

PLANNING AND DEVELOPMENT COMMITTEE AGENDA

Wednesday, 19 April 2023 at 6.00 pm in the Council Chamber - Civic Centre

From the Chief Executive, Sheena Ramsey

Item	Business
1	Apologies for Absence
2	Minutes The Committee is asked to approve as a correct record the minutes of the meeting held 22 March 2023 (copy previously circulated).
3	Declarations of Interest Members to declare interests in any agenda items
4	Planning Applications (Pages 3 - 4) Report of the Service Director, Climate Change, Compliance, Planning & Transport
4i	No. 1 - Jack and Jo's Nursery Garden, Middle Hedgefield Farm, Stella Road, Ryton NE21 4NN (Pages 5 - 26)
4ii	No. 2 - Amazon Warehouse NCL1 (Plot A), Follingsby Lane, Felling, NE10 8YA (Pages 27 - 34)
6	Enforcement Team Activity (Pages 35 - 36) Report of the Service Director, Climate Change, Compliance, Planning & Transport
7	Enforcement Action (Pages 37 - 44) Report of the Service Director, Climate Change, Compliance, Planning & Transport
8	Planning Appeals (Pages 45 - 54) Report of the Service Director, Climate Change, Compliance, Planning & Transport

9 | **Planning Obligations** (Pages 55 - 56)

Report of the Service Director, Climate Change, Compliance, Planning & Transport

Contact: Helen Wade - Email: Helenwade@gateshead.gov.uk, Tel: 0191 433 3993
Date: Tuesday, 11 April 2023



PLANNING AND DEVELOPMENT
COMMITTEE
19 April 2023

TITLE OF REPORT: Planning applications for consideration

REPORT OF: Anneliese Hutchinson, Service Director,
Climate Change, Compliance, Planning and
Transport

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.

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Committee Report

Application No:	DC/22/01187/FUL
Case Officer	Rebecca Norman
Date Application Valid	5 December 2022
Applicant	Miss Jo Stanton
Site:	Jack And Jo's Nursery Garden Middle Hedgefield Farm Stella Road Ryton Gateshead NE21 4NN
Ward:	Ryton Crookhill And Stella
Proposal:	Retention of timber café building (retrospective) incorporating external alterations to building and removal of canopy to west elevation, raised deck to front (north) elevation and smoking shelter to east elevation. Alterations to car parking, erection of gate to control use of eastern access and new landscaping (resubmission of DC/21/00916/FUL).
Recommendation:	REFUSE
Application Type	Full Application

1.0 The Application:

1.1 BACKGROUND

This application follows previously determined application DC/21/00916/FUL which was refused retrospective planning permission under delegated powers in February 2022 based on the development's unacceptable impact upon highway safety and inappropriateness in the Green Belt.

1.2 The decision to refuse planning permission was appealed to the Planning Inspectorate and was subsequently dismissed in July 2022, with the Inspector concluding that:

“The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. From the evidence submitted, I am also not satisfied that the proposal would not harm highway safety with regards to access. There are no other considerations that would clearly outweigh the harm that the scheme would cause. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not

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

- 1.3 The above planning application and appeal decision are material considerations in the assessment of this application.
- 1.4 Through this revised submission, the applicant has sought to address the issues which resulted in the dismissal of the appeal i.e. highway safety and Green Belt matters.
- 1.5 **DESCRIPTION OF SITE**
The application relates to Jack and Jo’s Nursery Garden, which is situated south of the B6317 (Stella Road) between Stella and Ryton.
- 1.6 The application site (as shown by the red line on the Location Plan) extends to around 0.4ha. This includes polytunnels, car parking, areas for the display of plants and garden products and the café building that is the subject of this application. The Location Plan also outlines land and buildings in blue which show the applicant’s ownership. This includes buildings and a dog daycare/kennels to the north of the application site and a car park to the west of the site. This car park was constructed in around 2021 and the applicant is currently seeking retrospective planning permission for this under application DC/22/01393/FUL.
- 1.7 The site is accessed via two vehicular access points from the B6317 (Stella Road) which are shared with other uses on the applicant’s wider site. There is a route through the application site which connects the accesses. The westernmost access is included in the red line boundary and the easternmost access is in the blue line boundary.
- 1.8 To the north of the application site between the two accesses is St Hilda’s Church which is used as a children’s soft play centre (The Castle). The soft play centre has a private car park to the west of the westernmost access that has its own access from the B6317.
- 1.9 To the east of the site are residential properties known as Hedgefield Cottages. To the south of the site is an area of woodland with open land beyond. To the west is land within the applicant’s ownership; this includes a Public Right of Way that continues south towards Hexham Old Road and the car park being sought under DC/22/01393/FUL.
- 1.10 The Council’s Local Plan policies map identifies that the site is in the Green Belt and in an area of archaeological importance within the Battle of Newburn Ford 1640 Registered Battlefield. The site is also located partly within/partly adjacent to the Stella, Crookhill and Hedgefield Area of Special Character.
- 1.11 **DESCRIPTION OF APPLICATION**

Planning permission was refused under application DC/21/00916/FUL and subsequently dismissed at appeal stage for the erection of a café and associated raised deck and creation of additional parking.

- 1.12 At the time of appeal, the Inspector noted a smoking shelter attached to the café which was not shown on the submitted plans. A kitchen extension has also been constructed to the east elevation of the café in the period since the refusal of application DC/21/00916/FUL. These elements were not present on the site at the time at which Officers considered application DC/21/00916/FUL.
- 1.13 This application is seeking planning permission for a revised scheme to application DC/21/00916/FUL and proposes the following:
- The retention of the existing timber café building (including the kitchen extension) incorporating:
 - The removal of the canopy to the west elevation;
 - The removal of the raised deck to the north elevation;
 - The removal of the smoking shelter to the east elevation;
 - The installation of a living roof
 - The painting of the external white cladding green or brown
 - Alterations to car parking proposals to remove 4no. spaces (20no. spaces proposed)
 - The erection of a 2m high gate to control the use of the easternmost access into the site for deliveries only
 - The provision of landscaping (Cypress Leylandii planting) to the eastern boundary
- 1.14 Plans have been submitted with this application which depict the site layout in 2020 prior to the development taking place (the 'pre-existing site layout'); the existing site layout; and the proposed site layout.
- 1.15 The application is also accompanied by a covering letter which provides supporting information in relation to the application.
- 1.16 The existing site layout includes the kitchen extension and smoking area to the eastern side of the café. As noted at paragraph 1.12 these were not included on the plans for application DC/21/00916/FUL.
- 1.17 The red line boundary has been amended from application DC/21/00916/FUL and now includes the westernmost access from the B6317 (Stella Road) and areas of land/buildings to the north of the site that were previously in the blue line boundary. The red line boundary also now excludes an area of land in the centre of the site.
- 1.18 Following a site visit Officers noted a number of discrepancies and potential inaccuracies in the submitted plans. Officers have sought to rectify these points through requesting amended plans however these plans have not been forthcoming. Officers nevertheless consider that the discrepancies do not prevent the application from being assessed and determined. Were

planning permission to be granted it is considered that conditions could be imposed to clarify proposed arrangements. In the interests of clarity, the following discrepancies have been noted:

- Areas of land that are included in the red line boundary to the east and north of the site may not be relevant to this application
- The red line boundary to the centre of the site does not appear to accurately reflect the site layout and excludes areas of land that appear to be used for garden centre products
- The proposed layout plan proposes gates to the easternmost access however one of the proposed plans shows these in the wrong location, in the centre of the site
- The proposed Cypress Leylandii hedge would conflict with proposed car parking arrangements and existing activities/uses on this part of the site
- Specific details of the proposed site layout in terms of the internal access road, manoeuvring areas and display/sales areas have not been provided

1.19 The existing site layout plan shows 24no. existing parking spaces and it is proposed that 4no. of these would be removed. Following a site visit Officers consider that the number and location of the parking spaces shown on the existing site layout plan does not reflect the actual layout on site. It is however considered that this does not prevent the application from being assessed and determined.

1.20 RELEVANT PLANNING HISTORY
DC/20/00690/AGR - DETERMINATION OF PRIOR APPROVAL: Erection of timber building to provide cafe/shop and storage (additional information 26.08.2020). Refused 27.08.2020.

DC/21/00916/FUL - Erection of timber building to provide cafe with associated raised deck and creation of additional parking (retrospective) (revised description 30.11.2021) (amended plans 21.02.2022). Refused 28.02.2022.

APP/H4505/W/22/3297141 – Appeal against refusal of planning application DC/21/00916/FUL. Dismissed 28.07.2022.

Wider site

447/94 - CERTIFICATE OF LAWFULNESS - Use of land for storage of scrap metal. Refused 04.08.1994.

1026/95 - CERTIFICATE OF LAWFULNESS OF AN EXISTING USE: Mixed use development comprising residential accommodation of farm buildings and use of associated land within the 'planning unit' for the running of scrap merchant's business (amended 13/11/9). Approved 29.04.1996.

184/97 - Conversion of existing buildings from two dwellinghouses, scrap merchants, office and stabling to six cottages. Planning permission granted 02.04.1997.

