



PLANNING AND DEVELOPMENT COMMITTEE AGENDA

Wednesday, 17 May 2023 at 10.00 am in the Bridges Room - 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 19 April 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 & Jo's Nursery Garden, Middle Hedgefield Farm, Stella Road, Ryton NE21 4NN (Pages 5 - 28)
4ii	No. 2 - Site West of Worley Avenue/South of Earls Drive (opposite numbers 50 - 60), Low Fell, Gateshead NE9 6AA (Pages 29 - 46)
6	Enforcement Team Activity (Pages 47 - 48) Report of the Service Director, Climate Change, Compliance, Planning & Transport
7	Enforcement Action (Pages 49 - 56) Report of the Service Director, Climate Change, Compliance, Planning & Transport
8	Planning Appeals (Pages 57 - 60) Report of the Service Director Climate Change, Compliance, Planning & Transport
9	Planning Obligations (Pages 61 - 62) Report of the Service Director, Climate Change, Compliance, Planning & Transport

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PLANNING AND DEVELOPMENT
COMMITTEE
17 May 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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REPORT NO 1

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 This application was deferred at the meeting of the Planning and Development Committee on 19 April 2023 to allow the Committee to visit the site. Members visited the site on 11 May 2023.

1.2 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.

1.3 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”.

- 1.4 The above planning application and appeal decision are material considerations in the assessment of this application.
- 1.5 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.
- 1.6 **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.
- 1.7 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.
- 1.8 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.
- 1.9 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.
- 1.10 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.
- 1.11 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.

- 1.12 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.
- 1.13 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.
- 1.14 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
- 1.15 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.
- 1.16 The application is also accompanied by a covering letter which provides supporting information in relation to the application.
- 1.17 The existing site layout includes the kitchen extension and smoking area to the eastern side of the café. As noted at paragraph 1.13 these were not included on the plans for application DC/21/00916/FUL.
- 1.18 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.
- 1.19 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

1.20 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.

1.21 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 12no. letters of support have been received, of which 11no. have been submitted by the applicant. These 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
- Fed and Watered is used by many different people and is part of the community
- The business provides a service to the whole community and surrounding area
- 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 café set up to provide a working place for people with different needs; employees and volunteers are people in this category
- The business supports schools and community groups and the development includes facilities that make visits possible
- 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
- The site has a scrap yard licence. The work that they have done to get rid of the scrap yard and clean up the site is better for the landscape
- It could be argued that the site is Green Belt however it is private land and could be a scrap yard
- Green Belt in the local area has been removed to build houses; this is a small area in comparison
- The business gives back to the environment and wildlife through donations and planting

3.3 An additional 5no. letters of support were submitted by the applicant on 12 April 2023 however these are duplicates of the representations already submitted by the applicant, which are summarised above.

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 café 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 safely 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 café 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. Representations received in support of the application are also noted. Notwithstanding this, giving weight to the Inspectors 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

- 6.1 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.
- 6.2 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.
- 6.3 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.
- 6.4 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.

