

# PLANNING AND DEVELOPMENT COMMITTEE AGENDA

Wednesday, 26 February 2020 at 10.00 am in the Bridges Room - Civic Centre

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From the Chief Executive, Sheena Ramsey

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Item	Business
1	<b>Apologies for Absence</b>
2	<b>Minutes</b>  The Committee is asked to approve as a correct record the minutes of the meeting held 5 February 2020 (copy previously circulated).
3	<b>Declarations of Interest</b>  Members to declare interests in any agenda items
4	<b>Planning Applications</b> (Pages 3 - 8)
4i	<b>No. 1 - Beamish Park Hotel, Beamish Burn Road (Pages 9 - 34)</b>
4ii	<b>No. 2 - 25 Cornmoor Road, Whickham, NE16 4PU (Pages 35 - 50)</b>
5	<b>Proposed S102 Modification Order - Bank Top, Swalwell Bank, Whickham</b> (Pages 51 - 68)  Report of the Strategic Director, Communities and Environment
6	<b>Delegated Decisions</b> (Pages 69 - 76)  Report of the Strategic Director, Communities and Environment
7	<b>Enforcement Team Activity</b> (Pages 77 - 78)  Report of the Strategic Director, Communities and Environment
8	<b>Enforcement Action</b> (Pages 79 - 86)  Report of the Strategic Director, Communities and Environment
9	<b>Enforcement Appeals</b> (Pages 87 - 90)  Report of the Strategic Director, Communities and Environment

- 10** | **Planning Appeals** (Pages 91 - 98)  
Report of the Strategic Director, Communities and Environment
- 11** | **Planning Obligations** (Pages 99 - 100)  
Report of the Strategic Director, Communities and Environment



PLANNING AND DEVELOPMENT  
COMMITTEE  
**26 February 2020**

**TITLE OF REPORT:** Planning applications for consideration

**REPORT OF:** Anneliese Hutchinson, Service Director,  
Development, Transport and Public Protection

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### **Purpose of the Report**

1. The Committee is requested to consider the attached schedule of miscellaneous planning applications, which are presented as follows:-

#### **PART ONE:**

Planning Applications  
Applications for Express Consent under the Advertisement Regulations  
Proposals for the Council's own development  
Proposals for the development of land vested in the Council  
Proposals upon which the Council's observations are sought  
Any other items of planning control

#### **PART TWO: FOR INFORMATION ONLY**

Applications determined in accordance with the powers delegated under Part 3, Schedule 2 (delegations to managers), of the Council Constitution.

### **Recommendations**

2. Recommendations are specified in the schedule.

The Human Rights Implications of the recommendations have been considered. Unless specified there are no implications that outweigh the material planning considerations.

## Contents

<b>Application Number</b>	<b>Site Location</b>	<b>Ward</b>
1. DC/19/01078/OUT	Beamish Park Hotel Beamish Burn Road	Lamesley
2. DC/19/01200/FUL	25 Cornmoor Road Whickham	Dunston Hill And Whickham East

## **DEVELOPMENT PLAN**

Section 38(6) of the Planning & Compulsory Purchase Act 2004 specifies that: 'If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise.'

## **NATIONAL PLANNING POLICY FRAMEWORK (NPPF)**

The NPPF was published in 2019 by Ministry of Housing, Communities and Local Government (MHCLG) and is a material consideration in planning decisions. The NPPF is supported by Planning Practice Guidance (PPG), which provides further detail on how some policies of the NPPF should be applied.

## **LOCAL PLAN**

In 2015 Gateshead Council and Newcastle City Council adopted Planning for the Future Core Strategy and Urban Core Plan for Gateshead and Newcastle Upon Tyne 2010-2030 (CSUCP). This Development Plan Document (DPD) sets area-wide Planning Policies for Gateshead and Newcastle, (including policies setting out the amount, and broad distribution of new development) and provides more detailed policies for the Urban Core of Gateshead and Newcastle.

In accordance with the Planning and Compulsory Purchase Act 2004 (as amended) the CSUCP now forms part of the statutory development plan for Gateshead. The CSUCP also supersedes and deletes some of the saved policies in the Unitary Development Plan (UDP). A list of deleted UDP policies is provided in Appendix 1 of the CSUCP.

The Unitary Development Plan for Gateshead was adopted in July 2007 and the remaining saved policies together with the CSUCP represent a current up to date development plan. In the report for each application, specific reference will be made to those policies and proposals which are particularly relevant to the application site and proposed development. Where the saved UDP policies are in general conformity with the NPPF due weight should be given to them. The closer the consistency with the NPPF the greater the weight can be given.

Some UDP policies are supported by Interim Policy Advice notes (IPA), or Supplementary Planning Guidance (SPG). IPA 4 and 17 and SPG 4 and 5 excerpts, will continue to be used until they have been replaced by appropriate alternatives.

The Council is currently working on new detailed policies and land allocations for the new Local Plan. The DPD will be called Making Spaces for Growing Places (MSGP), which once adopted will replace any remaining saved UDP policies and designations/allocations.

## **UPDATES**

The agenda is formed and printed approximately a week prior to the Planning and Development Committee meeting. Information, correspondence and representations can sometimes be received in the intervening period. In such cases a written update report will be circulated to Members the day prior to the meeting and on occasion there may be further verbal updates to Members from officers, so that Members are aware of all material planning considerations when making their decision on applications.

## **SPEAKING AT COMMITTEE**

Gateshead Council seeks to be inclusive in its decision making process and therefore allows applicants, agents and interested parties to make verbal representation to Members at Committee in accordance with the Council's agreed speaking rights protocol; amongst other procedural requirements, a person must have submitted a request to speak in writing at least a week, in advance of the meeting, and subsequently confirmed their intention to speak.

For further details of speaking rights at committee contact the Development Management Section on (0191) 4333150 or please view the leaflet 'Having Your Say' available from Development Management.

## **SITE PLANS**

The site location plans included in each report are for illustrative purposes only. Scale plans are available to view on the application file or via Public Access.

## **PUBLICITY/CONSULTATIONS**

The reports identify the responses to site notices, press notices, consultations and/or neighbour notifications which have been undertaken. The reports include a précis of the comments received, full copies of letters are available to view on the application file. In all cases the consultations and publicity have been carried out in accordance with the appropriate procedure(s).

## **SITE VISITS**

On occasion the Committee will defer making a decision until they have viewed the application site themselves as a group. The visits are fact finding visits only and no debate or decision making will take place on the visit and no representations will be heard at these visits and therefore the Local Planning Authority will not invite applicants or third parties to attend unless for the sole purpose of arranging access to land and or/ buildings.

## **LOCAL GOVERNMENT ACT 1972 – ACCESS TO INFORMATION (AS AMENDED)**

The background papers material to the reports included on this agenda are:

- The application and supporting reports and information;
- Responses from consultees;
- Representations received;
- Correspondence between the applicant and/or their agent and the Local Planning Authority;
- Correspondence between objectors and the Local Planning Authority;
- Minutes of relevant meetings between interested parties and the Local Planning Authority;
- Reports and advice by specialist consultants employed by the Local Planning Authority;
- Other relevant reports.

Please note that not all of the reports will include background papers in every category and that the background papers will exclude any documents containing exempt or confidential information as defined by the Act.

These papers are held on the relevant application file and are available for inspection during normal office hours at the Communities and Environment reception, Civic Centre, Regent Street, Gateshead NE8 1HH.

**Generalised Guide to Use Classes Order 1987 (as amended)**

<b>A1 Shops</b>	Shops, retail warehouses, hairdressers, undertakers/funeral directors, travel and ticket agencies, post offices, pet shops, sandwich shop, showrooms, domestic hire shops.	<b>C1 Hotels</b>	Hotels, boarding and guest houses
<b>A2 Financial and Professional Services</b>	Banks, building societies, estate and employment agencies, professional and financial services.	<b>C2 Residential Institutions</b>	Residential schools and colleges convalescent homes/nursing homes
<b>A3 Restaurants and Cafes</b>	Restaurants, snack bars, cafes.	<b>C2A Secure Residential Institutions</b>	Secure residential accommodation including detention centres, young offenders institutions, prisons and custody centres.
<b>A4 Drinking Establishments</b>	Public Houses and Wine bars etc	<b>C3 Dwellinghouses</b>	Dwellings, small business at home, communal housing of the elderly and handicapped
<b>A5 Hot food Take-Aways</b>	Hot Food Take-away shops	<b>C4 Houses in Multiple Occupation</b>	Small shared dwellinghouses occupied by between 3 and 6 unrelated individuals who share basic amenities such as kitchen or bathroom.
<b>B1 Business</b>	Offices not within A2, research and development studios, laboratories, high tech., light industry appropriate in a residential area.	<b>D1 Non-residential Institutions</b>	Places of worship, church halls, clinics, health centres, crèches, day nurseries, consulting rooms, museums, public halls, libraries, art galleries, exhibition halls, non-residential education and training centres.
<b>B2 General Industry</b>	General industry.	<b>D2 Assembly &amp; Leisure</b>	Cinemas, music and concert halls, baths, skating rinks, gymnasiums. Other indoor and outdoor sports and leisure uses, bingo halls.
<b>B8 Storage and Distribution</b>	Wholesale warehouses repositories, including open air storage	<b>Sui generis</b>	Any use not included within any of the above use classes, such as theatres, nightclubs, taxi businesses, motor vehicle sales, betting shops.

In many cases involving similar types of use, a change of use of a building or land does not need planning permission. Planning permission is not needed when both the present and proposed uses fall within the same 'class', or if the Town and Country Planning (Use Classes) Order 1987 says that a change of class is permitted to another specified class.

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**Committee Report**

<b>Application No:</b>	<b>DC/19/01078/OUT</b>
<b>Case Officer</b>	<b>Lois Lovely</b>
<b>Date Application Valid</b>	<b>25 October 2019</b>
<b>Applicant</b>	<b>Mr William Walker</b>
<b>Site:</b>	<b>Beamish Park Hotel Beamish Burn Road Newcastle Upon Tyne</b>
<b>Ward:</b>	<b>Lamesley</b>
<b>Proposal:</b>	<b>Erection of self-catering holiday lodge accommodation (use class C3), associated car parking, hard and soft landscaping, engineering works and demolition of existing structures (additional information received 20/01/20, 23/01/20 and 24/01/20 and amended 24/01/20 and 18/02/20).</b>
<b>Recommendation:</b>	<b>GRANT</b>
<b>Application Type</b>	<b>Outline Application</b>

**1.0 The Application:****1.1 DESCRIPTION OF THE SITE**

The application site is 5.3ha and comprises large parts of the golf course and driving range as well as the vehicle access and car park areas that serve Beamish Park Hotel. Those parts of the golf course outside of the application boundary, as well as the hotel, are in the ownership and control of the applicant.

1.2 The application site is in a rural location located within the Green Belt and a Wildlife Corridor, approximately 2km south of the residential area of Sunnyside and 2km north of the residential area of Stanley.

1.3 The site includes a nine-hole golf course, practice greens, a floodlit driving range with a 15 bay driving range building, car parking and vehicular access onto Beamish Burn Road. The golf course (and the adjacent hotel) is a long established, publicly accessible, use in this location, having been in operation for over 25 years. To enable its use as a golf course and driving range, the landform has been engineered whilst the landscaping has been constantly managed over this period.

1.4 The site is partially bounded by and interspersed with tree belts. A field boundary runs along the eastern edge of the wider site, demarcated by a hedgerow and adjacent farm track. The northern edge of the wider site is bounded by Hedley Lane, from which much of the site is screened by vegetation. The west of the wider site is bounded by Burdon Plain and Beamish Burn Road, while the south-west boundary comprises a tree belt.

- 1.5 The site is accessible by car and cycle from the surrounding area. Access to the established Public Right of Way (PROW) network as existing would involve walking on Causey Road to access the PROWs that penetrates the surrounding countryside, providing circular walks and cycle routes from the site to Beamish Museum and Hedley Hall Woods, as well as to other attractions in the wider Causey Valley, including Beamish Hall and Tanfield Railway.
- 1.6 The application site is well located for access to the public transport network. The nearest bus stops are located approximately 200m from the site on the A6076, from which services run to Stanley and Consett to the south and through Whickham to the centre of Gateshead and Newcastle to the north. From Stanley, buses connect with Chester-le-Street and Durham, passing Beamish Museum. Rail services from Newcastle Central Station connect the city with a range of locations throughout the UK.
- 1.7 The local highway network, including Beamish Burn Road, is rural and lightly trafficked, providing an appropriate environment for cyclists. In addition, there are a number of bridleways in the vicinity of the site. National Cycle Route 11 (NCR11) is the closest formal cycle facility to the site which links Andrews House Station to the west, with Birtley to the east and is provided via a signed on- road route immediately to the north of the site.
- 1.8 Road access to the site is via two existing junctions (approximately 30m apart) off the Beamish Burn Road, which itself can be accessed directly from the Causey Road (A6076). The A6076 links Sunnyside to the north with Stanley to the south and provides connection to the wider and strategic highway networks via the A692 at its northern end and A693 at its southern end.
- 1.9 Two existing car parks serve the Beamish Park Hotel, golf course and driving range comprising 80 car parking spaces.
- 1.10 DESCRIPTION OF THE PROPOSAL**  
This outline application with all matters reserved proposes the demolition of the existing driving range structure and the erection of self-catering holiday lodges (use class C3) with associated car parking, hard and soft landscaping.
- 1.11 All matters are reserved for subsequent approval.
- 1.12 PLANNING HISTORY**  
There is no relevant planning history.
- 1.13 The application is supported by the following documents:
- o Design and Access Statement
  - o Alternative Site Assessment
  - o Landscape and Visual Appraisal
  - o Ecological Appraisal, Bat Survey, Badger Survey and Bird Risk Assessment Jan 2020
  - o Transport Statement
  - o Travel Plan Framework

- o Flood Risk Assessment
- o Drainage Strategy
- o Preliminary Geotechnical and Geo-environmental Risk Assessment

## **2.0 Consultation Responses:**

Northern Gas Networks	No Objections
Northumbria Water	NWL has no objection subject to a condition to secure details of discharge of foul water.
Tyne And Wear Archaeology Officer	No objections
Northumbria Police	No objections
Coal Authority	No objections subject to a condition re site investigations
Durham County Council	No objection subject to a condition to secure details of a visibility splay at the access and a condition to secure details of a pedestrian access to the A6076

## **3.0 Representations:**

Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) 2015. One letter of objection has been received. The main concerns are:

- It is a current Beamish Hotel Golf Course and not as described as the Former Beamish Golf Course
- the development will remove an extremely pleasant 9 hole par 3 golf course and training facility.
- for over 10 years this course has provided a valuable, flexible training and practice facility not found elsewhere within 20 miles
- it has a successful junior section
- as a member should have been informed directly.

## **4.0 Policies:**

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS5 Employment-Economic Growth Priorities

CS8 Leisure, Culture and Tourism

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS16 Climate Change

CS17 Flood Risk and Waste Management

CS18 Green Infrastructure/Natural Environment

CS19 Green Belt

CS20 Minerals

CS4 Spatial Strategy - Rural/Village Area

JE5 Tourism Development

ENV47 Wildlife Habitats

DC1D Protected Species

ENV44 Wood/Tree/Hedge Protection/Enhancement

ENV46 The Durham Biodiversity Action Plan

ENV48 Sites of Special Scientific Interest

ENV49 Sites of Nature Conservation Importance

ENV51 Wildlife Corridors

ENV3 The Built Environment - Character/Design

DC1H Pollution

DC2 Residential Amenity

**5.0 Assessment of the Proposal:**

The main planning considerations are the impact on the purposes and openness of the Green Belt and Very Special Circumstances, principle of the development, flood risk and drainage, coal legacy conditions, highway safety, landscape, design and biodiversity.

**5.1 GREEN BELT**

The site lies within the Green Belt that separates Gateshead from urban areas in County Durham.

5.2 The National Planning Policy Framework (NPPF) paragraph 134 identifies the key purposes of including land in the Green Belt including 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.

### **5.3 Impact upon the Green Belt**

NPPF paragraph 145 states that the construction of new buildings is inappropriate development in the Green Belt, unless they meet one of a list of exception criteria. The proposed development does not meet any of the exceptions listed under paragraph 145, and it is considered that the proposed development is, by definition, inappropriate development in the Green Belt.

5.4 NPPF paragraph 143 is clear that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. It goes on at paragraph 144 to advise that when considering planning applications, 'substantial weight' should be afforded to any harm to the Green Belt. In order to demonstrate that very special circumstances exist, paragraph 144 advises that the potential harm to the Green Belt, and any other harm resulting from the proposal, must be clearly outweighed by other considerations.

5.5 Given its distance from settlements and the existing character and function of the site and that the contribution the site and its immediate surroundings make to the purposes of the Green Belt is limited, relative to the function of Green Belt elsewhere.

### **5.6 Assessment of openness**

NPPF paragraph 133 states that 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.

5.7 The term openness is not defined in planning policy, but recent Government guidance provides advice on assessing the impact of a proposal on the openness of the Green Belt. A number of factors need to be taken into account when making the assessment, which include, but are not limited to:

- o openness is capable of having both spatial and visual aspects - in other words, the visual impact of the proposal may be relevant, as could its volume;
- o the duration of the development, and its remediability - taking into account any provisions to return land to its original state or to an equivalent (or improved) state of openness; and
- o the degree of activity likely to be generated, such as traffic generation.

### **5.8 The Current Character and Openness of the Site**

As mentioned above the application site is on the edge of the Green Belt; the Gateshead Borough and County Durham boundary runs along Burdon Plain to the north west of the site, along Beamish Burn Road to the west of the site and along Coppy Lane to the south west of the site.

- 5.9 The Green Belt in this area is characterised by open agricultural fields; a rural setting. Within this landscape are pockets of development comprising isolated dwellings and farmsteads.
- 5.10 The application site forms part of the Beamish Park Hotel complex. It does not function as open countryside. The presence of the floodlit driving range, manmade landform of the golf course, the hotel and car park present a longstanding active use in the Green Belt with visitor transport movements. The active use of the site continues into the hours of darkness and creates an alien feature in the wider landscape as a result of the floodlit driving range.
- 5.11 Given the above it is considered that the openness of the application site is markedly different from that of typical open countryside, affected in both a functional and physical sense by the engineered landforms of the golf course and buildings including the driving range building, the hotel and the range of visitor attractions in the area. These physical features, together with the relatively intense use of the site, collectively diminish the openness of the Green Belt in this particular location.
- 5.12 Given the above, it must be considered whether the proposed development of holiday lodges would create harm in the context of the current limited contribution the site makes to the openness of the Green Belt.

### **5.13 VISUAL IMPACT**

#### **The Effect on Landscape Character**

The Applicant is not seeking approval for the design of the proposed lodges however a Design Code and development parameters have been submitted in support of the application. These details include mitigation screening, together with the orientation of the lodges and controls over their design and external materials incorporated into the Design Code section of the Design and Access Statement. It is considered necessary to ensure the final form of development achieved will be of the high quality indicated by this current application that takes into account and responds to its location and setting and to ensure no adverse impact on the landscape value that the relevant sections of the DAS are approved and secured by condition (CONDITION 4).

- 5.14 The Landscape and Visual Appraisal (LVA) submitted in support of the application confirms that the physical features of landscape value within the site, the boundary woodland, is proposed to be retained and enhanced through active management and introduction of native species. The existing visually prominent floodlit driving range building, some 67m in length and 1,876m<sup>3</sup> in volume, together with the manmade landscape features such as the fairways, greens and sand bunkers are proposed to be replaced by a more naturalised landscaping and planting scheme, with the lodges located in parts of the site that are well screened or are capable of being screened through a planting and management scheme. It is considered that by removing the large, prominent building, floodlighting and engineered landform, and replacing it with development in an enhanced natural landscape, the development will strengthen the existing landscape character and bring about a positive change to the landscape character of the site.

5.15 Given the above it is considered the proposal will achieve an improved landform and landscape and is considered to be acceptable and in accordance with NPPG, Saved UDP Policy DC1 and CSUCP policy CS14.

#### **5.16 The Effect on Views and Visual Amenity**

It is considered that the visual envelope in which there is potential to appreciate any change within the Application Site is very limited and localised. Beyond the boundaries of the golf course, the visual profile of the site within the wider landscape is extremely limited, largely enclosed to the north, east and southern sides.

5.17 There are few publicly accessible locations from which the site can be seen, with the view into the site from the open meadow within Hedley Hall Woods being the main uninterrupted view into the site. Other publicly accessible views into the site are generally screened and filtered by the intervening vegetation meaning that these viewpoints provide only glimpses of the site. Views into the site are not possible from a number of the agreed viewpoints on the PROW network. Views from PROW and private residential properties are negligible.

5.18 It is considered that as views and visual amenity are preserved in addition to the removal of existing structures, floodlighting, and manmade features, together with the positive management and maintenance of the site that the proposal would generate a net beneficial effect on the visual character of the site and the wider area would be achieved.

5.19 The views of the lodges from public view points would be screened by the supplemented existing woodland along the north and west boundaries of the site and additional planting amongst the individual lodges layouts allowing glimpses of the lodges but with an overall low visual profile. Officers consider that the proposals will be in keeping with the character of the surrounding area; an enhancement in terms of returning a manmade and managed landscape to a more natural state, with ecological and landscape improvements. As such, it is considered there would be no adverse visual effects.