185/97 - Erection of three detached dwellinghouses (use class C3) on former external scrap yard site. Planning permission refused 27.03.1997

DC/16/00268/COU - Change of use from agricultural building to boarding kennels for dogs (sui generis use). Temporary planning permission (18 months) granted 10.06.2016.

DC/17/01218/FUL - Continued use of agricultural building as boarding kennels for dogs (sui generis use). Planning permission granted 02.01.2018.

DC/19/00560/COU - Conversion from Stable buildings to Dwellinghouse and residential annexe (Class Use C3). Planning permission granted

DC/22/01393/FUL - Provision of car park to north west of site (retrospective application). Pending consideration.

Adjacent site (St Hilda's Church)

DC/05/02050/LBC - LISTED BUILDING CONSENT: Removal of church organ for relocation purposes. LBC granted 28.02.2006.

DC/07/01593/LBC - LISTED BUILDING CONSENT: Conversion of church to indoor children's soft play area with associated cafe area (amended 29/11/2007). LBC granted 31.01.2008.

DC/07/01594/COU - Change of use from a church (use class D1) to indoor children's soft play area (use class D2) with ancillary cafe (amended 29/11/2007). Planning permission granted 31.01.2008.

DC/09/00215/COU - Conversion of church (use class D1) to indoor children's soft play area (use class D2) with ancillary cafe and associated parking. Planning permission granted 26.05.2009.

DC/12/00473/COU - Extension of time for implementation of application DC/09/00215/COU for conversion of church (use class D1) to indoor children's soft play area (use class D2) with ancillary cafe and associated parking. Planning permission granted 30.05.2012.

DC/12/00564/LBC - LISTED BUILDING CONSENT: Conversion of church (use class D1) into children's soft play (use class D2) and associated cafe (use class A3). LBC granted 09.07.2012.

DC/13/00365/COU - Variation of condition 4 of DC/12/00473/COU to allow opening hours of 0900 hours to 1900 hours seven days a week (previously restricted to between 1000 hours and 1900 hours Monday to Saturday and 1000 hours and 1700 hours on Sunday). Planning permission granted 03.05.2013.

2.0 Consultation Responses:

Tyne and Wear Archaeologist

The proposals will not have a significant impact on any known heritage assets and no archaeological work is required

Historic England

No comments to make; the views of the Council's specialist conservation and archaeological advisers should be sought, as relevant

Battlefields Trust

No response received

National Grid

No response received

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, including the display of 2no. site notices.

3.2 Eleven letters of support have been received which are summarised as follows:

- Positive personal accounts from users of the café about their experiences
- Fed and Watered is a valuable addition to the community and beyond
- The business provides a warm and welcoming environment for people to meet in
- The café benefits users who are isolated and struggling to meet the costs of living
- The café and facilities are user friendly and accessible for those with disabilities
- The facilities are always clean and tidy
- The car park is all on one level so is accessible
- The balcony is comfortable and spacious and easy to negotiate
- The café is a community business
- The staff are welcoming, friendly, professional, caring and helpful
- The café employs young people and local people
- The service is impeccable
- The café serves homemade, locally sourced, delicious, high-quality food and drink that is well presented
- The café is highly recommended
- The hard work of the owners is commended
- The café has a great atmosphere and the paintings on the wall are lovely to look at
- The café has provided a place for a local art group to display their work

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

CS19 Green Belt

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP18 Noise

MSGP23 Areas of Special Character

MSGP24 Design Quality

MSGP25 Conservation/Enhancement Heritage Assets

MSGP26 Heritage at Risk

MSGP27 Archaeology

MSGP34 Dev in Settlements within Green Belt

GPGSPD Gateshead Placemaking Guide SPG

5.0 Assessment of the Proposal:

- 5.1 The matters to be taken into consideration in the assessment of this application are the Green Belt, visual amenity/local character, residential amenity, highway safety and parking, heritage considerations, CIL, and any other matters.
- 5.2 GREEN BELT
The application site is located within the Green Belt.
- 5.3 Paragraph 137 of the National Planning Policy Framework (NPPF) 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”.

- 5.4 Paragraph 138 of the NPPF outlines the five purposes of the Green Belt. These are: to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting and special character of historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
- 5.5 Policy CS19 of the Local Plan for Gateshead accords with NPPF Paragraph 137 and sets out purposes for including land in the Green Belt in Gateshead.
- 5.6 NPPF Paragraphs 147-148 state that *“inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”* and require LPAs to attach substantial weight to any harm to the Green Belt when considering planning applications.
- 5.7 NPPF Paragraph 149 states that LPAs should regard the construction of new buildings as inappropriate in the Green Belt. Seven specific exceptions to this are identified under a) - g), including:
- d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces*
- e) limited infilling in villages*
- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: – not have a greater impact on the openness of the Green Belt than the existing development.*
- 5.8 Paragraph 150 of the NPPF states that certain other forms of development are also not inappropriate in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it.
- 5.9 When considering the previous application, Officers concluded that the proposed development did not meet any of the exceptions set out in NPPF Paragraphs 149 and 150. The applicant was invited to submit details of very special circumstances in support of their application to outweigh the harm to the Green Belt and any other harm, however no information was put forward. The development was therefore considered to be inappropriate development in the Green Belt and contrary to the NPPF and Local Plan policy CS19.
- 5.10 In assessing the appeal, the Inspector considered and determined that the proposed development did not fall within any of the exceptions identified by NPPF Paragraph 149, concluding that:

“The proposal is inappropriate development in the Green Belt, and as such conflicts with Policy CS19 of the LPD and paragraph 149 of the Framework which seeks to preserve the openness of the Green Belt”.

- 5.11 The applicant has provided a covering letter with this application which sets out information in support of the proposals. This letter includes an assessment of Green Belt matters. The letter provides a comparison of the combined volume of the pre-existing, existing and proposed developments on the site, which identifies that the proposed development would have a volume 102m³ greater than the pre-existing development. The letter states that it is accepted that the proposed development does not fit into any of the 7no. specific exceptions identified at NPPF paragraph 149.
- 5.12 Officers have considered the applicant’s submission and the proposed development and consider that this does not meet any of the exceptions set out in NPPF Paragraphs 149 (specifically those of potential relevance listed at paragraph 5.7) or 150. Officers are therefore of the view that the proposed development represents inappropriate development within the Green Belt. The proposal is therefore contrary to the NPPF and Local Plan policy CS19, unless very special circumstances exist. This is considered further at paragraph 5.56 later in this report.
- 5.13 VISUAL AMENITY AND LOCAL CHARACTER
Paragraph 126 of the NPPF states that *“the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve”*. Paragraph 134 continues by stating that *“development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design”*.
- 5.14 The NPPF is supported by policies CS15 and MSGP24 of the Local Plan for Gateshead which require development to contribute to good place making and be compatible with local character.
- 5.15 The application site is located partly within but predominantly adjacent to the Stella, Crookhill and Hedgefield Area of Special Character, as designated by Local Plan policy MSGP23, which requires development within or affecting the setting of the designated areas to maintain or enhance the character of the area. It is considered that, overall, the proposed development is in accordance with the design guidance set out in the Gateshead Placemaking Supplementary Planning Document and would maintain or enhance the identified character of the area.
- 5.16 Having regard to the above policy context, Officers consider that the development as proposed would not be inappropriate in design terms in the context of the site. Furthermore, taking into consideration the position of the building, located away from the main road behind the more historic buildings within the wider site, and its overall scale and form, this would not be a prominent addition to the site that would result in harm to, or be incompatible with, local character. The application proposes that the building be painted

either green or brown and would be fitted with a sedum roof. Officers consider that painting the building would soften its appearance; relevant conditions could therefore be imposed upon any grant of permission.

- 5.17 The submitted plans include landscaping to the east of the site however Officers consider that this would not be necessary in visual amenity terms. In the event that planning permission were to be granted conditions would therefore not be necessary to secure this.
- 5.18 Subject to the recommended conditions the application would accord with the NPPF and policies CS15, MSGP23 and MSGP24 of the Local Plan for Gateshead.
- 5.19 **RESIDENTIAL AMENITY**
The closest residential properties to the site are around 25m away to the east, at Hedgefield Cottages. Having regard for the distances between the proposed development and neighbouring residential properties it is considered that this would not give rise to any unacceptable overlooking/loss of privacy, overbearing impact, overshadowing/loss of light or unacceptable level of noise or disturbance.
- 5.20 The application does not include any details in relation to extraction equipment that has been or is proposed to be installed at the site. It is however considered that the installation of such equipment would be acceptable in principle and were planning permission to be granted conditions could be imposed to secure the submission, approval and subsequent implementation of final details of this, in the interests of both residential and visual amenity.
- 5.21 Conditions could also be attached in respect of opening hours of the café building and final details of the proposed gates, in order to prevent issues of noise and disturbance to neighbouring properties from the use of the café or opening/closing of the gates at early or late hours.
- 5.22 Based on the above assessment Officers consider that the proposed development would be broadly acceptable in terms of impact upon residential amenity and would accord with the NPPF and policies CS14, MSGP17 and MSGP18 of the Local Plan for Gateshead.
- 5.23 **HIGHWAY SAFETY AND PARKING**
Paragraph 111 of the NPPF states that *“development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe”*.
- 5.24 The application site is currently served by two entrances from the B6317 (Stella Road). These access points serve the application site, St Hilda’s Church soft play (which also benefits from a separate car park to the west) and other uses within the wider site which include residential properties and a dog daycare/kennels. The access points also serve a car park which has

been created on land to the west of the application site, for which retrospective planning permission is being sought under application DC/22/01393/FUL.