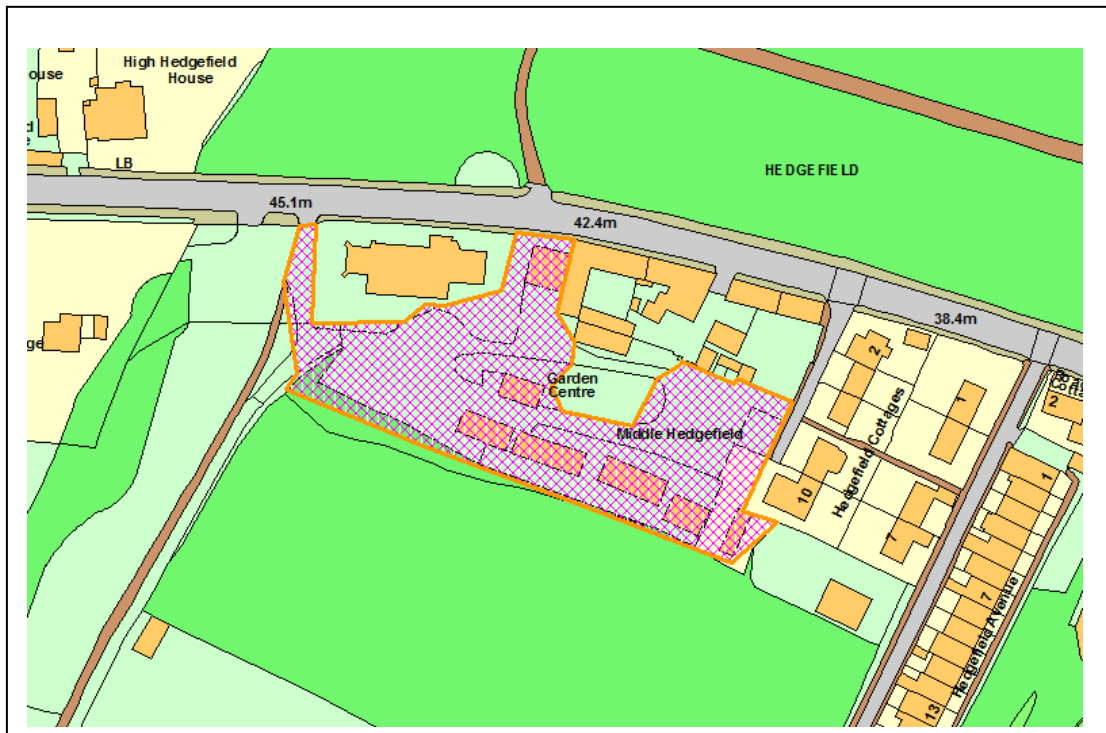
- 7 **Recommendation:**
That permission be REFUSED for the following reason(s) and that the Service Director of Climate Change, Compliance, Planning and Transport be authorised to add, vary and amend the refusal reasons as necessary:

1

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/23/00157/FUL
Case Officer	Joanne Munton
Date Application Valid	3 April 2023
Applicant	MR WAYNE LASKEY
Site:	Site West Of Worley Avenue / South Of Earls Drive (Opposite Numbers 50-60) Low Fell Gateshead Borough NE9 6AA
Ward:	Low Fell
Proposal:	Use as residential amenity and garden land with construction of a driveway and a single residential outbuilding / garage for the storage of vehicles and residential paraphernalia, with the felling of 8 trees, the replacement planting of 8 trees and new boundary hedgerow.
Recommendation:	REFUSE
Application Type	Full Application

1.0 The Application:

1.1 DESCRIPTION OF SITE

The application site comprises the western parts of the three northernmost garden plots of land, which are located between Worley Avenue to the east and the rear of Glenbrooke Terrace to the west, in Low Fell Conservation Area. The site slopes down from east to west.

1.2 The site is effectively the western half of the red line boundary of previously refused application DC/21/00879/FUL for two dwellings, which was also dismissed at appeal.

1.3 Worley Avenue and gardens are first shown on the 2nd edition OS maps of 1895-1898, and the gardens are separated from smaller front gardens immediately outside the properties by a wide path. There are a collection of garages and a back lane between the site and properties at Glenbrooke Terrace to the west. The road at Earls Drive runs east to west along the northern boundary of the site, and to the south of the site further gardens following the same linear pattern and size.

1.4 The garden plots have trees along the boundaries, which have also colonised parts of the gardens, and which are protected by virtue of their presence within the Conservation Area. Many are now of medium-large size, mainly sycamore, and form a visible feature for some distance along the nearby streets. The site boundaries are largely hedges, vegetation and timber fence, including a new timber fence around the application site. There has been

recent clearance of the understorey within the site, and aggregate/road planing materials have also recently been brought onto the site.

1.5 DESCRIPTION OF APPLICATION

The application proposes the use of the site as residential amenity and garden land, installation of a new vehicle access and construction of a driveway, and construction of a residential outbuilding/garage for the storage of vehicles and residential paraphernalia. The application also proposes the felling of 8 sycamore trees, the replacement planting of 8 trees and new boundary hedgerow, both elements proposed on the southern boundary. 5 existing sycamore trees are proposed to remain.

1.6 The proposed building would be located at the south western part of the site, closest to Glenbrooke Terrace. It would be 7.5m wide and 9.0m deep, with a dual pitched roof and the height to the ridge of 6.2m. There would be two garage doors on the northern elevation, facing Earls Drive, and an internal staircase leading to additional floor space in the roof area, with a window on the northern elevation to serve this. Two more windows and a side door are proposed at ground floor level on the eastern elevation.

