

# COMMITTEE REPORT

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## APPLICATION DETAILS

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**APPLICATION No:** DM/17/03144/FPA  
**FULL APPLICATION DESCRIPTION:** Erection of a dwelling  
**NAME OF APPLICANT:** Mr Alan Bell  
**ADDRESS:** Former Site of Lumley Boys School, Land North of Fenton Well Lane, Great Lumley  
**ELECTORAL DIVISION:** Lumley  
**CASE OFFICER:** Nick Graham  
Planning Officer  
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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The proposed development site is set on the western edge of Great Lumley within the designated North Durham Green Belt. The site fronts onto Fenton Well Lane, a country road without footpaths, where a stone wall forms the front boundary of the site. It is bounded by agricultural land to the north and west, with Fenton Well Lane lying to the south, and a cluster of residential properties approximately 50m to the east.
2. The land gently falls away to the west, and is visible from the western embankment of the River Wear and the East Coast Main Line.

### The Proposal

3. The applicant proposes a modern, detached, 'L' shaped two storey dwelling accessed from Fenton Well Lane. The dwelling is proposed to be constructed on the existing walls and foundations of the school house, which has not been in situ for approximately 30-40 years, although the foundations of which are still visible on the site. The materials proposed include stone walling, elements of render, and a natural slate roof. A large driveway is also proposed within the site to accommodate car parking.
4. The application is reported to Committee at the request of a local Ward Member.

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## PLANNING HISTORY

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5. Outline planning permission was refused in 2003 (ref. 2/03/00558/OUT), and dismissed at appeal (ref. APP/G1305/A/04/1140566) for the erection of a dwelling due to the site's location in the Green Belt and the harm to the character and

appearance of the countryside. A further outline application was submitted in 2006 (ref. 2/06/00208/OUT) for the erection of a dwelling however this was withdrawn.

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

#### **NATIONAL PLANNING POLICY FRAMEWORK:**

6. 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:
7. *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.
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 or 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.
11. *NPPF Part 9 – Green Belts* – The five purposes of Green Belt land are set out thus; to check unrestricted urban sprawl, to prevent towns coalescing, to safeguard the countryside from encroachment, to preserve the setting and character of historic towns and to assist urban regeneration. Planning Authorities are required to ensure substantial weight is given to any harm to the Green Belt, with ‘very special circumstances’ required to over-ride Green belt policies.
12. *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:**

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. *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.
17. *Light Pollution* - Artificial light can be a source of annoyance to people, harmful to wildlife, undermine enjoyment of the countryside or detract from enjoyment of the night sky. Some proposals for new development, but not all, may have implications for light pollution. Impacts upon background light levels, impacts from existing lighting, impacts upon protected species and wildlife, dark landscapes and reflection from existing buildings all are important factors to consider. If any of these are affected, then where light shines, when it shines, how much shines and ecological impacts should be investigated.

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

18. The following are those saved policies in the Chester-le-Street District Local Plan relevant to the consideration of this application:
19. *Policy NE2 – Development beyond settlement boundaries* – outside of settlement limits development will be strictly controlled. Development should protect and enhance the character of the countryside and be consistent with maintaining the economic sustainability of agriculture and other rural businesses.
20. *Policy NE4 – Appropriate development in the Green Belt* - seeks to control appropriate development in the Green Belt, restricting the construction of new

buildings to; agricultural and forestry uses, sport, recreation and other uses that preserve Green Belt openness, proposals for the limited extension, alteration or replacement of existing dwellings, the reuse or conversion of existing buildings and mineral extraction.