- 5.25 The easternmost access is positioned directly between two buildings which are positioned at the rear of the footway along Stella Road.
- 5.26 The westernmost access is positioned west of St Hilda's Church and also forms the entrance to the Public Right of Way (PRoW) which continues to the south. There is no one-way system in place and therefore either access point may be used when travelling in either direction and there is no dedicated pedestrian route into the site
- 5.27 Records identify 3 collisions having taken place since 2016 on the B6317. Two of the collisions have occurred in the last 5 years, one of which resulted in serious injury and the other in a slight injury. The serious collision involved a pedestrian on the zebra crossing which sits to the west of the westernmost access.
- 5.28 The previous application proposed the continuation of the existing site access arrangements. The application also referred to there being 8no. existing parking spaces within the site and proposed the creation of 17no. additional spaces (a total of 25no. parking spaces).
- 5.29 When considering the previous application Officers were of the view that the proposed development would result in an intensification of the use of both accesses.
- 5.30 As neither access is suitable for 2-way traffic movements, Officers considered that any intensification of use would have a detrimental impact upon the highway, as vehicles may either be required to wait for prolonged periods on the B6317 to allow vehicles exiting the site to clear the access, increasing the likelihood of shunts on what is a heavily trafficked route, or vehicles may be required to reverse back out onto the B6317 to allow vehicles to clear the access road.
- 5.31 Furthermore, visibility at both accesses (but specifically the easternmost access) is well below minimum standards and Officers were therefore concerned that the development may result in an increase in potential conflicts between highway users because of this poor visibility, including pedestrians and vehicles emerging at the site entrance onto the B6317. As such, Officers considered the proposed development would have an unacceptable impact upon highway safety and would therefore be in conflict with the NPPF and Local Plan policies CS13 and MSGP15.
- 5.32 The Planning Inspector's decision at paragraph 11 notes that there are *"...two access points from the B6317 highway, one directly north of the café and the other to the west adjacent to The Castle building. The access adjacent to The Castle has good visibility in both directions along the B6317 highway"*.

- 5.33 The Inspector agreed with Officers' view that the café would result in an intensification of vehicles visiting the site and makes specific reference to an increase in the number of vehicles using the easternmost access. The Inspector's decision at paragraph 12 makes specific reference to the narrow width and restricted visibility of this access and shares Officers' view that *"given the width of the access...it is unlikely that two vehicles could pass each other. This may result in vehicles having to become stationary on the highway to allow other vehicles to exit. Vehicles may also have to make unusual manoeuvres should two vehicles meet each other on the narrow access, potentially requiring vehicles to reverse back towards the café or onto the highway"*.
- 5.34 The Inspector at paragraph 14 also had regard for a suggestion put forward by the applicant for the introduction of a one-way system or stopping up of an access. The Inspector however concluded that conditions for such proposals would be unreasonable because of the number of buildings surrounding the site and potential for other users requiring access, making this unachievable.
- 5.35 In order to respond to the Inspector's concerns this application proposes the introduction of 2m high gates to prevent customers entering the site via the easternmost access. The submitted plans show that these gates would be set back approx. 23m from the entrance with the B6317 and would be used for nursery deliveries only.
- 5.36 Furthermore, the application proposes to erect signage to make clear that only the westernmost access should be used. The applicant in their supporting letter, refers to paragraph 11 of the Inspector's decision, and states that the westernmost access has good visibility and is acceptable in highway safety terms.
- 5.37 The Inspector's decision comments upon the easternmost access in greater detail than the westernmost access. Officers however disagree with the applicant's view that paragraph 11 of the Inspector's decision infers that the westernmost access is acceptable in highway safety terms. The Inspector's decision does not state this. In this regard, Officers note that the Inspector at paragraph 14 of their decision discounts a proposal by the appellant for a one-way system or stopping up of an access.
- 5.38 Whilst the application proposes a small reduction in the number of proposed parking spaces on the site, Officers maintain that the proposed development would continue to result in an intensification of vehicles visiting the site. Officers are also of the view that the car park created by the applicant on land to the west of the site is evidence of the applicant's acknowledgement that the cafe has generated additional parking demand.
- 5.39 The proposed development would result in all vehicles accessing the site via the westernmost access. This access is not suitable for 2-way movements as it is approximately 3.7m wide. This access also serves as a pedestrian

route for the application site and forms part of the Public Right of Way (PRoW) network, and is the main pedestrian route for staff, parents and children associated with The Castle. Visibility at this access is considered to be below the required minimum standards and is obscured by a stone pillar to the eastern side of the access, as well as other vegetation on land outside the applicant's control; in this respect Officers disagree with the Inspector's view in paragraph 11 of the appeal decision that the westernmost access has good visibility.

- 5.40 Officers maintain their view that the intensification of the use of the westernmost access is likely to have a detrimental impact upon the highway, as vehicles may either be required to wait for prolonged periods on the B6317 to allow vehicles exiting the site to clear the access, increasing the likelihood of shunts on what is a heavily trafficked route, or vehicles may be required to reverse back out onto the B6317 to allow vehicles to clear the access road. Given the other uses and routes served by this access, Officers are also concerned about potential conflicts between cars and pedestrians.
- 5.41 Officers also maintain their view that the proposed development may result in an increase in potential conflicts between highway users because of poor visibility at the westernmost access, including pedestrians and vehicles emerging at the site entrance onto the B6317. Officers therefore consider that any further intensification of vehicular movements through this substandard junction cannot not be supported on road safety grounds.
- 5.42 Turning to the easternmost access, Officers are concerned that the applicant's proposal for the erection of signage to direct customers to the westernmost access could result in further confusion at this substandard access. Officers consider that there is currently a proliferation of signage associated with the various uses on the wider site located at this access point and are therefore concerned that additional signage is unlikely to be obvious to highway users. Drivers slowing down as they approach the access would be required to process information, which may in itself increase the likelihood of shunts on this heavily trafficked road, which also includes on-carriageway cycle facilities. Due to road geometry and the location of the buildings, details of signage would not be clearly visible to those vehicles travelling westbound. Eastbound traffic would incur a significant detour in order to safely 'U' turn to allow access to the site via the westernmost junction. Officers consider that the likelihood of this arrangement being self-enforcing is very low when considering the ambiguity that would be created due to traffic associated with existing uses on the site continuing to be able to use this access.
- 5.43 The proposed 2m high gate that is proposed to be introduced to prevent customers accessing the site would not be visible to drivers entering from the B6317 (Stella Road). Officers therefore consider that there is likely to be a high occurrence of errant vehicles turning into the site which would have no ability to safety turn once they have exited the highway. This would therefore create further conflict with potential traffic associated with existing uses entering and exiting and parking within the site.

- 5.44 The submitted plans propose that the easternmost access would be used for deliveries associated with the nursery. The plans do not clarify whether this would include deliveries associated with the café. Were this to be the case, Officers are concerned that these delivery movements would still intensify the use of this substandard access over and above the trips associated with the site prior to the construction of the café, to the detriment of highway safety. Delivery vehicles entering the site may be required to wait for prolonged periods on the B6317 to allow vehicles exiting the site (either other delivery vehicles or vehicles accessing other uses on the wider site) to clear the access, increasing the likelihood of shunts, or vehicles may be required to reverse back out onto the B6317 to allow vehicles to clear the access road. Use of the easternmost access by delivery vehicles may also result in an increase in potential conflicts between highway users because of the poor visibility at this access, including between pedestrians and vehicles emerging at the site entrance onto the B6317.
- 5.45 The proposed site layout is unclear as there is no obvious delineation between the differing areas of the site including the access road, manoeuvring areas and visitor/customer display areas. No information has also been provided detailing how the proposed cafe would be safely serviced. In the absence of such information it could not be concluded that the development as a whole would be acceptable in terms of highway safety. Further information could be sought from the applicant as to these specific matters however it is considered unreasonable to request this given the fundamental unacceptability of the intensification of the existing access points in highway safety terms and Officers consider that the absence of this information does not prevent the application from being determined.
- 5.46 The applicant's supporting letter sets out that there were inaccuracies in the parking arrangements shown on plans for application DC/21/00916/FUL and that the 20no. parking spaces proposed by this application would result in no increase in the parking arrangements that existed before the café was constructed. Officers are still however of the view that the creation of the café as an attraction at the site creates would result in an intensification of vehicles using the site, and that additional parking demand is being accommodated by the car park created on land to the north west of the site, for which retrospective planning permission is being sought under DC/22/01393/FUL.
- 5.47 The applicant's supporting letter further states that the nursery is accessible by means of transport other than private car and is used by people who live locally. Officers acknowledge that this may be the case however this does not remove the highway safety concerns set out above.
- 5.48 Based on the above assessment it is considered that the proposed development would have an unacceptable impact upon highway safety and therefore the application would be in conflict with the NPPF and policies CS13 and MSGP15 of the Local Plan for Gateshead.