5.20 Within the site, the lodges could be designed and positioned so that at reserved matters stage they would be screened by existing tree belts or where additional screening can be planted. It is considered site enhancements would create a positive visual effect within the site.

#### **5.21 Wider Policy Considerations**

NPPF paragraph 144 confirms that Very Special Circumstances will arise if the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.22 The proposal must be assessed against all material planning considerations to determine whether any harm would be caused other than in respect of Green Belt and if harm is caused, then this harm should be considered as being other harm for the purposes of applying NPPF paragraph 144. The following sections make that assessment and the report concludes with a section to weigh up

whether the harm to the Green Belt as a result of inappropriate development and any other harm identified is clearly outweighed by any benefits arising from the development.

### **5.23 PRINCIPLE**

NPPF paragraph 11 states that when determining planning applications LPAs should apply a presumption in favour of sustainable development, which, for decision taking means approving development proposals that accord with an up to date development plan without delay.

5.24 NPPF paragraph 80 provides a positive approach to economic development and requires that significant weight is placed on the need to support economic growth and productivity. It advocates an approach which allows areas to build on their strengths and counter any weaknesses.

### **5.25 Tourism and visitor accommodation**

The proposed provision of visitor accommodation is in the rural area of Gateshead (within the Rural and Villages area as defined in the CSUCP).

5.26 Gateshead's Rural Economic Strategy (2015-2020) emphasises the important contribution that growth in tourism can make to Gateshead's rural economy. Additional visitor accommodation at this location has potential to make a positive contribution to several of the strategy's objectives, including the aim to 'develop the rural tourism offer to support the growth of local businesses', and, more specifically: 'promote a range of accommodation at different price points to meet the needs of all visitors e.g. camping and glamping'.

5.27 NPPF paragraphs 83 and 84 set out how the planning system should support a prosperous rural economy. Paragraph 83 (c) states that planning decisions should enable sustainable tourism and leisure developments which respect the character of the countryside.

5.28 Whilst the NPPF includes tourism development and hotels within the definition of main town centre uses, it is accepted that a sequential approach (to consider sites within or on the edge of existing centres) is not required in the context of self-catering holiday lodges as these are C3 uses, although the Applicant has given consideration to alternative sites in relation to Green Belt issues.

5.29 Saved UDP Policy JE5 (Tourism Development) is supportive of the principle of the use as a sustainable development of a new and improved tourism facility. It is acknowledged that the proposal does not accord with criteria (b) of that policy which requires tourist facilities in the rural area to be located within or next to service centre and villages where possible. However, CSUCP Policy CS8 focuses the development of visitor accommodation in accessible locations and given the site's location and availability of public transport options it is considered that this development is in accordance with policy CS8.

5.30 Furthermore, one of the key characteristics of the development is its rural setting, which does not lend itself to being within or next to a settlement. The weight to be attached to this outdated policy, JE5, should, be limited.



- 5.31 The proposal is the provision of visitor accommodation in the rural area of Gateshead (within the Rural and Villages area as defined in the CSUCP).
- 5.32 Whilst not a policy requirement, the Applicant has submitted an Alternative Site Assessment (ASA) that sets out analysis that has been undertaken to establish whether there are any more suitable sites, available and capable of providing a similar development, serving similar needs and meeting a similar market. This analysis appraised all land within 2km of the application site, as well as all land within 2km of the Beamish Museum. The methodology for the appraisal is set out in the ASA.
- 5.33 The conclusions of the ASA are that there are no demonstrably preferable or more suitable sites within the area to provide for a development comparable to the one proposed (preferable from an operational / commercial perspective or suitable in respect of environmental or physical sensitivities and constraints). A significant proportion of the ASA search area is in the Gateshead Green Belt whilst the remainder of the search area is in the Durham local authority area.
- 5.34 If tourism facilities are to be delivered in the Borough, it will, in all likelihood, be necessary to develop visitor accommodation in the Green Belt, to diversify the range of accommodation in the rural area and support rural businesses including visitor attractions.
- 5.35 New visitor accommodation on the application site has potential to contribute towards criterion 6 of policy CS5, which seeks to support economic growth by: 'Diversifying and expanding the rural economy by supporting local businesses and growth in leisure, culture and tourism'.
- 5.36 Gateshead's Rural Economic Strategy (2015-2020) emphasises the important contribution that growth in tourism can make to Gateshead's rural economy. Additional visitor accommodation at this location has potential to make a positive contribution to several of the strategy's objectives, including the aim to 'develop the rural tourism offer to support the growth of local businesses', and, more specifically: 'promote a range of accommodation at different price points to meet the needs of all visitors e.g. camping and glamping'.
- 5.37 There is a concern that the LPA must ensure that this does not result in a low-density housing development in this location and a condition is recommended to prevent conversion of the lodges to housing at a later date, or any other circumstances (such as the physical nature of the buildings) which would remove this risk (CONDITION 5).
- 5.38 The following paragraphs further consider whether such Very Special Circumstances exist.
- 5.39 Economic Growth**  
CSUCP Policy CS5 makes a commitment that Gateshead will play a major role in the economic growth of the North East, delivering significant increases in the number of businesses and jobs. It sets out a range of measures to achieve

economic growth including through diversifying and expanding the rural economy by supporting local businesses and growth in leisure, culture and tourism.

- 5.40 In this regard, it is important to consider both the direct and indirect economic benefits of the proposal.

**5.41 Direct Economic Impacts**

It is estimated that the proposed development will lead to the creation of around 7 full time jobs in the management of the accommodation. In addition, the development would support temporary jobs during the construction phase.

- 5.42 As well as direct job creation, the development will bring business rate income to Gateshead Council. Businesses and other non-domestic occupiers of property pay business rates which contribute towards the cost of local authority services.

**5.43 Indirect Economic Impacts**

In addition, the development would benefit shops and service businesses in the local area. Self-catering accommodation attracts guests who are likely to make local purchases such as food and drink, toiletries and petrol and are also likely to eat out in local restaurants, cafes and public houses. With research published by Visit England indicating that tourists staying within self-catering accommodation spend, on average, £78 per person per night.

- 5.44 Given the proximity of the application site to Beamish Museum, guests may choose to stay at the proposed development to visit the museum as well as other tourist attractions in the wider area.
- 5.45 Whilst Beamish Museum is in the Durham County area, it nevertheless makes an important economic contribution to Gateshead, providing employment opportunities in an accessible location to residents of Gateshead. The Museum is within a 20 minute drive time of large parts of Gateshead and in this area, there are around 100,000 residents of a working age population. Job opportunities at Beamish Museum will be attractive to residents of Gateshead.

**5.46 COAL LEGACY**

The application site falls within the defined Development High Risk Area within which there are coal mining features and hazards.

- 5.47 The Coal Authority records indicate that thick coal seams outcrop within the site that may have been historically worked and the presence of a mine entry. The Coal Authority holds no treatment details for this mine entry and due to plotting inaccuracies, there could be some deviation by several metres from the current plotted position.
- 5.48 The planning application is accompanied by a Preliminary Risk Assessment that considers that it is unlikely that shallow coal seams will have been exploited at the site and concludes that it is a mine entry that requires further investigation. The report provides the scope of works required, however due to

presence of the thick coal seam outcrops, it is considered that the scope of works be extended to confirm the presence or absence of coal workings at shallow depth. If shallow mine workings are present, this could affect the surface stability of this development.

- 5.49 Due to the presence of the mine entry and potential shallow coal workings, the Coal Authority considers that due consideration should also be afforded to the potential risk posed by mine gas to the proposed development.
- 5.50 However, in order to establish the exact situation regarding coal mining legacy issues on the site, intrusive site investigation works should be undertaken prior to development in order that appropriate remedial / mitigatory measures can be designed to ensure that the development proposed is safe and stable. Conditions requiring these site investigation works prior to commencement of development are recommended to secure further investigations to confirm if there is the need for remedial works to treat the mine entry / areas of shallow mine workings to ensure the safety and stability of the proposed development. The recommended site investigations can be secured by conditions (CONDITIONS 16 and 17).
- 5.51 Given the above, subject to the recommended conditions to ensure the safety and stability of the development, the proposals are considered to be acceptable and in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

## **5.52 FLOOD RISK, DRAINAGE AND WATER QUALITY**

### Flood risk

The site is located within flood zone 1 and at low flood risk probability. Isolated pockets of surface water ponding are identified in areas across the application site.

- 5.53 A Flood Risk Assessment (FRA) has been submitted in support of the application that assesses the risk from all sources (including ordinary watercourses, surface water and groundwater), taking account of the impact of climate change over the lifetime of the development, in accordance with NPPF paragraph 103 and CSUCP policy CS17
- 5.54 There is a small area of Hedley Lane which is identified at high risk of surface water flooding (during 1 in 30 year storm event) based on the Environment Agency's Updated Flood Map for Surface Water which could affect the northern access of the site. There is a spring and an ordinary watercourse to the east of the site which discharges into Ridley Gill SSSI.
- 5.55 The indicative layout of the lodges has been designed so that the most vulnerable uses are restricted to higher ground at lower risk of flooding, with development which has a lower vulnerability (parking, open space) in the highest risk areas to avoid flood risk in accordance with NPPF paragraph 103 and CSUCP Policy CS17 and NPPG.

5.56 It is important that surface water runoff from the site is managed to maintain the existing greenfield runoff rates. The drainage hierarchy set out in CSUCP policy CS17 should be followed and the development should integrate SuDS which provide multifunctional benefits in terms of ecology, water quality and amenity benefits, in accordance with Core Strategy Policy CS17 and NPPG. The details of drainage assessment and management can be secured at reserved matters stage by condition (CONDITIONS 23 and 24).

**5.57 Water Quality**

It is essential that surface water runoff from the site is treated to ensure the proposal has no adverse impact on the water quality of the Ridley Gill and the rest of the River Team Catchment, reflecting CSUCP Policy CS17(3) and NPPG. These details can be secured by condition (CONDITIONS 21 and 22).

**5.58 Sewerage infrastructure**

It is noted that the submission identifies that NWL has confirmed that there is insufficient capacity on the foul sewerage network until further downstream upgrades have been completed. CSUCP policy CS17(2) requires developments to ensure that foul water infrastructure are provided with adequate capacity. As such it is unclear how the development will be able to provide sufficient capacity at this time, however a condition is recommended to secure the details at reserved matters stage (CONDITIONS 19 and 20).

**5.59 Drainage**

Although the developer is proposing all surface water to infiltrate into the ground, based on the presence of a sand and gravel substrate, infiltration testing has not yet been carried out to confirm this. A condition is required to demonstrate that infiltration is possible through infiltration testing at locations coinciding with the proposed infiltration points and in accordance with BRE365 and the SuDS Manual (CIRIA C753) (CONDITION 21).

**5.60 Requirement for Sustainable Drainage (SuDS)**

The development must be designed in accordance with sustainable drainage principles in accordance with the 2014 Ministerial Statement on SuDS, NPPF 163c and 165, and Newcastle Gateshead Core Strategy Policy CS17.

5.61 A tiered approach should be taken to preparing a drainage assessment. The contents of the drainage assessment should follow Gateshead Council's Interim Surface Water (SuDS) Guidelines for New Development (2016) and should have regard to NPPF/ NPPG; the DEFRA Non-Statutory Technical Standards for SuDS; CSUCP Policy CS17 and emerging Gateshead Local Plan policies MSGP 30 and 31, and best practice as set out in the SuDS Manual (CIRIA C753). These details can be secured by condition (CONDITION 21).

5.62 The SuDS system should seek to maximise the use of soft landscaping and be fully integrated into the landscape design for the site, to provide the most effective water treatment system and to provide site amenity and biodiversity benefits in accordance with NPPF paragraph 165(d) and CSUCP Policy CS17(1.iv). The nature of the development and the location offers the

opportunity to develop an exemplar sustainable drainage scheme following best practice and using open vegetated swales, raingardens, a lake and wetlands to create an attractive amenity environment that also creates new habitat and provides the required water treatment and control functions. It is recommended that conditions secure details of a SuDS scheme and its implementation (CONDITION 21).

- 5.63 In addition, a condition is required for the maintenance of the drainage scheme (CONDITIONS 23 and 24).
- 5.64 It is considered that a condition is necessary to require details of a Drainage Construction Method Statement (DCMS) to include details of how construction site runoff will be detained and treated to avoid risk of flooding and details of how SuDS components will be protected during construction to ensure correct functioning without sediment build up at completion of the works and consideration of access for inspections in order to minimise the risk of flooding and to ensure correct functioning of the drainage system on completion (CONDITIONS 14 and 15).
- 5.65 Given the above, and subject to the recommended conditions the proposals are considered to be acceptable and in accordance with CSUCP Policy CS17, Draft MSGP Policy 30 and Policy 31, NPPF paragraph 103 and the National Planning Practice Guidance (ID 7) and (ID 34).

#### **5.66 HIGHWAYS**

The application is made in outline with all matters reserved. Vehicular access to the site is proposed via the existing access to Beamish Park Hotel off Beamish Burn Road.

- 5.67 There are two existing access points onto Beamish Burn Road, both of which have restricted visibility splays. The hotel already consists of 42 bedrooms and is a popular wedding/golf/conference venue. There is a concern in respect over additional traffic movements through the existing substandard access arrangement. It is considered that the existing access points must be removed and consolidated into a single new (two-way) vehicular access, with the existing boundary treatments along Beamish Burn Road amended/realigned as necessary to attain a visibility splay in both directions of 2.4m x 210m (based upon a 60mph national speed limit). A relaxation of the 210m figure may be possible if an independent 7-day speed survey can demonstrate that the 85th percentile speed is lower than 60mph.
- 5.68 It should be noted that whilst the application site is within Gateshead the highway that fronts the site comes under Durham County Council's jurisdiction. The final requirements relating to the access and pedestrian provision will need to be agreed with Durham County Council through the reserved matters. Durham County Council officers have confirmed the opinion of Gateshead Officers that the current access arrangement at the site is not acceptable for the proposed development and that the access must be designed to modern standards and the argument that its existing is not acceptable due to road safety concerns. Improved visibility splays are required as a minimum that

would require the removal and or replacement of the existing boundary treatments and the details can be secured by condition (CONDITION 45).

- 5.69 The existing link road between the hotel car park and the golf driving range is subject to a very steep gradient and the grounding of some vehicles may already occur at the top and bottom of the 'ramp'. Future patrons of the proposed lodges may make the same assumption and this would result in cars being parked in the main hotel car park, rather than at each lodge. The car park was busy during a mid-week site inspection, as one might expect for a hotel consisting of 42 bedrooms; at a weekend when weddings and events are held. It is considered the car park operates at or above capacity. If patrons of the lodges then park in the hotel car park, it will exacerbate the parking situation and could result in an overspill of vehicles onto the rural public road.
- 5.70 Longitudinal sections of the proposed regraded existing link road/ramp are required so that the on/off points are not as severe as they are at present and these details can be secured by conditions (CONDITIONS 35 and 36).
- 5.71 In order to protect highway safety and to avoid nuisance to the occupiers of adjacent properties during the demolition and construction phases of the development it is considered necessary that a Demolition and Construction Management Plan be required by condition (CONDITIONS 10 and 11).
- 5.72 There are concerns regarding the pedestrian provision immediately adjacent to the site and through to where the site links in with existing public transport infrastructure. Enhancements are required to make the proposal acceptable in transport terms and these details can be secured by conditions (CONDITIONS 29 and 30).
- 5.73 The detailed design of the internal vehicle access arrangements and car parking would be approved at reserved matters stage. Such details can be secured by condition 1 so that any future reserved matters application will need to demonstrate how parking arrangements are in accordance with Gateshead standards, given the nature of the proposals. Conditions are recommended to secure details of the Hotel car park layout (CONDITIONS 31 to 32) and to secure the car parking layout for the development to include motorcycle and accessible parking, staff and visitor cycle parking and Secure and weatherproof cycle storage for each lodge; electric vehicle charging for each of the lodges with an additional space provided for communal use (CONDITIONS 33 and 34).
- 5.74 A further condition is recommended to secure details of how the layout demonstrates safe access for pedestrians and cyclists into the existing PROW network. (CONDITIONS 29 and 30).
- 5.75 A framework travel plan and a final travel plan will need to be produced for the site to demonstrate how sustainable transport options would be communicated to visitors and staff and these details can be secured by conditions (CONDITONS 37 and 38).

5.76 Details of waste servicing and collection, location of communal bin stores are required and these details can be secured by conditions (CONDITIONS 39 and 40).

5.77 Given the above and subject to the recommended conditions the proposals are considered to be acceptable and in accordance with CSUCP policy CS13.

#### **5.78 DESIGN**

The Applicant has advised that the design requirements and specifications of holiday lodge accommodation (particularly in the 'executive' market) is ever evolving due to continuous advances in construction techniques, in sustainable build credentials (i.e. in the use of materials and measures to reduce energy consumption), as well as changes to architectural style to meet evolving visitor requirements and quality expectations.

5.79 As such, the Applicant is not seeking planning permission for the final design and layout of the holiday lodge accommodation but is seeking outline planning permission. The final design and specifications of the lodges would then be considered through a reserved matters application.

5.80 A proposed indicative layout responds to the recommendations of the Landscape and Visual Appraisal, ecological survey and geotechnical survey. The reserved matters submission will need to demonstrate that the holiday lodges could be accommodated sustainably without adversely affecting visual receptors. The landscape quality of the area or result in ecological harm as well as introducing features to locally improve biodiversity.

5.81 The application is supported by an illustrative masterplan, a Design Code and parameter plans to enable the principle and the impacts of the development to be assessed. The documents establish principles that the detailed design will adhere to, and it is recommended that conditions are imposed to ensure that the quality and character of the scheme envisaged is achieved in the detailed design of the development, without fixing the design details at this stage (CONDITION 4).

5.82 Whilst no specific number of lodges has been applied for the illustrative masterplan indicates how development could be arranged, providing 36 detached holiday lodges with a range of 1, 2, 3 and 4 bedroom options. The Design Code sets out a range of measures to mitigate the visual impact of the largest lodge type (4 bedroom) in any given location within the Development Zone.

5.83 Officers consider it necessary to restrict the development lodges on the north west boundary of the site (Beamish Burn Road) as the lodges would be highly visible due to the topography rising up away from the road and despite the perimeter planting both existing and proposed. Similarly, for ecological reasons a buffer is also required along the south west boundary. The red edge of the application site is away from the eastern field boundary, thereby preventing built development in close proximity of the hedgerow on that field edge. These exclusion zones can be secured by condition (CONDITION 6).

- 5.84 Earthworks will be required to accommodate the proposed lodge plots and the details of proposed finished ground levels can be secured by condition (CONDITIONS 25 and 26).
- 5.85 To ensure there is no harm to the visual amenity of the area, boundary treatment details are required and can be secured by condition (CONDITIONS 41 and 42).
- 5.86 An external lighting strategy for the proposed development is required to ensure an appropriate form of development in the interest of good design and that there is no harm to the visual amenity of the area and to identify those areas/features on site that are particularly sensitive for biodiversity, including bats; and to show how and where external lighting will be installed so that it can be demonstrated that areas to be lit will not prevent bats and other wildlife using their territory or having access to their resting places, whilst also considering the residential amenity impacts from light spillage on both residents of the development and neighbouring occupiers. These details can be secured by conditions (CONDITIONS 43 and 44).
- 5.87 Given the above the proposals are considered to be acceptable and in accordance with the NPPF, saved UDP policies ENV3, DC2, ENV46, ENV47 and ENV51 and CSUCP policies CS14, CS15 and CS18.

#### **5.88 LANDSCAPE CHARACTER**

The site is within an area of medium landscape sensitivity identified by the Landscape Character study. Emerging policy MSGP 34 indicates that within such areas, permanent development which would have a significant adverse impact on the landscape will be resisted unless it would result in major public benefit, and mitigation forms part of the proposal as far as is feasible. Amongst other requirements, the policy indicates that proposals will be expected to protect, conserve and where possible enhance landscape character and local distinctiveness, reflecting landscape sensitivity.

- 5.89 The assessment of individual character areas accompanying the study will assist in identifying how best this can be achieved in this specific case. The policy has limited weight at present, but its weight is expected to increase as Making Spaces for Growing Places progresses and is in line with national guidance.

#### **5.90 LANDSCAPE**

Saved UDP policy ENV47 Wildlife Habitats states that, where possible, all types of wildlife habitats will be protected and enhanced. Land management practices beneficial to wildlife will be encouraged in line with the Durham Biodiversity Action Plan. New development will be laid out and landscaped so as to be beneficial to wildlife. Proposals should avoid the use of non-native or inappropriate species in sensitive locations. Where there is evidence of damaging species that are invasive to existing habitats, these should be removed. Whilst the Applicant has indicated that native species landscaping is proposed to enhance the site it is recommended to ensure that the final scheme



achieves an acceptable design, layout and landscaping solution, so as to ensure visual and landscape impacts are acceptable, a condition is recommended to secure a landscape scheme. The detailed landscaping proposals are a reserved matter however it is considered that the landscape scheme should include native species which are complimentary to those already found within the adjacent woodland and which encourage wildlife into the area can be secured by condition that would enhance the setting of the proposed development and the maintenance of the scheme once implemented (CONDITIONS 53, 54 and 55).