21. *Policy NE5 – New Dwellings in the Green Belt* – There is a presumption against the construction of new dwellings in the Green Belt.
22. *Policy NE6 – Development affecting the Visual Amenity of the Green Belt* – Development within or conspicuous from the Green Belt will not be granted where the proposal by virtue of its scale, siting, materials or design is detrimental to the visual amenity of such.
23. *Policy NE15 – Areas of High Landscape Value* – Special attention will be given to the maintenance and enhancement of the landscape character and quality of Wear Valley Areas of High Landscape Value. Propose for development within these areas will only be permitted where they are of a high standard of design, reflect the scale and character of buildings in the area and do not detract from the high landscape quality.
24. *Policy T8 – Car Parking Provision* – States that new development should seek to minimise parking provision other than for cyclists and disabled users, other than in exceptional circumstances.
25. *Policy T15 – Access and Safety provisions in design* – Development should have safe access to classified road, should not create high levels of traffic exceeding capacity, have good links to public transport, make provision for cyclists and service vehicles and have effective access for emergency vehicles.
26. *Policy T17 – General Policy* – All new developments should have regard to and be consistent with the provision of a safe and accessible transport network, in particular through reducing reliance on the private car, encouraging the use of public transport and promoting cycling and walking.

#### **EMERGING POLICY:**

27. 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.

*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>.*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

28. *Highways* – Advised the site is accessed from a narrow private lane, Fenton Well Lane, which is in a very poor substandard condition to serve new housing for both pedestrians and vehicular movements. The nearest public highway, Front Street, is located to the east of the site, and there appears to be intervening third party land from the site to the point of the public highway, which is not within the applicant's ownership. No formal footways serve the site from Front Street to the east.
29. Given the above poor unsustainable location of the site detached from the nearby settlement and the poor connectivity to the wider public network for particularly for pedestrians it would be difficult for the application to be supported from the highways aspect.
30. Following the submission of an amended red line plan, the Highways Engineer noted no objections to the proposal subject to the inclusion of an upgraded footway link and the installation of a private street light for safe pedestrian access, as well as an improved access to Fenton Well Lane for visibility reasons.

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

31. *Spatial Policy* – Advise the key policy considerations of this proposal would be the potential harm to the Green Belt; quality of design; landscape impact, and whether the test set out within Paragraph 14 of the NPPF is engaged, and if so whether there are any policy related adverse impacts or benefits which should be considered.
32. Policy NE4 sets out the types of new development that would be permitted within the Green Belt. This is assessed as partially consistent with the NPPF and NPPG. Whilst the objective of this saved policy is consistent with the NPPF and NPPG, the policy wording in NPPF introduces a wider scope by virtue of the exceptions which are set out in Paragraphs 89 and 90. As such the full suite of NPPF exceptions must be given primacy.
33. The scope of exceptions in Paragraph 89 is wider than within the saved policy. It is noted that the applicant argues that the site is previously developed land rather than greenfield. Their argument is therefore that Paragraph 89 (bullet 6) of the NPPF applies and that the site is either 'limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development'. The proposal does not appear to fall comfortably within the scope of paragraph 89.
34. In terms of Policy NE5, whilst the objective of this policy is consistent with the NPPF and NPPG, the policy wording is inconsistent as the NPPF has a wider scope in terms of the exceptions set out within Paragraphs 89 and 90. Therefore the exceptions continue to be given primacy as a material consideration.
35. Paragraph 14 of the NPPF identifies that the 'presumption in favour of sustainable development' is the golden thread running through both plan-making and decision-taking. It further identifies that for decision making that 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 permission should be granted unless:
  - Any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the NPPF taken as a whole; or
  - Specific policies in the NPPF indicate that the development should be restricted.