- 5.49 HERITAGE CONSIDERATIONS
The application site is located within the Battle of Newburn Ford 1640 Registered Battlefield. The application is supported by a Heritage Statement.
- 5.50 NPPF Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the conservation of the asset, irrespective of the level of harm to its significance. NPPF Paragraph 200 continues by stating that any harm or loss of significance requires clear and convincing justification. As at Paragraph 202, where the development will lead to less than substantial harm, the harm should be weighed up against the public benefits of the proposal.
- 5.51 Local Plan policy CS15 requires development to contribute to good place-making through the conservation and enhancement of the historic environment. This is supported by policy MSGP25, which seeks to conserve and enhance heritage assets, policy MSGP26 (MSGP26.1), which states that the significance of the Battlefield will be protected, sustained and enhanced, and policy MSGP27, which requires development to sustain, conserve and enhance the Borough's archaeological legacy.
- 5.52 The Oxford Archaeology 2018 Historic England project NHPP 4EI: Strategic Research for the Registered Battlefields at Newburn Ford and Boroughbridge: Newburn Ford Report provides an appraisal of the Battlefield and divides this into character areas. The application site is within Character Area 4 which is an area of moderate sensitivity and capacity for change, with little archaeological potential.
- 5.53 Taking into consideration the proposals and site it is considered that the proposed development would not have a detrimental impact upon the Registered Battlefield. Furthermore, the proposed development would utilise a raft foundation at and above existing ground level; as such it is considered that the proposed development would not have any significant impact on any known heritage asset and no archaeological work is required.
- 5.54 On the basis of the above the proposed development is considered to be acceptable in respect of impact upon heritage assets, including archaeology, and accords with the NPPF and policies CS15, MSGP25, MSGP26 and MSGP27 of the Local Plan for Gateshead.
- 5.55 COMMUNITY INFRASTRUCTURE LEVY (CIL)
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 and the development is not CIL chargeable development as it is not for qualifying retail or housing related.
- 5.56 OTHER CONSIDERATIONS
- 5.57 Green Belt

As at NPPF Paragraph 147, in order for the proposal to be acceptable in Green Belt terms, very special circumstances must exist.

5.58 Paragraph 148 of the NPPF states that “when considering any *planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations*”.

5.59 As at paragraph 5.9, no very special circumstances were submitted as part of the previous application. When considering the appeal, the Inspector however had regard for a range of matters set out in the appellant’s statement of case which were considered as very special circumstances. This included a background to the scheme and wider site; the employment and economic benefits of the café; the previous use of the site as a scrap yard; and family members of the applicant and staff and customers with specific needs. The Inspector also had regard for the human rights of the appellant, the appellant’s family and workers and customers of the café. The Inspector however determined that these matters did not outweigh the harm to the Green Belt and any other harm, concluding that:

“... having regard to the legitimate and well-established development plan policies and the Framework which aim to protect the openness of the Green Belt, in this case I consider greater weight is attached to these. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant, the appellant’s family or workers and customers of the café”.

“The appellant has listed a number of Policies from the LPD which the proposal is considered to accord with, some of which are not disputed by the Council. This matter does not alter the findings above and that the proposal remains contrary to Policies CS19, CS13 and MSGP15 of the LPD”.

5.60 In dismissing the appeal, the Inspector therefore concluded that:

“The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt... There are no other considerations that would clearly outweigh the harm that the scheme would cause. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist”.

5.61 The applicant has offered very special circumstances in support of this application which they consider outweigh the harm to the Green Belt. These are set out as follows:

1. The nursery and café are within an area previously used for a mixed-use development under application 1026/95, and there is therefore a history of development on the site and of impact on the Green Belt

2. The nursery and café occupy part of the area subject to application 1026/95 and have integrated in the site. The officer report for the previous application found the development to be acceptable in terms of impacts upon local character, heritage and residential amenity, subject to conditions
3. The application has been submitted voluntarily to proactively regularise matters and the applicant wishes to resolve the issues raised in the previous application and appeal
4. The proposed development would result in a reduction in volume of buildings on the site which would result in a lesser impact on the openness of the Green Belt than the existing development
5. Whilst the proposed development would have a greater volume than the development on the site prior to the café, an increase in volume of 11.3% over and above this pre-existing development is not disproportionate
6. The changes proposed to the development would enable this to integrate acceptably, and would reduce the scale of the building and its visual impact on the openness of the area
7. A total of 15no. staff are employed on the site assisted by 2no. volunteers. The viability of the nursery and this level of employment is supported by the café
8. The development is a leisure use and Local Plan policy CS8 supports visitor attractions and accommodation in the Rural and Village Area which are in accessible locations and do not undermine the character of the area
9. The nursery has a community service role and receives referrals from sources including Gateshead Council. The nursery is registered as a Warm Space and works with schools and pre-schools to provide opportunities for young people to enjoy the outdoors
10. Highway safety would be improved by the introduction of a gate to prevent customer access via the easternmost access

5.62 Regarding circumstance 1, Officers acknowledge the planning history of the site and that the café building is situated within an area that Lawful Development Certificate application 1026/95 previously approved for occasional storage of scrap materials. Weight must however be afforded to the Inspector's decision, paragraph 17 of which considers the previous use of the site and states that:

“Reference is made to a lawful use of the site as a scrap yard, described by the appellant as being unrestricted. There was little evidence of scrap being stored on the site with the café and polytunnels making up the majority of the appeal site. From the evidence before me, there is no certainty that this lawful use as a scrap yard would return to an extent that would compromise the openness of the Green Belt more than the café and decking proposal”.

5.63 Officers therefore consider that significant weight cannot be afforded to this point in the determination of this application and that this would not outweigh the harm to the Green Belt and any other harm.

- 5.64 The acceptability of the previous application and proposed development in terms of local character, heritage and residential amenity is recognised (circumstance 2), however Officers consider that this would not outweigh the harm to the Green Belt and any other harm.
- 5.65 In relation to circumstance 3, Officers recognise the willingness of the applicant to seek to work with the LPA to regularise matters on the site. This would not however constitute very special circumstances that would outweigh the potential harm to the Green Belt and any other harm.
- 5.66 Regarding circumstance 4, Officers acknowledge that the proposed development would result in a reduction in the volume of the existing buildings on the site. The submitted plans and documents however show that the proposed development would still have a greater volume and bigger footprint than the pre-existing development; therefore, the proposed development would fail to meet the exception under NPPF Paragraph 149 g). Whilst acknowledging that the applicant is proposing amendments to the existing building including by removing some of the elements added since the original refusal, Officers consider that this would not be sufficient to outweigh the harm to the Green Belt and any other harm.
- 5.67 Further, in relation to circumstance 5, whilst the applicant is arguing that the increase in volume of 11.3% over and above the pre-existing development is not disproportionate, it is considered that this would not outweigh the harm to the Green Belt and any other harm.
- 5.68 The proposed physical changes to the building that are referred to at point 6 of the applicant's letter are recognised by Officers. It is considered that these would improve the appearance of the building in visual terms and would reduce its overall size. However, it is considered that these changes would still result in a significant building in the Green Belt and are not sufficient to outweigh the harm to the Green Belt and any other harm.
- 5.69 Regarding circumstance 7, Officers note the applicant's submission that the wider site provides employment and volunteering opportunities and that the overall viability of the nursery and level of employment is supported by the café. It is considered that some limited weight can be afforded to the contribution of the development to creating employment opportunities. Weight must however be attached to the Inspector's decision, paragraph 18 of which states that:
- "...the failure of this appeal would result in workers and customers with specific needs unable to visit or be employed at the café. However, there is no clear distinction that the café provides special requirements for those with specific needs that other businesses cannot provide. The loss of the café would not prevent workers from obtaining employment elsewhere..."*
- 5.70 The Planning Inspector considered employment at appeal stage however considered that this and the other circumstances highlighted would not outweigh the harm to the Green Belt. Whilst Officers acknowledge that this

refusal of planning permission may result in a loss of jobs and volunteering opportunities, it is considered that this is not sufficient to outweigh the harm to the Green Belt and any other harm.