1.7 A driveway is proposed to serve the building, leading to a proposed new vehicle access on the northern boundary at Earls Drive. The remainder of the site is indicated on proposed plans to be an area of "garden".

1.8 Submitted application plans also show a 2m high timber fence between the application site and land to the east and a new timber fence on the northern boundary with Earls Drive (no dimensions provided). An officer site visit confirmed the presence of this boundary treatment, as well as new timber fence on the western and southern boundaries of the site, and also around the neighbouring land to the east.

1.9 RELEVANT PLANNING HISTORY

Application site:

DC/21/00879/FUL

Erection of two dwellinghouses (Use Class C3) with associated accesses, with surrounding gardens, and curtilage areas across remaining parts of site with felling of 5 trees (description amended 05/01/22, amended plans received 05/01/22 and additional information received 06/01/22 and 12/01/2022)

REFUSED 17.02.2022

Appeal Dismissed 28.09.2022

Site at Garage Block Adjacent 7 Glenbrooke Terrace (to the south west of the application site, not part of this application site or the wider gardens area):

DC/22/01257/FUL

Proposed demolition of existing garages and erection of 2no. dwellings (C3 use) (amended site plan received 30.01.2023, bat survey report received 02.03.2023, additional plan received 09.03.2023).
PENDING

2.0 Consultation Responses:

None

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015.

3.2 An objection has been received from Ward Councillor Ron Beadle, raising concerns regarding overdevelopment, loss of visual amenity, potential impact on traffic and harm to the Conservation Area.

3.3 Objections from 26 resident households have also been received, raising concerns regarding the following:

- Questioning use of proposed building and whether this would be a dwelling, and building does not need to have a second floor; the proposal description is misleading
- The site could be used for commercial storage rather than residential
- Development at the site has been previously refused planning permission
- Loss of unique arrangement resulting in an undesirable precedent for development in this location
- The site's sole use and purpose should be a garden/allotment that belongs to the dwelling it was intended for
- Proposed building is large and unnecessary
- Other application at Glenbrooke Terrace did not include loss of trees
- Loss of healthy, established, mature trees that have a cumulative importance to leafy vista of street
- Proposed planting could cause harm to existing neighbouring trees elsewhere
- Harm to Conservation Area
- Cars would not be able to enter and leave the application site in a forward gear
- Reduced space for on street parking and increase in congestion
- Highway safety on busy street

- Proposal would degrade a significant area of green infrastructure on the route of a Gateshead Health Walk
- Harm to ecology and habitats
- Disturbance from construction phase and general use of site
- Loss of privacy
- Development should not increase flood risk elsewhere
- Proposal would attract anti-social behaviour
- Development would cause increased pollution
- Work already commenced
- Impact on climate change

3.4 5 letters of support have also been received, commenting on the following points:

- Car crime is high in the area and garage would provide security
- Application site was previously an eyesore, with anti-social behaviour, fly tipping and vandalism
- Proposed building design would fit in with area and proposal would look better than previous appearance of the site
- Area would be enhanced and replacement trees would be native species
- Local residents have space to park at rear of properties
- Already development at Worley Mews

4.0 Policies:

NPPG National Planning Practice Guidance

NPPF National Planning Policy Framework

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS18 Green Infrastructure/Natural Environment

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP18 Noise

MSGP24 Design Quality

MSGP25 Conservation/Enhancement Heritage Assets

MSGP36 Woodland, Trees and Hedgerows

MSGP37 Biodiversity and Geodiversity

GPGSPD Gateshead Placemaking Guide SPG

IPA17 Conservation Area Character Statements

National Design Guide

5.0 Assessment of the Proposal:

5.1 The key considerations to be taken into account when assessing this planning application the impact the proposal will have on heritage assets, design, trees, residential amenity, highway safety and parking, and ecology.

5.2 USE OF SITE/PLANNING UNIT

The application includes the proposed use of the site as an area for residential amenity and garden land. It is considered that this would not constitute a material change of use of land in general and that an approval of this planning application would only reinforce the existing established use of the land as such. The garage/outbuilding is proposed to be used in association with this garden/amenity use. Whilst no information has been provided to explain which dwelling this garden and domestic garage and store would be associated with, a condition could be imposed to restrict the use of this land to garden/amenity use only (ie. Building not to be inhabited as a residential dwelling nor land used for commercial purposes).

