

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/16/01861/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	8 luxury holiday chalets, plus site management building with residential accommodation for site manager and associated site infrastructure, including revised site access and sustainable drainage system
<b>NAME OF APPLICANT:</b>	Holmside Developments Ltd
<b>ADDRESS:</b>	Land East of Ornsby Hill, Lanchester
<b>ELECTORAL DIVISION:</b>	Lanchester
<b>CASE OFFICER:</b>	Steve France Senior Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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1. The Site
2. The application site is 1.6ha of open countryside, 0.55 miles north of the centre of the village of Lanchester. Ornsby Hill is a small hamlet of around 10 dwellings adjacent the A6076 as it rises steeply to the north and heads towards first Maiden Law and then Annfield Plain. Lanchester is defined as a 'Local Service Centre' and Annfield Plain as a 'Smaller town / Larger Village' within the Durham Settlement Study, 2012.
3. The site is farmland, consisting of semi-improved grassland and is separated from similar to the north, east and south by mature hedging that incorporates protected trees. There are no public rights of way on or adjacent the site. To the east of the land is maturing protected woodland, screening the proposed development from the abovementioned main road, and through which the proposed site access would be taken, accessed adjacent the existing bus-stop. The site is within the Area of High Landscape Value (AHLV).
4. The existing eight properties grouped together on the cul-de-sac at Ornsby Hill are serviced from a short unadopted rear lane leading to a private track, known as Back Lane and a detached unoccupied older dwelling, Ornsby Hill House. A separate dwelling exists on the opposite side of the main road facing the cul-de-sac entrance.
5. The Proposal
6. The application is a resubmission of a scheme approved by Committee in July 2013 that has recently expired, unstarted. This application again proposes the erection of 8 architect-designed holiday chalets, a site management building, residential accommodation for a site manager and associated site access and infrastructure.

The entrance / egress uses an existing trackway through the woodland area, leading to an L shaped arrangement of buildings that mirrors the shape of the field. Additional tree planting is proposed within the eastern part of the field, with the hedging on all boundaries, but particularly adjacent Back Lane, enhanced. The existing gated access into the field, from the lane serving the dwellings in Ornsby Hill, would be closed and landscaped. The proposals are consistent with the previous approval, differing only in technical detail.

7. The application is reported to Committee at the request of the Parish Council due to the recommendation being contrary to their wishes.

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## **PLANNING HISTORY**

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8. A series of applications between 2004/2005 led to the refusal of a proposal to site around 40 static caravans on the site, upheld at appeal.
9. In 2013 Committee approved consent for, 'Development of 8 no. Holiday lodges, site management building, site manager's accommodation and site infrastructure including revised site area access and sustainable drainage system'.

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## **PLANNING POLICY**

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### **10. 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* – reinforces the Government's commitment to securing economic growth to create jobs and prosperity, ensuring the planning system supports this aim – 'significant weight' is to be placed on this aim. Planning policies should seek to address potential barriers to investment, setting out clear economic vision and strategy which proactively encourages sustainable economic growth, identifies sites and inward investment, and identifies priority areas for economic regeneration. There is no specific advice on decision making.

16. *NPPF Part 3 – Supporting a Rural Economy* – Requires planning policies to support economic growth in rural areas in order to create jobs and prosperity by taking a positive approach to sustainable new development, supporting all types of business and enterprise, promoting development and diversification of agricultural and rural business and supporting tourism and leisure activities that benefit rural businesses, communities and visitors whilst respecting the character of the countryside.
17. *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.
18. *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.
19. *NPPF Part 8 – Promoting Healthy Communities* – the planning system is considered to have an important role in facilitating social interaction and creating healthy, inclusive communities, delivering social recreational and cultural facilities and services to meet community needs. 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.
20. *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.

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

21. The newly introduced 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. The main relevant topics include:
22. *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.
23. *Planning and Flood Risk* – advises Local planning authorities in Strategic Flood Risk Assessment and a sequential risk-based approach to the location of development.

24. *Use of Planning Conditions* – advises on the tests required of conditions proposed attached to approvals and the approach that should be taken in imposing them.
25. *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.

#### **LOCAL PLAN POLICY:**

26. The following are those saved policies in the Derwentside District Local Plan relevant to the consideration of this application:
27. *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.
28. *Policy EN1 – Development in the Countryside* – will only be permitted where it benefits the rural economy / helps maintain / enhance landscape character. Proposals should be sensitively related to existing settlement patterns and to historic, landscape, wildlife and geological resources.
29. *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.
30. *Policy EN6 - Development within Areas of High Landscape Value* - Development will only be permitted provided that it pays particular attention to the landscape qualities of the area in the siting and design of buildings and the context of any landscaping proposals.
31. *Policy EN9 – Works to trees covered by Preservation Orders* – Only allows the cutting down, lopping, pruning, topping or uprooting of protected trees if the work is necessary because of good arboricultural reasons or the survival or growth prospect of other protected trees is threatened, or if the tree is causing structural damage and no other remedial action is possible, or the tree is a danger to life or limb.
32. *Policy EN11 – Trees and Development* – states that throughout the district existing trees should be retained where possible. Consideration will be given to the effect of development on any affected trees, taking into account; landscape diversity, the setting of existing or proposed buildings, wildlife habitat and visual amenity.
33. *Policy EN23 – Wildlife Corridors* – when considering development proposals regard will be given to the need to maintain the nature conservation value of strategic wildlife corridors identified on the Proposals Map.
34. *Policy TO7 – Camping, Caravan and Chalet Development* – Permission will only be granted for these forms of development where; the proposal does not affect the landscape character of the area, where the site is adequately controlled by the local topography and tree cover in the control of the applicant, the scale, materials and design of chalet developments are appropriate to the locale, site services are limited

to the needs of site residents, the site is served by adequate infrastructure, and the proposal does not adversely affect the amenities of neighbours. Proposals for permanent new site warden's accommodation will not usually be approved.