- 5.71 In relation to circumstance 8, Officers acknowledge that the site provides a visitor attraction, support for which is given under Local Plan policy CS8. Weight must however be given to the Inspector's decision which refers to trade and the economy however concludes that this and the other circumstances highlighted in the appellant's case would not outweigh the harm to the Green Belt. Therefore, Officers consider that this is not sufficient to outweigh the harm to the Green Belt and any other harm.
- 5.72 Regarding circumstance 9, in dismissing the appeal the Inspector concluded that whilst this would result in workers and customers with special needs being unable to visit or be employed at the café, there was "*...no clear distinction that the café provides special requirements for those with specific needs that other businesses cannot provide. The loss of the café would not prevent workers from obtaining employment elsewhere nor would it affect customers' ability to visit other establishments*".
- 5.73 Officers acknowledge the applicant's comments about the beneficial opportunities that the nursery provides for a variety of users, although note that this argument appears to relate to the garden centre/nursery, rather than the café which is the subject of this planning application; no evidence has been provided to demonstrate that the loss of the café would undermine the community service role of the nursery. Notwithstanding this, giving weight to the Inspector's comments at appeal stage, and whilst acknowledging the assertions of the applicant and that this refusal of planning permission would result in the loss of the café on the site, there is no evidence that the opportunities that are provided on this site could not be provided elsewhere by other establishments. Therefore, Officers consider that this is not sufficient to outweigh the harm to the Green Belt and any other harm. Notwithstanding the applicant's submission, Officers also note that the site is not registered on Gateshead Council's Warm Spaces directory.
- 5.74 Officers have considered the proposed alterations to access at the site (circumstance 10) however disagree that these would improve highway safety, as the development still proposes to intensify the use of a substandard access. Officers therefore consider that this would not outweigh the harm to the Green Belt and any other harm, specifically to highway safety.
- 5.75 As mentioned at paragraph 5.59, in determining the planning appeal the Inspector had regard to a range of matters put forward by the applicant, which were considered as very special circumstances. Many of the points that have been put forward as very special circumstances as part of this application are the same as those already considered at planning appeal stage, and Officers are of the view that very limited new evidence or circumstances have been presented by this application. As such, Officers consider that the above points would neither separately nor cumulatively

constitute very special circumstances that would clearly outweigh the identified harm to the Green Belt and any other harm and consequently, the very special circumstances necessary to justify the development do not exist.

5.76 Therefore, based on the above assessment, Officers consider that the proposal would constitute inappropriate development in the Green Belt, would harm the openness of the Green Belt and no very special circumstances have been demonstrated that would clearly outweigh this (and any other) harm. The proposal is therefore contrary to the NPPF (paras. 137 and 147-151 inclusive) and Local Plan policy CS19.

5.77 Any other matters

It is considered that all material planning matters raised in letters of representation have considered in the main body of the report.

6.0 CONCLUSION

The proposed development does not fall within any of the exceptions identified by NPPF Paragraphs 149 and 150 and therefore represents inappropriate development in the Green Belt. The proposed development is also considered to be unacceptable in highway safety terms, contrary to the NPPF and policies CS13 and MSGP15 of the Local Plan for Gateshead.

6.1 The application has sought to demonstrate that 'very special circumstances' exist in favour of the development which outweigh any potential harm to the Green Belt and any other harm. Officers have considered the very special circumstances put forward by the applicant within their supporting information however consider that these, neither individually nor cumulatively, outweigh the harm to the Green Belt and any other harm, specifically highway safety.

6.2 Officers consider that the proposed development is acceptable in terms of visual amenity/local character, residential amenity and heritage impacts, subject to the imposition of conditions. It is further recognised that this application has been submitted retrospectively and seeks to address the issues which resulted in the dismissal of the appeal, and that the refusal of this would impact upon the applicant's business, which is regrettable.

6.3 However, based on the above assessment it is considered that the proposed development fails to accord with national and local planning policy and it is therefore recommended that planning permission be refused for the reasons set out below.

7.0 **Recommendation:**

That permission be REFUSED for the following reason(s) and that the Service Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the refusal reasons as necessary:

The proposal would represent inappropriate development in the Green Belt, which is, by definition, harmful to the Green Belt and also contrary to one of the purposes of including land within the Green Belt. No very special circumstances have been demonstrated that outweigh this harm. The development is therefore contrary to the NPPF and policy CS19 of the Local Plan for Gateshead.

2

The proposed development would result in an intensification of the existing substandard vehicular accesses into the site which has the potential to create conflicts between highway users as a result of the poor visibility and single width of the access points. The proposed development would therefore have an unacceptable impact on highway safety and is contrary to the NPPF and policies CS13 and MSGP15 of the Local Plan for Gateshead.



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Committee Report

Application No:	DC/23/00115/FUL
Case Officer	Tracy Long
Date Application Valid	17 February 2023
Applicant	Zestec Asset Management
Site:	Ncl1 Follingsby Lane Felling NE10 8YA
Ward:	Wardley And Leam Lane
Proposal:	Installation of PV System On The Roof of Amazon Warehouse NCL1 (plot A).
Recommendation:	GRANT
Application Type	Full Application

1.0 The Application:

1.1 THE APPLICATION SITE

1.2 The application site comprises a very large, flat roof, warehouse building, occupied by Amazon, along the south side of Follingsby Lane.

1.3 The site is situated in an industrial / commercial area with other warehouse / commercial buildings to the north, within Follingsby Industrial Estate, another Amazon warehouse to the east, green infrastructure to support the Amazon warehouse to the south and the A194M to the west.

1.4 THE APPLICATION PROPOSAL

1.5 This planning application proposes to install a Photovoltaic (PV) system on the flat roof of the warehouse building, which measures around 22 metres in height.

1.6 Planning permission is not always necessary to install PV systems onto flat roof spaces of commercial and industrial buildings. However, given that this proposal will generate over 1 megawatt of energy planning permission is required in this instance.

1.7 The agent has explained that the solar panels will have an east-west orientation but due to the parapet wall elevation of the warehouse building being 1.18metres in height and the warehouse building measuring just over 20 metres in height, the PV panels on the roof of the building are unlikely to be visible.

1.8 The submitted planning statement states that at this stage, whether the clean energy that will be produced by the proposed PV system will be used directly by Amazon or sold back to the National Grid is unknown. However the

planning statement goes on to explain that given the sheer amount of energy that will be generated through this proposal (3.978MWp) it is highly likely that a great deal of this energy will be diverted into the National Grid.

- 1.9 This planning application has been submitted with an application form, scaled drawings of the roof and elevations of the building and a planning statement.
- 1.10 This planning application is being presented to Planning and Development Committee for determination as it is a major planning application, due to the red line application site being more than 1 hectare in size.
- 1.11 **RELEVANT PLANNING HISTORY**
- 1.12 There have been a number of planning applications at this site. The most relevant to the consideration of this current planning application (as they are the planning approvals that were implemented to provide the warehouse on the western side of the Amazon site) are listed below.
- 1.13 **DC/18/00574/FUL**
Variation of condition 1 (approved drawings) of planning permission DC/18/00237/OUT to incorporate the adjacent South Follingsby Farm site into the wider Follingsby International Enterprise Park development area by extending the green infrastructure and built development zones further west and removing access 1 and repositioning accesses 2 -5 and the associated bus stops and crossing along Follingsby Lane (Submitted with a Supplementary Environmental Statement).
APPROVED on 5 April 2019.
- 1.14 **DC/18/00573/COU**
Demolition of farmhouse / barn buildings and change of use of land to provide extended green infrastructure and built development zones for the adjacent Follingsby International Enterprise Park including the closure of the existing vehicle access and the formation of a new vehicle access off Follingsby Lane to replace access 1 one of the 6 accesses approved under planning permission DC/18/00237/OUT (Submitted with a Supplementary Environmental Statement).
APPROVED on 28 September 2018.
- 1.15 **DC/20/00021/REM**
RESERVED MATTERS APPLICATION (relating to appearance, landscaping, layout and scale) for a storage and distribution unit (use class B8) with ancillary offices, car parking, servicing and landscaping on PLOT A (pursuant to OUTLINE APPLICATION DC/18/00574/FUL which was submitted with an ENVIRONMENTAL STATEMENT)(Amended Plans received 3 March 2020).
APPROVED on 19 March 2020.

2.0 Consultation Responses:

National Highways No objection

Newcastle Airport No objection

3.0 Representations:

3.1 The Council sent neighbour letters to 9 surrounding businesses on 20 February 2023 as well as displaying 2 site notices adjacent the site on 24 February 2023. A notice also appeared in the Newcastle Journal on 22 March 2023.

3.2 No representations have been received.

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS16 Climate Change

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP24 Design Quality

MSGP28 Renewable and Low Carbon Energy

4.1 The policies within the Council's Core Strategy (CS) and Making Spaces for Growing Places (MSGP) documents form part of the Local Plan for Gateshead (parts 1 and 3).

5.0 Assessment of the Proposal:

5.1 MAIN ISSUES

5.2 The main planning considerations are considered to be climate change, visual impact and glint/glare.

5.3 CLIMATE CHANGE / PLANNING POLICY

5.4 The Climate Change Act 2008 requires that the UK reduces its greenhouse gas emissions by at least 80% (from the 1990 baseline) by 2050.

