shall be replaced with the same species within a suitable location.
28. Ecology Officer: No objection.

PUBLIC RESPONSES:

29. Neighbouring land owners and occupiers have been consulted and this has resulted in no letters of objection or otherwise.

APPLICANTS STATEMENT:

30. The new bungalow for Mr and Mrs May has been designed to take advantage of its south-west facing setting within their established large garden without compromising the amenity and privacy of the existing house and its neighbours.
31. The design has taken account of the existing sewer and culvert which cross the site to the east of the proposed bungalow. The existing house at Hollydene will have a new, independent access from North Lodge, retaining the existing access for the new bungalow. The existing trees to the north-western boundary will form an attractive back-drop to the new bungalow, retaining the existing site's privacy and enclosure.

PLANNING CONSIDERATIONS AND ASSESSMENT

32. 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 effect of the proposal on, firstly, the creation of sustainable patterns of development in the area, having regard to local and national planning policies and, secondly, the impacts upon neighbouring residential amenity, and whether the proposal is acceptable in terms of the impacts upon the character of the area, impacts upon trees and ecology, highways safety, and whether appropriate drainage can be achieved.

Principle and the General Policy Context

33. Policy HP6 of the Chester-Le-Street Local Plan only permits residential developments within the defined settlements limits of Chester-le-Street providing the site is classed as previously developed land and meets the criteria of other policies of the plan. The land under consideration is garden land and is not therefore classified as previously developed, however since the date of the Local Plan (adopted 2003) National Policies within the NPPF promote a more flexible approach to land supply to ensure sustainability. The NPPF recognises that priority should be given to reusing land that has been previously developed however unlike policy HP6 Paragraph 53 of the NPPF does not restrict the development of Greenfield sites such as gardens unless such development would cause harm to the local area. As Policy

HP6 of the Chester-le-Street Local Plan is not fully compliant with the NPPF this will affect the weight to be given to any conflict with it.

34. Given the age of the Plan and housing supply figures that informed it when it was adopted in 2003, the housing supply policies do not reflect an up to date objective assessment of need. At present the Council is unable to demonstrate a five year supply of deliverable sites based on objectively assessed need (OAN) in accordance with paragraph 47 of the National Plan Policy Framework.
35. Where Local development Plans are silent or out of date such as this proposals must be considered against Paragraph 14 of the NPPF. Paragraph 14 of the NPPF states that there is a 'presumption in favour of sustainable development', which should be seen as a golden thread running through both plan making and decision taking. For decision-taking this means:
 - 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 the Framework indicate development should be restricted.
36. As there are no specific policies in the Framework that indicate the development should be restricted the assessment must be based only on criterion (i) of paragraph 14 of the NPPF.
37. The NPPF aims to boost the supply of housing and requires that housing applications are considered in the context of the presumption in favour of sustainable development. The NPPF states that everyone should have the opportunity to live in high quality, well designed homes, which they can afford, in a community where they want to live. This means: increasing the supply of housing, delivering a wide choice of high quality homes that people want and need, widening opportunities for home ownership; and creating sustainable, inclusive and mixed communities, including through the regeneration and renewal of areas of poor housing.
38. Paragraph 49 of the NPPF states that housing developments should be considered in the context of the presumption in favour of sustainable development. The NPPF identifies the three dimensions of sustainable development. New development is expected to perform an economic, a social and environmental role and paragraph 8 makes it clear that sustainable development consists of a combination of all three elements.
39. In terms of the economy whilst the construction of the dwelling would support the local economy, because of its scale the proposal brings limited benefits other than to those employed in the construction of new dwelling and those benefits would be likely wherever the dwelling were located and they do not therefore materially weigh in favour of the development.
40. From an environmental perspective the development performs acceptably in respect of paragraph 53 of the Framework. The development of this garden land subject to conditions in relation to tree replacement and sustainable drainage would not result in harm to the local area given the limited loss of trees, the size of the garden land that would remain and given the varying sizes and scales of properties in the area.