36. The application is an application for new housing outside settlement boundaries. The Local Plan is out of date with regards to this issue and therefore the tests set out in paragraph 14 are engaged. Limb 2 of the test is also triggered as due to the nature of the proposal and its location there are restrictive policies within the NPPF on Green Belts.
37. Paragraph 88 is one such restrictive policy. It states that when considering any planning application, LPAs should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. To survive this test the decision taker would need to be convinced that the benefits of the application proposal outweigh the very clear and well established policy presumption against it.
38. *Landscape* – Advise the brownfield site is within the Northern Wear Valley AHLV beyond the edge of the settlement in an adopted Durham County Council ‘Landscape Improvement Priority Area’ where the spatial policy is to ‘enhance’. This implies that any allowed development would be subject to substantial mitigating landscape work to reduce adverse visual impact and negative effect on landscape character. The area is in the Green Belt.
39. The site is below the plateau occupied by Lumley Village, on the upper slopes above the expansive floodplain. Most viewpoints are remote and in the western quadrant across the Wear Valley. The well-used Weardale Way long distance path adjoins the north-eastern corner of the site. The site is terraced at the higher south-eastern corner level on Fenton Well Lane. This creates circumstances where any development would be dominant and isolated as seen from the Lane in particular, just as was the former school.
40. The village is currently contained within a defined contour and footprint above the terraced site. Development of this area below and outside the village would represent some change to the rural character of the locality and would have some significant adverse landscape and visual effects.
41. *Ecology* – No ecological issues raised and no objections to the submitted Ecological Appraisal.
42. *Public Rights of Way* – Advise that vehicular access to the site is in part over public footpath no.22, Great Lumley Parish. This section of the path is also recorded as adopted highway and as such no concerns regarding the proposed access arrangements are raised. Public footpath no.1, Great Lumley Parish, passes close to the north-eastern corner of the site, but should remain unaffected by the proposal.

#### **EXTERNAL CONSULTEE RESPONSES**

43. *Coal Authority* – Advise that in accordance with the agreed risk-based approach to development management in Development High Risk Areas, the applicant need to submit a Coal Mining Risk Assessment Report as part of this application. Without such an assessment of any risks to the development proposal posed by past coal mining activity, based on up-to-date coal mining information, the Coal Authority does not consider that the Local Planning Authority (LPA) has sufficient information to determine this planning application and therefore objects to this proposal.
44. If the applicant ultimately fails to demonstrate to the LPA that the application site is safe and stable to accommodate the proposed development then the LPA may

refuse planning permission, in accordance with the NPPF, paragraphs 120-121. The Coal Authority would be very pleased to receive for further consultation and comment any subsequent Coal Mining Risk Assessment Report which is submitted in support of this planning application.

45. Following the submission of a Coal Mining Risk Assessment Report and Phase 1 Desk Top Study, the Coal Authority concurred with the recommendations of the submitted documentation and recommend a condition is imposed on any approval granted requiring site investigation works to be undertaken prior to works commencing on site, and, if required, remedial works.
46. *Northumbrian Water* – Advise that a public sewer crosses the site and may be affected by the proposed development. Northumbrian Water do not permit a building over or close to their apparatus and therefore will be contacting the developer directly to establish the exact location of our assets and ensure any necessary diversion, relocation or protection measures required prior to the commencement of development. For planning purposes it is noted that the presence of Northumbrian Water assets may impact upon the layout of the scheme.
47. *Durham Constabulary* – Advise that in the past five years, three incidents have been recorded on Fenton Well Lane, two of which relating to abandoned vehicles and the third not of relevance to this planning application. The Neighbourhood Policing Team are aware of youths congregating at the site and causing general nuisance, however no activity has been reported. It is noted there is a reasonable separation distance between the site and the nearest property which may assist neighbours in being more tolerant which is not to say such behaviour is acceptable.

#### **PUBLIC RESPONSES:**

48. The closest neighbouring properties to the site have been consulted, a site notice was posted close to the site access, and a press notice published in the Northern Echo. Five public responses have been received in support of the application. Reference is made to the fact the site previously housed a building, and Chester-le-Street District Council incorrectly allocated the site as Green Belt. The proposal would add value and visual amenity to the Fenton Well Lane area of the village. The proposal is not easily viewed from the village itself and is attracting anti-social behaviour from youths; this development would eradicate this problem. It would also assist in providing a deterrent to illegal activity on nearby and adjacent sites. Mr Bell has lived in Great Lumley all of his life and it would be a loss to the village if he had to look elsewhere to build his home.

#### **APPLICANTS STATEMENT:**

49. The principle of redeveloping this brownfield site complies with national and local planning policy. The design is appropriate for the scale and character of the village and will not harm its setting or lead to inappropriate development in the countryside. The proposal constitutes a sustainable development in a sustainable location.
50. The redevelopment of this brownfield site presents an excellent opportunity for the Council to support sustainable development within Great Lumley and reuse a derelict and unsightly site. The site was proposed for Green Belt removal in the now withdrawn County Durham Plan, demonstrating that in the Council's view it does not contribute to any of the five Green Belt purposes.
51. This application proposes the redevelopment of a brownfield site resulting in no harm to the purpose and function of the Green Belt. The proposal is compliant with

relevant national planning policies and it benefits from the presumption in favour of sustainable development.