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

*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>.*

## **RELEVANT EMERGING POLICY:**

36. 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, policies of the CDP can no longer carry any weight at the present time.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

37. *Highways* – County Highways Engineers have no objections to the proposal noting the previous consent.

### **INTERNAL CONSULTEE RESPONSES:**

38. *Drainage* – Engineers accept the proposed greenfield run-off rate, but note connection to the outfall will need to be agreed. There is no historical evidence of flooding on the land. An interceptor channel will be needed on the site access, and more detail of the permeable road construction. Details of the sustainable drainage approach will need to be conditioned.
39. *Ecology* – The County Ecologist has required additional information and justification during the course of the application in relation to the Woodland Management Plan, the Hedgerow Survey and net bio-diversity gain. These issues have been or are close to resolution as this report is written, with the proposals capable of providing the net biodiversity gain required by the NPPF, NPPG and Wildlife and Countryside Acts.
40. *Landscape* – Note the site as within the AHLV and a 'Landscape Conservation Area'. Views of the site are restricted to distant partial views and seasonal views through trees, with the proposals described as having 'some adverse landscape and visual effects'.

41. *Archaeology* – have been disappointed by the response of the applicant to requests for site investigation and have suggested standard conditions to ensure the site's potential for interest is fully investigated, with mitigation as appropriate.
42. *Design and Conservation* – note the site is outside the Conservation Area, and that there is a listed building near the site access. There is no objection to the scheme in principle.

#### **PUBLIC RESPONSES:**

43. Neighbours have been consulted, a site notice was posted and a press notice was published in The Northern Echo. Objections have been received from Lanchester Parish Council and 7 local residents, with a representation received from the Village Partnership.
44. A range of objections are offered to the proposals, with some correspondents under the impression that the previous application had been refused.
45. The Parish Council point out some errors in the submission, and that in relying on documentation submitted with the original application, some information appeared out-of-date. Noting the site as within the AHLV, outside the settlement boundary, the proposals are contended to have an adverse visual impact, and will have a negative impact on the visual rural character of the Browney and Small Hope Valley areas. Flora and fauna and the wildlife corridor will be compromised. There are concerns that the development may set a precedent and lead to further proposals or a change of use to market housing. The entrance to the site and the nature of the existing highway with the volumes of traffic on it are raised as further issues.
46. It is contended that the number of dwellings and therefore people will be doubled at Ornsby Hill, and that the nature of holiday accommodation would disrupt residential amenity and noise levels. Robust conditions are required to ensure the accommodation remains in holiday use. Justification for the manager's lodge is questioned, along with the business case for the scheme. The proposed drainage arrangement is questioned in elements of detail. Reference is made to the covenant negotiations, and documents referring to this submitted by the applicants.
47. The Parish's objection covers most of the issues also raised in individual correspondent's letters. Also mentioned however are; the size and appearance of the proposed buildings in a rural location, additional pressure on village facilities, lack of existing woodland management, compromising existing residents ability to turn in the site access. The site and location are considered unsustainable – tourists should be directed to Beamish and Durham City.
48. Lanchester Village Partnership / Campaign to Protect Rural Lanchester acknowledges the previous approval, and the precedent that sets. Their concern extends to ensuring the use of Manager's house is properly tied to the holiday accommodation.

#### **APPLICANTS STATEMENT:**

49. An applicant's statement has not been submitted.

*The above is not intended to list every point made and 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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50. 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, consistent with its last assessment, the main planning issues in this instance relate to the principle of development, its location within a designated landscape and highway safety.
51. It is highly significant and material that the site has, until very recently, been subject to a planning approval for the same scheme, as approved by Planning Committee in 2013. The following report therefore largely revisits the previous assessment, updated as appropriate in response to any issues that have changed.
52. The scheme must again be assessed against the Planning balance – in the first instance proportionately using those saved policies in the Development plan, and then against the advice in the Framework itself.