5.3 However, the proposal would result in a new planning unit on site (the combined western parts of three previously longer strips of separate garden land running east to west), of a different shape and character, and the proposal for a large garage and driveway would make this arrangement permanent. Similarly, an implication of granting this application is that it a new planning unit(s) at land to the east of the application site would also be created as a result.

5.4 Furthermore, application plans show a 2m high timber fence between the application site and land to the east and a new timber fence on the northern boundary with Earls Drive (no dimensions provided). No elevations of boundary treatment have been submitted, and an officer site visit confirmed the presence of this boundary treatment, as well as new timber fence on the western and southern boundaries of the site, and also around the neighbouring land to the east.

5.5 Permitted development rights normally allow for the erection, construction, maintenance, improvement or alteration of a gate, fence, wall or other means of enclosure, subject to limitations, in this case: no higher than 1m adjacent a highway used by vehicular traffic, no higher than 2m if not, or the former height where boundary treatment has been maintained, improved or altered (whichever would be greater). Historic imagery and previous officer site visit records show a partial fence line along Earls Drive which did not extend to the western boundary of the site; this has been completely replaced (ie. beyond maintenance/improvement/alteration) and new treatment has been added further west, where there previously was not any, to provide a full enclosure of close boarded timber fencing along the northern boundary of the site. This fence is adjacent Earls Drive and higher than 1m above ground level (based on officer site visit), and would therefore require planning permission, and is consequently also considered as part of this application.

5.6 CONSERVATION AREA, DESIGN AND TREES (VISUAL AMENITY)
The site is within Low Fell Conservation Area. Paragraph 199 of the NPPF clarifies:

When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.

5.7 NPPF paragraph 130 also states:

Planning policies and decisions should ensure that developments [amongst others]:

(a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;

(b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

(c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);

(d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;

5.8 Paragraph 40 of the National Design Guide states that Well-designed places are:

- based on a sound understanding of the features of the site and the surrounding context, using baseline studies as a starting point for design;
- integrated into their surroundings so they relate well to them;
- influenced by and influence their context positively; and
- responsive to local history, culture and heritage.

5.9 The character statement for Low Fell Conservation Area is provided in IPA17 (June 2000), and specifically characterises land West of Durham Road as follows:

The character of this area is strongly influenced by the Victorian terraces of Albert Drive and Earls Drive (which run at right angles to Durham Road, sloping from east to west), and Worley Avenue (which runs parallel with Durham Road). The terraces are constructed of red brick with stone dressings and slate roofs. Earls Drive and Worley Avenue have long leafy gardens, which are bounded by brick walls or privet hedges. They have all been subject to unsympathetic alteration in their fenestration, doors and roof materials.

...Poor modern infill along Earls Drive and at Worley Mews detracts from the harmony of the area.

5.10 Worley Avenue retains its cohesion and strength of character in its linear form. The site forms a well preserved feature of Low Fell Conservation Area along with the neighbouring gardens, which retain their distinctive linear pattern that is not compromised by modern development. The proposal site, along with the adjacent gardens, is considered to contribute positively to the significance of the Low Fell Conservation Area.

5.11 IPA17 for Low Fell Conservation Area also sets out specific guidance:

There will be a presumption against change involving the sub-division or further sub-division of gardens and grounds, which would contribute to an increased density of development in the Conservation Area. Sub-division and development of this nature would result in an erosion of the essential character of the area and often result in a loss of tree cover.

The mature tree cover and well established gardens in this area are two of the most important factors contributing to the Area's special character. There will be a general presumption against development that would directly or indirectly lead to the loss of trees, hedges and shrubs which contribute to, or which in the future might contribute to, the character of the Conservation Area.

All new buildings should be designed with reference to their surroundings and to respect the character of the Conservation Area. Special regard needs to be paid to the arrangement of plot, plan form,

bulk, height, materials, colour and design of buildings and, if appropriate, the setting of nearby listed buildings.