- 5.5 Part 14 of the National Planning Policy Framework (NPPF) relates to meeting the challenge of climate change. Paragraph 152 of the NPPF states the planning system should support the transition to a low carbon future in a changing climate, whilst also supporting renewable and low carbon energy and associated infrastructure.
- 5.6 Policy CS16 of the Council's Local Plan relates to climate change and states that weight will be given to the wider environmental, social and economic benefits of renewable and low carbon energy generation in considering proposals. This policy also states that developments should be sustainable, able to function effectively in a changing climate and address impacts on climate change emissions.
- 5.7 More specifically part 6 of policy CS16 of the Council's Local Plan looks to minimise reliance on non-renewable high carbon energy sources and maximise the use of decentralised and renewable or low carbon energy sources by requiring developments to optimise the use of local renewable or low carbon energy. Therefore, applications which look to increase the opportunity for new developments to receive energy from a source of renewable energy by increasing the local decentralised energy offer is considered by officers as contributing towards the Council's goals as laid out in this policy.
- 5.8 Policy MSGP28 of the Council's Local Plan relates to renewable and low carbon energy and states that renewable and low carbon energy schemes will be assessed taking full account of their wider environmental, economic and social benefits and also considering visual impact, impact upon airport and aircraft operation and impact of reflected light.
- 5.9 Gateshead Council declared a climate emergency in 2019 and has pledged to be carbon neutral by 2030 and work with partners and agencies to assist in the whole of Gateshead being carbon neutral in the same timeframe. Working with partners and organisations to support projects that will help reduce Gateshead's carbon emissions could include negotiating acceptable planning permissions for innovative renewable or low carbon energy schemes, where appropriate.
- 5.10 The submitted planning statement states that if approved this proposal will not only minimise the applicants existing contribution to climate change, but also provides scope to further reduce the wider area's overall demand on the grid.
- 5.11 Council officers therefore support the principle of this proposal which meets the Council's climate change policies and goals.
- 5.12 VISUAL IMPACT
- 5.13 The submitted plans show that solar panels will be laid out across the flat roof of the warehouse building. Cables will run externally on the outside of the building from the roof down the side of the building to the invertors which sit at the base of the building.

- 5.14 The proposed PV system is unlikely to be visible from public view, due to the height of the building and its parapet wall, which would screen the solar panels on the roof from view. The planning statement explains that to minimise visual impact the cable which runs down the side of the building will be encased in a cable tray and the invertors will be enclosed by fencing.
- 5.15 The scale, design and position of the proposed external elements are considered to be appropriate from a design point of view, given that their scale is very small when compared and viewed against the size of the existing warehouse building.
- 5.16 The proposal is therefore considered to be acceptable from a design point of view, as it is in keeping with the commercial nature of the site and surrounding area, and therefore accords with the design aims and objectives of the NPPF and policies CS15 and MSGP24 of the Council's Local Plan.
- 5.17 GLINT and GLARE
- 5.18 Glint and glare is normally one of the main considerations for proposals for PV systems. The submitted planning statement states that the site is of suitable distance from sensitive receptors so as to not require the commission of a glint and Glare Assessment – which Council officers agree with.
- 5.19 Newcastle Airport has been consulted and they have stated that they have no objections to the proposal. They state that the proposal has been assessed by the Aerodrome Safeguarding Team. Usually the Airport would request a Glint and Glare Assessment, however given the sites location (30km from the aerodrome) it is not considered that the proposal would result in any detriment to the safe operation of the airport.
- 5.20 National Highways have also been consulted as the A194(m) is positioned to the west of this site. National Highways have stated that they also have no objections to the proposal. They have stated that they are satisfied that safety on the adjacent strategic road network is not compromised by the proposal.
- 5.21 It is therefore considered by Council officers that a Glint and Glare Assessment is not necessary in this instance and that the proposal is acceptable from a glint and glare point of view.
- 5.22 TRANSPORT ISSUES
- 5.23 The proposal raises no transport issues, as the solar panels on the flat roof of the building are unlikely to be visible from motorists on the surrounding local roads. In addition, the proposal results in no changes to any of the existing access and parking arrangements at the site.
- 5.24 BENEFITS

- 5.25 The submitted planning statement explains that the proposal would have the following benefits.
- 5.26 Economic Benefits – the scheme will contribute towards the stimulation of economic activity in the area via the attraction of a workforce who will spend time and money in the area during installation of the PV system.
- 5.27 Environmental Benefits – this scheme represents a commitment from Amazon towards using its commercial warehouse buildings as an opportunity to produce clean, renewable energy both to power their operations and increase the share of renewable energy in the national grid.

6.0 CONCLUSION

- 6.1 Taking all the relevant issues into account, it is considered that the proposed development is acceptable from a planning point of view, and would accord with both national and local planning policies.
- 6.2 This proposal will reduce the carbon impact of Amazon and to increase the percentage of renewable energy in the National Grid.
- 6.3 It is therefore recommended that planning permission be granted subject to the planning conditions below.

7.0 Recommendation:

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

1

The development shall be carried out in complete accordance with the approved plan(s) as detailed below –

Site location plan scale 1:2500 on A3

PV Roof Layout C4

Inverter Elevation East / West C2

Inverter Elevation North C2

Any material change to the approved plans will require a formal planning application to vary this condition and any non-material change to the plans will require the submission of details and the agreement in writing by the Local Planning Authority prior to any non-material change being made.

Reason

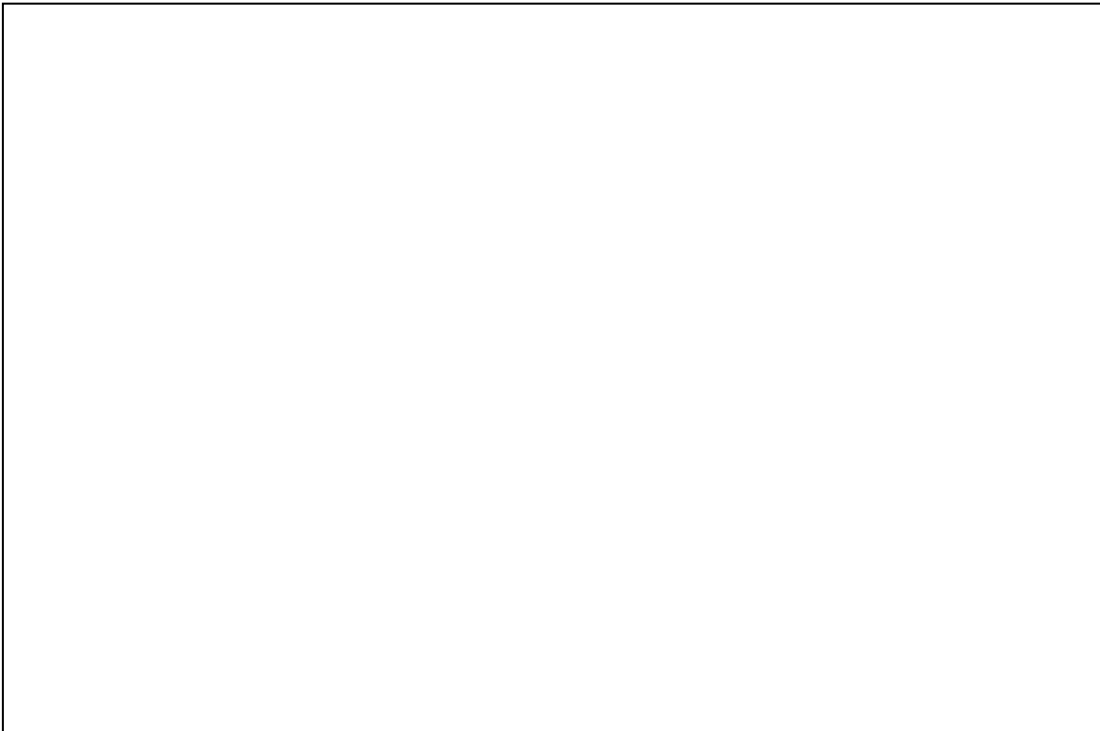
In order to ensure that the development is carried out in complete accordance with the approved plans and any material and non-material alterations to the scheme are properly considered.

2

The development to which this permission relates must be commenced not later than 3 years from the date of this permission.

Reason

To comply with section 91 of the Town and Country Planning Act 1990 as amended by section 51 of the Planning and Compulsory Purchase Act 2004.



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TITLE OF REPORT: Enforcement Team Activity

REPORT OF: Anneliese Hutchinson, Service Director – Climate Change, Compliance, Planning and Transport

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 09.03.23 and ending 06.04.23 the enforcement team has received 152 new service requests. The enforcement team currently has 563 cases under investigation, representing a 10% increase since the last reporting period.

TYPE OF SERVICE REQUEST	NEW SERVICE REQUESTS RECEIVED	CASES ALLOCATED TO OFFICER	CASES RESOLVED	UNDER INVESTIGATION	PENDING PROSECUTIONS
Planning	49	21	31	273	1
Empty/vacant properties & sites	12	12	1	54	0
Highways	24	10	16	141	0
Abandoned vehicles	32	32	28	15	0
Waste investigations	35	28	36	80	0
TOTALS	152	103	112	563	1

COURT HEARINGS
No court hearings have occurred in this period.