### The Principle of Development

53. In the development plan, saved Policy TO7 states permission will only be granted for camping, caravan and chalet development where; the proposal does not affect the landscape character of the area, where the site is adequately controlled by the local topography and tree cover in the control of the applicant, where the scale, materials and design of chalet developments are appropriate to the locale, where site services are limited to the needs of site residents, the site is served by adequate infrastructure, and where the proposal does not adversely affect the amenities of neighbours.
54. This approach is partially consistent with the advice in the NPPF which at paragraph 28 states LPAs should support sustainable rural tourism and leisure developments which respect the character of the countryside. This should include supporting the provision and expansion of tourist and visitor facilities in appropriate locations where identified needs are not met by existing facilities in rural service centres.
55. The Government's 'Good Practice Guide on Planning for Tourism' referred to in the previous application was rescinded in 2014, but does not appear to have been directly replaced – a more general document was published in 2016 – the 'Tourism Action Plan'; which states that 'Tourism is one of the UK's most important industries, directly responsible for 1.6 million jobs at all entry levels throughout the UK'. That report sets out how the Government is working to do this through action on: the tourism landscape, skills, common sense regulation, transport and 'a GREAT welcome'.
56. At a local level the Durham Tourism Management Plan 2012-2016 that justified the original consent outlined a vision for County Durham that by 2020 the County's visitor economy would account for 17% of the county's economy. This aim is repeated in the 2016-2010 Management Plan – 'this will represent an increase of £111.4 million from £752 million (2014) to £863.4 million in 2020. Using the national (VisitEngland) and regional standard (£53k = 1 FTE job), this would create 2,101 additional jobs by 2020'.
57. The County set out to interconnect the various tourism offers whilst developing local distinctiveness and specifically increasing the contribution of Durham's rural areas to

the overall value of the county visitor economy. Therefore visitors based near Lanchester, whilst in a rural location, are in easy access of Weardale and the Pennines, have the attraction of a historic rural village and its services and businesses, but are also in short reach of Durham City as both a destination and as a transport node for the A1(M), A19 and East Coast Main Line to explore the wider County and the region beyond. A report prepared for the Visit County Durham Section of the Council by the Hotel Solutions Consultancy on October 2012 identified 'the potential for additional self-catering provision around Durham and Beamish where leisure demand is boosted by corporate and University demand', with 'a gap in the market for 4 bedroom self-catering cottages for extended families and also scope for additional 'super cottages' that can cater for large family and friends get-togethers. The lack of good quality lodge accommodation remains an issue in the new management Plan.

58. The planning system, by taking a pro-active role in facilitating and promoting the implementation of good quality tourism development, is crucial to ensuring that the tourism industry can develop and thrive, thereby maximising these valuable economic, social and environmental benefits. At the same time, the planning system aims to ensure that these benefits are achieved in the most sustainable manner possible.
59. This approach is consistent with that set out in the NPPF to encourage sustainable economic development, Part. 3, 'Supporting a prosperous rural economy' requires support to the sustainable growth and expansion of all types of business and enterprise in rural areas, both through the conversion of existing buildings and well-designed new buildings, supporting sustainable rural tourism and leisure developments that benefit businesses in rural areas communities and visitors and which respect the character of the countryside'.
60. The consideration of the principle of development set out the potential for benefit to the general economy for economic generation from the holiday use of the site. Also material are the potential economic gains to the local economy from the build process, which are acknowledged in principle, as without detailed quantification by the applicant, and can only be attributed this general weight in this instance. Officers consider the application conforms with the NPPF and policy i.e. Policy TO7 supports holiday accommodation in principle subject to detailed criteria considered below.

#### The Landscape Character and Setting

61. The landscape setting is the first of the TO7 Policy constraints, informed by the site's location in the AHLV, for which Policy EN6 refers. Policy EN6, which is partially consistent with the NPPF, notes development will be permitted where it pays particular attention to the landscape qualities of the area in the siting and design of buildings in the context of landscaping proposals. Previously, both pre-submission and in response to formal consultation during the application process the Council's Senior Landscape Architect, acknowledging the site's location within the Area of High Landscape Value confirmed that the visibility of the site would be limited, as evidenced by the photo-montages that again accompany the application. In response to the current application the same consultee noted 'some adverse landscape and visual effects'. Planning Officers consider these limited to a degree that is not significant. In the intervening period since the previous refusal, the adjacent woodland (subject to recently reconfirmed formal Preservation Orders and in the control of the applicant) has grown further to provide additional screening for a form of development that is far less intrinsically obtrusive than that previously considered. The development site itself will be wholly screened by existing woodland from the adjacent main road. The detrimental effect of the visibility of the proposed access



has been addressed by its relocation, with the gap in the plantation previously proposed no longer an element of the proposals, ensuring the plantation is not compromised as a characterful landscape feature at the approach to the village.

62. The effect on the village, and the Conservation Area at its heart will be minimal, assisted in part by the topography, the site sitting on a shelf on the sloping valley side, with development proposed hugging the existing mature trees and hedges. The view from the Roman Camp identified by objectors, at nearly 1.3 miles distance on the other side of the wide river valley will be visible within trees – representing neither an obtrusive landscape feature nor one that has any effect on that Heritage Asset, the fort being a Scheduled Ancient Monument. The woodland management plans and details of existing tree protection required to ensure the tree cover used to previously reach this conclusion by the Council's Senior Landscape Architect are proposed conditioned in the event of an approval. The existing tree cover and topography are considered to work for the site, in line with the second criterion of Policy TO7.
63. This topic is both a policy constraint and intrinsic to the three strands to sustainable tourism development that were set out in the good practice guide. These are; where the development is located – developments need to be located where they are accessible to visitors and where they do not have an adverse impact upon sensitive environments; how they are designed – developments should be attractive to users, they need to work well in functional terms and they need to use natural resources in an efficient manner; and how they fit into their surroundings – developments need to respect their environs and complement them rather than detract from them. They should be designed to have a positive impact upon landscape, the historical setting and upon ecology.
64. Previous to the approved scheme, the application site had previously been considered for tourism related development in the form of 39 static caravans. This proposal was refused at appeal in 2006 where the landscape implications of that use were instrumental in its refusal by the Council and the Planning Inspector. The Inspector identified four main issues in that case; the effect on the character and appearance of the area, the effect on the wildlife corridor, highways issues, and the effect on local residents, using the first three to dismiss the appeal. In previously approving the scheme, Members accepted that the increased screening both proposed and that which has occurred naturally, and in the revised highways arrangement, that the development is materially different to the previous application and has overcome the reasons for its refusal. Detailed consideration of the topics is again set out in the sections below to indicate why it was and is believed the resubmitted scheme had overcome or addressed those previous reasons for refusal.