#### **5.91 BIODIVERSITY**

The NPPF at paragraph 170 requires planning decisions to contribute to and enhance the natural and local environment by protecting and enhancing (inter alia) sites of biodiversity (in a manner commensurate with their statutory status or identified quality in the development plan) and minimising impacts on and providing net gains for biodiversity, including establishing coherent ecological networks that are more resilient to current and future pressures.

5.92 Therefore, the baseline of the site is the statutory status and identified quality in the development plan.

#### **5.93 Statutory Status**

The site lies within part of a wildlife corridor identified by Saved UDP policy ENV51 and draft MSGP38 that runs east to west and connects designated nature conservation sites, including Causey Bank Mires Site of Special Scientific Interest (SSSI) to the west and Ridley Gill SSSI to the east. At its closest point the proposed development is located 109m east of Causey Bank Mires SSSI separated from the site by Causey Road and the Tanfield Railway line, 345m west of Ridley Gill SSSI, 250m south of Burden Dene Local Wildlife Site (LWS) and 345m east of Hedley Hall Wood LWS. Several further designated sites, including Pockerley Farm Pond SSSI and Fortune Hill, Tanfield Railway Sidings, Burdon Moor (Blackburn Fell) and Bowes Railway Line occur within 1km of the proposed development site.

5.94 Saved UDP policy ENV51 and draft MSGP38 seek to protect the network of wildlife corridors by resisting development or recreational use which would seriously impair their integrity or value to wildlife. Exceptionally damaging developments may be allowed where habitats would be enhanced or where suitable replacement land is provided to retain the integrity of the corridor. The site as existing is in recreational use with a manicured landscape and it is proposed to be replaced with a recreational use with landscape enhancements designed to benefit biodiversity. The application site does not extend across the entire width of the identified wildlife corridor and the Green Belt beyond and there is open arable land and woodland to the south west and beyond Coppy Lane and Causey Road further open agricultural land. It is considered the proposals would not cause greater impairment to the integrity or value of the wildlife corridor than is existing. Given the above, subject to appropriate mitigation and details to be provided at the reserved matters stage, it is considered that the proposals will not seriously impair the integrity of the wildlife corridor nor the value to wildlife as a large swathe of wildlife corridor will remain,

biodiversity enhancements are proposed and the proposal is considered to comply with Saved UDP policy ENV51.

**5.95 Identified Quality**

Other than lying within a wildlife corridor in the green belt the site does not have any other status in the development plan.

5.96 Habitats within the site include extensive areas of short cut amenity grassland currently used as a driving range and short play golf course. Approx. 2.31ha of native plantation broadleaved woodland (Durham Biodiversity Action Plan Priority Habitat) occurs either wholly or partially within the redline boundary of the site. Further to this approx. 2.37ha of semi-natural broadleaved woodland (s.41 NERC Act Habitat of principal importance and DBAP priority habitat) occurs along the west and south west boundaries of the site. Approx. 458m of native hedgerow (s.41 NERC Act habitat of principal importance and Durham Biodiversity Action Plan priority habitat) is located beyond the eastern boundary of the site.

5.97 Extensive areas of arable land lie immediately to the east whilst an area of established wetland occurs immediately adjacent the south east corner of the site.

5.98 The woodland to the south west of the site is on the 1856 – 1895 OS map and the wood is therefore of considerable antiquity, and one that has potential to be ancient in origin. However, the woodland is not registered as Ancient Woodland.

5.99 The requirements of the NPPG guidance in terms of mitigation measures and use of buffer zones in respect of Ancient Woodland should be followed and the proposals include a 15m landscaped ecological buffer which is also fenced on the side of the development to exclude people and dogs to prevent damage to and deterioration of its ecological value and function, including in supporting protected and priority species and ecological connectivity. A condition can secure these details (CONDITIONS 53 and 54).

5.100 An Ecological Appraisal, Bat Survey, Badger Survey and Bird Risk Assessment that also includes details of survey work in relation to great crested newt, updated at the request of officers has been submitted in support of the application.

5.101 Survey work has confirmed use of the site by foraging and commuting bats and the driving range building is used by roosting bats including a bat maternity roost. However, the Ecology officer is of the opinion that the activity surveys were undertaken late in the survey season such that the survey fails to provide a maximum count for the maternity roost. However, it is known that the driving range is in use by bats and it is considered that an appropriate condition requiring a careful working method would ensure that the bats are protected from harm (CONDITIONS 12 and 13).

- 5.102 Breeding great crested newts have been recorded within 800m of the site in Hedley Hall Wood LWS and Burdon Moor (Blackburn Fell) LWS. Four ponds occur within 500m of the proposed development site.
- 5.103 The area of the arable field beyond the south east boundary of the site, that floods, is considered to provide suitable breeding habitat for other amphibian species, including common toad (s41 NERC Act species of principal importance and DBAP priority species). Habitats/features within and immediately adjacent the proposed development site are considered to provide suitable commuting and terrestrial habitats for amphibians including common toad with a low residual risk for the presence of great crested newt.
- 5.104 Badger survey work was undertaken in January. The Ecology officer is of the opinion that this was at a time of the year when badgers are generally less active with the optimum survey periods being early spring and late autumn. However, a single badger guard hair was recorded along the eastern boundary of the site with no other field signs (e.g. snuffle holes, latrines) being recorded. A camera was positioned on a suspected badger sett located within the semi-natural broadleaved woodland located along the south west boundary of the site. No badger activity associated with the suspected badger set was recorded during the 7 continuous nights of its deployment. Similarly, a second camera trap placed along the hedgerow located towards the eastern boundary of the site failed to record any badger movement. It is considered that conditions controlling the site clearance, construction and operational phases of the development can protect badgers and their habitat from harm (CONDITIONS 12 and 13).
- 5.105 Although a breeding bird survey has not been provided in support of the application a breeding bird risk assessment has been submitted. Given the presence of suitable habitat within, immediately adjacent or in close proximity of the site boundaries, priority species have the potential to occur at times, the reserved matters will need to demonstrate that appropriate mitigation measures can be put in place to protect priority bird species.
- 5.106 Loss of Trees**  
Saved UDP policy ENV44 states that works that will damage or lead to the loss of trees which contribute to the amenity of an area or have significant wildlife interest, will not normally be permitted and lists criteria by which works to trees will be considered.
- 5.107 Emerging policies in the submission draft Making Spaces for Growing Places Local Plan Document carry some weight. MSGP37 states that development that would damage or result in the loss of woodland, trees or hedgerows will only be permitted where it can clearly be demonstrated that development cannot reasonably be located elsewhere; and the need for the development clearly outweighs any harm to the ecological value, landscape quality or historical importance of the area, and in the case of ancient woodland and veteran trees outside ancient woodland, provides exceptional public benefits; and harm can be reduced to acceptable levels through the implementation of positive mitigation and enhancement measures either on site or elsewhere.

MSGP38 requires that development proposals must demonstrate how they will avoid/minimise adverse impacts on biodiversity and provide net gains in biodiversity.

5.108 Of the three existing plantation areas on the golf course the northernmost group has less ecological value than the two groups of trees towards the south of the site. Officers consider it is acceptable that lodges could be located within a third of the northern group of trees, the western third, without significant harm to visual amenity or biodiversity. Subject to a condition to secure details of trees to be removed and the trees that are to be retained, and during the demolition and construction phases those trees will require protective fencing. The tree protection measures details and installation can be secured by condition (CONDITIONS 8 and 9). Subject to the recommended conditions, the proposal is considered to be acceptable and is considered to comply with Saved UDP policy ENV44.

5.109 Replacement of trees can be secured through the Habitat creation and management condition (CONDITIONS 27 and 28).

#### **5.110 Inclusion of pond in SuDS**

The Applicant has suggested using the flooded corner / pond of the adjacent arable field as part of the SuDS. It is not clear that this land is in the control of the Applicant, however, a condition has been recommended to secure the details of a SuDS scheme and if it is proposed to incorporate this area as part of a SuDS the condition requires an ecological survey, assessment and mitigation report (CONDITIONS 21 and 22).

#### **5.111 Intensity of Use**

Saved UDP policy ENV48 requires Sites of Special Scientific Interest be protected by not allowing development on or off site when there is the potential for an adverse effect on the site and Saved UDP policy ENV49 Sites of Nature Conservation Importance now Local Wildlife Sites will be protected from adverse development wherever possible. The Causey Bank Mires SSSI the closest to the application site is likely to have increased visitor footfall. However, there are existing paths through the site and a picnic area indicating that the area is already publicly accessible. The LWS and SSSIs are areas of interest and prohibiting access to any visitors does not comply with national or local policy. The proposal in itself is not considered to be adverse development that the LWS's need to be protected from. Therefore, the proposal is considered to comply with Saved UDP policies ENV48 and ENV49.

5.112 The updated Ecological Assessment allows an understanding of the level of habitat / biodiversity value across the site. Whilst there are shortcomings in the submitted supporting ecological survey work as described above; the baseline is a site that is a golf course comprising cropped grassed areas with small areas of tree planting separating the fairways that is intensively visited by people and not typical countryside.

- 5.113 Outside of the site, and in respect of the pond 470 metres away, the further survey has concluded that it scores on the Habitat Suitability Index as 'below average suitability' for GCN. The Natural England risk assessment calculator shows that the risk of offence to GCN is "highly unlikely".
- 5.114 It is not considered to be necessary to carry out more surveys at this time as there is sufficient evidence to judge both the value of the site and the potential impacts of the outline proposals, and to devise a range of conditions to ensure that the final scheme brought forward at reserved matters stage is suitably controlled and managed. Ultimately, there is sufficient evidence in place to apply the NPPF policy requirements and determine the acceptability of the principle of developing the site for holiday lodge accommodation.
- 5.115 It is considered necessary to impose a condition requiring a Biodiversity Method Statement covering protection, creation, enhancement and maintenance of habitats/ecological features to be retained and/or created on site (CONDITIONS 12 and 13).
- 5.116 As the design, layout, landscaping and scale of development is yet to be fixed and will be done so at reserved matters stage. It is not necessary to have identified, in detail, the habitat / biodiversity mitigation and enhancement solutions at this outline stage; only to be able to:
- a) have a clear understanding of the habitat / biodiversity value and characteristics of the site; and
  - b) conclude that opportunities exist (and their delivery can be secured through planning conditions) for necessary mitigation and enhancement measures and that those measures will be designed in detail, approved by the Council at the reserved matters submission stage, and secured / incorporated as part of the implementation of the scheme.
- 5.117 Given the above, and subject to the recommended conditions above, it is considered that the development of the site could take place in such a way that it would not cause significant harm to the biodiversity value if the site or adjoining land and can, as it is required to do, improve the biodiversity value of the site when compared to the ecological value of the existing golf course. The site offers considerable opportunities for ecological benefit, and biodiversity improvements can secure measurable net gains for biodiversity and therefore the proposals are considered to be acceptable and in accordance with NPPF paragraphs 170 and 175 and Saved UDP policies DC1(s), ENV3, ENV44, ENV46, ENV47, CSUCP policy CS18 and draft MSGP policies 37 and 38.
- 5.118 Climate Change**  
CSUCP policy CS16 is relevant to ensure climate change considerations are integrated into the scheme. Connection to a decentralised energy centre should be considered, where appropriate. Where connection is not possible, other sources of low carbon energy provision should be explored as set out in CS16. A condition is recommended to secure details of such measures at reserved matters (CONDITIONS 50 and 51).

#### **5.119 VERY SPECIAL CIRCUMSTANCES**

It is acknowledged that the proposed development is, by definition, inappropriate development in the Green Belt that should only be approved if very special circumstances exist in accordance with paragraph 143 of the NPPF.

5.120 The fundamental policy consideration is set by the NPPF paragraph 144 where it explains that very special circumstances will not exist unless the potential harm to the Green Belt by reasons of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.121 Very special circumstances are not the amount and range of benefits delivered by a development, rather it is the difference between the harm caused by the development and the considerations in favour of the proposals, such that the latter clearly outweighs the former.

5.122 In carrying out the assessment of whether very special circumstances exist, particular regard should be given to:

- o the degree of harm caused by the development on the openness of the Green Belt, and in respect of the contribution that the site makes to the purposes of the Green Belt;
- o any other harm; and
- o the scale and nature of the considerations in favour of the application proposals, including the extent to which those considerations meet planning policy objectives.

#### **5.123 Harm**

##### **Purpose**

When assessing harm arising from a proposed development the starting point should be the 'baseline position' of the contribution that the site currently makes to the purpose of the Green Belt, and the existing openness of the Green Belt on the application site and in the wider area. This was discussed above and it was concluded that given the location, context and current use of the site that no material harm would arise in respect of the purpose of the Green Belt.

#### **5.124 Openness**

To assess the extent to which the proposed development may harm the openness of the Green Belt, it is necessary to consider the existing openness of the Green Belt in this location.

#### **5.125 Considerations in Favour of the Proposal**

The key benefit of the scheme is its ability to help to deliver the policy objective of CSUCP Policy CS8 to deliver a range of tourist accommodation in the Rural and Village Area, also reflected in the Council's corporate aims. This links directly to the CSUCP Policy CS5 objective of developing a diverse economy through strengthening the rural economy by supporting local business and growth in leisure, culture and tourism.

#### **5.126 Alternative Site Assessment**

The Applicant has demonstrated through the submitted ASA that there is an absence of more suitable, available sites which are capable of meeting the

same needs as the proposed development. If this development scheme does not come forward, then there are no obvious alternative locations and the opportunity to contribute to the policy objective of CSUCP Policy CS8 would be lost. This lack of alternative opportunities increases the weight that should be afforded to the scheme's contribution to meeting the objectives of Policy CS8 and justification for this Green Belt location.

**5.127 The balance**

NPPF paragraph 144 confirms that Very Special Circumstances will arise if the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.

5.128 Change will occur as a result of the development, though in the context of up to date High Court judgements, preservation of the Green Belt is not achieved through preventing change, rather through preventing harm.

5.129 It is considered that harm is outweighed by the considerations in favour of the development to make a meaningful contribution to the Local Plan objectives relating to enhancing the Gateshead economy through increasing the range of visitor accommodation to support tourism and tourist attractions.

5.130 Given the above, it is considered that Very Special Circumstances do exist for the proposal on this site considered acceptable against Green Belt policy.

**5.131 STATEMENT OF COMMUNITY INVOLVEMENT**

A targeted consultation with the local business community was undertaken as it was considered the most appropriate way of communicating the proposals.

5.132 It was not considered appropriate to hold a general community consultation exercise, given the limited number of residential properties in the vicinity of the site and the nature of the proposals. Instead, it was determined that those who could be affected by the proposals, primarily as a result of the increased numbers of visitors to the area, could be businesses in the local area. On this basis, it was considered appropriate to undertake a targeted consultation with those businesses.

5.133 Consideration was given to where future visitors would be likely to access goods and services from. Given the self-catering nature of the proposed holiday lodges and the accessibility of the local area, it was determined that future visitors may be likely to travel up to around 2km from the application site for food, drink and other general needs during their stay. Accordingly, a leaflet was distributed to all registered businesses within 2km of the application site, as well as to all businesses in Tanfield and Sunnyside, which are just beyond 2km.

5.134 A total of 75 leaflets were distributed, and electronic copies were sent to the Councillors representing the Lamesley ward in which the site is located.

5.135 The leaflet included a response form (with a freepost return) which asked the following questions:

1 Do you agree that visitors to Beamish Park Lodges would be likely to use local services and facilities?

Yes / No

2 Are you generally in favour of the proposals?

Yes / No

3 Any other comments

5.136 Question 3 allowed respondents to provide an unstructured response and submit any other comments they had regarding the proposals. In short, it provided an opportunity for respondents to raise any concerns regarding the proposed development.

5.137 A total of three response forms were returned, all of which were in favour of the proposals and answered 'yes' to questions 1 and 2. One had no comments to add under question 3, while the other two respondents provided the following additional comments:

'Great idea!'

'Great concept for the area, being on the border of Gateshead and Durham'

5.138 Whilst the overall response rate was low, it is evident that those who did respond are in favour of the proposals. The low response rate in general is an indication of a lack of any fundamental concern about the proposals from the local business community, which could be interpreted as general support for the proposals.

5.139 Overall, it is evident that local businesses are not concerned that the scheme would have a negative impact upon them (i.e. through a diversion of trade) and see the benefits of having increased visitor population in proximity to their business.

#### **5.140 COMMUNITY INFRASTRUCTURE LEVY**

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule. The site lies within residential CIL Zone A and the levy is £60/sqm.

### **6.0 CONCLUSION**

6.1 It is considered that very special circumstances do exist for the proposal on this site considered acceptable against Green Belt policy. Subject to details to be provided at reserved matters stage and the recommended conditions, the scheme is considered to conform with the local and national planning policies and it is recommended that outline planning permission be granted.

### **7.0 Recommendation:**

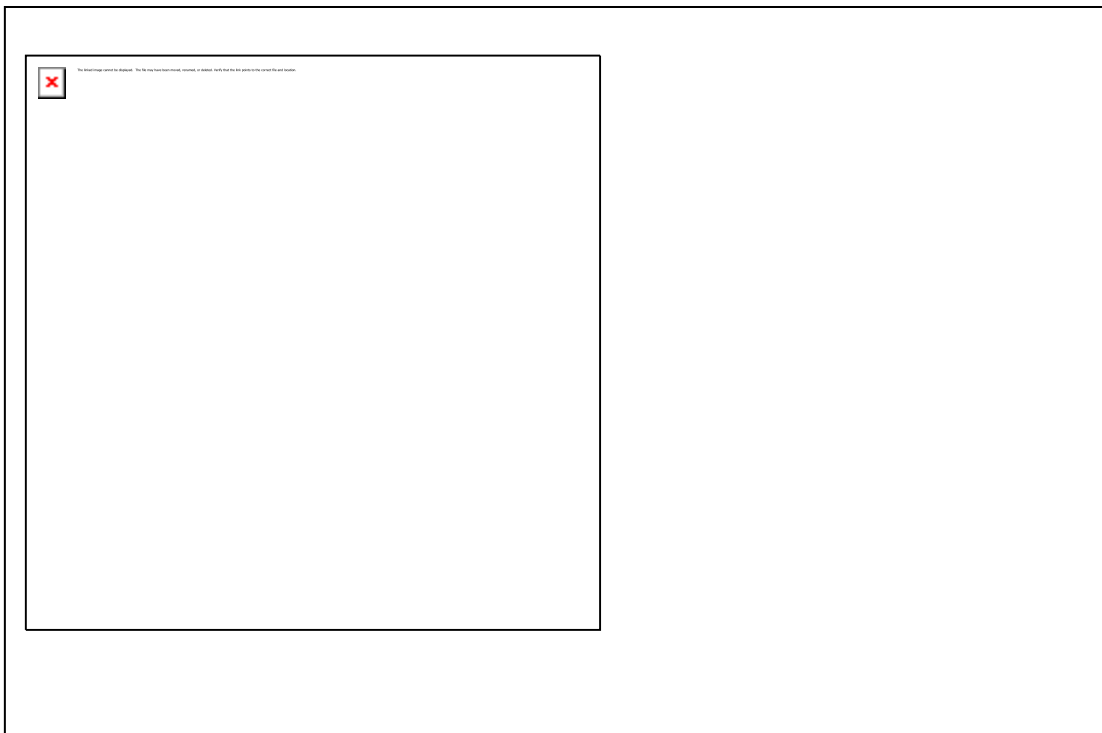
That permission be GRANTED subject to the following condition(s) and that the Service Director of Transport, Communities and Environment be authorised to add, vary and amend the planning conditions as necessary

- 1 Reserved Matters and Approved plans



- 2 Application for approval of reserved matters timescale
- 3 Commencement timescale
- 4 Development in accordance with Design Code
- 5 Self Catering holiday accommodation only
- 6 Developable Site Area
- 7 Landscaping Principles as set out in DAs
- 8 Tree Protection Measures
- 9 Implement Tree protection Measures
- 10 Demolition and Construction Management Plan
- 11 Implement Demolition and Construction Management Plan
- 12 Biodiversity Method Statement
- 13 Implement Biodiversity Method Statement
- 14 Drainage demolition and Construction Method Statement
- 15 Implement Drainage demolition and Construction Method Statement
- 16 Coal Legacy Intrusive Site Investigations
- 17 Coal Legacy Remediation
- 18 Unexpected Contamination
- 19 Foul Water Disposal
- 20 Implement Foul Water Disposal
- 21 Drainage Assessment and SuDS scheme
- 22 Implement SuDS Scheme
- 23 Drainage Management Plan
- 24 Implement Drainage Management Plan
- 25 Final Finished ground and floor levels
- 26 Implement final finished floor and ground levels
- 27 Habitat Management Plan
- 28 Implement Habitat Management Plan
- 29 Safe access for pedestrians and cyclists
- 30 Implement safe access for pedestrians and cyclists
- 31 Car Park Layout for Beamish Park Hotel
- 32 Implement Car Park Layout for Beamish Park Hotel
- 33 Car Park Layout for development
- 34 Implement Car Park Layout for development
- 35 Longitudinal cross section for access ramp
- 36 Implement access ramp
- 37 Travel Plan
- 38 Implement Travel Plan
- 39 Details of screened refuse and recycling
- 40 Implement screened refuse and recycling
- 41 Boundary Treatments
- 42 Implement Boundary Treatments
- 43 External Lighting Strategy
- 44 Implement External Lighting Strategy
- 45 Visibility Splay

- 46 Vegetation Clearance
- 47 Materials
- 48 Implement Materials
- 49 Hours of Construction
- 50 Sources of low carbon energy provision
- 51 Implement Sources of low carbon energy provision
- 52 Implement Habitat Management Plan and Biodiversity Method statement
- 53 15m buffer to SW woodland
- 54 Implement 15m buffer
- 55 Maintain Landscaping
- 56 Surface Treatments
- 57 Implement Surface Treatments
- 58 Details of play areas
- 59 Implement play areas



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**Committee Report**

<b>Application No:</b>	<b>DC/19/01200/FUL</b>
<b>Case Officer</b>	<b>David Morton</b>
<b>Date Application Valid</b>	<b>18 December 2019</b>
<b>Applicant</b>	<b>Miss Nicola Allan</b>
<b>Site:</b>	<b>25 Cornmoor Road Whickham Newcastle Upon Tyne NE16 4PU</b>
<b>Ward:</b>	<b>Dunston Hill And Whickham East</b>
<b>Proposal:</b>	<b>Erection of single dwellinghouse with garage.</b>
<b>Recommendation:</b>	<b>REFUSE</b>
<b>Application Type</b>	<b>Full Application</b>

**1.0 The Application:**

**1.1 DESCRIPTION OF THE SITE**

The site is located within the Whaggs Lane/Broom Lane Area of Special Character, as identified by saved UDP Policy ENV25. The site was typical of the original layout of plots in the area where properties have large elongated rear gardens with dense landscaping, albeit a large part of the curtilage has been annexed off through the introduction of a boundary fence across the garden and adjacent to the existing driveway.