*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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52. 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 issue in this instance relates to the principle of a new dwelling in the Green Belt.

### Principle of Development

#### The Development Plan

53. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The Chester-le-Street District Local Plan remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 215 that the weight to be afforded to relevant saved local plan policy will depend upon the degree of consistency with the NPPF.
54. The Local Plan was adopted in 2003 and was intended to cover the period to 2006. However, NPPF Paragraph 211 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances.

#### The NPPF

55. Paragraph 14 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise):
  - approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless:
    - i) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or
    - ii) specific policies in this Framework indicate development should be restricted.
56. Paragraph 47 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.
57. Paragraph 49 of the NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA

cannot demonstrate a five-year supply of deliverable housing sites. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 14 of the NPPF is engaged, and an application is to be assessed in this context.

58. However, Paragraph 14 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the DLP are out-of-date where outlined below.

#### Five Year Housing Land Supply

59. The NPPF states that housing applications should be considered in the context of a presumption in favour of sustainable development and that if the Council cannot demonstrate a five year housing land supply, then housing policies in a Local Plan cannot be considered up to date.
60. In June 2016 consultation was carried out on the County Durham Plan Issues and Options, which presented three alternative assessments of housing needs, each based on average net completions up to 2033 (the end of the proposed plan period), these being:
  - 1,533 dwellings per annum (29,127 houses by 2033)
  - 1,629 dwellings per annum (30,951 houses by 2033)
  - 1,717 dwellings per annum (32,623 houses by 2033)
61. As of April 2017 the Council considered that it had a deliverable supply of 10,234 (net) new dwellings for the next 5-year period. Set against the lowest need figure the Council took the position that it could demonstrate a supply of 4.91 years of deliverable housing land, against the middle figure around 4.51 years' worth supply and against the highest figure, 4.20 years of supply.
62. Whilst none of the three scenarios within the Issues and Options were publicly tested, they served to demonstrate that set against varying potential figures, the Council had a relatively substantial supply of housing at that time.
63. However, on 14 September 2017, the Government published a consultation document entitled "Planning for the Right Homes in the Right Places". That consultation introduced a standard methodology for calculating housing need. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum. On that basis, the Council would therefore be able to establish a supply of housing land in excess of 5 years.
64. Case law indicates that the boost to housing supply is a material planning consideration which should be factored into the planning balance test under Paragraph 14.
65. Given that the most up to date OAN methodology is contained within a consultation draft only and the very recent publication of that document, the Council is yet to formalise its position on the issue of 5 year land supply. In the interim period until it does so, it is considered that the three scenarios identified in the Issues and Options stage can no longer be relied upon and accordingly, the weight to be given to any benefits a housing proposal might have in terms of the boost to housing supply ought to be less than if the Council were to continue to rely upon the Issues and Options scenarios where a 5 year supply could not be demonstrated.
66. The Housing policies in the Local Plan relate to the Great Lumley settlement boundary (HP6), of which this site falls just outside. The Spatial Policy response provided indicates that although weight can be attached to Policy HP6, the impact of

the proposal in locational terms should be determined as part of the proposal rather than relying upon the boundary delineated on the Local Plan Proposals Map.

67. The proposal would be contrary to Policy NE2, which seeks to protect the countryside from encroachment. However, as Policy NE2 is considered to be partially consistent with the NPPF and NPPG, primacy should be afforded to the NPPF which outlines a wider range of circumstances in which development may be acceptable.
68. Although the above is the case, the second limb of Paragraph 14 of the NPPF indicates development should be restricted in this location by virtue of the site's Green Belt location, which will be considered in further detail below.