## Highways

65. A previous version of the proposals to develop this land included the site access to the rear of the existing terrace through the existing field gate and during the course of the last application the scheme had been changed to use the existing access and track through the woods in the location of the bus stop, 50m south of the access to the terrace. Policy TR2 of the Local Plan states that development will only be granted where the applicant can satisfy the Council that the scheme incorporates a clearly defined and safe vehicular access and exit, space for service vehicles, turning and parking space, access for emergency vehicles, satisfactory access to the public transport network and a satisfactory access onto the adopted highway. It is acknowledged that access is to a degree restricted on what is a busy road that is subject to overflow parking pressures associated with the nearby school. However the lack of objection from the County's consulted Senior Highways Engineers who

have assessed the volume of traffic the development will produce in relation to the speed of traffic on the adopted highway and the visibility available from the revised site entrance is again considered to make any technical objection on highways grounds unsustainable. There are bus stops at the entrance to the site, and access to the nearby National Cycle Route 14 is only 0.63 miles away, which gives traffic free access to Durham and Consett, connecting to route 20 that gives off-road access to Bishop Auckland.

66. Members are aware that the siting of development in rural locations must be well located to existing services to be considered 'sustainable' – a requirement of all new development, whether achieved by locational sustainability, or in the 'balance' against economic benefits – as a total reliance on motor vehicles can undermine the sustainability credentials of schemes. As holiday accommodation the short distance to both the main village, and to the services offered by the nearby petrol filling station is considered appropriate and proportionate to meet what would be the reasonable expectations of self-catering holiday accommodation, with access to the formal footpath network, the cycle-path in the village and bus stops, including that at the site entrance, ensuring the siting can be assessed positively.

### Design Issues

67. Part 7 of the NPPF is consistent with the approach that good design is important for tourism because: tourism is essentially a commercial activity and its success will depend upon how attractive it is to visitors. In areas with many tourist attractions, it is important that each attraction is perceived as contributing to the overall experience; and wherever tourist proposals are to be situated, it is important that they complement and improve the wider built and natural environment. The architect designed chalets are neat, modern single storey chalet units proposed constructed in sustainable materials and to allow for sustainable technology to be incorporated – i.e. photovoltaic panels. That this element of the scheme is noted to have elicited no objection except in relation to the size of the chalets in a village that pays particular regard to design issues is noted as potentially significant. Subject to a standard condition to ensure control over materials on site, the proposals are considered in line with Policy GDP1(a) of the Local Plan which seeks appropriate control of such issues.
68. That the scale, materials and design are appropriate is a requirement of Policy TO7 – the proposals being considered acceptable in this regard.

### The Proposed Manager's accommodation

69. Policy TO7 of the local Plan, states 'proposals for permanent new site warden's accommodation will not usually be approved'. It is noted that for many types of holiday parks, a residential managerial presence is often essential, to achieve quality service to the customer, security for the property, and to meet the obligations of health and safety regulations. Accommodation may sometimes also be needed for key members of staff. As far as possible, suitably located existing dwellings should be used to meet these accommodation needs. But where this is not a feasible option, and particularly in locations where suitable housing is not available, or is unaffordable, it may be necessary to provide new, on-site accommodation for managerial and/or other staff. In such cases the conversion of any suitable available existing buildings should be considered first in preference to the construction of new and potentially intrusive housing development in the countryside.
70. Planning conditions can ensure that such accommodation is occupied for this purpose only. There are a number of site-specific elements of the proposals that

could be argued to justify the permanent wardens accommodation proposed here. Site management will be required for site security and general maintenance, particularly when the site is vacant along with servicing of the communal areas of the site, access, footpaths and woodland area. The proposed warden's accommodation would be a new dwelling in the countryside, but in supporting development of sustainable tourism and leisure that benefits businesses in rural areas as per paragraph 28 of the NPPF, is potentially considered to meet the requirements for special circumstances for such as set out in paragraph 55 of that document.

71. A condition is proposed to ensure the Managers lodge shall only be occupied by persons whose main occupation is the security, servicing, maintenance and management of the holiday lodge development in order to ensure the dwelling is only used for the purpose accepted as its special circumstances for erection in the countryside