1.2 The site remains relatively well planted, however there is evidence that trees and planting have been removed from the site, further the garage associated with the site has been removed.

1.3 There are residential properties located to the north (23 and 19b Cornmoor Road), to the south (27 and 27a Cornmoor Road) and also to the west (14a, 14, 16 and 18 Whaggs Lane).

**1.4 DESCRIPTION OF THE APPLICATION**

The application follows previously refused application DC/19/00149/FUL (April 2019); the application proposes the same development with no alterations.

1.5 The application seeks planning consent for the erection of a single detached dwellinghouse, the dwelling would have two levels of accommodation with one level being provided within the roofspace.

1.6 The dwelling would have a maximum width of 11.5 metres and a maximum depth of 21 metres. The proposed dwelling would have a maximum overall height of 5.7 metres. All windows proposed within the northern and southern elevations are proposed to be provided as rooflights, all ground floor rooms would be served by windows within the eastern and western elevations.

1.7 The following documents were submitted with the application:

- Coal Mining Risk Assessment
- Contaminated Land Preliminary Risk Assessment

## 1.8 PLANNING HISTORY

The relevant planning history associated with the application site is summarised as follows:

- DC/10/00995/FUL for a single two storey dwellinghouse in the rear garden of 25 Cornmoor Road was refused planning permission 01 December 2010 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25 and the second ground was that the proposed development would result in significant harm to the visual amenity of the area and would have a detrimental impact on the area of special character and the amenities of neighbouring properties contrary to policy ENV3 of the UDP.
- DC/10/01349/FUL for a dormer bungalow in the rear garden of 25 Cornmoor Road was refused planning permission on 02 February 2011 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25. The decision was appealed and the appeal was dismissed on 08 June 2011, the Planning Inspector stating *'... the proposed dwelling would create a continuous run of four backland properties. This would result in a concentration of this form of development in the immediate vicinity and would undermine the sense that backland housing is only a sporadic feature of the area'* and would thus be unacceptable when considered against Policy ENV25 and the Planning Policy Statement 1 (PPS1).
- DC/14/00167/FUL for the erection of a dormer bungalow in the rear garden of 25 Cornmoor Road was refused planning permission on 29 April 2014 on the grounds that the proposal would result in backland development contrary to UDP policy ENV25. An appeal to the Planning Inspectorate was lodged by the Applicant, the appeal was dismissed on 29 August 2014.
- DC/14/00484/CPL was an application for a certificate of lawfulness for 'The provision within the curtilage of the dwellinghouse of a building required for purposes incidental to the enjoyment of the dwellinghouse.' The application was refused on 10 June 2014 for the following reason:

*"Following consideration of the evidence provided by the applicant, it is considered that on the information submitted it has not been demonstrated that the proposed detached building would benefit from a deemed planning permission by virtue of Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 as amended."*

- DC/14/01096/CPL was an application for a certificate of lawfulness for 'The provision within the curtilage of the dwellinghouse of a building required for purposes incidental to the enjoyment of the dwellinghouse.'

The application was refused on 14 November 2014 for the following reason:

*"Following consideration of the evidence provided by the applicant, it is considered that on the information submitted it has not been demonstrated that the proposed detached building would benefit from a deemed planning permission by virtue of Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 1995 as amended."*

The applicant subsequently appealed the refusal to the Planning Inspectorate; the appeal was allowed on 17 September 2015.

- DC/15/00969/FUL was a planning application for 'Proposed erection of a single-storey 3-bed bungalow (Use Class C3) to rear of existing property with shared access and erection of single garage for host property.' The application was approved on 20 November 2015.
- DC/18/01037/FUL was an application for the erection of detached dwelling in rear garden of 25 Cornmoor Road. The application was withdrawn on 04 January 2019.
- DC/19/00008/HHA was an application for extension to 25 Cornmoor Road comprising of a loft conversion, two storey side extension and single storey rear extension. The application was approved on 06 March 2019.
- DC/19/00149/FUL was an application for the erection of a detached dwellinghouse to the rear of 25 Cornmoor Road, the application was refused in April 2019 for the following reasons:

*"The proposed dormer bungalow would result in back land development and the subdivision of the existing plot. This would have a detrimental impact on the area of special character, the development would therefore fail to comply with aims and objectives of the NPPF, saved Policies ENV3 and ENV25 of the Unitary Development Plan, the Gateshead Placemaking SPD and Policy MSGP24 of Making Spaces for Growing Spaces DPD."*

And:

*"Insufficient information in the form of an ecological survey, assessment and mitigation report has been submitted to enable the Council to consider whether the proposed development would have any unacceptable negative impact on badgers, contrary to the National Planning Policy Framework, saved policies DC1, ENV46 and ENV47 of the Council's Unitary Development Plan and Policy CS18 of the Council's Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne."*

## **2.0 Consultation Responses:**

Coal Authority

No objection subject to condition(s).

### **3.0 Representations:**

3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015. A total of 14 letters of objection were received including two from Ward Councillors (Councillor Peter Maughan and Councillor Kevin McClurey), alongside a petition of 81 signatures against the proposed development. The objections are summarised below:

- The proposed access isn't sufficiently wide;
- The site was stripped of foliage prior to submission without ecological assessment;
- The proposed development would conflict with Policy ENV25;
- The design and materials of the proposed development are not acceptable within the area;
- The proposed development would result in unacceptable overlooking;
- The proposed development would potentially result in flood risk issues;
- The development would result in additional highways congestion; and
- The application site potentially houses protected species.

### **4.0 Policies:**

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

H4 Windfall and Small Housing Sites

H12 Housing Density

H13 Local Open Space in Housing Developments

H14 Neighbourhood Open Space-New Housing Dev

H15 Play Areas in Housing Developments

ENV3 The Built Environment - Character/Design

ENV25 Areas of Special Character

ENV46 The Durham Biodiversity Action Plan

ENV47 Wildlife Habitats

ENV54 Dev on Land Affected by Contamination

CFR20 Local Open Space

CFR28 Toddlers' Play Areas

CFR29 Juniors' Play Areas

CFR30 Teenagers' Recreation Areas

DC2 Residential Amenity

CS10 Delivering New Homes

CS11 Providing a range and choice of housing

CS14 Wellbeing and Health

CS15 Place Making

CS18 Green Infrastructure/Natural Environment

GPGSPD Gateshead Placemaking Guide SPG

MSGP Making Spaces for Growing Places

## **5.0 Assessment:**

5.1 The key planning considerations are whether the development would comply with relevant national and local housing policies, the principle of the development in an Area of Special Character, the impact on the visual amenity of the site, the residential amenity of neighbouring properties, density, any impact on trees, any highway safety implications, open space and play provision, land conditions and any other issues arising.

### **5.2 PRINCIPLE OF THE DEVELOPMENT**

#### **5.3 Housing demand and policy**

As the application site is not specifically allocated for housing in the UDP, proposals for housing would need to be considered in terms of windfall housing under policy H4 of the UDP. Policy H4 of the UDP gives a number of criteria that need to be assessed.

5.4 It is considered that the site meets the saved criteria set out in policy H4 in relation to its sustainable location within an established housing area, close to local services and public transport routes, and it would help to sustain the local community. As a result, the principle of developing this site for residential use is considered acceptable should all other material planning considerations be satisfied.

#### **5.5 Housing choice**

Policy CS11 of the Core Strategy and Urban Core Plan requires 60% of new private housing across the Plan area to be suitable for and attractive to families, defined as dwellings of three or more bedrooms. The application proposes the erection of a single family home and as such the development is considered

appropriate in the context of the NPPF, saved policy H4 of the UDP and policies CS10 and CS11 of the CSUCP.

5.6 Residential space standards

Policy CS11(4) requires that new residential development provides "*adequate space inside and outside of the home to meet the needs of residents*". It is considered based upon the submitted information that the application meets the above requirements, providing an acceptable level of internal and external space for existing and proposed properties.

5.7 AREA OF SPECIAL CHARACTER

The application site is within the Broom Lane/Whaggs Lane Area of Special Character and therefore saved policy ENV25 of the UDP applies. This policy states that certain areas of the borough have '*...a distinctive built character deriving from their buildings and spaces, which are worthy of recognition.*' Specifically referring to the Broom Lane/Whaggs Lane area, the policy identifies low density housing, a dense coverage of mature trees and long, well established gardens as the key characteristics of the area.

5.8 The supporting text of this policy states that the detrimental development allowed in the 1980's and 1990's, namely small housing estates and single dwellings on infill and rear garden plots has had an adverse impact on the established character of the area and that 'The area's protection under this policy will control similar damaging development in the future.'

5.9 The current UDP was adopted in 2007. The previous UDP was adopted in 1998 and had a policy relating specifically to the Broom Lane/Whaggs Lane area alone. This policy (E12) identified specific blocks within the area where single residential developments at the rear of properties would be unacceptable but that 'elsewhere, they will be permitted at the rear of properties' but only if new dwellings were not 'visually intrusive' and that new access arrangements were linked to existing access into the site and that parking capacity and any trees were not detrimentally affected.

5.10 The two policies are considered to be fundamentally different. The 1998 policy focuses on the design of backland development as opposed to the principle, except within very specific parts of the Broom Lane/ Whaggs Lane area where it was clear such development was not acceptable. The current UDP policy adopted in 2007 focuses on the principle and states that backland development damages the character of the area and should be resisted.

5.11 Whilst eight backland developments have been granted permission within the Area of Special Character since 2007, all of these have been revised and resubmitted versions of schemes originally determined under the previous UDP (adopted in 1998) or have been significantly different from the one currently proposed. Where original schemes had been approved, the principle of development had been established as acceptable, under policy E12 of the 1998 UDP. Where schemes had been refused, the refusal reasons were not based on the principle of backland development, due to the more relaxed



nature of the policy in the previous UDP policy (adopted in 1998) and were refused on design.

- 5.12 Where extant permissions existed which could be implemented and were approved prior to 2007 the Council took a pragmatic approach to resubmissions of schemes where it was considered these were an improvement on the extant permissions that could be implemented.
- 5.13 Schemes that were refused permission under the former Policy E12 (1998 UDP) were refused due to the design considerations of the scheme rather than the principle of developing in rear gardens and in those cases if resubmissions were made post adoption of the 2007 policy these would need to be considered against the current development plan in force which resists the principle of backland development in this area unless there are material considerations of significant weight to outweigh that policy (ENV25).
- 5.14 The three most recent approvals for a backland development within the area were at 35A Broom Lane (October 2008), 36A Cornmoor Road (August 2013) and 25 Cornmoor Road (November 2015). The application at 35A Broom Lane was not considered to be further detrimental to the character of the area due to an existing tandem arrangement of dwellings on that specific plot where one dwelling sat behind the other (albeit linked) and where the elongated garden was already subdivided and also where important mature trees and landscaping were being retained. In assessing the application at 36A Cornmoor Road significant weight was offered to the fall back position of a previously approved detached granny annex, it was concluded given the proposed dwelling was "... *almost identical [to the annex] except for the ground floor window arrangement... that the effect of the proposed bungalow on the character and appearance of the area would not be different from that of the previously approved granny annex.*" The same view was taken in approving the development at 25 Cornmoor Road given the existence of a certificate of proposed lawful development which allowed the erection of a swimming pool building. In approving the application Officers concluded 'It is considered that the fallback position open to the application is of such material weight that the non-compliance with Policies ENV25 and ENV3 are outweighed in this instance.'
- 5.15 It is therefore considered that a precedent has not been set for the approval of new schemes submitted since 2007 and although backland development has been allowed, the policy acknowledges this and aims to prevent further detriment to the character of the area.
- 5.16 There was a significant change in circumstance following the refusal of planning application DC/14/00167/FUL at 25 Cornmoor Road. Two separate applications seeking to obtain certificates of lawful development (DC/14/00484/CPL and DC/14/01096/CPL) were submitted. The first application (DC/14/00484/CPL) sought a certificate of lawfulness for the provision of a building required for purposes incidental to the enjoyment of the dwellinghouse, the application was refused and was not subsequently appealed.

- 5.17 The second application (DC/14/01096/CPL) again sought to obtain a certificate of lawful development for the erection of a building required for purposes incidental to the enjoyment of the dwellinghouse. More specifically the application proposed that the structure would be single storey in nature with a footprint of 20 metres by 10 metres, the building would have an eaves height of 2.4 metres and ridge height of 3.5 metres. The building would be located 4 metres and 4.2 metres from the common boundary with the properties to the north and south of the site respectively and 15.3 metres from the boundary with the boundary to the rear.
- 5.18 The proposed detached building would be made up of the following accommodation; a swimming pool, a plant/store, a shower/changing room and a hallway.
- 5.19 It must be noted that a Certificate of Lawfulness application is determined not on the basis of planning policies or material planning considerations, but in accordance with the specific factual matrix and in accordance with all relevant legal principles. Therefore, while it is considered that the erection of such a detached building would undoubtedly have a significant detrimental impact on the application site and the wider area in direct conflict with saved UDP Policy ENV25 this was not material in determining the application for the swimming pool structure.
- 5.20 Once granted, a certificate of lawfulness remains valid for the use or development described in it, on the land it describes, provided there is no subsequent material change in the circumstances. This is clearly set out in Section 192 of the Town and Country Planning Act 1990;  
*"The lawfulness of any use or operations for which a certificate is in force under this section shall be conclusively presumed unless there is a material change, before the use is instituted or the operations are begun, in any of the matters relevant to determining such lawfulness."*
- 5.21 The existence of the above certificate of lawfulness was afforded significant weight in the granting of application DC/15/00969/FUL. However, in assessing all previous planning applications for housing development within the Broom Lane/Whaggs Lane Area of Special Character, Policy ENV25 has been viewed as, and applications determined on the basis of it being a restrictive policy.
- 5.22 In considering the previous appeal (DC/10/01349/FUL) on the current application site the Planning Inspector concluded:  
*"The proposal does not strictly conflict with the wording of policy ENV25 which seeks to encourage development that maintains and/or enhances Areas of Special Character. However, when read in conjunction with the supporting justification, it is clear that the intention of the policy is to control development which would damage the character and appearance of the Broom Lane/Whaggs Lane area"*

5.23 The Gateshead Placemaking Supplementary Planning Document which has been prepared as an accompaniment to the Local Plan makes specific reference to Broom Lane within Appendix B - Local Character Guidance - 'Place Portraits'. It is stated within the Design Guidance for Broom Lane that the aims of the LPA should be to:

*"Resist backland development within the gardens of existing properties to protect the character and setting of existing properties."*

5.24 Further to the above, Policy MSGP24 of the emerging Making Spaces for Growing Spaces DPD (MSGP) continues to identify Broom Lane/Whaggs Lane as an area of special character. The inclusion shows a clear direction of travel indicating a clear intention to continue to protect the Broom Lane/Whaggs Lane Area of Special Character while also confirming that Saved UDP Policy ENV25 remains in compliance with the NPPF.

5.25 It is considered that the proposal for the dwelling at the rear in a tandem arrangement would not accord with Policy ENV25 of the current development plan.

5.26 Following the grant of the Certificate of Lawfulness (as set out above) significant changes have been undertaken on site; a boundary treatment has been erected on site effectively separating the land on which the proposed dwellinghouse would stand from the existing dwellinghouse and its curtilage. Based on a recent site visit, it is evident that this fence remains in situ and the garden space associated with 25 Cornmoor Road remains both physically and functionally separate from the land to the west. This view is reached through the following factors; the land to the west (of the garden space of 25 Cornmoor Road) is served by a separate means to access than 25 Cornmoor Road and no direct access is available between the garden space and the land to the west. While the applicant has indicated that the occupiers of 25 Cornmoor Road have a 'long lease' over the land to the west Officer would disagree with the conclusion that the site is '... occupied as one planning unit' owing to the clear and obvious physical and functional separation between the two pieces of land.

5.27 Based on these facts Officers are of the view that the area of land on which the proposed dwelling would be constructed is no longer within the curtilage of 25 Cornmoor Road. On this basis, it is the view of Officers that the swimming pool structure would no longer benefit from a deemed planning permission by virtue of Article 3, Schedule 2, Part 1, Class E of the Town and Country Planning (General Permitted Development) Order 2015 (the GPDO) as amended.

5.28 Further, the previously approved planning application (DC/15/00969/FUL) lapsed in November 2018 with no lawful commencement taking place.

5.29 It is, therefore, considered that no fallback position exists on the site. It is accepted by officers that the subdivision of the land could be reversed and as such a fallback could be re-established. The Case Law on the issue of fallbacks

(R (on the application of Zurich Assurance Ltd) v North Lincolnshire Council [2012] EWHC 3708 (Admin)) is clear.

5.30 As pointed out by the applicant, the judgement states:

*"The prospect of the fallback position does not have to be probable or even have a high chance of occurring; it has to be only more than a merely theoretical prospect. Where the possibility of the fallback position happening is "very slight indeed", or merely "an outside chance", that is sufficient to make the position a material consideration (see Samuel Smith Old Brewery (Tadcaster) v Secretary of State for Communities and Local Government [2009] EWCA Civ 333 at [20]-[21] per Sullivan LJ). Weight is, then, a matter for the planning committee."*

5.31 Therefore, even were a fallback position to be established, as set out above the weight attached to such a fallback is a matter for the decision maker.

5.32 In this instance, it is considered that such a fallback position should be attributed little weight, given it is considered that there is no genuine prospect of the (swimming pool building) development coming forward. This view is taken given the site has been subdivided and the applicants direction of travel is obvious owing to the planning history of the application site.

5.33 Section 38(6) of the Planning & Compulsory Purchase Act 2004 specifies that:

*'If regard is to be had to the Development Plan for the purpose of any determination to be made under the Planning Acts the determination must be made in accordance with the Plan unless material considerations indicate otherwise.'*

5.34 As set out above, it is considered that the proposed development would conflict directly with the requirements of saved UDP Policy ENV25, The Gateshead Placemaking Supplementary Planning Document and Policy MSGP24 of the emerging MSGP. In the absence of a fallback position no material considerations exist which would outweigh the presumption to refuse the application based upon its impact on the Broom Lane/Whaggs Lane Area of Special Character.