In addition the proposed dwelling would follow the loose linear pattern of existing developments and replicate similar spacing between dwellings along the North Lodge streetscape respecting the character of the area.

41. The proposal also performs acceptably in so far as being sustainably located in relation to both the environmental and social dimensions of sustainable development. The development site is close to a secondary school and a pub and a main bus route linking Chester-le-Street to Durham and Newcastle/Gateshead (380m to bus stop) and is also within walking distance of a main employment site (Drum Industrial Estate) and to Chester le Street Town Centre. Given these transport links and distances to a range of community facilities, jobs, key services and infrastructure it is unlikely that there would be a reliance on the private motor car for every journey from the dwelling site.
42. In terms of the social role of housing the benefits arising from the proposal for one dwelling in terms of the supply of housing would be a benefit, albeit a very modest one.
43. Bearing the above in mind it is not considered that the limited adverse impacts in terms of the loss of two trees would outweigh the social and economic benefits of a new dwelling on this site in accordance with the policies of the Framework. It is also noted that the development of the site for a dwelling has been considered acceptable previously on three occasions and there is still an extant permission for the site. Whilst national policy has evolved since these planning decisions as detailed above the general policy position has not altered significantly in respect of this development proposal. Therefore the development is acceptable in principle.

Design and Impact upon the character of the area

44. The Chester-le-Street Local Plan contains policies which control the erection of additional dwellings within the curtilage of residential properties, namely HP10 (Backland Development) and HP9 (Residential Design Criteria).
45. These policies set out that all new residential developments should respect the scale and character of existing development in the locality and relate well to the surrounding area and street pattern. In considering the scheme against the above policy criteria and material considerations, it is considered that, in line with the previous decisions, the impact of the proposed dwelling would be acceptable. This is primarily due to the size of the site which would allow for a development that can assimilate into its surrounding streetscape in terms of size, scale, form, design and spacing.
46. Overall it is considered that notwithstanding the changes to national policy since the approval of the original application back in 2008 that the erection of a dwelling in this location would have an acceptable impact on the visual amenity and character of the surrounding area. Whilst the dwelling is of a good standard of design it is still considered expedient to control the materials used in the construction of the dwelling and to remove the permitted development rights, to further control the appearance of the development.

Residential Amenity

47. Policy HP9 and HP10 of the Local Plan require that developments protect the amenity of neighbouring residents and that of the host property. Further guidance is also offered in appendix I of the Local Plan setting out minimum separation distances between properties.

48. The proposed development would exceed the standard minimum separation distances. It is also considered that the development would not give rise to a loss of amenity for neighbouring residents and would provide sufficient amenity space for future occupants. The proposal is therefore considered to comply with Policies HP9 and HP10.

Impact upon Protected Trees

49. Surrounding the proposed dwelling are a number of mature trees protected by a Group Tree Preservation Order. Policy NE11 of the Local Plan sets out that development should take into account existing trees on site, particularly protecting the long terms interests of valuable trees. The application is supported by a tree survey and tree constraints plan that identify that two Yew trees will be required to be removed to facilitate the development. Landscape Officers do not object to their removal. It is therefore considered that with conditions requiring the erection of protective fencing during construction and the replacement of the trees with yew trees in another location that the development would accord with this local plan policy. Given the close proximity of protected trees it is considered that permitted development rights should be removed in relation to extensions and outbuildings to prevent pressure for their removal in the future or potential impact upon the trees in future.

Impacts upon ecology

50. Part 11 of the NPPF seeks to minimise impacts on biodiversity. Whilst two trees are to be removed the Ecology Officer has not raised any concerns in respect of ecology and therefore it is considered sufficient in this instance to attach an informative in relation to inspecting affected trees for bats, birds, roosts and nests in order that should any bats be found the works cease until further advice is obtained from Natural England and if any bird nests are found that works are restricted during the bird nesting season.