#### Control of occupancy

72. The applicant asks for the use of the site for the full 12 months of the year. Whilst extension of the full season has economic advantages, the demand for the accommodation often occurs in areas where the provision of permanent housing would be contrary to national or local policies which seek to restrict development, for example in order to safeguard the countryside, as is the case here, protected by paragraph 55 of the NPPF. However a break in tenure, specified at a time of minimal demand, potentially helps the Local Authority ensure that the lodges proposed are not used as residential accommodation.
73. Consistent with the last report, in order to assess the eventuality of the holiday chalets being used as dwellings it is as well to consider the potential identifiable differences between a holiday and residential use of a chalet. This is in essence that the holiday accommodation should not be the occupant's only or main residence and therefore not the property in which they would normally reside to the extent that it could be described as their "home". This can be evidenced in a number of ways - residential property will attract Council Tax, whereas a holiday chalet within a commercial holiday operation will attract uniform business rates under the managing commercial enterprise in which the property is situated. Similarly, a residential property could be the location at which a person is registered to vote or from which children attend school. The holiday accommodation should not be a registered postal address and likewise should not be used as an address for registering, claiming or receipt of any state benefit or further should not be occupied in a manner, which might cause the occupation to be (or to become) a protected tenancy.
74. The planning system seeks to reconcile these objectives through the use of occupancy conditions designed to ensure that holiday accommodation is used for its intended purpose. Planning authorities commonly impose such conditions when granting permission for self-catering holiday accommodation. One type of condition frequently used for holiday accommodation, particularly in holiday areas, is known generically as a 'holiday occupancy condition'. The aim of such conditions is generally to ensure that the premises are only used by visitors and do not become part of the local housing stock.
75. There are three principal reasons why a planning authority might seek to do this; in order that national or local policies on development of the countryside are not compromised; to avoid occupation by permanent households which would in turn put pressure upon local services. Permanent households may place demands on local schools and social and health services that would not normally arise from visitors. Moreover, in remote locations the cost of providing these services is greater. It may

therefore be reasonable for the planning authority to place an occupancy condition when properties are being built or converted for residential use; and to strengthen tourism in a particular area by ensuring that there is a wide range of properties available to encourage visitors to come there on holiday. Planning authorities must frame these conditions according to local circumstances, and in accordance with general Government advice that conditions should be reasonable and fair. They must also need to frame them so that they can be readily enforced by the authority but in a way that is not unduly intrusive for either owners or occupants. A condition seeking to achieve this aim is again proposed attached to any approval.

76. To ensure the break in the holiday use of the site is clear, the proposed condition now suggests a full month break, rather than the two weeks previously conditioned. The applicant will be also required, through the imposition of the condition, to ensure the lodges are occupied for holiday purposes only and shall not be occupied as a person's sole or main place of residence. The owners/operators of the site will be required to maintain an up-to-date register of the names of all owner/occupiers of individual lodges on the site, and of their main home addresses, submitting this to the Council on an annual basis for inspection. On that basis it is considered that the scheme meets the requirements of Development Plan and paragraph 55 of the Framework.

## Ecology

77. Legislation requires consideration of the impact of the development upon any species or habitat protected by law and the applicants have submitted an ecology survey which has been supplemented during the course of the previous and current application at the request of the County Ecologist. The countryside location and surrounding woodland provides a rich ecology resource, and a 'wildlife corridor' is established along this side of the main river valley reflecting this. The applicant has provided information to show that the development will not have an adverse effect on species protected by law. In this particular case, the two main issues which have the potential to impact upon protected species (bats) are the undertaking of works to two Chestnut trees at the entrance to the site and the provision of lighting on the site. The detail of the extent of works required for the two chestnut trees has been resolved between the applicants and the Council's Ecologist who is satisfied that there will be no adverse impact upon bats. These agreed works are to be controlled by the imposition of a condition. It is also considered that a lighting scheme can be designed which would not adversely impact upon bats and the location and level of lighting to be provided on the site can be controlled through a condition (see condition 6). As a result, it is considered that subject to the imposition of these conditions, the proposed development will not interfere with any protected species or habitat and as such, the Council has discharged its duty under the Habitats Directive and part 11 of the NPPF. There was detailed work still being undertaken on the form and evidence base of the wildlife reports as this report is written that may necessitate detailed changes to the proposed condition in regard of reference to specific documents.

## Other Issues

78. Residents of the adjacent terrace have again complained at potential for loss of residential amenity should the development proceed, albeit it is noted that there were 7 objectors this time, compared to the previous 25. With a separation distance of 35m between the nearest chalet to an existing dwelling, separated by existing and proposed trees and hedges, this is not considered an unreasonable relationship and therefore not contrary to the last criterion of Policy TO7. The elevation of the existing property is further noted to be the rear, with the gardens and main living room

windows of that property, and therefore the main amenity of that dwelling, on the opposite side of the house. The Inspector assessing the proposal for the caravan site came to a similar conclusion when caravans were proposed within 30m of the dwellings. The scheme is assessed as acceptable against Policy GDP1(h) of the Local Plan.