#### Development in the Green Belt

69. The restrictions on development in Green Belts are significantly greater than in the wider countryside, reflected in the length and detail of advice offered by the NPPF. The site is located within the Green Belt, therefore the main issues are:
  - Whether the proposal would be inappropriate development in the Green Belt.
  - The effect of the proposal on the openness of the Green Belt and the character and appearance of the area;
  - Whether the proposal would represent a form of sustainable development, and
  - If the development is inappropriate development, whether the harm is clearly outweighed by other considerations, so as to amount to the very special circumstances necessary to justify it.
70. By definition, inappropriate development in the Green Belt is harmful, and should not be approved except in very special circumstances. 'Very special circumstances' will not exist unless the potential harm by reason of its inappropriateness and any other harm is clearly outweighed by other considerations. New buildings are considered to be inappropriate in Green Belt and the only exceptions to this are set out in the NPPF and include:
  - Buildings for agriculture and forestry; provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does not conflict with the purposes of including land within it.
  - The extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building.
  - The replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces.
  - Limited infilling in villages, and limited affordable housing for local community needs under policies set out in the Local Plan; or limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.
71. A Ministerial Statement advises that it is the 'Secretary of State's policy position that unmet need, whether for traveller sites or for conventional housing, is unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" justifying inappropriate development in the Green Belt. The Secretary of State wishes to re-emphasise this policy point to both local planning authorities and planning inspectors as a material consideration in their planning decisions'. The

Chief Planner has recently written to reinforce this point, ‘this statement...is to provide stronger protection for the Green Belt...(and)...sets out the government’s policy that...personal circumstances and unmet need are unlikely to clearly outweigh harm to the Green Belt and any other harm so as to establish very special circumstances’.

72. The building is not for agriculture or forestry, outdoor sport, recreation or for a cemetery. It is not the extension or alteration of an existing building, and is not the replacement of a building, given the considerable time which has elapsed since the removal of the school building. It is also not infilling in a village, affordable housing, or the redevelopment of a previously developed site which would not have a greater impact on the openness of the Green Belt, which itself will be discussed further below. The very special circumstances, as listed above, have not been defined within this proposal and it is therefore not considered any of the above criteria as set out within the exceptions are met.
73. Openness is regarded as an essential characteristic of the Green Belt and to illustrate the overriding importance of openness and the degree to which it is required protected, reference to a number of recent appeal decisions in the immediate North Durham Green Belt around Chester-le-Street is instructive:
74. In one of the Council’s most recent appeal decision relating to Green Belts (Land to the East of Ravenscroft, Stoney Lane, Beamish, LPA Ref: DM/15/03625/FPA, Insp Ref: APP/X1355/W/16/3156113), also in the former Chester-le-Street area, the Planning Inspectorate noted although there is no definition of openness in the NPPF, ‘it is generally held to refer to freedom from, or the absence of, development. The essential characteristics of Green Belts are their openness and their permanence and one of the purposes of the Green Belt is to keep land permanently open.’ Regarding the proposal for a new dwelling and two outbuildings, ‘the significant footprint of the buildings, their bulk, mass and domestic paraphernalia on land which is currently free from development would inevitably lead to a loss of openness.’ That application was refused, and the Inspector gave ‘substantial weight’ to the harm of ‘significant loss of Green Belt openness’, whilst conflicting with the Green Belt purpose of safeguarding the countryside from encroachment, and it was concluded the proposal would be inappropriate development in the Green Belt, and by definition, harmful.
75. In another decision (Land at Southburn Livery and Stud, LPA Ref: DM/14/03673/FPA, Insp Ref: APP/X1355/W/15/3129652), the Planning Inspector concluded that the erection of a proposed dwelling and garage would represent a significant encroachment of the current building complex into land which is currently open and undeveloped, despite there being surrounding buildings in that example; ‘Paragraph 79 of the Framework establishes that openness is one of the essential characteristics of the Green Belt. The judgement from Timmins & Anor v Gedling Borough Council [2014] established that openness is epitomised by a lack of buildings rather than by buildings which are unobtrusive or screened in some way. The proposed dwelling and garage would occupy land which is currently open and undeveloped, rather than replacing existing buildings. Therefore, the proposal would have a greater impact on the openness of the Green Belt than the current buildings on site’...‘I conclude that the proposal would cause significant harm to the openness of the Green Belt in this location and its purpose in safeguarding the countryside to the south of Chester-le-Street from encroachment’. That application was refused, despite the Inspector accepting a functional need for the dwelling to be in the countryside and despite the presence of surrounding buildings. The mass of new buildings in the countryside by definition causes harm, even if screened or hidden by landform.