Highways and Accessibility

51. Policy HP9 and HP10 of the Local Plan require that all new developments provide a separate and satisfactory means of access to the wider highway network. The proposed dwelling would utilise and extend the existing access and a new access would be created for the existing dwelling. This is encouraged by Policy HP10 and the Highways Officer raised no objections to the application therefore the access and parking arrangements are considered acceptable.

Drainage Issues

52. Section 10 of the NPPF requires Local Planning Authorities ensure that developments do not result in an increase in flood risk off site. The drainage to a mains sewer would be contrary to the requirements of the County Durham Surface Water Management Plan and Building Regulations as drainage to SUDS or a soakaway should be investigated before choosing this option. Therefore the proposed drainage arrangements are not considered to be acceptable and it is recommended that a condition is imposed to require details of surface water drainage to be submitted to and approved in writing by the local planning authority prior to the commencement of any development on the site. The imposition of such a condition will ensure that the site is drained in accordance with the Council's Surface Water Management Plan.

Other issues

53. It is noted the Northumbrian Water has drawn attention to the close proximity of a sewer to the dwelling. It is considered appropriate to attach an informative to advise of the need for the applicant to obtain formal approval from Northumbrian Water for the construction. The granting of planning permission does not give consent or permission to build over or close to Northumbrian Water assets.

CONCLUSION

54. The proposed detailed application for a dwelling and garage has been considered against the policies identified above. It is not considered that the conflict with policy HP6 and the limited adverse impacts in terms of the loss of two trees would outweigh the otherwise general compliance with Local Plan Policy and social and economic benefits of a new dwelling on this site which would accord with the policies of the Framework. Therefore in accordance with Paragraph 14 of the NPPF planning permission should be granted and a condition should be attached to ensure satisfactory surface water drainage for the site.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in accordance with the following approved plans and documents:

Location Plan	3/06/2016
1049/PL/002 Rev E	3/06/2016
1049/013	3/06/2016
1049/012	3/06/2016
1049/015	3/06/2016
1049/014	3/06/2016

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with policy HP10 of the Chester-le-Street Local Plan.

3. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

Reason: In the interests of the visual amenity of the area and to comply with Policy NE11 of the Chester-le-Street Local Plan.

4. The two trees to be removed are to be replaced with two Yew trees the location of which shall be agreed in writing by the Local Planning Authority following the submission of a plan identifying the proposed positions.

Reason: In the interests of the visual amenity of the area and to comply with Policy NE11 of the Chester-le-Street Local Plan.

5. Notwithstanding the provisions of Class A,B,C and E of Schedule 2 part 1 and Part 2 of the Town and Country Planning (General Permitted Development) Order 1995 (as amended) (or any order revoking or re-enacting that Order) details of any enlargement , improvement or other alteration to the dwelling(s) hereby approved and any buildings, including sheds, garages, and glass houses to be erected within the curtilage of the dwellinghouse shall be submitted to and approved by the Local Planning Authority.

Reason: To enable the Local Planning Authority to control details of any future development on the site in the interests of protected trees to comply with policy NE11 of the Chester-le-Street Local Plan.

6. Notwithstanding the information submitted and prior to works commencing a detailed scheme for surface water drainage shall be submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved scheme thereafter.

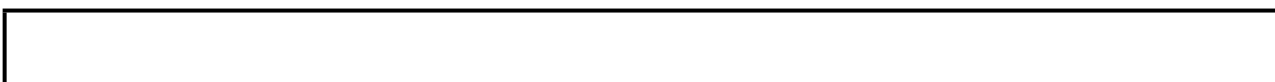
Reason: In the interests of the adequate disposal of surface water in accordance with Section 10 of the NPPF.