79. Drainage of the site is proposed to take the foul through a solid pipe gravity system to the existing Northumbrian Water system. Northumbrian Water had no objection to this arrangement subject to connections to their specification. Surface water will be drained through a Sustainable Drainage System into a nearby woodland water course. Paved areas within the development will include permeable surfaces and filtration, ensured by condition. The arrangement replicates natural drainage systems to manage flood risk at source. The lodges will incorporate rainwater harvesting to recycle water and reduce surface water run-off. The Environment Agency has previously examined a scheme that has been redesigned at their behest during the course of the planning application and on the basis that only surface water is discharged into the SUDS system, offered no objection. The scheme is considered compliant, as required, by Policy GDP1(i) and (j) of the Local Plan, with detailed run-off rates suggested by Council Drainage Officers included in the proposed condition. Northumbrian Water had previously asked for foul drainage to be connected to their system. The proposals reflect the previously agreed scheme.
80. With a less dense form of development proposed compared to the refused scheme for caravans, and a redesigned access to ensure there is no break in the woodland cover, the site is not considered to undermine the wildlife corridor protected by Policy EN23 of the Local Plan in allowing the free and safe movement of wildlife within the area and therefore the integrity of this feature.
81. The Coal Authority have previously inspected the detailed Coal Mining Risk Assessment submitted with the proposals, and raised no objection subject to their standard condition.
82. Referred to by objectors, the legal covenant restricting development within the woodland area is not material to the determination of the planning application.
83. The County Archaeologist requires that the site be investigated for potential interest before the development takes place, and whilst this ideally should lead an application, is ultimately capable of being addressed by condition. Given the nature of this issue, this investigation is considered required pre-commencement of development works.
84. Various aspects of precedent are raised by the Parish Council and other objectors, including references to conveyance discussions, the shape of the access road and the remaining undeveloped extent of the applicant's landholding. Any proposals for future development would be fully under the control of the Council as Local planning authority and would be considered on their own merits.

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## **CONCLUSION**

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85. The proposed development is considered to be broadly compliant with the development plan. In terms of the planning balance of assessment of the proportionate weight given to policies in the Development Plan and when further assessed against the National Planning Policy Framework, and also in terms of the wider material policies and drivers of Durham County Council that seek to drive

economic regeneration and prosperity, particularly as set out in the Durham Tourism Management Plan, the basic principle of the development is considered acceptable.

86. To the extent that relevant policies in the Development Plan are out of date, the paragraph 14 presumption applies. There are no policies in the NPPF to indicate that development should be restricted, and no adverse impacts have been identified that significantly and demonstrably outweigh the benefits when assessed against the Framework as a whole.
87. Finally, as a resubmission, there have been no significant changes to the physical or policy environment since the previous approval of the same proposals that would indicate that an alternate recommendation is appropriate.

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## **RECOMMENDATION**

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88. 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 strict accordance with the following approved plans; Site Layout PA1, Site Manager's Building Dwg.4, Lodge Type B Dwg.3, Lodge Type A Dwg.2, Access layout A025647/21/CS/SK006-P1, Foul Water Drainage J6037-CD-101-P1

Reason: In the interests of the amenity of the area in accordance with Policies GDP1, EN1, EN2, EN6, EN9, EN11, EN23, TO7 and TR2 of the Derwentside District Local Plan 1997 (saved 2009)

3. Notwithstanding any details of materials submitted with the application no part of the buildings hereby approved shall commence until details of the make, colour and texture of all walling, window, guttering and roofing materials and the siting of all photo-voltaics have been submitted to and approved in writing by the Local planning authority. The development shall be constructed wholly in accordance with the approved details.

Reason: In the interests of the amenity of the area in accordance with Policies GDP1, EN6 and TO7 of the Derwentside District Local Plan 1997 (saved 2009)

4. In advance of its construction, details of the surface treatment and construction of all hard-surfaced areas, both vehicular and pedestrian, shall be submitted to and approved in writing by the Local planning authority. The development shall be undertaken wholly in accordance with the approved details.

Reason: In the interests of the amenity of the area in accordance with Policies GDP1, EN6, TO7 and TR2 of the Derwentside District Local Plan 1997 (saved 2009)

5. Prior to the occupation of the site manager's dwelling or the use of any individual chalet, details of site management and maintenance including refuse

arrangements, refuse collection areas and their design shall be submitted to and approved in writing by the Local planning authority. The development shall be constructed and operated in accordance with the approved details.

Reason: In the interests of the amenity of the area in accordance with Policies GDP1, EN6, TO7 and TR2 of the Derwentside District Local Plan 1997 (saved 2009)

6. Prior to the occupation of the site manager's dwelling or the use of any individual chalet a scheme of low level lighting for the chalets and the site access, to include details of siting, type, height, levels of illumination and construction and implantation in relation to the existing and proposed trees must be submitted to and approved in writing by the Local planning authority. The design of the lighting scheme must be informed by the potential effect on protected species, and bats in particular, with this accommodation explained within the submitted details. The development shall be constructed and operated in accordance with the approved details.

Reason: In the interests of the amenity of the area in accordance with Policies GDP1, EN6, TO7 and TR2 of the Derwentside District Local Plan 1997 (saved 2009)

7. The lodges shall be occupied for holiday purposes only and shall not be occupied as any person's sole or main place of residence. The owners/operators of the site shall maintain an up-to-date register of the names of all owner/occupiers of individual lodges on the site, their occupation of the lodges and of their main home addresses and shall submit this information annually in January to the Local planning authority. None of the lodges shall be occupied in any way between 7th January and 7th February in any calendar year.

Reason: To ensure an appropriate form of development in the countryside, in accordance with Policies GDP1, EN1, EN2, EN6, TO7 and TR2 of the Derwentside District Local Plan 1997 (saved 2009)

8. The Manager's lodge shall only be occupied by persons whose main occupation is the security, servicing, maintenance and management of the Holiday Lodge development to which this approval relates and their dependants. The Manager's lodge shall only be occupied once all the holiday lodges hereby approved are completed and available for occupation.