**REPORT TO PLANNING AND
DEVELOPMENT COMMITTEE**

19th April 2023

TITLE OF REPORT: Enforcement Action

**REPORT OF: Anneliese Hutchinson, Service Director – Climate
Change, Compliance, Planning and Transport**

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	Case History	Current Update
1.	Land at Woodhouse Lane, Swalwell (Known as South West Farm Site One)	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	11 January 2016	12 January 2016	15 February 2016	14 March and 4 July 2016	<p>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.</p> <p>As such the original Notices (which were all being appealed) were withdrawn and further Notices were issued including those in respect of the requirement to carry out an Environmental Impact Assessment and provide an Environmental Statement with any subsequent appeals.</p> <p>The Notices required firstly, the cessation of the unauthorised use and secondly, the removal from the land of the scrap.</p> <p>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 had to be cleared in 6 months.</p> <p>A site visit was undertaken in October 2018 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 was issued for the 26th April 2019 at Gateshead Magistrates Court, but subsequently re issued for the 10th 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 was adjourned until 24th June 2019 at 10am, discussions took 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 29th June 2019, two of the areas of land had been significantly cleared, with efforts continuing</p>	06.04.2023 – Awaiting date for a joint site visit with the Environment Agency
	Known as South West Farm Site Two)	Swalwell	Without planning permission the change of use of the land from agriculture and reception, composting and transfer of green waste to a mixed 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.	11 January 2016	12 January 2016	15 February 2016	14 March and 4 July 2016		
	(Known as South West Farm Site Three)	Swalwell	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	11 January 2016	12 January 2016	15 February 2016	14 March and 4 July 2016 29 th Sep 2018		

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	Case History	Current Update
								<p>to be made by the owners to clear the third piece of land prior to the court date.</p> <p>The trial date was rearranged for the 24th September 2019 and finally heard on the 20th January 2020. 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> <p>On 16 February 2022 an update was requested by Councillor Ord at committee as problem recurring.</p> <p>Allocated to an enforcement officer and investigations ongoing. The Environment Agency have been approached for additional support with this investigation and the enforcement team awaiting confirmation of a joint visit.</p> <p>Site visit undertaken in December 2022.. Owners instructed to tidy the site and remove vehicles not actively being used on the farm. The EA confirms exemption in place for handling of green waste. No evidence of car repair business on site. EA cancelled arranged site meeting and working to rearrange.</p>	
2.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	22 nd May 2019	24 th May 2019	28 th June 2019	28 th 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> <p>A site visit was undertaken on the 4th June 2019, 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>	06.04.2023 – Advice has been sought as to next steps in ensuring compliance. Discussions are ongoing with the appointed consultant.

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	Case History	Current Update
								An appeal has been submitted in relation to the enforcement notice.	
3.	Blaydon Quarry Lead Road, Gateshead	Crawcrook and Greenside	Breach of Planning Conditions	22 nd May 2019	24 th May 2019	28 th June 2019	28 th 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> <p>February 2023 - Development management have engaged a minerals and landfill specialist consultant to consider the current planning status of this development and determine an appropriate course of action should further enforcement activity be required.</p>	06.04.2023 – Advice has been sought as to next steps in ensuring compliance. Discussions are ongoing with the appointed consultant.
4.	81 Dunston Road, Gateshead NE11 9EH	Dunston and Teams	Untidy Land	25 th July 2019	25 th July 2019	22 nd August 2019	03 rd October 2019	<p>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.</p> <p>Update 08.02.2023 - Building work has commenced at the rear of the property. Old kitchen has been demolished in preparation for the new development. Gable wall is being repointed.</p>	06.04.2023 – Ongoing monitoring to ensure works continue.

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	Case History	Current Update
5.	High Spen Excelsior Social Club Ramsay Street Rowlands Gill NE39 2EL	Winlton and High Spen	Untidy Land	10 th February 2020	10 th February 2020	13 th March 2020	13 th April 2020	<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 all rubbish and debris removed from the site.</p> <p>The notice has been withdrawn. Officers are currently working with the owners to compile a schedule of repairs and dates for completion.</p> <p>A revised notice was re -served on the 4th August. The notice was not appealed. The site owners have until the 1st November to demolish the building and clear the land. Notice not complied with. A Demolition method statement is being prepared by construction services. Demolition isn't straight forward due to structural integrity of building and presence of asbestos containing materials. 02 March 2022 NEDL have disconnected the electrical supply to the building.</p>	06.04.2023 – The building has been demolished and the site reinstated.
6.	Dynamix Albany Road Gateshead	Bridges	Unauthorised change of use	13 th October 2020	13 th October 2020	17 th November 2020	18 th May 2021	<p>Complaints have been received regarding the change of use from a vacant warehouse to a mixed use comprising skate park, residential planning unit and storage of building and scrap materials therefore, an Enforcement Notice has been issued requiring the unauthorised use of the land to cease and all materials and vehicles be removed from the land</p> <p>The occupier of the site has appealed the notice to the planning inspectorate</p> <p>The Appeal has been determined and the Notice has been upheld.</p> <p>Section 330 Notices have been served to determine interests in land by all parties known to be involved with the site. This information will be used as the basis for further enforcement action.</p> <p>Notices have not been responded to and are being pursued.</p>	06.04.2023 – Site visit took place in March with landowner's agent in attendance. No works have been undertaken by the site leaseholder to comply with the notice and further unauthorised uses on site were identified. The landowner has confirmed that use rights were not to extend beyond 31st March 2023. Agreed with the landowner that the unauthorised uses taking place on the land and in the buildings must cease and the site must be fully cleared not later than 31st May 2023. Ongoing monitoring to ensure compliance.

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	Case History	Current Update
7.	Dynamix Albany Road Gateshead	Bridges	Untidy Land	27 th August 2021	27 th August 2021	27 th September 2021	27 th December 2021	<p>Complaints have been received regarding the condition of the land. A Notice has been issued pursuant to section 215 of the Town and Country Planning Act requiring all waste be removed from the land, the mounds of rubble be removed to ground level and all the graffiti cleaned from the building.</p> <p>Section 330 Notices have been served to determine interests in land by all parties known to be involved with the site. This information will be used as the basis for further enforcement action.</p> <p>Notices have not been responded to and are being pursued.</p>	06.04.2023 – Site visit took place in March with landowner’s agent in attendance. No works have been undertaken by the site leaseholder to comply with the notice and further unauthorised uses on site were identified. The landowner has confirmed that use rights were not to extend beyond 31st March 2023. Agreed with the landowner that the unauthorised uses taking place on the land and in the buildings must cease and the site must be fully cleared not later than 31st May 2023. Ongoing monitoring to ensure compliance.
8.	Kwik Save, High Street, Felling	Felling	Building and land in ruinous and dilapidated condition	27 th April 2022	27 th April 2022	18 th May 2022	5 th September 2022	<p>Complaints have been received regarding the condition of the property and the adjoining land. The site has been subject to a number of arson attacks, fly tipping and other anti-social behaviour. A Notice has been issued pursuant to section 79 (1) of the Building Act 1984 requiring the recipient to either carry out such works of restoration or carry out demolition and remove the resultant rubbish or other materials from the site as specified in the notice. This has been the subject of an appeal. Work is ongoing with Northumbria Police and Tyne and Wear Fire & Rescue service to expedite a resolution. Construction services have also been requested to provide a method statement and costings for demolition, should the local authority be required to undertake works in default. –</p> <p>Works progressing to determine costs of demolition and consideration being given to issuing community protection warning in conjunction with TWFRS and Northumbria Police</p> <p>Construction services instructed to progress to tendering stage for demolition</p>	06.04.2023 – Work is continuing to progress demolition costs and methodology by construction services.

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	Case History	Current Update
9.	Land On The North Side Of, Barlow Road, Barlow, Blaydon On Tyne,	Winlton and High Spen	Without planning permission, the erection of two timber buildings on the Land, and the creation of a hard surface of block paving.	19 th October 2022	20 th October 2022	24 th November 2022	30 th March 2023	Complaints have been received regarding the condition of the land. A Notice has been issued pursuant to section 171A(1) of the Town and Country Planning Act requiring the timber buildings to be dismantled; all paving, being block paving and any other paving used in the foundations of the timber buildings to be removed; along with all materials and waste used in connection with or resulting from compliance with the steps required.	06.04.2023 –the two timber buildings have been removed. Work appears to be ongoing to achieve compliance. Ongoing monitoring to ensure works continue.
10	Land On The North Side Of, Barlow Road, Barlow, Blaydon On Tyne,	Winlton and High Spen	Without planning permission, the material change of use of the Land to storage, including the siting of a container and a caravan	19 th October 2022	20 th October 2022	24 th November 2022	16 th February 2023	Complaints have been received regarding the condition of the land. A Notice has been issued pursuant to section 171A(1) of the Town and Country Planning Act requiring that storage on the land permanently ceases; that the storage container and caravan are removed along with all other stored materials and waste.	06.04.2023 –the storage container and caravan have been removed. Ongoing monitoring to ensure works continue.