5.35 **IMPACT ON THE STREETSCENE AND APPEARANCE OF THE AREA**  
The NPPF at Paragraph 124 makes it clear that 'the creation of high quality buildings and places is fundamental to what the planning and development process should achieve.' *It goes on to make clear that 'good design is a key aspect of sustainable development...'*

5.36 Further, Paragraph 130 states that:

*"Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans or supplementary planning*

*documents. Conversely, where the design of a development accords with clear expectations in plan policies, design should not be used by the decision-maker as a valid reason to object to development."*

- 5.37 The CSUCP reflects the general aims of the NPPF encouraging economic growth and identifying the importance of quality of place. Policy CS15 refers specifically to Place Making and the need for new development to demonstrate high and consistent design standards in line with the Council's design guidance contained in the Gateshead Placemaking SPD.
- 5.38 The proposed dwelling is considered to be of a not dissimilar (in terms of its footprint) to the adjacent properties to the east and south of the application site. The proposed dwelling would create a continuous run of four backland properties. It is considered that the development would undermine the sense that backland housing is only a sporadic feature within the area, while also being prominent and causing a visual intrusion when seen from surrounding properties. It is considered that the proposal would not maintain the essential spacious distinctiveness of the Area of Special Character, contrary to the objectives of the NPPF, saved policy ENV3 of the Council's UDP and policy CS15 of the CSUCP.
- 5.39 It is considered that the proposed development would conflict directly with the requirements of the NPPF saved UDP Policy ENV3 and policy CS15 of the CSUCP.
- 5.40 **RESIDENTIAL AMENITY**  
It is considered that the proposed development would not lead to any significant impact on residential amenity. The proposed dwelling would be located an acceptable distance from all neighbouring properties. The separation distance between the proposed dwelling and the existing bungalow at 19b is 5.5 metres and the separation distance between the proposed dwelling and the two storey dwelling at 27a Cornmoor Road is 3.5 metres. The property in situ at 27a Cornmoor Road does have windows located in the side elevation, however it is considered that impact would be minimal based upon the scale of the dwelling and the separation distance afforded. The distance to the rear elevation of 16 Whaggs Lane is in excess of 75 metres, due to the length of the property's garden. The front elevation of the proposed dwelling is 48 metres from the rear elevation of 25 Cornmoor Road.
- 5.41 It is considered these separation distances, combined with the orientation of the dwelling ensure that no significant impact would be suffered by neighbouring occupiers.
- 5.42 Further, it is considered that the proposed garage, access and landscaping would have a minimal impact on amenity owing to the minor nature of the operations.
- 5.43 It is not considered that the proposal would have an adverse impact on the amenity of nearby residents and as a result it would comply with the aims and

objectives of the NPPF, saved policy DC2 of the Council's UDP and policy CS14 of the CSUCP.

#### 5.44 HIGHWAY SAFETY

The existing access to the side of 25 Cornmoor Road at its narrowest is 2.44m and at the widest point is 2.85m wide. The drive is bounded by the gable end of the existing dwelling and cannot be widened at this point. The access is not wide enough to accommodate heavy plant and a concern has been raised by neighbours in respect of construction traffic not being able to access the development site with the resultant storage of materials on the footpath on Cornmoor Road. An area for storage of materials could be secured by a planning condition, if the application was approved and if material was stored on the highway this matter could be dealt with through other legislation.

5.45 However, it is proposed to widen the drive to 3.7 metres beyond the existing dwelling. This will include demolition of the existing single storey garage, provision of a replacement single garage and a turning head. This access is also to be used to access the new proposed dwelling.

5.46 The car parking for the existing dwelling and the proposed development is acceptable and the garages can also accommodate the cycle parking requirements.

5.47 Regarding refuse collection, as the new dwelling would be 79m from the public highway, a storage collection area would be necessary. This could be secured by a planning condition.

#### 5.48 ECOLOGY

In considering the above application in regard to ecological impact regard is offered to the NPPF, Policy CS18 of the CSUCP and saved UDP Policies DC1, ENV46 and ENV47.

5.49 Information has been received by the Council which indicates that there is the potential for the habitat for protected species to be located on or within close proximity of the application site.

5.50 An appropriate level of ecological survey/assessment must be undertaken by a suitably qualified and experienced ecologist to confirm the presence/absence of protected species. In the event of habitat being confirmed on site, appropriate mitigation (including potentially licenced mitigation) proposed to avoid/minimise adverse impacts, including during the construction and operational phases of the development.

5.51 Paragraph 118 of the NPPF sets out the ecology 'mitigation hierarchy' as follows:

- Avoidance - can significant harm to wildlife species and habitats be avoided for example through locating on an alternative site with less harmful impacts?

- Mitigation - where significant harm cannot be wholly or partially avoided, can it be minimised by design or by the use of effective mitigation measures that can be secured by, for example, conditions or planning obligations?
- Compensation - where, despite whatever mitigation would be effective, there would still be significant residual harm, as a last resort, can this be properly compensated for by measures to provide for an equivalent value of biodiversity?

5.52 In the absence of an ecological survey, assessment and mitigation report, it is not possible to make a full assessment as to the likely impacts of the development on biodiversity (having specific regard to nationally protected species). As such, officers disagree with the applicants view that it is not proportionate to seek the submission of an ecological survey and also their view that such matters could be addressed through planning conditions.

5.53 On the basis of the above, it is considered that it cannot be concluded that the proposed development complies with the National Planning Policy Framework, saved policies DC1, ENV46 and ENV47 of the Council's Unitary Development Plan and Policy CS18 of the Council's Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.

5.54 LAND CONDITIONS

5.55 Contaminated Land

As the applicant proposes a sensitive end use on the site, a Preliminary Risk Assessment (PRA) was submitted with the application. The historical use of the land was for agricultural purposes prior to residential development on the site and that the site is not within an area identified as potentially contaminated, the Local Planning Authority is satisfied that no further investigation would be required prior to the commencement of development. It is not considered necessary to condition further investigative works beyond those that would be required under the Building Control regime. The development complies with policy CS15 of the CSUCP and policy ENV54 of the UDP.

5.56 Land Stability

The application site falls within the defined Development High Risk Area and therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. As a result, the applicant has submitted a Coal Mining Risk Assessment, which has been assessed by the Coal Authority.

5.57 The Coal Authority is satisfied with the broad conclusions of the report, informed by the site investigation works; that coal mining legacy issues are not significant within the application site and do not pose a risk to the proposed development. Accordingly, The Coal Authority does not object to the proposed application, however were members minded to grant planning permission it is recommended that a condition be attached that requires site investigation works to be undertaken.

5.58 The proposed development is therefore considered to be in accordance with the NPPF and policy DC1 of the UDP.

**5.59 PLAY AND OPEN SPACE**

Saved policies H13 and H15 of the Council's UDP require new residential development to contribute towards open space and play provision. This is based on the anticipated population of the development and is based on the standards of open space and play provision required per population under saved policies CFR20, CFR28, CFR29 and CFR30 of the UDP.

5.60 Pooling restrictions were introduced by the Community Infrastructure Levy Regulations 2010 which meant that no more than 5 obligations can be pooled in respect of an infrastructure type or infrastructure project. The Council exceeded the 5-obligation maximum in respect of all three types of play (toddler, junior and teenage) and for open space.

5.61 With regards to the open space and play space contributions, the legislation has recently changed to mean that the pooling restriction has now been lifted and therefore, in theory, the Local Planning Authority could seek a contribution towards off site open space and/or play provision. Given that there has not been enough time since the change to the legislation for the Council to identify where an off-site contribution could be spent, the Local Planning Authority are of the opinion that it would not be reasonable in this instance to require it.

5.62 Therefore while it cannot be concluded that the appeal proposal would comply with saved policies H13, H15, CFR20, CFR28, CFR29 and CFR30 of the UDP, the Local Planning Authority consider that it is not possible to require any contribution for either off site open space or play provision in this case based on the above assessment.

**5.63 COMMUNITY INFRASTRUCTURE LEVY (CIL)**

On 1st January 2017 Gateshead Council became a CIL Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is CIL chargeable development as it is housing related. The development is located within a Charging Zone with a levy of £30 per square metre for this type of development.

**5.64 OTHER MATTERS**

Objections also raised the issue of Flood Risk and drainage. The site lies within flood zone 1, an area at least risk of flooding. The surface water is proposed to be disposed of to the mains sewer. The development would increase the area of hard surfacing within the site, however it is considered that this would not lead to a significant increase in surface water and the disposal of water into the mains sewer is considered appropriate.

5.65 It is considered that all other material planning considerations have been addressed within the main body of the report.

**6.0 CONCLUSION**



6.1 Taking all the relevant issues into account, it is recommended that planning permission be refused as it would have a detrimental impact on the Broom Lane/Whaggs Lane Area of Special Character. In addition, insufficient information has been submitted to assess the impact of the proposal in terms of ecological impact.

6.2 The applicant has failed to submit any supporting information that would outweigh officers' concerns. It is considered that the proposed development does not accord with national and local planning policies and as a result it is recommended that planning permission be refused. The recommendation is made taking into account all material planning considerations including the information submitted by the applicant and third parties.

## **7.0 Recommendation:**

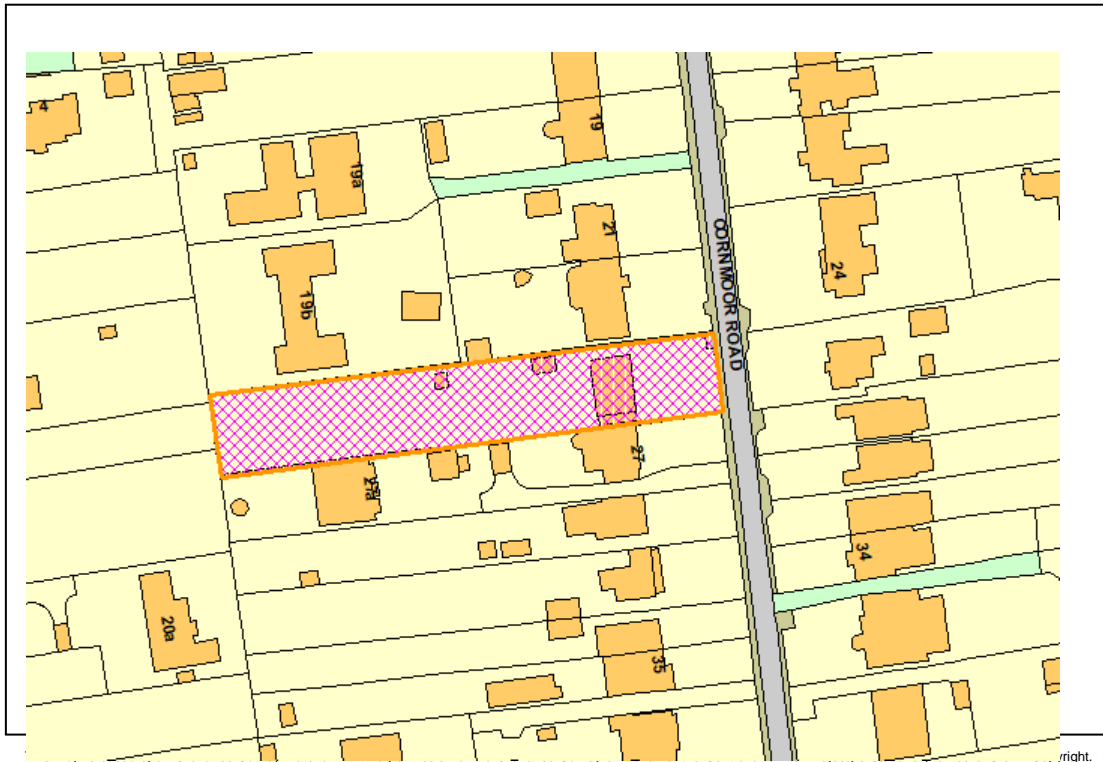
That permission be REFUSED, for the following reasons:

1

The proposed dormer bungalow would result in back land development and the subdivision of the existing plot. This would have a detrimental impact on the area of special character, the development would therefore fail to comply with aims and objectives of the NPPF, saved Policies ENV3 and ENV25 of the Unitary Development Plan, the Gateshead Placemaking SPD and Policy MSGP24 of Making Spaces for Growing Spaces DPD.

2

Insufficient information in the form of an ecological survey, assessment and mitigation report has been submitted to enable the Council to consider whether the proposed development would have any unacceptable negative impact on protected species, contrary to the National Planning Policy Framework, saved policies DC1, ENV46 and ENV47 of the Council's Unitary Development Plan and Policy CS18 of the Council's Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne.



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AND

**REPORT TO PLANNING  
DEVELOPMENT COMMITTEE  
26 February 2020**

**TITLE OF REPORT:** Proposed S102 Modification Order – Bank Top, Swalwell Bank, Whickham.

**REPORT OF:** Anneliese Hutchinson, Service Director, Development, Transport and Public Protection

---

**1.0 Purpose of the Report**

1.1 To seek the authority of the Committee to make an order under section 102 of the Town and Country Planning Act 1990 requiring the alteration of an existing unfinished house which was granted planning permission in 1998 on the site known as Bank Top, Swalwell Bank, Whickham.

**2.0 Background**

2.1 On the 5 March 1998 the Council received a planning application (reference : 208/98) for the erection of a detached house on the site known as Bank Top, Swalwell Bank, Whickham. Copy of site location plan attached as Appendix 2.

2.2 The detached house was designed to take into account the sloping nature of the site and the views available to the west and north. This resulted in a part two, part three storey building with a large footprint, including projecting windows on the third floor of the building on the western and northern elevations. The planning application was considered by the then Development Control Panel and was granted planning permission, subject to planning conditions by the Council on 30 April 1998.

2.3 Development on the site commenced in January 2003, resulting in the laying of foundations. Development then subsequently ceased on site. Work began again in April 2004. At the beginning of 2005 the building had reached eaves height, and roof trusses had been added. As the overall height, mass and potential for overlooking into neighbouring properties gardens houses became apparent, the Council received a number of complaints. Council officers visited the site in April 2005 to assess the impact of the building.

2.4 Council officers were of the opinion that the height and mass of the building, coupled with the overlooking from some of the windows of the house would lead to an unacceptable impact on the adjacent single storey bungalows along Parkdale Rise and Heathwood Avenue.

2.5 The Council asked the applicant to stop works on 7 April 2005, which the applicant did. The house has therefore stood unfinished since 2005.

- 2.6 Since 2005 Council officers have attempted to resolve these issues amicably through a revised planning application rather than serve a formal section 102 notice to alter the building. Planning and Development Committee were minded to grant a revised planning application (reference : DC/08/01266/FUL) in 2010 subject to a section 106 agreement being signed to ensure the original planning permission could not be completed. This revised planning permission has not been granted.
- 2.7 As the development is being built in accordance with the approved plans, it is not appropriate for the Council to use normal enforcement powers. Rather it is recommended that the Committee resolves to use powers under section 102 of the Town and Country Planning Act to require the alteration of the building.
- 2.8 Counsel's advice has been sought and it is considered expedient to use the powers under section 102 on the grounds that it is in the interests of the proper planning of the area that the unfinished building should be altered.
- 2.9 It should be noted that if Committee agree to serve a section 102 notice, the landowner would be entitled to seek compensation under the Town and Country Planning Act 1990.

### **3.0 Timeline of Events – Key dates**

- April 1998 The Council granted planning permission 208/98 for a new house on the site.
- Jan 2003 Works start on site with the foundations then stop.
- April 2004 Works restart on the site.
- April 2005 Council receives complaints about the impact of the house on neighbours. Council officers conclude that although the landowner is building in accordance with the approved plans the house has an unacceptable impact on neighbours. Council ask landowner to stop works on the house. Building works stop.
- June 2005 At the Council's Development Control Panel on 22 June 2005 Members authorised the making of an order under section 102 of the Town and Country Planning Act 1990 to require the landowner to make alterations to the house by the removal of the third storey or such other terms appropriate in the circumstances. Councillors agreed that, whatever action was necessary to resolve the situation should be pursued and because a section 102 notice can take time an informal solution should also be explored.
- Aug 2008 A new planning application DC/08/01266/FUL was submitted for a revised design for the house to overcome the concerns with the approved scheme under permission 208/98.
- June 2010 Planning and Development Committee resolved to grant planning permission for the new planning application DC/08/01266/FUL subject to a section 106 agreement being signed to ensure the original

planning permission could not be completed. The S106 agreement has not been signed so the decision has not been issued to-date.

Discussions have been ongoing since. Nonetheless the issue of the unacceptable impact of the house remains unresolved.

#### **4.0 Impact of Bank Top House**

- 4.1 The house in its current form is considered to have an unacceptable impact on the living conditions of the immediate neighbours to the north and west of the site, along Heathwood Avenue and Parkdale Rise.
- 4.2 The height and mass of the existing house is considered to have an overbearing impact, dominating the rear elevations and rear garden areas of these residential properties. The overbearing impact is also due to the fact that the residential properties are single storey bungalows, which are at a lower level than the Bank Top site and have shallow rear gardens.
- 4.3 It is also considered that there is potential for overlooking to occur from some of the windows in the Bank Top house to the adjacent bungalows to the north and west of the site.

#### **5.0 Section 102 Legislation**

- 5.1 Under section 102 of the Town and Country Planning Act 1990 the Council may make an order requiring the alterations of a building on the grounds that it is expedient in the interests of proper planning of the area (including the interests of amenity). An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order.
- 5.2 An order made under section 102 can therefore require specific steps to be taken for the alteration of the building and may also grant conditional planning permission for the development of the land. In considering whether to make such an order the Council must have regard to the development plan and any other material consideration.
- 5.3 An order made by the Council under section 102 would not take effect until confirmed by the Secretary of State, either without modification or subject to modifications as the Secretary of State considers expedient. The Secretary of State may allow interested parties (the landowner and any person affected by the order) to be heard by a planning inspector (in a hearing or public inquiry).
- 5.4 Should the order be confirmed by the Secretary of State, the landowner can seek compensation payable by the Council. Compensation is payable only if and when an appropriate claim is made within a 12 month period after the order is confirmed.
- 5.5 The Committee should note that the exercise of the Council's powers under section 102 is a serious matter and is a measure only to be taken as a last resort to remedy harmful planning issues. If an order were to be confirmed, it would involve depriving

the landowner of the benefit of the planning permission which they lawfully applied for and was granted in 1998.

- 5.6 It is important that Committee note that an order under section 102 should not be made when there is merely a difference of professional opinion between the officers who dealt with the application at the time and those considering the development today. Nor should it be used to remedy every poor planning decision. Such an order should be made in exceptional circumstances and only when there is a clear case that it is expedient to do so in the interests of the proper planning of the area.

## **6.0 Proposed Changes To Bank Top**

- 6.1 Council officers have been in discussions with the landowner regarding a revised scheme for the unfinished house, considering which alterations might make it acceptable. This is in large part based on the previous planning application (reference : DC/08/01266/FUL), which Planning and Development Committee were minded to grant in 2010. The landowner is keen to continue and finish the house in line with the proposed elevational drawings (drawing reference : 3043.01 122 A and 3043.01 123 A) attached as Appendix 3.

- 6.2 Authorisation is therefore being sought to serve a section 102 notice which would require alterations to be made to the existing unfinished house as shown on the attached elevational drawings, as well as requiring tree planting/landscaping to be undertaken along the northern and western boundaries of the site.

- 6.3 The changes on the elevational drawings include :

- Removing the pitched roof and replacing it with a flat roof
- Installing obscure glazing and stained glass to a number of the windows on the northern and western elevations of the house

### **6.4 Roof Alterations**

- 6.5 The attached plans show the removal of the existing pitched roof and replacing it with a flat roof with a deep eaves overhang. This will create a three storey flat roofed house rather than the existing three storey house with a pitched roof. The overall ridge height of the existing house with a pitched roof is 11 metres. The height of the house with the proposed flat roof design will measure around 8.1 metres high. The proposed roof alteration will therefore reduce the height of the existing house by 2.9 metres. The proposed elevational drawings show 3 features on the flat roof which include two glass lantern features to let light into the house and an external enclosure for the workings of an internal lift.

### **6.6 Window Alterations**

- 6.7 The attached plans show a number of window alterations. These include the installation of obscure glazing to some of the windows in the north and west elevations of the house (these windows are coloured dark grey on the attached

elevational drawings) as well as the use of stained glass for one section of glazing in the west elevation of the house which faces the bungalows along Parkdale Rise.

#### 6.8 Landscaping / Tree Planting

- 6.9 The attached elevational drawings do not show the garden of the surrounding house. It is considered that the section 102 notice should also require tree planting / landscaping along the northern and western boundaries of the site, adjacent to the rear gardens of the bungalows along Parkdale Rise and Heathwood Avenue. This additional landscaping is considered to be necessary to provide the bungalows to the north and west of the site with an attractive and varied outlook, which would help to break up and soften the view of the house when seen from the adjacent bungalows, as well as provide an element of screening.
- 6.10 This additional tree planting/ landscaping is considered to be an important element of the proposed changes as concerns regarding the 1998 permission include impact on outlook due to the scale and mass of the house. Suitable landscaping would therefore help to soften and mitigate the visual impact of the house, without forming a further solid block to the outlook of the adjacent properties. Any new landscaping would however need to ensure that the species, number, size and location of the planting would not result in additional adverse impact on the neighbouring properties with regards to shading or visual dominance.
- 6.11 With this in mind it is considered that the landscaping scheme for the site should at the very least include 3 groups of semi mature Himalayan Birch along the northern and western boundary of the site, spaced out and staggered (not in a formal line) planted at least 3 metres from the site boundary if possible.
- 6.12 The landowner is currently preparing a landscaping scheme for the site. If this is received before the Planning And Development Committee meeting an update will be provided at the meeting. If a landscaping scheme has not been submitted before the Planning and Development Committee meeting it is considered appropriate to seek authority from Committee that landscaping is provide along the northern and western boundaries of the site in line with the scheme of Himalayan Birch outlined in section 6.11 above or an appropriate alternative scheme in the circumstances.