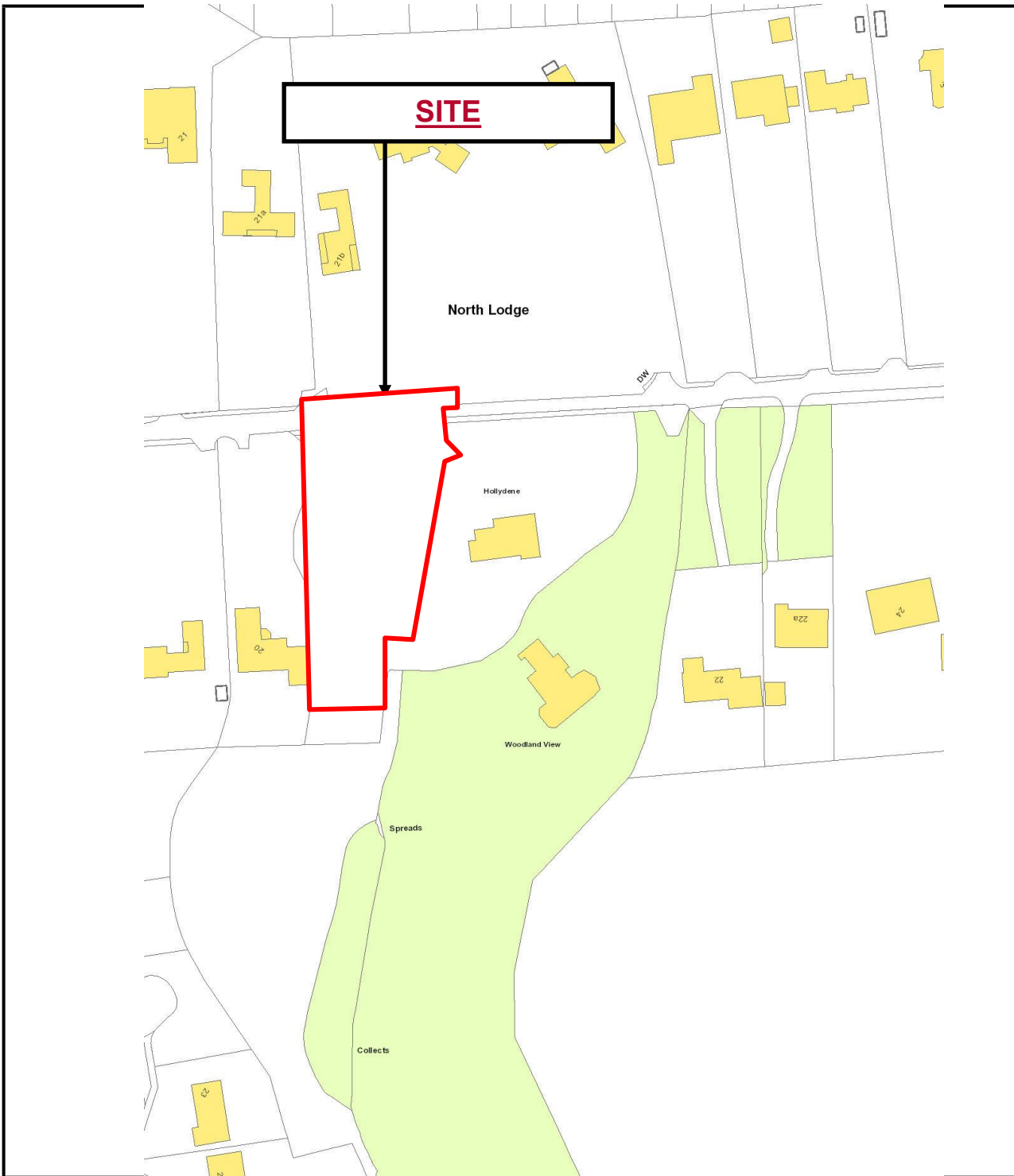
STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the recommendation to approve the application has sought to actively engage as appropriate with the applicant to secure a positive outcome 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

Chester-le-Street Local Plan (saved policies 2009)
National Planning Policy Framework, March 2012
National Planning Practice Guidance





Planning Services

Hollydene, North Lodge, Chester-le-Street, DH3 4AZ

Application Number DM/16/01811/FPA

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Comments

Date 28th July 2016

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