Reason: To ensure an appropriate form of development in the countryside, in accordance with Policies GDP1, EN1, EN2, EN6, TO7 and TR2 of the Derwentside District Local Plan 1997 (saved 2009)

9. Before development is commenced a detailed Woodland Management Plan, based on the details set out in the 'Habitat Survey at Ornsby Hill, Lanchester, MD2, 16th April 2013' and the 'Tree Report: review and updating of the 2006 report and expanded woodland management proposals for woodland ant Ornsby Hill, Lanchester, Issue 2, MD2, 11th April 2013', including maintenance of the permissive footpath proposed must be submitted to and approved in writing by the Local planning authority, being thereafter implemented in full in accordance with a timescale to be included with said Plan.

Reason: In the interests of the woodland and wildlife amenity of the area in accordance with Policies GDP1, EN9, EN11, EN23, of the Derwentside District Local Plan 1996 (saved 2009). Given the implications of this issue, this element of

the scheme is considered required pre-commencement, the advice of the DMPO 2015 having been taken into account.

10. Notwithstanding the information submitted with the application, the development shall not be occupied or brought into use until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of the timing of the works including a start and completion date. No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats and all contractors on site must be made aware by the developer of their responsibilities to such. The landscape scheme shall include accurate plan based details of the following:

- Trees, hedges and shrubs scheduled for retention.
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc.
- Details of land and surface drainage.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.
- The Local planning authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years. Any specimens that fail within that time period must be replaced and maintained to the original agreed specification.

Reason: In the interests of the woodland and wildlife amenity of the area in accordance with Policies GDP1, EN6, EN9, EN11, EN23, of the Derwentside District Local Plan 1997 (saved 2009)

11. Before development is commenced a detailed plan, schedule and working methods for tree works and tree protection measures during construction works must be submitted to and approved in writing by the Local planning authority, being thereafter implemented in full against said agreement.

Reason: In the interests of the woodland and wildlife amenity of the area in accordance with Policies GDP1, EN9, EN11, EN23, of the Derwentside District Local Plan 1997 (saved 2009). Given the implications of this issue, this element of the scheme is considered required pre-commencement, the advice of the DMPO 2015 having been taken into account.

12. Development must be carried out in line with the recommendations of the 'Coal Mining Risk Assessment Report', 10 Sept. 2012, requiring a further site investigation prior to the commencement of development. In the event that these investigations identify the need for remedial works to treat identified areas of shallow mine workings and/or other mitigation measures to ensure the safety and stability of the proposed development, these works must also be undertaken prior to the commencement of development.

Reason: To protect the development against potential Coal Mining legacy issues that may affect the site. Given the implications of this issue, this element of the scheme is considered required pre-commencement, the advice of the DMPO 2015 having been taken into account.



13. Before any development of the lodges or manager's accommodation hereby approved commences a full levels survey of the site, to include existing and proposed heights, including detailed sections of the lodges and vehicular access and circulation must be submitted to and approved in writing by the Local planning authority. The development shall be constructed in full accordance with the approved details.

Reason: To protect the development against potential Coal Mining legacy issues that may affect the site and ensure an appropriate form of development in accordance with Policies GDP1, EN1, EN6, EN9, EN11, TO7 and TR2 of the Derwentside District Local Plan 1997 (saved 2009)

14. Before development commences, a Drainage Strategy and scheme of SUDS Drainage shall be submitted to, and approved in writing by the Local Planning Authority in accordance based upon plan J6037-CD-103 and the specifications submitted with this application, including but not restricted to sections and construction details of the proposed physical mitigation measures, with construction details of hand dig where appropriate in the vicinity of trees. The scheme must be fully implemented in accordance with said agreement before the Managers Lodge and/or any holiday lodge is brought into use. The scheme must include and demonstrate a maximum green-field run-off rate of 5 l/s. The scheme must include a drainage channel to intercept any run off from the site onto the A6076, this drained to a suitable outfall. The scheme must include detail on the permeable road construction. Only surface water may be drained into the SUDS system.

Reason: To ensure drainage and flooding issues have been fully considered and addressed accordance with Policy GDP1 of the Derwentside District Local Plan 1996 (saved 2009). Given the implications of this issue, this element of the scheme is considered required pre-commencement, the advice of the DMPO 2015 having been taken into account.

15. No development shall take place unless in accordance with the recommendations and mitigation of a habitat survey, assessment and mitigation document to be approved in writing by the Local planning authority including, but not restricted to adherence to detailed specified biodiversity mitigation measures, including details of timing and spatial restrictions; working methods; provision of mitigation in advance; undertaking confirming surveys as stated; adherence to precautionary working methods; provision of an owl and bat boxes and implementation of species rich meadow planting.

Reason: To ensure interests of species protected by law are fully considered and protected through development works, as required by Part 12 of the NPPF

16. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The Scheme shall provide for:

- i; Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance.
- ii; Methodologies for the recording and recovery of archaeological remains including artefacts and eco-facts.
- iii; Post-fieldwork methodologies for assessment and analyses.
- iv; Report content and arrangements for dissemination, and publication proposals.
- v; Archive preparation and deposition with recognised repositories.

vi; A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy.

vii; Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works.

viii; A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications.

The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

Reason: To comply with paragraph 135 and 141 of the NPPF because the site is of potential archaeological interest. Given the implications of this issue, this element of the scheme is considered required pre-commencement, the advice of the DMPO 2015 having been taken into account.

17. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record.