#### **7.0 Publicity / Representations**

- 7.1 On 23rd January 2020 the Council provided information on its website, facebook page and twitter feed about Bank Top and of the Council's intention to seek Committee's authorisation to serve a section 102 notice to make alterations to the house. On the 24<sup>th</sup> January 2020 the Council also sent over 70 information letters to surrounding properties.
- 7.2 At the end of January 2020 Council officers also briefed the local MP (Liz Twist) as well as the 3 local ward councillors for Wickham North.
- 7.3 11 local residents from Parkdale Rise and Heathwood Avenue have signed and submitted written comments to the Council on 4 February 2020 providing their views on the possible section 102 notice.

7.4 The comments stated that the Bank Top property has had an unacceptable impact on the living conditions of residents living on Heathwood Avenue and Parkdale Rise for the following reasons :

- The site and unfinished building has been in a neglected and ruinous state for at least the past 14 years. During this time there have been numerous environmental and health and safety issues. These include the property being set on fire several times, biological hazards – pigeons accessing and nesting within the rooms of the third storey, complaints by local residents regarding rats, fly tipping and overgrown grass.
- The proposed redesign is a revamp of the 2010 proposals and does nothing to address resident concerns regarding :

Design is out of character and not in keeping with other properties.

The height and mass has an overbearing and dominating effect within the surrounding area as it overlooks adjacent single storey bungalows on both Parkdale Rise and Heathwood Avenue. Many of the bungalows are at a lower level meaning it is invasive to residents privacy.

The lack of a clear Council boundary policy at the time meant that some of the bungalows (on the west side of the site on Parkdale Rise) are further impacted by the height, mass and close proximity of the building.

It blocks natural light and in the winter months casts many of the bungalows rear elevations including gardens in complete shade.

The people that signed the letter state that as long suffering residents they are of the opinion that the section 102 notice should be served and that the Secretary of State should allow residents views to be heard.

## **8.0 Assessment of Attached Elevational Drawings**

8.1 The main planning considerations for any changes to the existing house are whether the proposed alterations are acceptable in terms of the impact on the appearance of the house and the street scene and the impact on the living conditions of surrounding residents.

### **8.2 Principle**

8.3 The principle of residential development on the site is not in dispute, as the residential development of the site was previously considered acceptable as part of the previously approved planning application 208/98. The principle of residential development on the site is still considered to be acceptable to-date given that the site is situated within a residential area, close to Whickham local centre.



#### 8.4 Visual Appearance

- 8.5 The existing unfinished house occupies an elevated position, in a prominent location in the street scene along Swalwell Bank. However it is considered that due to the position of the house within the site (which is set at least 20 metres back from the eastern boundary of the site along Swalwell Bank) and the use of projecting architectural forms, detailing and different materials, this helps to break up the overall mass of the building when viewed from Swalwell Bank. The site is a substantial one in size and can accommodate a large house of this type.
- 8.6 The proposed alterations to the design of the house will result in a more contemporary, modern looking house. Concerns have been raised by local residents that the house would be out of character with the area. It is however considered that a modern design does not always equate with visual harm and it is necessary to look at the relationship between the house and its setting. The surrounding area is residential in character, but is not uniform in character. The street scene along Swalwell Bank and the area surrounding the site has a varied residential character in terms of size, type, style, design and materials used in the properties including bungalows, semi detached houses, terrace housing and a contemporary care home to the south of the site.
- 8.7 Therefore whilst the changes to the house would result in a modern design for the Bank Top property, it is considered that this would not cause any harm to the visual appearance or character of the street scene along Swalwell Bank, given that the character of the area is already mixed. In addition the completion of the unfinished house would also improve the appearance of the area.
- 8.8 The proposed changes to the house as shown on the attached elevational drawings are therefore considered to be acceptable from a design point of view and accords with the aims and objectives of the NPPF, saved policy ENV3 of the Council's Unitary Development Plan (UDP) and policy CS15 of the Council's Core Strategy and Urban Core Plan (CSUCP).

#### 8.9 Residential Amenity

##### 8.10 Overbearing Impact

- The position of the house on the site and the size of its footprint would remain the same. The removal of the existing pitched roof will reduce the height of the house by 2.9 metres and will therefore reduce the overall height and mass of the house when viewed from the surrounding area, especially when viewed from the neighbouring bungalows to the north and west of the site.
- 8.11 It is considered that a landscaping scheme along the northern and western boundaries of the site would also help to soften and break up the view of the house when viewed from the neighbouring bungalows to the north and west.
- 8.12 It is therefore considered that the removal of the pitched roof together with the introduction of a landscaping scheme would significantly alter and substantially improve the impact the Bank Top house has on the neighbouring bungalows to the north and west of the site with regards to overbearing impact and outlook. Elements of the existing house would still be visible from some of the surrounding properties, but not to such a significant impact.

8.13 Overlooking

The attached plans show a number of window alterations. These include the installation of obscure glazing to some of the windows in the north and west elevations of the house (these windows are coloured dark grey on the attached elevational drawings attached as Appendix 3) as well as the use of stained glass for one section of glazing in the west elevation of the house which faces the bungalows along Parkdale Rise.

8.14 Council officers have been inside the Bank Top house and visited a number of the bungalows along Heathwood Avenue and Parkdale Rise. From these site visits it is considered that the proposed obscure glazing as shown on the attached drawings would address the potential for overlooking to occur.

8.15 With regards to the stained glass section proposed on the west elevation of the house it is considered necessary to have the details of the stained glass (its colour and design) to ensure that these windows do not allow any overlooking of the adjacent bungalows along Parkdale Rise. Given that the details of the stained glass are not provided on the proposed elevational drawings this is a detail that would need to be conditioned.

8.16 In addition it is also considered that the introduction of a landscaping scheme along the northern and western boundaries of the site would also help to reduce the direct line of sight and therefore the potential for overlooking between the house and the neighbouring properties.

8.17 It is considered that there is sufficient distance between the other (non obscurely glazed and non stained glass) windows in the Bank Top house and all the surrounding properties, including the care home to the south, so as to not create an unacceptable degree of overlooking between the properties.

8.18 Loss of light / overshadowing

Concerns have been raised by local residents that the existing Bank Top house results in loss of light and overshadowing to the adjacent bungalows to the north and west of the site along Heathwood Avenue and Parkdale Rise.

8.19 The Bank Top house is positioned between 12 – 20 metres away from the site boundaries. Most of the distances between the Bank Top house and the neighbouring properties meet or exceed the Council's guidelines for separation distances (these guidelines being referred to in guidance for house extensions but where the principles remain the same), which are normally 21 metres window to window (un-obscurely glazed) or 13 metres window to blank wall, or obscurely glazed windows.

8.20 Given the distances between the Bank Top house and the neighbouring properties, it is considered that any loss of light or overshadowing that results from the Bank Top house would not be of such a significant level, to make it unacceptable from a planning point of view. In addition, any loss of light or overshadowing that neighbouring properties currently experience from the Bank Top house would be improved by the reduction in the overall height of the building proposed by removing the existing pitched roof.

- 8.21 The proposed changes to the house as shown on the attached elevational drawings are therefore considered to be acceptable from a residential amenity point of view (subject to the details of the stained glass window being approved) and accord with the aims and objectives of the NPPF, saved policy DC2 of the UDP and policy CS14 of the CSUCP.
- 8.22 Highway Safety
- 8.23 There is an existing vehicle access to the site off Swalwell Bank, which will be retained and used. It is considered that the use of this existing vehicle access for one dwelling is acceptable from a highway safety point of view.
- 8.24 There are two garage doors in the northern elevation of the house which lead to a void under the houses which can be used for parking cars and cycle parking. It is therefore considered that there is adequate off street car parking space and cycle parking space for one house on the site. The proposed changes to the house as shown on the attached elevational drawings are therefore considered to be acceptable from a highway safety point of view and accord with the aims and objectives of the NPPF and policy CS13 of the CSUCP.
- 8.25 This matter has been given full and careful consideration, including all relevant planning issues as required under section 102. It is considered appropriate to seek an order requiring the landowner to make alterations to the existing unfinished house as shown on the attached elevational drawings in Appendix 3 along with landscaping along the northern and western boundaries of the site. It is considered that the alterations proposed including the landscaping would mitigate the loss of privacy and the overbearing impact on the adjoining bungalows.

## **9.0 Conclusion**

- 9.1 This is a longstanding matter with considerable local interest. As the development is being built in accordance with the approved plans, it is not appropriate for the Council to use normal enforcement powers. Section 102 of the Town and Country Planning Act 1990 is a very little used piece of legislation but is considered to be the most appropriate way to bring this longstanding issue to a close. The principle of residential development on the site is not in dispute, however it is considered that the development as granted under planning application 208/98 is harmful to the living conditions of the neighbouring bungalows. The authority of the Committee is therefore being sought to make an order under section 102 of the Town and Country Planning Act 1990 requiring the alteration of the existing unfinished house and to use its powers under section 102 to remedy the situation.
- 9.2 The elevational drawings attached at Appendix 3 along with a landscaping scheme for the northern and western boundaries of the site, would be the specific scheme required to be undertaken, subject to confirmation by the Secretary of State. These drawings are based on the 2008 planning application (reference : DC/08/01266/FUL) which Planning and Development Committee were minded to grant in 2010 and have been agreed with the landowner. This process would therefore hopefully enable the landowner to develop a home that is acceptable to both their family and the neighbours.

## **10.0 Recommendations**

10.1 The Committee is requested to authorise the Director of Communities and Environment and in consultation with the Director of Corporate Services and Governance and the Director of Corporate Resources :

- To make and serve an order under section 102 of the Town and Country Planning Act 1990 requiring the alteration of the building to a specific scheme as shown on the attached elevational drawings (reference : 3043.01 122 A and 3043.01 123 A) and to require tree planting/landscaping along the northern and western boundaries of the site.
- To submit the order to the Secretary of State for confirmation

**1. FINANCIAL IMPLICATIONS**

If Committee agree to serve a section 102 notice, and should the order be confirmed by the Secretary of State, the landowner would be entitled to seek compensation payable by the Council under the Town and Country Planning Act 1990.

The Council holds insurance policies that provide cover in the event of a claim for compensation arising from the making and confirmation of an order under section 102 of the Town and Country Planning Act 1990. It is likely that a claim for compensation will be sought and any such claim will be passed to the Council's insurers who will be responsible for determining its outcome.

**2. RISK MANAGEMENT IMPLICATIONS**

Nil.

**3. HUMAN RESOURCES IMPLICATIONS**

Nil

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil

**6. SUSTAINABILITY IMPLICATIONS**

Nil.

**7. HUMAN RIGHTS IMPLICATIONS**

The subject matter of the report touches upon three human rights issues:

- The right to peaceful enjoyment of property (Article 1 of Protocol 1)
- The right of an individual to a fair trial (Article 6)
- The right to private and family life and home (Article 8)

As far as Article 6 is concerned the section 102 regime is outside of the Council's control being administered and confirmed by the Secretary of State and/or The Planning Inspectorate.

With regards to the First Protocol: Article 1 and Article 8 – the operation of planning law represents an interference with the right of every person to the peaceful enjoyment of his/her possessions and their home. Such interference is deemed necessary to control the use of land in the public interest. The rights of the individual have to be balanced against the interests of the wider community

**8. WARD IMPLICATIONS**

Whickham North

**9. BACKGROUND INFORMATION**

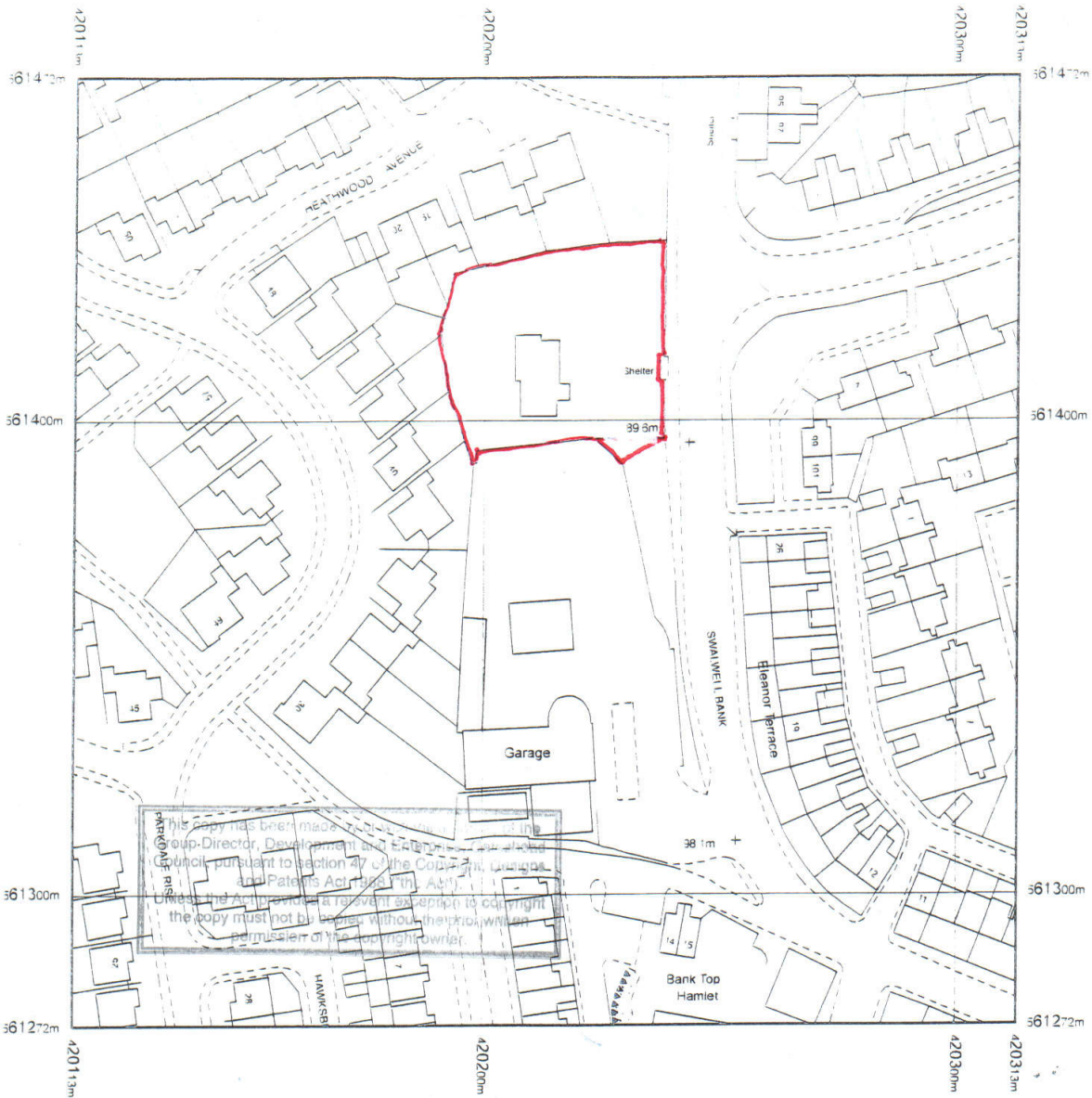
Appendix 2 – site location plan

Appendix 3 – proposed elevational drawings


DC/08/012661 FUL  
 AMENDED PLAN



16 Oct 2009 OS Sitemap®



Revision A. South boundary altered oct 09

 ALSTON MURPHY ASSOCIATES architects planning supervision	37 Grainger Street Newcastle upon Tyne NE1 3JE  Tel: 0191 230 2930 Fax: 0191 221 0459 mail@alstonmurphy.com	Project <b>HOUSE ON SWALWELL BANK          WHICKHAM</b>	Scale: <b>1:1250</b>
		Drawing <b>LOCATION PLAN</b>	Date: <b>AUG 08</b>
		Number <b>1215 L 01</b>	Rev: <b>A</b>

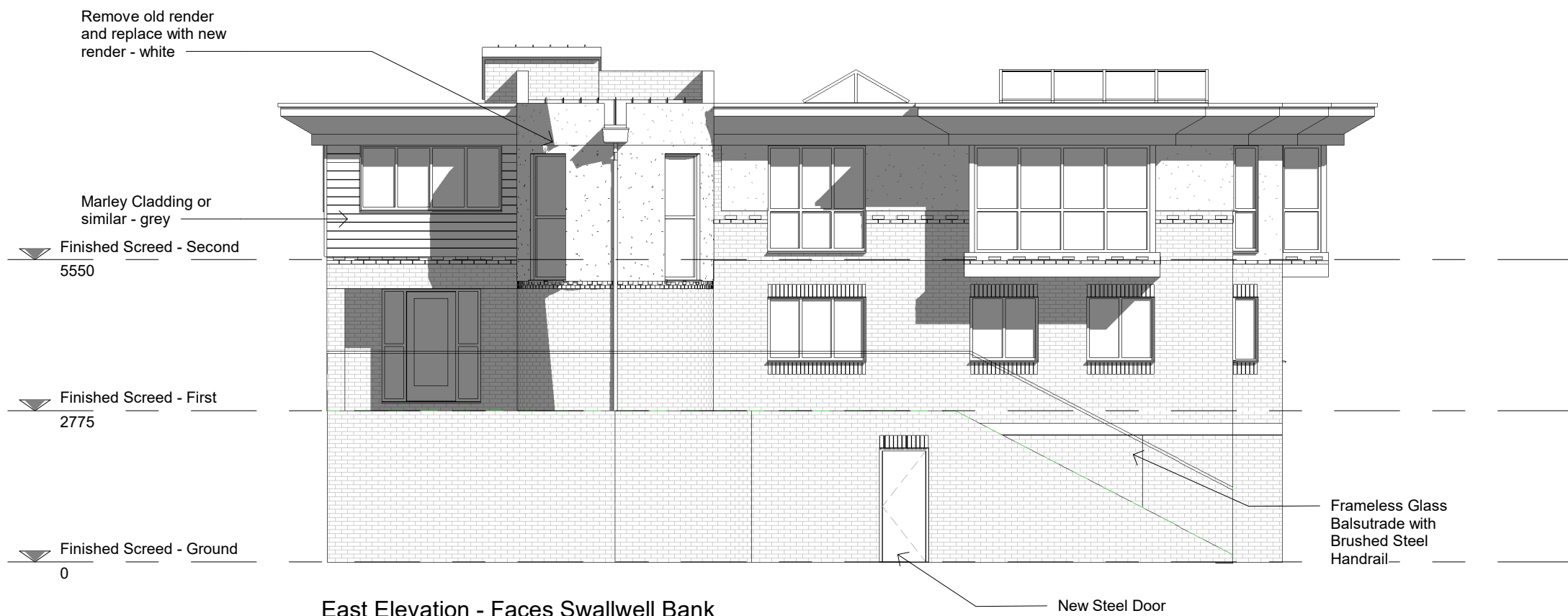
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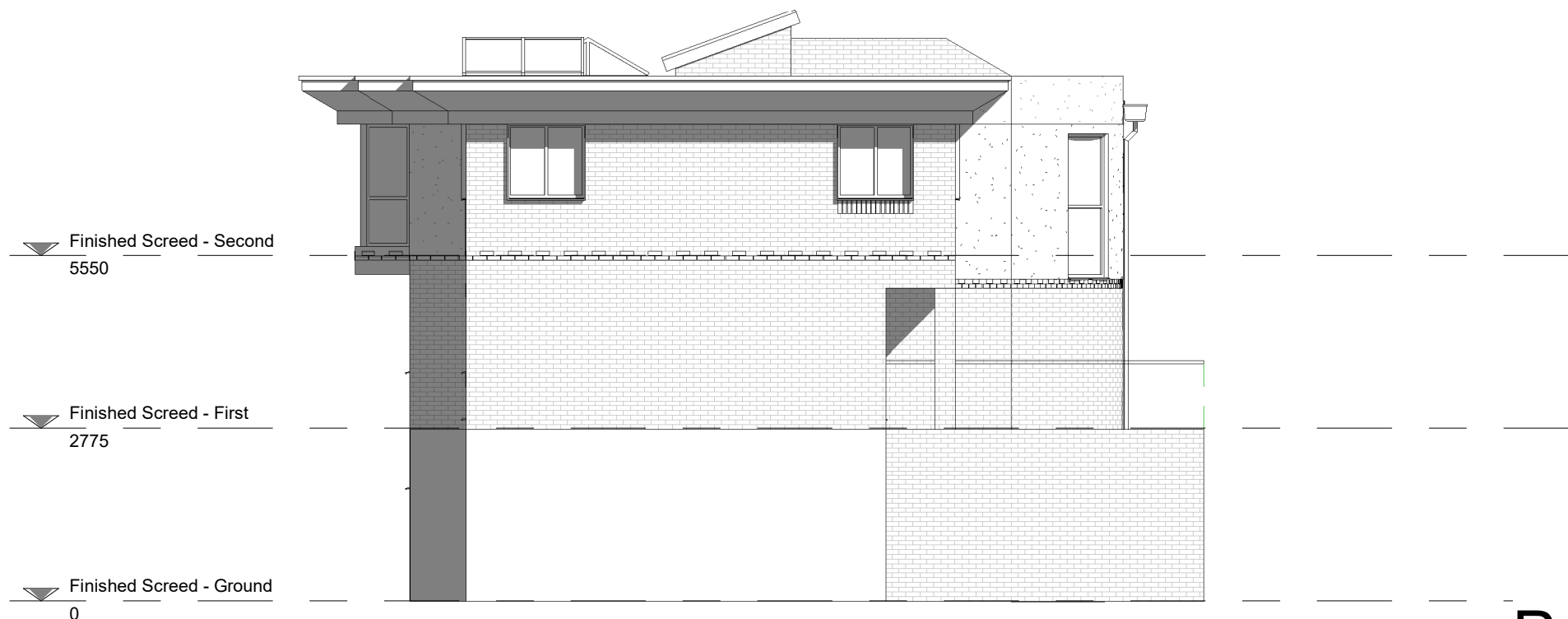
The general contractor is responsible for the verification all dimensions on site and the architect is to be informed of any discrepancy.  
The status of information contained in a computer copy of this drawing shall be limited to that conveyed by the paper copy.