76. Even where the proposed development is within the confines of a small hamlet the Planning Inspectorate confirm that a new dwelling can be considered unacceptable in terms of compromising ‘openness’ when it is subject to Green Belt designation, as evidenced by the recent appeal decision for such at Plawsworth Gate (LPA Ref: DM/14/03288/FPA, Insp. Ref: APP/X1355/W/15/3028093), where a dwelling to replace an existing blight site garage was surrounded by 15 existing dwellings.
77. The degree to which the effect on openness is assessed is such that the Planning Inspectorate has found that it can be detrimentally affected by the implications of a change of use of an existing building. In the recent appeal relating to the conversion of an existing redundant small stone barn at Papermill Cottages, Beamish Woods, 0.3 miles north west of the application site (LPA Ref: 2/13/00288/FUL, Insp Ref: APP/X1355/A/14/2218827), the Inspector found, ‘the use of an existing building would not in itself result in urban sprawl or a loss of openness but the creation of the proposed residential curtilage and the addition of the proposed sun room would add built form and change the character of the site. It would have an urbanising effect, encroaching into the countryside and detracting from the openness of the Green Belt. In the light of this the proposal would fail to meet the condition that openness and the purposes of including land in the Green Belt should not be harmed. It is therefore inappropriate development in the Green Belt...which is by definition harmful and weighs heavily against the proposal which should not be allowed, except in very special circumstances’.
78. As made clear above, it is an accepted tenet of the assessment of openness in relation to the Green Belt assessment that screening new buildings – or siting them within woodland or obscured by landscape features does not mitigate their harm. In this instance, the proposed position of the dwelling is considerably higher than the nearby River Wear and would also be visible from the East Coast Main Line. On this basis it is considered the proposal would have a definite presence in the countryside and clearly viewed from the west.
79. Openness would be compromised in detail and principle. By definition it therefore causes ‘harm’ contrary to the contention of the applicant. Even the use of the land surrounding the dwelling as residential curtilage can be considered to compromise openness and therefore cause harm.
80. It must be stressed that the openness of the Green Belt is not a visual issue. The NPPF sets out the five purposes of including land in this highly restrictive designation with the consideration of the application required to not just assess the impact on openness, but also the extent to which the development would conflict with the various purposes of including the land within the Green Belt. The five reasons are;
- to check the unrestricted sprawl of large built-up areas;
  - to prevent neighbouring towns merging into one another;
  - to assist in safeguarding the countryside from encroachment;
  - to preserve the setting and special character of historic towns; and
  - to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
81. The section in the NPPF relating to this topic begins with the quote, ‘Government attaches great importance to Green Belts’, continuing, ‘the fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence’. The development represents encroachment into the countryside by built development as a matter of principle, and is therefore contrary to the purposes of

including the land in the Green Belt. It is noted that this is a specific issue that the Inspectors in the above three appeals gave specific commentary on and weight to in their decisions to refuse.

82. Paragraph 88 of the Framework establishes that substantial weight should be given to any harm to the Green Belt. Policies NE4 (Appropriate Development in the Green Belt) and NE5 (New Dwellings in the Green Belt) are consistent in respect of the relevant aspects of this application. The proposal, by virtue of it being built development on a previously long-standing vacant site from such development, is considered to impact upon the openness of the Green Belt and consequently cause harm.
83. Having established that the proposal constitutes inappropriate development in the Green Belt and would cause harm by virtue of its impact on openness, it is necessary to consider other matters, including the sustainability credentials of the scheme, implications upon highway safety, landscape and design. This is to allow all relevant planning matters to be considered to see whether there are any other grounds to restrict the develop proposal or very special circumstances that would warrant approval despite clear conflict with the Green Belt. These are considered under the various headings below.