**REPORT TO PLANNING AND
DEVELOPMENT COMMITTEE
19 April 2023**

TITLE OF REPORT: Planning Appeals

REPORT OF: Anneliese Hutchinson, Service Director, Climate Change,
Compliance, Planning and Transport

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/21/00916/FUL – Jack And Jo's Nursery Garden, Middle Hedgefield Farm,
Stella Road, Ryton, Blaydon On Tyne, NE21 4NN
This was a delegated decision refused on 28 February 2022
Appeal dismissed 28 July 2022

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

APPENDIX 1**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

APPENDIX 3

OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
DC/21/00916/FUL	Jack And Jo's Nursery Garden Middle Hedgefield Farm Stella Road Ryton	Erection of timber building to provide cafe with associated raised deck and creation of additional parking (retrospective) (revised description 30.11.2021) (amended plans 21.02.2022)	Written	Appeal dismissed
DC/21/00977/FUL	Pear Trees Orchard Road Rowlands Gill NE39 1DN	Demolition of existing bungalow and garage and construction of two new dwelling with vehicular and pedestrian access (Resubmission)	Written	Appeal in Progress
DC/21/01368/FUL	Land To The West Of Sainsburys Supermarket Eleventh Avenue Team Valley Gateshead	Construction of a building for flexible employment-based development for B8 (Storage and Distribution) or as a Builders' Merchant (Sui Generis), with associated hardstanding, parking and landscaping (amended/additional information received 25 May 2022, 1 August 2022, 31 August 2022, 8 September 2022, 15 September 2022, 30 September 2022 and 14 October 2022 and amended description 19 August 2022).	Written	Appeal in Progress
DC/22/00635/CPE	Allotment Gardens West	CERTIFICATE OF LAWFULNESS FOR	Written	Appeal in Progress

	Of Pelaw Youth Centre Shields Road Felling Gateshead NE10 0YH	EXISTING USE OR DEVELOPMENT: Use of land as private general amenity space (Sui Generis). (Additional information received on 15/07/2022 and 10/08/2022)		
DC/22/00971/TDPA	Coatsworth Road (west Of Coatsworth Court) Gateshead NE8 1PU	DETERMINATION OF PRIOR APPROVAL: Installation 16.0m Phase 8 Monopole C/W wrapround Cabinet at base and associated ancillary works.	Written	Appeal in Progress

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Appeal Decision

Site visit made on 20 June 2022

by Chris Baxter BA (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 28 July 2022

Appeal Ref: APP/H4505/W/22/3297141

Middle Hedgefield Farm, Stella Road, Ryton, Tyne and Wear NE21 4NN

- 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 Miss Jo Stanton of Jack & Jo's Nursery against the decision of Gateshead Metropolitan Borough Council.
 - The application Ref DC/21/00916/FUL, dated 9 July 2021, was refused by notice dated 28 February 2022.
 - The development proposed is erection of timber building to provide café with associated raised deck and creation of additional parking (retrospective).
-

Decision

1. The appeal is dismissed.

Preliminary Matters

2. At the time of my site visit, the café and decking had been constructed and was in operation. I have dealt with the appeal accordingly.
3. For the sake of brevity and clarity I have taken the description of development from the Council's decision notice.

Main Issues

4. The main issues are:
 - i) Whether the proposal is inappropriate development in the Green Belt;
 - ii) The effect of the proposal on highway safety with regards to access; and
 - iii) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations. If so, would this amount to very special circumstances necessary to justify the proposals.

Reasons

Whether inappropriate development

5. Policy CS19 of the Local Plan Document for Gateshead 2011 (LPD) relates to protection of the Green Belt. Paragraph 149 of the National Planning Policy Framework (the Framework) states that the construction of new buildings in the Green Belt should be regarded as inappropriate, unless the development falls within the exceptions list. This list includes limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing

- development. The parties disagree on whether the appeal site constitutes previously developed land. Even if the appeal site was found to be previously developed land, the proposal would not have to have a greater impact on the openness of the Green Belt than the existing development. As the proposal has been constructed then the 'existing development' would be the polytunnel that was previously situated at the site as shown on the submitted plans.
6. Visual and spatial impacts form part of the concept of openness of the Green Belt. From the plans submitted, it is clear that in spatial terms the café and decking area is larger in floor area and volume compared with the previous polytunnel structure. I also witnessed a smoking area structure attached to the café which is not shown on the submitted plans. The café and decking area, in spatial terms, does have a greater impact on the openness of the Green Belt than the previous arrangement.
 7. In visual terms, it is noted that the proposal is screened to an extent by existing buildings and the woodland to the south. The external appearance of the café has been described as rural and soft with there being no adverse landscape issues. However, the café and decking are visible from the main road through the existing access point as well as from windows of neighbouring properties. Given the scale of the café and decking, these structures are visually prominent and do have a more intense visual impact on the openness of the area in comparison to the previous arrangement of the polytunnel structure.
 8. I find that in both spatial and visual terms, the proposal has a greater impact on the openness of the Green Belt than the previous situation which included a polytunnel structure. The proposal is inappropriate development in the Green Belt, and as such conflicts with Policy CS19 of the LPD and paragraph 149 of the Framework which seeks to preserve the openness of the Green Belt.
 9. The appellant states that the proposal would not affect the five purposes of the Green Belt as stated in paragraph 138 of the Framework. The Framework does state however that the essential characteristics of Green Belts are their openness and their permanence; and as previously stated the proposal does have a greater impact on openness being contrary to paragraph 149 of the Framework.
 10. My attention is also drawn to the numbered points in Policy CS19 of the LPD and that the development does not compromise any of these numbered points. Policy CS19 does state that the Green Belt will be protected in accordance with national policy. Given that I have found that the proposal is contrary to the Framework, I am satisfied that the proposal is therefore contrary to Policy CS19 also.

Highway safety

11. At my site visit, I witnessed two access points from the B6317 highway, one directly north of the café and the other to the west adjacent to The Castle building. The access adjacent to The Castle has good visibility in both directions along the B6317 highway.
12. The access to the north of the cafe is narrow and visibility is restricted onto the B6317 highway in both east and west directions by existing buildings that are tight to the access lane. Given the width of the access to the north, it is

unlikely that two vehicles could pass each other. This may result in vehicles having to become stationary on the highway to allow other vehicles to exit. Vehicles may also have to make unusual manoeuvres should two vehicles meet each other on the narrow access, potentially requiring vehicles to reverse back towards the café or onto the highway.

13. There is parking on the site and given the use as a café there is an intensification of vehicles visiting the site. This intensification of use would increase the number of vehicles using the access to the north of the café and the narrow access lane. The number of vehicle movements to and from the site, in particular the increased use of the access to the north of the café, would have a detrimental effect on highway safety with regards to access onto the B6317 highway. The appellant suggests that parking on the site could be reduced which would also encourage people to use other methods of travel. There is no parking alternative scheme before me and I have made my assessment on the submitted plans and observations at my site visit.
14. A one-way system or stopping up of an access, sought through a planning condition has been suggested by the appellant. Due to the number of buildings surrounding the site and the potential for other users requiring access, there is uncertainty as to whether a one-way system or stopping up of an access would be achievable. I therefore do not consider that a planning condition, as suggested by the appellant, would be reasonable. The appellant indicates that there is no record of accidents or incidents, this however, does not alter my findings above and the harm to highway safety.
15. Accordingly, the proposal would have a harmful effect on highway safety with regards to access. The proposal would be contrary to Policies CS13 and MSGP15 of the LPD which seeks development to require secure safe access and connects safely to existing transport networks. The proposal would also be contrary to paragraph 111 of the Framework which indicates that development should be refused on highway grounds if there would be unacceptable impact on highway safety.

Other considerations

16. The café and decking have been described as not being in open countryside and being an efficient, effective and attractive use of the site which increases trade, creates employment and helps the economy. It is noted that the proposal would not have an adverse effect on the character and appearance of the surrounding area.
17. Reference is made to a lawful use of the site as a scrap yard, described by the appellant as being unrestricted. There was little evidence of scrap being stored on the site with the café and polytunnels making up the majority of the appeal site. From the evidence before me, there is no certainty that this lawful use as a scrap yard would return to an extent that would compromise the openness of the Green Belt more than the café and decking proposal.
18. I have had regard to the appellant's statement of case including the personal statement providing background to the scheme and the wider site. The appellant has referred to family members as well as staff and customers with specific needs. From the evidence before me, the failure of this appeal would not result in the appellant's family members' homes being directly affected. It is recognised that the failure of this appeal would result in workers and

customers with specific needs unable to visit or be employed at the café. However, there is no clear distinction that the café provides special requirements for those with specific needs that other businesses cannot provide. The loss of the café would not prevent workers from obtaining employment elsewhere nor would it affect customers' ability to visit other establishments.

19. I recognise the failure of this appeal could affect arrangements for the appellant's family, as well as workers and customers of the café, particularly people identified with specific needs. Having regard to the circumstances drawn to my attention, this could represent an interference with their rights under Article 8 of the European Convention on Human Rights, as incorporated by the Human Rights Act 1998. However, having regard to the legitimate and well-established development plan policies and the Framework which aim to protect the openness of the Green Belt, in this case I consider greater weight is attached to these. Dismissal of the appeal is therefore necessary and proportionate, and it would not result in a violation of the human rights of the appellant, the appellant's family or workers and customers of the café.
20. The appellant has listed a number of Policies from the LPD which the proposal is considered to accord with, some of which are not disputed by the Council. This matter does not alter the findings above and that the proposal remains contrary to Policies CS19, CS13 and MSGP15 of the LPD.

Conclusion

21. The proposal would be inappropriate development in the Green Belt and the Framework establishes that substantial weight should be given to any harm to the Green Belt. From the evidence submitted, I am also not satisfied that the proposal would not harm highway safety with regards to access. There are no other considerations that would clearly outweigh the harm that the scheme would cause. Consequently, very special circumstances that are necessary to justify inappropriate development in the Green Belt do not exist.
22. For the reasons set out above, I conclude that the appeal should be dismissed.

Chris Baxter

INSPECTOR



REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

19 April 2023

TITLE OF REPORT: Planning Obligations

REPORT OF: Anneliese Hutchinson, Service Director, Climate Change, Compliance, Planning and Transport

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. 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 19 April 2023.

Recommendations

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

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