Revisions:

No.	Description	Date	Issued
A	Revised Bay Window to West Elevation. New extent of Glazing to be 'Obscured/Stained Glass' indicated	16.12.2019	APB/IM



East Elevation - Faces Swallowwell Bank



South Elevation - Faces Care Home 'The Manor House'

# Proposed Elevations East & South Bank Top House Mr S.Lucas

Drawing Status			
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<input type="checkbox"/> comment	<input type="checkbox"/> construction	<input type="checkbox"/> approval	<input type="checkbox"/> record/as built
Scale @ A3		1 : 100	
Date		05/12/19	
Drawn/Checked		APB IM	
Dwg.No		3043.01 122 A	

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The general contractor is responsible for the verification all dimensions on site and the architect is to be informed of any discrepancy.  
The status of information contained in a computer copy of this drawing shall be limited to that conveyed by the paper copy.

Revisions:

No.	Description	Date	Issued
A	Revised Bay Window to West Elevation. New extent of Glazing to be 'Obscured/Stained Glass' indicated	16.12.2019	APB/IM



West Elevation - Faces Bungalows along Parkdale Rise

Page 67



North Elevation - Faces Bungalows along Heathway Av

# Proposed Elevations West & North Bank Top House Mr S.Lucas

Drawing Status	
<input type="checkbox"/> preliminary	<input checked="" type="checkbox"/> planning
<input type="checkbox"/> information	<input type="checkbox"/> tender
<input type="checkbox"/> comment	<input type="checkbox"/> construction
<input type="checkbox"/> approval	<input type="checkbox"/> record/as built
Scale @ A3	1 : 100
Date	05/12/19
Drawn/Checked	APB IM
Dwg.No	3043.01 123 A

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## REPORT OF THE STRATEGIC DIRECTOR COMMUNITIES AND ENVIRONMENT

### TO THE PLANNING AND DEVELOPMENT COMMITTEE ON 26 FEBRUARY 2020:

PART TWO: THE FOLLOWING APPLICATIONS, DETERMINED SINCE THE LAST COMMITTEE MEETING IN ACCORDANCE WITH THE POWERS DELEGATED UNDER PART 3, SCHEDULE 2 (DELEGATIONS TO MANAGERS) OF THE COUNCIL CONSTITUTION, ARE LISTED FOR INFORMATION ONLY.

<b>Application ref.</b>	<b>Nature of proposed development</b>	<b>Location of proposed development</b>	<b>Decision</b>	<b>Ward</b>
DC/19/00558/COU	Change of use of vacant land to private car park to allow for the expansion of existing car park and provision of a footpath link from Weathercock Lane into the Lowrey's Lane Car Park (amended plan received 12.12.2019).	Car Park Rear Of 168, Kells Lane,	Granted;	Low Fell
DC/19/00764/FUL	VARIATION OF CONDITION: Removal of condition 23 (new species habitats) of DC/13/00959/OUT	Ravensworth Road, Gateshead,	Granted;	Dunston And Teams
DC/19/00766/FUL	Proposed construction of one new build dwelling, along with associated access, car parking and landscaping	Brockwell , 18 West High Horse Close,	Granted;	Winlaton And High Spen

DC/19/00959/FUL	Erection of two storey detached dwelling with associated off-street parking and turning head (amended plans received 26.01.19)	The Cottage , Pennyfine Road,	Granted;	Whickham South And Sunnside
DC/19/00992/HHA	Proposed single storey rear extension (amended description) (amended plan 03.02.2020)	69 Whickham Bank, Whickham,	Granted;	Whickham North
DC/19/01086/FUL	Variation of condition 1 of application DC/18/00711/FUL relating to plans and elevations of plots 2-5 to replace two pairs of semi-detached houses with two bungalows (Amended Plans 11.02.2020)	Land East Of Ethel Terrace, High Spen,	Granted;	Winlaton And High Spen
DC/19/01111/ADV	Display of four internally illuminated digital freestanding signs and one internally illuminated digital booth screen.	McDonalds Restaurant, Shibdon Road,	Temporary permission granted;	Blaydon
DC/19/01143/LBC	Proposed alterations to doors, installation of membership counter and installation of metal linear ceiling following removal of suspended ceiling.	Hollywood Bingo, Holly Hill,	Granted;	Felling

DC/19/01156/HHA	Resubmission of DC/19/00637/HHA (amendment of proposed materials) Erection of single storey side and single storey rear extension incorporating lantern roof light, and new front bay window, roof canopy AS AMENDED 24/1/2020	19 Ascot Crescent, Gateshead,	Granted;	Lobley Hill And Bensham
DC/19/01157/TPO	Works to Oak and Hawthorn trees on land around Windsor Court.	Windsor Court, Rowlands Gill,	Granted;	Chopwell And Rowlands Gill
DC/19/01163/FUL	Installation of new shop front and tarmac hardstanding.	Garden Cafe, Station Road,	Granted;	Chopwell And Rowlands Gill
DC/19/01160/FUL	Siting of a timber clad shipping container for use as a toilet with disabled access ramp and tool store.	Land West Off Access Road, , South Of Hedley Lane And Birkheads Lane ,	Granted;	Lamesley
DC/19/01175/FUL	Continuation of mortar and screed batching operation over an extended site area with installation of a replacement batching plant	Marshalls, Yard 4B,	Granted;	Blaydon
DC/19/01186/RGD P	DETERMINATION OF PRIOR APPROVAL: Change of use from office to self-contained three bedroom apartment	106 (a) And 106 (b) (First And Second Floors) High West Street, Gateshead,	Refused;	Bridges
DC/19/01214/TPO	Tree works at the Oaks High Horse Close, Rowlands Gill	The Oaks, High Horse Close,	Granted;	Winlaton And High Spen

DC/19/01215/FUL	Demolition of former commercial properties consisting of shops and a public house.	332 - 354 High Street, Gateshead,	Granted;	Bridges
DC/19/01204/COU	Conversion of public house to House in Multiple Occupation (HMO) accommodation and new windows.	Victoria Jubilee , Victoria Square,	Granted;	Felling
DC/19/01206/ADV	Display of digital and illuminated LED advertisement displays.	Advertisement Hoarding Clear Channel Site 6574 On West Gable Of, Ravensworth View,	Refused;	Dunston And Teams
DC/19/01212/TPO	Tree works at 4 Woodlands Way, Winlton	4 Woodlands Way, Winlton,	Granted;	Winlton And High Spen
DC/19/01223/COU	Change of use of land from mixed use to residential (description amended 03.02.2020)	The Croft, Durham Road,	Granted;	Birtley
DC/19/01234/ADV	Display of non-illuminated fascia, hoarding and poster signs advertising hand car wash (description amended 03.02.20)	Asda , Gibside Way,	Temporary permission granted;	Whickham North
DC/19/01235/HHA	Proposed loft conversion to include three velux style windows in roof	4 Park View Avenue, Shipcote,	Granted;	Saltwell



DC/19/01237/COU	Change of use from retail (A1 use) to beauty salon/nail bar (sui generis). (plans amended 24.01.2020).	The Interchange Centre, Unit 2 , West Street,	Granted;	Bridges
DC/19/01241/TPO	Tree works at Woburnia, 308 Mark Lane, Swalwell	Woburnia , 308 Market Lane,	Granted;	Whickham North
DC/19/01243/COU	Change of use from office (use class B1) to yoga, pilates/meditation studio (use class D2)	4 School Lane, Whickham,	Granted;	Dunston Hill And Whickham East
DC/19/01242/COU	Change of use from office (Use Class A2) to taxi booking office (Sui Generis)	28A The Garth, Front Street,	Granted;	Winlaton And High Spen
DC/19/01244/HHA	Proposed front and rear single storey extensions (As Amended 10/2/20)	32 Celandine Way, Gateshead,	Granted;	Windy Nook And Whitehills
DC/19/01245/HHA	Proposed single storey extension to front elevation	6 Stella Hall Drive, Ryton,	Granted;	Ryton Crookhill And Stella
DC/19/01248/HHA	Proposed single storey rear extension and decking to the rear. (description amended 14/01/2020)	Treetops , 9 Park Avenue,	Granted;	Dunston Hill And Whickham East

DC/19/01251/HHA	Proposed single storey extension with succah and full dormer roof extension to rear and single dormer window to front	29 Lincoln Street, Gateshead,	Granted;	Bridges
DC/19/01253/HHA	Proposed double storey extension to both sides of dwelling and proposed single storey extension to the rear (amended plans 30.01.2020)	14 Sundridge Drive, Wardley,	Granted;	Wardley And Leam Lane
DC/19/01256/FUL	Formation of vehicular access onto Chowdene Bank (adjacent to the Gas Pumping Station) and formation of a vehicular access onto Lamesley Road (opposite Willowbeds Farm) (amended 21/01/20).	Chowdene Bank And Lamesley Road, Gateshead,	Granted;	Lamesley
DC/19/01258/HHA	Replacement conservatory to rear	23 Fountains Close, Dunston Hill,	Granted;	Dunston Hill And Whickham East
DC/19/01259/TPO	Tree works at The Grove, 11 Belle Vue Terrace	The Grove, 11 Belle Vue Terrace,	Granted;	Low Fell
DC/19/01263/FUL	Installation of a polytunnel in the walled garden for a period of three years.	THE NATIONAL TRUST, Gibside Walled Garden,	Temporary permission granted;	Whickham South And Sunnyside
DC/19/01265/FUL	Erection of extension at third storey level (amended plans 28.01.2020)	St Thomas More Catholic School , Croftdale Road,	Granted;	Blaydon

DC/19/01274/CPL	CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT: Proposed loft conversion with dormer window and Juliet balcony to rear (south-west) roof slope and two roof lights to front (north-east) roof slope (amended plans received 16.01.20)	9 Sunnygill Terrace, Greenside,	Granted;	Crawcrook And Greenside
DC/20/00001/HHA	02.Rear Extension	17 Leaffield Close, Northside,	Granted;	Lamesley
DC/20/00007/ADV	2no flat dibond panels with digiprint direct to face, 2no internally illuminated econoflex boxes, 1no folded aluminium panel with vinyl applied (amended 14/01/20)	FURNITURE VILLAGE, Cameron Retail Park,	Temporary permission granted;	Whickham North
DC/20/00026/AGR	DETERMINATION OF PRIOR APPROVAL: Erection of crop/straw/machinery storage building	Land North Of, St Cuthberts Road,	Prior approval not required	Whickham South And Sunnside
DC/20/00029/HHA	Proposed front porch and rear flat roof dormer with insertion of new rooflights - Resubmission of DC/19/00856/HHA (amended description 15.01.2020)	28 Buttermere, Felling,	Granted;	Pelaw And Heworth
DC/20/00034/AGR	DETERMINATION OF PRIOR APPROVAL: Erection of hay shed.	Trench Hall Farm , Ravensworth Park Access Road,	Prior approval not required	Whickham South And Sunnside

DC/20/00045/AGR	DETERMINATION OF PRIOR APPROVAL: Erection of general purpose agricultural storage building.	Building Farm, Stannerford Road,	Prior approval not required	Crawcrook And Greenside
DC/20/00070/CPL	CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT: Erection of a single storey rear extension, which would extend beyond the rear (north) wall of the original house by 3m, with a maximum height of 3.51m, and eaves height of 2.5m, as shown on plan PO-20-101, dated 05.08.2019 (description amended 06.02.20)	2 Dodsworth North, Greenside,	Granted;	Crawcrook And Greenside
DC/20/00084/CPL	CERTIFICATE OF LAWFULNESS FOR PROPOSED USE OR DEVELOPMENT: Erection of a single storey rear extension, which would extend beyond the rear (south) wall of the original house by 2.4m, with a maximum height of 3.5m, and eaves height of 2.5m, as shown on plan PL-001, dated 29/01/20 (description amended 06.02.20)	32 Cheviot View, Windy Nook,	Granted;	Windy Nook And Whitehills

**TITLE OF REPORT:** Enforcement Team Activity

**REPORT OF:** Anneliese Hutchinson, Service Director, Development, Transport and Public Protection

**Purpose of the Report**

1. To advise the Committee of the activity of the Enforcement Team since the last Committee meeting.

**Background**

2. The Enforcement team deal with proactive and reactive investigations in relation to Planning, Highway and Waste related matters.

**Recommendations**

3. It is recommended that the Committee note the report.

Within the date range commencing 22.01 19 and ending 12.02.20, the enforcement team has received **104** new service requests:

Type of complaint	New complaints received	Cases allocated to officer	Cases resolved	Pending prosecutions
<b>PLANNING</b>	28	11	19	1
<b>HIGHWAYS</b>	32	17	26	0
<b>WASTE</b>	44	30	28	62
<b>TOTALS</b>	104	58	73	63

**COURT HEARINGS**

The Enforcement Team attended **6** Court Hearings, **6** of which was finalised, resulting in **£800** fines and **£1534** costs





**REPORT TO PLANNING AND  
DEVELOPMENT COMMITTEE**  
26<sup>th</sup> February 2020

**TITLE OF REPORT:** Enforcement Action

**REPORT OF:** Anneliese Hutchinson, Service Director,  
Development, Transport and Public Protection

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**Purpose of the Report**

1. To advise the Committee of the progress of enforcement action previously authorised by the Committee.

**Background**

2. The properties, which are the subject of enforcement action and their current status, are set out in Appendix 2.

**Recommendations**

3. It is recommended that the Committee note the report.

**1. FINANCIAL IMPLICATIONS**

Nil.

**2. RISK MANAGEMENT IMPLICATIONS**

Nil.

**3. HUMAN RESOURCES IMPLICATIONS**

Nil.

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil.

**6. SUSTAINABILITY IMPLICATIONS**

Nil.

**7. HUMAN RIGHTS IMPLICATIONS**

The Human Rights Act states a person is entitled to the peaceful enjoyment of his possessions. However this does not impair the right of the state to enforce such laws, as it deems necessary to control the use of property and land in accordance with the general interest.

**8. WARD IMPLICATIONS**

Birtley, Bridges, Blaydon, Pelaw & Heworth, Chowdene, Crawcrook & Greenside, Ryton, Crookhill and Stella, Chopwell and Rowlands Gill, Wardley & Leam Lane, Windy Nook And Whitehills, Winlaton and High Spen, Whickham North, Whickham South and Sunnyside, Lobley Hill and Bensham. Lamesley, Dunston Hill and Whickham East and Low Fell.

**9. BACKGROUND INFORMATION**

Nil.



## APPENDIX 2

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
1.	Land adjacent Ricklees Farm, Spen Lane, High Spen, Gateshead	Winlaton and High Spen	Change of use from agricultural to mixed use for keeping of horses, breaking, dismantling of vehicles, storage and burning of waste and the storage of caravans and vehicle bodies.	25 March 2013	25 March 2013	29 April 2013	29 June 2013	Complaints have been received over a considerable period regarding the inappropriate use of an area of green belt adjacent to B6315 During investigation it was established that the land was being used for a range of inappropriate uses. Despite attempts to negotiate with the land owner to reach a satisfactory conclusion no sustained improvement was secured. Therefore, an enforcement notice has been issued requiring the removal of the inappropriate material from the site together with the cessation of the unauthorised use. No appeal has been received and the notice has taken effect.
2.	Land adjacent Ricklees Farm, Spen Lane, High Spen, Gateshead	Winlaton and High Spen	Erection of a breeze block building	25 March 2013	25 March 2013	29 April 2013	29 June 2013	Complaints have been received over a considerable period regarding the inappropriate use of an area of green belt adjacent to B6315 During investigations, it was established that a building had been erected without consent.  The building is considered to be unacceptable and therefore the council have issued an enforcement notice requiring the removal of the unauthorised building No appeal has been received and the notice has taken effect.  The new owner of the site has been contacted and works are well underway to tidy the site with the demolition of the breeze block structure taking place in the near future  A site visit has been arranged for the week commencing the 29 <sup>th</sup> October to look at the costs of carrying out work in default.
3.	Land at Woodhouse Lane, Swalwell (Known as South West Farm Site One)  Known as South West Farm Site Two)	Swalwell  Swalwell	Without planning permission the change of use of the land from agriculture to a mixed use for agriculture, storage of vehicles, agricultural equipment and scrap metal and vehicle dismantling and repair  Without planning permission the change of use of the land from agriculture and reception, composting and transfer of green waste to a mixed	11 January 2016  11 January 2016	12 January 2016  12 January 2016	15 February 2016  15 February 2016	14 March and 4 July 2016  14 March and 4 July 2016	Notices were issued in September 2015 in respect of an unauthorised scrap being stored. Due to the scale of the breach of planning control an additional Notice was required in relation to the potential Environmental Impact of the Development.  As such the original Notices (which were all being appealed) were withdrawn and further Notices have now been issued including those in respect of the requirement to carry out an Environmental Impact Assessment and provide an Environmental Statement with an subsequent appeals.  The Notices requires firstly, the cessation of the unauthorised use and secondly, the removal from the land of the scrap.  Both defendants pleaded guilty at Newcastle Crown Court and both received a fine of £750. Each defendant was ordered to pay costs of £422.50 and a victim surcharge of £75. The site has to be cleared in 6 months.  The site has recently been revisited and it is likely further action will be required.