#### Development beyond settlement boundaries / Locational sustainability

84. As a separate planning issue in terms of principle, the application proposes a new dwelling beyond the defined settlement boundary of Great Lumley. Policy NE2 (Development beyond settlement boundaries) notes new dwellings beyond settlement boundaries should only be approved where there is a need to support existing agricultural or forestry activity. However, it is acknowledged this policy is only partially consistent with the NPPF, which 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.
85. 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.
86. 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 the 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. From an environmental perspective the proposal meets one of the core planning principles of the NPPF to direct development to previously developed land. Also the proposal would be in keeping with the character of the local area as it would clearly be associated with the Great Lumley settlement. In terms of the social role of housing, the benefits arising from the proposal for the dwelling in terms of the supply of housing would be a benefit, albeit small.

87. The proposal performs well in terms of minimising the impacts of climate change. Bus stops are located immediately to the west of the site on Front Street, with four times hourly Monday-Saturday daytime services to Chester-le-Street and Sunderland, and twice hourly Monday-Saturday daytime services to Consett and Stanley. Great Lumley village contains a number of services and facilities, including a small supermarket, post office and convenience store, pharmacy, GP surgery, public house and hot food takeaways, all of which are located within approximately 600m of the site. Lumley Junior School is also located within approximately 800m of the site. Given these distances, and the frequency of bus services, the application site is considered to be a sustainable location.
88. Whilst the proposed development would bring limited economic and social benefits, and is located outwith the defined settlement boundary of Great Lumley, the fact that the proposal is on a previously developed site in a sustainable location, and as the development would be in keeping with the character and appearance of the area, it is considered that notwithstanding the significant Green Belt issue as detailed above, the proposal would accord with the broad aims of the NPPF by boosting housing supply in a sustainable location, on a previously developed site.

#### Landscape and design

89. Limited landscaping details have been provided, and the Landscape Officer has noted concerns in respect of adequate site screening, particularly to the site's western boundary and when viewed from the east, as the site falls within an Area of High Landscape Value. However, if the principle of the proposal is considered acceptable, a suitably worded condition requiring the submission of landscaping details and its subsequent implementation would ensure the proposal complied with Policy NE15 of the Chester-le-Street District Local Plan.
90. It is noted there is a mixture of styles and materials in properties close to the site, and the design of the proposed dwelling is considered in acceptable, as it would have the appearance of a dormer-style bungalow, with a maximum height of approximately 8 metres. It would also be set down from the closest property to the east. The property's predominant elevation will face towards the west, and the materials proposed include a mixture of stone, render, and a natural slate roof. These are considered acceptable in principle and precise specifications can be agreed via appropriately worded conditions if the proposal is considered acceptable.

#### Highway Safety and Public Rights of Way

91. In order for the proposed development to be acceptable in terms of highway safety amendments would be required to the proposed access point to the site, as well as the inclusion of a footpath and private streetlight. The Highways Engineer considers this to be achievable and if the principle of the proposal is considered acceptable, a suitably worded condition would ensure the proposal complied with Policy T15 of the Chester-le-Street District Local Plan.
92. It is noted a Public Right of Way runs adjacent to the site, however the proposal would not affect either the vehicular access rights of, or access to, this public footpath. Any development on the site would need to ensure that the route is unobstructed.

#### Amenity and privacy of neighbouring properties

93. There are no residential amenity or privacy implications associated with the proposal given the location of the proposed development.

## **Ecology**

94. The County Ecologist has accepted the Ecology report submitted with the application, and has raised no objections to the proposal.

## **Coal Mining Risks**

95. The Coal Authority has considered the contents of the submitted Risk Assessment Report and raised no objections subject to a suitably worded condition requiring site investigation works to be undertaken prior to works commencing on site, and, if required, remedial works, which is considered appropriate.