Reason: To comply with paragraph. 141 of the NPPF which ensures that any archaeological information that may be gathered becomes publicly accessible.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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89. 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 in discussing the scheme in detail pre-submission, and in allowing further negotiation and submission of additional information on those points identified as lacking by consultees during the course of the application.

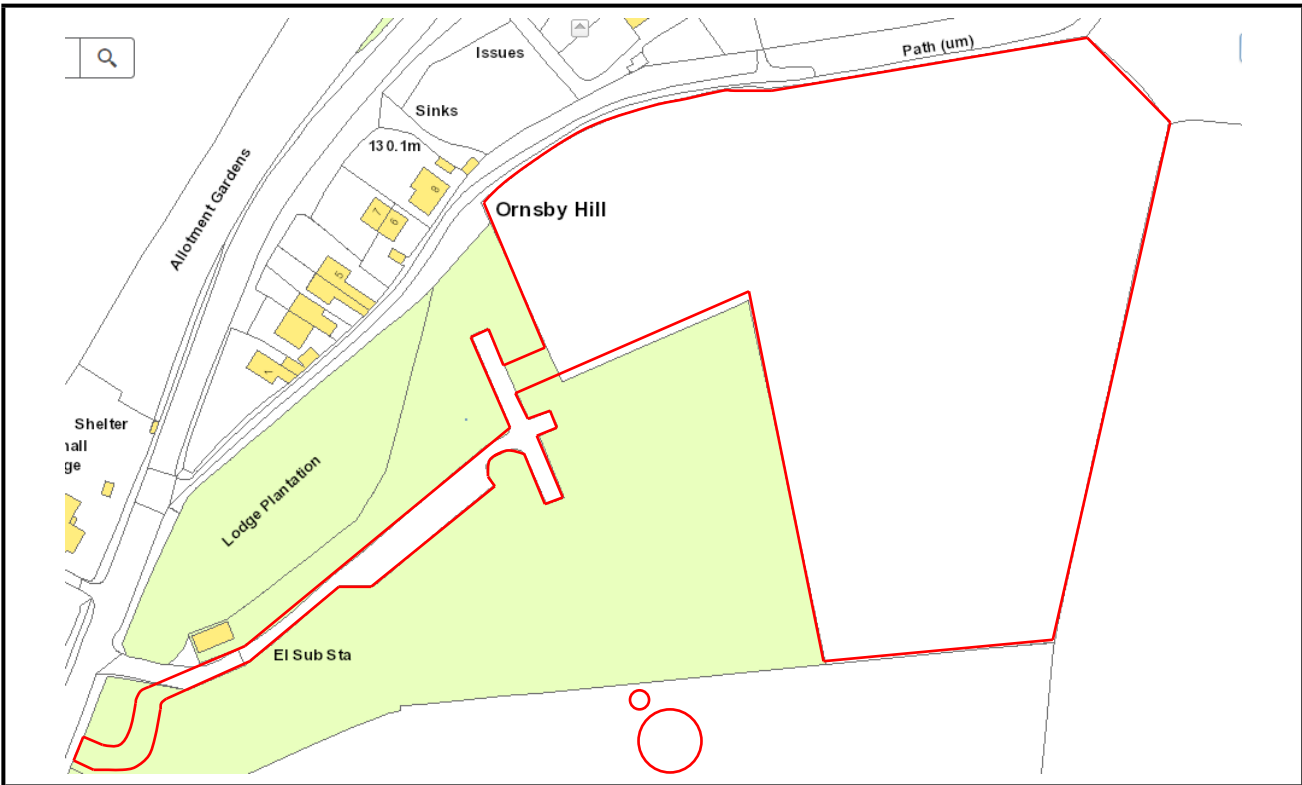
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## **BACKGROUND PAPERS**

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- Submitted Application Forms, Plans and supporting documents, including updated and amended documents.
- Statement of Community Involvement Report, 16 Nov' 2012, MD2.
- Design & Access Statement, Ross Architectural, Nov' 2012.
- Planning and Sustainability Statement MD2 updated June 2016
- Hedgerow Survey, Land at Ornsby Hill, 23 Nov' 2012 MD2.
- Tree Report: review and updating of the 2006 report and expanded woodland management proposals for woodland at Ornsby Hill, Lanchester, Issue 2, MD2, 11th April 2013
- Habitat Survey, Ornsby Hill, Lanchester, 16 April 2013, MD2.
- Prelim. Ecological Appraisal, Ecosurv, 24/05/2016
- Surface and Foul Drainage Systems Scheme, SC Consulting Engineers, Jun 2013.
- The National Planning Policy Framework.
- Derwentside District Local Plan 1997 (saved 2009).
- Consultation response from internal and external consultees.
- Durham Tourism Management Plan 2012-2016.
- Durham Tourism Management Plan 2016-2020.

- County Durham Visitor Accommodation Futures, Executive Summary, Hotel Solutions Consultancy, Oct' 2012.
- Good Practice Guide on Planning for Tourism, Dept. Communities & Local Govt. July 2006.
- Tourism Action Plan, CLG, 2016
- Seasonal and Holiday Occupancy Conditions for Caravan & Chalet Parks - Rural & Urban Planning Consultancy Ian Butter FRICS MRTPI, April 2012 (accessed 09/07/2013).



 <p><b>Planning Services</b></p>	<p>Land East of Ornsby Hill, Lanchester</p> <p>Application Number DM/16/01861/FPA</p>	
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