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
	(Known as South West Farm Site Three)	Swalwell	<p>use for agriculture and the storage of vehicles, agricultural equipment and parts, repair and restoration of vehicles and machinery and the reception, composting and transfer of green waste.</p> <p>Without planning permission the change of use of the land from agriculture to a mixed use for agriculture and the storage of vehicles, agricultural equipment and scrap metal and vehicle dismantling and repair</p>	11 January 2016	12 January 2016	15 February 2016	<p>14 March and 4 July 2016</p> <p>29<sup>th</sup> Sep 2018</p>	<p>A site visit was undertaken in October where it was evident that the land has not been cleared and additional scrap had been brought on to the site. A further prosecution file is currently with the Councils legal department.</p> <p>A court date has been issued for the 26<sup>th</sup> April 2019 at Gateshead Magistrates Court.</p> <p>The court date has been re issued for the 10<sup>th</sup> June 2019. In the interim officers are actively pursuing quotes to clear the land, to ascertain whether this is financially viable.</p> <p>The Court date has been adjourned until 24<sup>th</sup> June at 10am, discussions are to take place with the land owner prior to the court date to progress with the clearance of the land.</p> <p>A site visit was undertaken on the 29<sup>th</sup> June, two of the areas of land have been significantly cleared, efforts are being made by the owners to clear the third piece of land prior to the court date.</p> <p>The trial date has been arranged for the 24<sup>th</sup> September 2019</p> <p>On the 20<sup>th</sup> January Mr J Tate and Mr M Tate pleaded guilty to failing to comply with the enforcement notices. The Magistrates fined both Tate's £500.00 each with cost of £300.00 each and a victim surcharge of £50.00 each. A total of £850.00 each.</p>
4.	Blaydon Quarry , Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	27th March 2018	28th March 2018	28th March 2018	28th April 2018	<p>Complaints have been received that the site has been open outside the approved hours, following further investigation this has been confirmed, therefore a notice has been served in relation to breach of condition 51 to ensure no HGV'S enter or leave the site before 06.30 or after 18.00 hours on Monday to Friday nor after 13.00 hours on Saturdays and no times on Sunday and Bank and Public holidays.</p> <p>A site visit was undertaken on the 20<sup>th</sup> June in conjunction with the Environment Agency, to monitor the hours of operation. At the time of the visit no tipping was taking place, however activity on site will continue to be monitored.</p>
5.	Three Ts Bar, Longrigg Gateshead	Whickham North	Untidy Land	05th September 2018	05 <sup>th</sup> September 2018	5 <sup>th</sup> October 2018	30 <sup>th</sup> November 2018	<p>Complaints have been received regarding the condition of the building and land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building to be demolished and a hoarding erected.</p> <p>The owner has been in contact and will submit a scope of works with timescales to make this building safe and in part to be brought back into use, rather than demolish property.</p> <p>Following a site visit on the 19<sup>th</sup> November, a scope of works should be submitted by the developer no later than the 30<sup>th</sup> November. Quotes however are being sought for the demolition of the property in preparation that the information is not forthcoming.</p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
								<p>Scaffolding has been erected and works are commencing to bring the building back into use. The windows have been inserted in the rear part of the building and works have commenced on the roof.</p> <p>Works to the roof has recommenced and the existing roof has now been fully stripped.</p>
6.	321 And 323 Rectory Road Bensham Gateshead NE8 4RS	Saltwell	Unauthorised change of use	7 <sup>th</sup> November 2018	7 <sup>th</sup> November 2018	11 <sup>th</sup> December 2018	8 <sup>th</sup> January 2019	<p>Complaints have been received regarding the use of a dwelling as a House of Multiple Occupation (HMO). A previous planning application was refused for the change of use and the subsequent appeal dismissed; therefore, an Enforcement Notice has been issued requiring the use of the property as an HMO to cease.</p> <p>An appeal has been received but no start date has been given yet.</p> <p>A hearing date has been scheduled for the 24<sup>th</sup> September 2019.</p> <p>The hearing date has been rescheduled to the 8<sup>th</sup> October 2019</p> <p>The Appeal has been determined and the Notice upheld, further details are provided on the appeals report.</p>
7.	2 Wythburn Place Gateshead NE9 6YT	High Fell	Unauthorised development	12 <sup>th</sup> February 2019	12 <sup>th</sup> February 2019	19 <sup>th</sup> March 2019	19 <sup>th</sup> July 2019	<p>Complaints had been received regarding the erection of an extension to the property, the extension has a detrimental impact on the visual amenity of the area and thus an enforcement notice has been served seeking the extension be demolished and remove in its entirety.</p> <p>A planning application has been submitted and approved for the erection of a single storey side extension. The owner of the property has stated that the extension will be removed in the next four weeks and footings for the new extension installed.</p> <p>Following the expiry of the compliance period, officers have visited the site and wrote to the owner allowing a further 21 days to remove the structure.</p> <p>A further site visit has been undertaken and works to fully remove the structure has still not taken place, a prosecution file is now being compiled due to non compliance with the notice.</p> <p>Following a further site visit, additional works have been undertaken to comply with the notice, however Officers have spoken to the owner advising what additional works are still needed to fully comply with the notice.</p>
8.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	22 <sup>nd</sup> May 2019	24 <sup>th</sup> May 2019	28 <sup>th</sup> June 2019	28 <sup>th</sup> December 2019	<p>Blaydon Quarry is in breach of several planning conditions. A Notice has been served in relation to condition 23 to require installation of a drainage system. The Council has designed an acceptable scheme to be installed in the interests of surface water drainage and to enable the safe and successful restoration of the site.</p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
								<p>A site visit was undertaken on the 4<sup>th</sup> June, where drainage works had commenced. Officers are working closely with the Operator of the quarry to ensure compliance.</p> <p>A discharge of condition application has been submitted in relation to condition 23 for the Council to assess.</p> <p>An appeal has been submitted in relation to the enforcement notice.</p>
9.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	22 <sup>nd</sup> May 2019	24 <sup>th</sup> May 2019	28 <sup>th</sup> June 2019	28 <sup>th</sup> October 2019	<p>Blaydon Quarry is in breach of several planning conditions. A Notice has been served in relation to condition 24 to require installation of the previously approved drainage system on the southern boundary, in the interests of surface water drainage and to enable the safe and successful restoration of the site.</p> <p>A discharge of condition application has been submitted in relation to condition 24 for the Council to assess.</p> <p>An appeal has been submitted in relation to the enforcement notice.</p> <p>Wardell Armstrong on behalf of the Operator has withdrawn the Enforcement Appeal.</p>
10.	81 Dunston Road, Gateshead NE11 9EH	Dunston and Teams	Untidy Land	25 <sup>th</sup> July 2019	25 <sup>th</sup> July 2019	22 <sup>nd</sup> August 2019	03 <sup>rd</sup> October 2019	Complaints have been received regarding the condition of the property which is considered to have a detrimental impact on the visual amenity of the area. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the hedge be cut, all boarding removed from windows and the windows and frames made good. It also required that all the guttering and down pipes be re attached to the building.
11.	27 Sundridge Drive, Wardley Gateshead NE10 8JF	Wardley and Leam Lane	Unauthorised change of use	01 <sup>st</sup> August 2019	01 <sup>st</sup> August 2019	5 <sup>th</sup> September 2019	03 <sup>rd</sup> October 2019	<p>Complaints have been received regarding the erection of fencing enclosing public open space and incorporating it into the private garden. A previous enforcement notice was served seeking the removal of the fence, however the notice was quashed following an appeal decision. The notice has been re served to include the change of use to residential garden.</p> <p>An appeal has been made against the Notice, further details are provided on the appeals report.</p>
12.	114 Coatsworth Road Bensham Gateshead Tyne And Wear NE8 1QQ	Saltwell	Untidy Land	16 <sup>th</sup> August 2019	16 <sup>th</sup> August 2019	17 <sup>th</sup> September 2019	4 <sup>th</sup> February 2020	<p>Complaints have been received regarding the condition of the property within the Coatsworth Road Conservation Area. A Notice has been re -issued pursuant to section 215 of the Town and Country Planning Act requiring the building be demolished and necessary support provided to the adjacent buildings to ensure they are wind and watertight. Following demolition, the land needs to be levelled, graded and compacted to match the contours of the surrounding land.</p> <p>An appeal has been made to the magistrates. The hearing date has been</p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Current Status
								listed for the 27 <sup>th</sup> April 2020.
13.	Wardley Colliery, Gateshead Tyne and Wear NE10 8AA	Wardley and Leam Lane	Untidy Land	22 <sup>nd</sup> November 2019	22 <sup>nd</sup> November 2019	2 <sup>nd</sup> January 2020	21 <sup>st</sup> May 2020	Complaints have been received regarding the condition of the building and land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building to be demolished and all rubbish and debris removed from the site.
14.	168 Kells Lane Low Fell Gateshead NE9 5HY	Low Fell	Unauthorised Development	29 <sup>th</sup> November 2019	29 <sup>th</sup> November 2019	3 <sup>rd</sup> January 2020	28 <sup>th</sup> February 2020	Complaints had been received regarding the erection of an outdoor bar structure, the development is considered to have a detrimental impact on the visual amenity of the area and thus an enforcement Notice has been served seeking the extension be demolished and remove in its entirety.  <b>An appeal has been made against the Notice, further details are provided on the appeals report.</b>
15.	Ivy Lane Gateshead NE9 6QD	Chowdene	Untidy Land	20 <sup>th</sup> November 2019	21 <sup>st</sup> November 2019	26 <sup>th</sup> December 2019	30 <sup>th</sup> January 2020	Complaints have been received regarding the condition of the land. The condition of the land is considered to have a detrimental impact on the visual amenity of the area. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring all the waste be removed, that all the vegetation be cut back to ground level and the metal barrier fencing be removed from the land.  The owner of the property has made positive steps to date to comply with the notice. The waste has been removed and the vegetation has been cut back. The Officer is monitoring the site and anticipates that all the work will be completed by the end of the compliance period.
16.	High Spen Excelsior Social Club Ramsay Street Rowlands Gill NE39 2EL	Winlaton and High Spen	Untidy Land	10 <sup>th</sup> February 2020	10 <sup>th</sup> February 2020	13 <sup>th</sup> March 2020	13 <sup>th</sup> April 2020	<b>Complaints have been received regarding the condition of the building and land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring the building to be demolished and all rubbish and debris removed from the site.</b>

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**REPORT TO PLANNING AND  
DEVELOPMENT COMMITTEE  
26<sup>th</sup> February 2020**

**TITLE OF REPORT:** Planning Enforcement Appeals

**REPORT OF:** Anneliese Hutchinson, Service Director,  
Development, Transport and Public Protection

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**Purpose of the Report**

1. To advise the Committee of new appeals against enforcement action received and to report the decisions of the Planning Inspectorate received during the report period.

**New Appeals**

2. There has been **one** appeal received since an update was provided to committee.

<b>Appeal Site</b>	<b>Subject</b>	<b>Appeal Type</b>	<b>Appeal Status</b>
168 Kells Lane Low Fell Gateshead NE9 5HY	Without planning permission, the erection of an outdoor bar structure	Written Representations	Awaiting Decision

**Appeal Decisions**

3. There has been **no** appeal decision received since the last Committee.
4. Details of outstanding appeals can be found in **Appendix 2**

**Recommendations**

5. It is recommended that the Committee note the report.

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**CONTACT:** Elaine Rudman extension 3911

**FINANCIAL IMPLICATIONS**

Nil

**RISK MANAGEMENT IMPLICATIONS**

Nil

**HUMAN RESOURCES IMPLICATIONS**

Nil

**EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**CRIME AND DISORDER IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

Nil

**HUMAN RIGHTS IMPLICATIONS**

The subject matter of the report touches upon two human rights issues:  
the right of an individual to a fair trial and the right to peaceful enjoyment of property

As far as the first issue is concerned the planning enforcement appeal regime is outside of the Council's control being administered by the Planning Inspectorate.

**WARD IMPLICATIONS –**

Wardley and Leam Lane and Low Fell

**BACKGROUND INFORMATION**

Appeal Decision



**Outstanding Enforcement Appeal Cases**

27 Sundridge Drive, Wardley Gateshead NE10 8JF	Without planning permission, the change of use from open space to private garden	Written Representations	Awaiting Decision
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**REPORT TO PLANNING AND  
DEVELOPMENT COMMITTEE  
26 February 2020**

**TITLE OF REPORT:** Planning Appeals

**REPORT OF:** Anneliese Hutchinson, Service Director, Development,  
Transport and Public Protection

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**Purpose of the Report**

1. To advise the Committee of new appeals received and to report the decisions of the Secretary of State received during the report period.

**New Appeals**

2. There have been **no** new appeals lodged since the last committee.

**Appeal Decisions**

3. There has been **one** new appeal decision received since the last Committee:

DC/19/00805/HHA - The Farm House, 4 South Wardley Farm, Wardley Lane,  
Felling, NE10 8AL

Proposed single storey rear extension to garage

This was a delegated decision refused on 27 September 2019

Appeal dismissed 31 January 2020

Details of the decision can be found in **Appendix 2**.

**Appeal Costs**

4. There have been **no** appeal cost decisions.

**Outstanding Appeals**

5. Details of outstanding appeals can be found in **Appendix 3**.

**Recommendation**

6. It is recommended that the Committee note the report

**Contact: Emma Lucas Ext: 3747**

**FINANCIAL IMPLICATIONS**

Nil

**RISK MANAGEMENT IMPLICATIONS**

Nil

**HUMAN RESOURCES IMPLICATIONS**

Nil

**EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**CRIME AND DISORDER IMPLICATIONS**

Nil

**SUSTAINABILITY IMPLICATIONS**

Nil

**HUMAN RIGHTS IMPLICATIONS**

The subject matter of the report touches upon two human rights issues:

The right of an individual to a fair trial; and  
The right to peaceful enjoyment of property

As far as the first issue is concerned the planning appeal regime is outside of the Council's control being administered by the First Secretary of State. The Committee will have addressed the second issue as part of the development control process.

**WARD IMPLICATIONS**

Various wards have decisions affecting them in Appendix 3.

**BACKGROUND INFORMATION**

Start letters and decision letters from the Planning Inspectorate



The Planning Inspectorate

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## Appeal Decision

Site visit made on 8 January 2020

by **T A Wheeler BSc (Hons) T&RP MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 31 January 2020

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**Appeal Ref: APP/H45050/D/19/3239233**

**The Farm House, 4 South Wardley Farm, Wardley Lane, Wardley, Gateshead NE10 8AL**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
  - The appeal is made by Mr and Mrs Chris Geach against the decision of Gateshead Council.
  - The application Ref DC/19/00805/HHA, dated 1 August 2019, was refused by notice dated 27 September 2019.
  - The development proposed is: Single storey rear garage extension to existing dwelling and replace two existing garage doors with a single roller shutter door.
- 

### Decision

1. The appeal is dismissed.

### Main Issue

2. These are: whether the proposal would be inappropriate development in the Green Belt, having regard to the National Planning Policy Framework (the Framework) and the relevant development plan policies; and if the development is inappropriate, whether the harm by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations so as to amount to the very special circumstances required to justify the proposal.

### Reasons

3. South Wardley Farm is located on the edge of a suburban area of Gateshead. It forms part of a cluster of dwellings formed from the original farm, access to which is gained via a bridge across a railway line. The site is within the Green Belt.
4. The appeal property occupies a large plot to one side of the former farmyard. The proposal is to extend an existing attached garage by approximately 5.9m to provide additional space for the storage of high value cars. The existing twin garage doors would be replaced with a single roller shutter door, and the extension would be built of stone with a pitched roof finished in slate. The extension would be located to the rear of the property and therefore well screened from public areas.

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<https://www.gov.uk/planning-inspectorate>

*Inappropriate Development and openness*

5. The Framework confirms that the Government attaches great importance to Green Belts, the essential characteristics of which are their openness and permanence. The Green Belt serves five purposes including to check the unrestricted sprawl of large built up areas, prevent neighbouring towns merging into one another and assistance in safeguarding the countryside from encroachment.
6. For the purposes of the Framework, with certain exceptions, the construction of new buildings within the Green Belt is inappropriate development, which is, by definition, harmful to the Green Belt and should only be approved in very special circumstances.
7. A number of exceptions are set out within paragraph 145 of the Framework. The third of these exceptions, c) allows the extension or alteration of a building provided it does not result in disproportionate additions over and above the size of the original building.
8. The appellant does not consider that the proposed would be a disproportionate extension to the property, however he provides limited reasons why this should be the case. The Council refers to 2 previous extensions having been approved on the same side of the house to provide garages, plus a sun room extension to the other side of the property, which I saw on my site visit.
9. The application plans state that the total volume of the existing dwelling is 842m<sup>3</sup>. It was assumed at the time that the application was submitted that the only addition to the original building was the sun room, with a volume of 50m<sup>3</sup>. The volume of the proposed extension to the garage was assessed as 190m<sup>3</sup>. It was therefore suggested that the cumulative increase in size would be less than a third of the size of the original building.
10. The planning officer report refers to the 'HAESPD' as providing guidance on whether an extension should be regarded as a disproportionate addition, and suggests a guideline of one third, above which an increase in volume would have an adverse effect on the Green Belt.
11. It is suggested that both the existing garage, and that which has now been converted to a lounge, are extensions to the original building<sup>1</sup>. The point is not disputed by the appellant and I have no other reason to believe these parts of the property are part of the original house. The parties have not provided me with an alternative volumetric calculation to reflect the actual position. However, based on the submitted plans and my observations on site, I am satisfied that the size of the proposal, in addition to the previous extensions, would constitute a large extension to the original building which would be disproportionate. As a result exception c) is not engaged.
12. In Green Belt terms the concept of openness encompasses both the visual and spatial aspects of development. In introducing further built development at the appeal site, the proposal would, together with the previous extensions, have a greater impact on the openness of the Green Belt than the existing development in spatial terms. Although the site is well screened, the very limited visibility of the appeal proposal would not mean that the proposal has no effect on openness.

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<sup>1</sup> As defined in the Glossary to the National Planning Policy Framework February 2019

13. Although the effect on openness would be limited, I conclude that the proposal would nevertheless constitute inappropriate development, which the Framework establishes should not be approved except in very special circumstances, and would also be in conflict with Policy CS19 of the Core Strategy and Urban Core Plan for Gateshead and Newcastle upon Tyne 2010-2030<sup>2</sup> (the Core Strategy) which seeks to protect the openness of the Green Belt in accordance with national policy.

*Other considerations*

14. The appellant sets out a number of matters which are considered to weigh in favour of the proposal, including that the original garage extension should be regarded as an essential part of the house.
15. The appellant keeps cars of considerable value as a hobby, and the proposal would enable these vehicles to be kept inside, rather than on the forecourt. This would avoid the storage of the vehicles causing visual harm to the local area and the Green Belt.
16. The extension would be designed and built of materials to match the property, would be attractive and would improve the privacy of the property by enclosing part of the rear patio area. It would occupy only a small part of the garden area and would have no impacts on neighbours, the street scene, or views of the Green Belt. In the appellant's view it would not harm the openness of the Green Belt.
17. The appellant sought pre application advice from the Council on the acceptability of the proposal. At that time it was assumed the only previous extension was the sun room and the appellant was not advised that the proposal would be regarded as disproportionate in terms of Green Belt policy.

**Green Belt Balance**

18. I have found that the proposal would be inappropriate development in the Green Belt. The proposed extension would, in spatial terms, have a greater impact on the openness of the Green Belt than existing development and very limited impact in visual terms. The proposal would therefore conflict with Policy CS19 of the Core Strategy and paragraph 145 of the Framework.
19. I have considered matters put before me in favour of the scheme by the appellant, however I conclude that these other considerations taken together do not clearly outweigh the harm that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

**Conclusion**

20. For the reasons set out above, I conclude that the appeal should be dismissed.

*Tim Wheeler*

INSPECTOR

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<sup>2</sup> Adopted March 2015

### APPENDIX 3

#### OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
DC/18/00290/HHA	59A Derwent Water Drive Blaydon On Tyne NE21 4FJ	Creating a driveway for vehicular access, off road parking.	Written	Appeal in Progress
DC/18/00807/FUL	Team Valley Retail World Gateshead	Erection of food and drink unit (Use Class A3/A5) (additional information received 20/08/18).	Written	Appeal in Progress
DC/19/00001/FUL	Land Adj Meynell House Dipwood Road Rowlands Gill NE39 1DA	Demolition of existing detached garage and shed buildings followed by erection of 5-bedroom detached house in garden of dwellinghouse with new vehicular and pedestrian access.	Written	Appeal in Progress
DC/19/00048/FUL	98-104 William Hill Organisation Ltd High Street Felling	Erection of second floor extension and mansard roof to accommodate six additional rooms, relocation of existing rooftop air conditioning units, new external access including entrance door and canopy (amended 25/04/19).	Written	Appeal in Progress
DC/19/00322/COU	160 Brighton Road Gateshead NE8 1QA	Partial change of use from dwelling (Use class C3) to retail on ground floor, new shop front, managers flat on first floor and two storey rear extension	Written	Appeal in Progress



DC/19/00634/OUT	Former Monkridge Gardens Residents Association And Lands At 21 And 23 And Land South Of 9-23 Monkridge Gardens	Outline planning permission with all matters reserved for the clearance, lowering and levelling of site and the erection of up to 10 dwellinghouses, with new shared-surface, new vehicular and pedestrian access, demolition of 23 Monkridge Gardens and formation of new blank supporting gable wall to 25 Monkridge Gardens.	Written	Appeal in Progress
DC/19/00686/FUL	1-5 Reay Street Felling	Erection of two dormer bungalows and extension to No. 5 Reay Street	Written	Appeal in Progress
DC/19/00746/HHA	35 Whickham Highway Whickham NE11 9QJ	Proposed first floor extension over existing side extension	Written	Appeal in Progress
DC/19/00750/COU	15 Glendale Avenue Whickham NE16 5JA	Change of use of land between 15 and 17 Glendale Avenue from grassed area to private garden and erection of fence (amended 16.08.2019)	Written	Appeal in Progress
DC/19/00791/HHA	22 Killowen Street Low Fell Gateshead NE9 6EX	Proposed single storey side/rear extension to existing garage, proposed single storey side extension to main house and partial demolition of front boundary wall to allow addition of a driveway.	Written	Appeal in Progress
DC/19/00805/HHA	<b>The Farm House 4 South Wardley Farm Wardley Lane Felling NE10 8AL</b>	<b>Proposed single storey rear extension to garage.</b>	Written	<b>Appeal Dismissed</b>

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**REPORT TO PLANNING AND DEVELOPMENT COMMITTEE**

**26 February 2020**

**TITLE OF REPORT: Planning Obligations**

**REPORT OF: Anneliese Hutchinson, Service Director, Development,  
Transport and Public Protection**

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**Purpose of the Report**

1. To advise the Committee of the completion of Planning Obligations which have previously been authorised.

**Background**

2. To comply with the report of the District Auditor "Probity in Planning" it was agreed that a progress report should be put before the Committee to enable the provision of planning obligations to be monitored more closely.
3. Since the last Committee there have been **no** new planning obligations.
4. Since the last Committee there have been **no** new payments received in respect of planning obligations.
5. Details of all the planning obligations with outstanding covenants on behalf of developers and those currently being monitored, can be found at Appendix 2 on the Planning Obligations report on the online papers for Planning and Development Committee for 26 February 2020.

**Recommendations**

6. It is recommended that the Committee note the report.

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Contact: Emma Lucas Ext: 3747

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**1. FINANCIAL IMPLICATIONS**

Some Section 106 Agreements require a financial payment when a certain trigger is reached and there is a duty on the Council to utilise the financial payments for the purposes stated and within the timescale stated in the agreement.

**2. RISK MANAGEMENT IMPLICATIONS**

Nil

**3. HUMAN RESOURCES IMPLICATIONS**

Nil

**4. EQUALITY AND DIVERSITY IMPLICATIONS**

Nil

**5. CRIME AND DISORDER IMPLICATIONS**

Nil

**6. SUSTAINABILITY IMPLICATIONS**

Nil

**7. HUMAN RIGHTS IMPLICATIONS**

Nil

**8. WARD IMPLICATIONS**

Monitoring: Various wards

**9. BACKGROUND INFORMATION**

The completed Planning Obligations