## **Other matters**

96. Supporters have noted anti-social behaviour and other alleged activities taking place at the site, and consider such a proposal would eradicate such problems. Although this may be the case, it is noted Durham Constabulary have no direct complaints regarding this site, and any criminal activity should be resolved via the Police and not a planning application.
97. A supporter has inferred the former Chester-le-Street District Council were incorrect in allocating this site in the Green Belt as it is previously-developed land. It is not the role of this application to determine whether this site should or should not be included within the Green Belt. The site is within the designation and the proposal is therefore being considered against applicable local and national planning policies, as per any other application for development in the Green Belt.

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## **CONCLUSION**

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98. The application has been considered in the first instance against the appropriately weighted saved policies in the Chester-le-Street District Local Plan, and concluded as contrary to Green Belt Policies NE4 and NE5.
99. In applying the advice in Paragraph 14 of the NPPF, the Green Belt issue raised clearly identifies development should be restricted at this location. Green Belt Policy protects the countryside at a significantly higher level than the standard policies designed to protect the open countryside. The building proposed affects the openness of the Green Belt and is therefore harmful. Substantial weight should be given to any harm to the Green Belt in line with paragraph 88 of the NPPF, an approach confirmed as evidenced in the quoted appeal decisions.
100. The proposal amounts to inappropriate development in the Green Belt, would fail to preserve the openness of the Green Belt and would conflict with the purposes of including land in it. National Green Belt policy establishes that substantial weight should be given to any harm to the Green Belt and inappropriate development should not be approved except in very special circumstances that must outweigh not only the harm to the Green Belt but also any other harm caused by the proposal. No case has been made for an appropriate exception and relevant 'very special circumstances' to support the proposals, with the quoted Ministerial Statement indicating that personal circumstances are unlikely to outweigh harm to the green belt and other harm to constitute the "very special circumstances" giving local planning authorities and planning inspectors direct instruction as to the materiality of this issue.

101. To recap the very special circumstances; the proposal is not a building for forestry and agriculture, it is not for sport or outdoor recreation, nor the extension or alteration of an existing building, it is not the provision of a replacement building with one of similar size, it is not infilling in a village and it is not the partial or complete redevelopment of brownfield land – noting the overarching requirement of these exceptions that the proposal must have no greater impact on openness of the green belt, or by definition, it is harmful. The proposal has a greater impact than the existing open land, is therefore harmful, and is therefore unacceptable.

102. It is noted in relation to the non-Green Belt issues, these are considered acceptable, or could be made acceptable with appropriate conditions. However, whilst each site is assessed on its own merits, the approval of this site would create a dangerous precedent on a significant level in relation to the Green Belt matter. The judgements and conclusions reached in the above report are supported in detail by clear evidence of consistent planning assessment, judgement and decision making by both the Council and the Planning Inspectorate that give clear precedent for the determination of the current proposal. On this basis the proposal must be recommended refused.

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## **RECOMMENDATION**

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

1. The proposed development is inappropriate development in the Green Belt. The proposed development would harm the openness of the Green Belt as a result of the physical extent of built development. The proposal would also result in some more limited harm to the visual amenity of the Green Belt. The applicant has not demonstrated that there are any very special circumstances which would outweigh the harm to the Green Belt by reason of the inappropriate development. As such the proposal is contrary to Policies NE4 and NE5 of the Chester-le-Street District Local Plan, and Part 9 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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103. The Local Planning Authority in arriving at the decision to refuse the application has actively engaged with the applicant to identify the key planning policy issues and give the applicant the best opportunity to focus on those, both through the planning process, and any subsequent planning appeal in accordance with the Local Plan and the NPPF.

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## **BACKGROUND PAPERS**

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

The National Planning Policy Framework (2012) (NPPF)

National Planning Practice Guidance Notes (NPPG)

Chester-le-Street District Local Plan (saved policies 2009)

The County Durham Strategic Housing Land Availability Assessment (SHLAA)

The County Durham Strategic Housing Market Assessment (SHMA)

Statutory, internal and public consultation responses



 <b>Planning Services</b>	<b>Former Site Of Lumley Boys School, Land North Of Fenton Well Lane, Great Lumley</b> <b>Application Number DM/17/03144/FPA</b>
<small>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</small>	<b>Comments</b>
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