5.12 Local Plan policy CS15 states:

Development will contribute to good place-making through the delivery of high quality and sustainable design, and the conservation and enhancement of the historic environment. This will be achieved by:

1. Development being required to:

- i. Respond positively to local distinctiveness and character,*
- ii. Create safe and inclusive environments,*
- iii. Ensure connectivity, accessibility and legibility,*
- iv. Respect and enhance significant views and the setting of heritage assets,*
- v. Respond to the unique character and importance of the River Tyne, its tributaries and its setting,*
- vi. Respond positively to opportunities to introduce public art, and*
- vii. Respond to local design and conservation guidance.*

2. Taking a proactive approach to sustaining the historic environment in a manner appropriate to the significance of the relevant heritage asset and requiring development to support and safeguard the historic environment by:

- i. Promoting the use, enjoyment and understanding of the historic environment,*
- ii. Positively responding to those heritage assets which are at risk, and not leaving heritage assets at risk, or vulnerable to risk, and*
- iii. Where appropriate positively adapting heritage assets to ensure the continued contribution to quality of place.*

5.13 Local Plan policy MSGP24 states:

1) The design quality of proposals will be assessed with regard to the following criteria:

- a. The proposal's compatibility with local character including relationship to existing townscape and frontages, scale, height, massing, proportions and form;*
- b. Layout and access;*
- c. Space between buildings and relationship to the public realm;*
- d. Detailing and materials, and;*
- e. The use of a high-quality landscaping scheme, structural landscaping and boundary treatment to enhance the setting of any development*

5.14 Local Plan policy MSGP25 also states:

3. Development which results in the sub-division of gardens and grounds within Conservation Areas will be permitted where:

- a) there is historic evidence to demonstrate that the garden or ground was previously sub-divided into physically separate plots; or*
- b) the development will not harm the historic environment; or*
- c) the development contributes to the restoration of a historic garden or parkland.*

5.15 Additionally, as an objective, Gateshead Placemaking SPD states (at p39):

The heritage value of much of the Borough is integral to its character. The importance of this is in part recognised by the number of buildings which are listed as being of special architectural or historic interest. However, it is not just important individual buildings which make up the character of an area, it is also factors such as urban grain, plot size, street type, landform features, building materials and building scale... Gateshead Council will seek to: Preserve and enhance positive qualities of the Borough's distinctive townscape, landscape and streetscape character

5.16 And as a principle, Gateshead Placemaking SPD states (at p82):

*New developments should be designed with regard to the local context
...
Within areas of distinctive and attractive character development proposals should reinforce the established pattern of the built form, spaces and movement routes.*

5.17 The application proposes to formally sub-divide existing plots: merging three plots of land, then re-dividing this land again, but north to south, resulting in the application site as the western part. This would be directly contrary to IPA17 guidance, and the policies referred to above, and it is considered that the proposal to redevelop the site in such a way would be at odds with the very strong established uniform and repetitive linear pattern of the surrounding streets, and would diminish its positive contribution to the setting, character and appearance of the Conservation Area.

5.18 In their decision letter (paragraph 9), dismissing the appeal for the two dwellings proposed on this and the plot closer to Worley Avenue, the Planning Inspector made the following observations, that remains pertinent for this application: "The proposal would formalise the merging of the three end strips and then subdivide them broadly east-west, as opposed to the prevailing broadly northsouth splits. The result would be two plots lacking the strong linearity of the adjoining strips. Indeed, the width and depth of the two plots created would be distinctly and incongruously at odds with the prevailing plot pattern of surrounding streets and would, for these reasons I conclude, erode the distinct sense of character noted within the CACA for the sub-area of the CA to the west of Durham Road."

- 5.19 Whilst planning permission is not normally required for boundary treatment up to 2m high not adjacent a highway used by vehicles (ie. the fence running north to south delineating an east/west division), this application seeks to formalise the subdivision by creating a relatively square piece of land as a new planning unit. Granting planning permission for the proposed development including the garage and driveway would mean that the merging of the linear sites, running east to west, would not be reversible.
- 5.20 The status of the site as overgrown gardens with substantial trees is valuable to the character of the Conservation Area and not considered to be a concern that requires remedy: the long-term presence of a copse would continue to enhance the area. It is considered that the neglect or abandonment of the plots would not be justification for new development in the Conservation Area.
- 5.21 As with the linear form of the strip gardens adding to its character, the appeal inspector notes (paragraph 8) that “despite the clearance of undergrowth vegetation from the site’s interior, the depth of trees within and around the site are significant and positive contributors to the area’s character and its appearance. Individually, the trees may not be particularly note-worthy. However, as a group within the site and taken with other trees and vegetation on adjacent plots and Earl’s Drive more widely, the site makes a positive and important contribution to the character, appearance and setting of Earls Drive and Worley Avenue and are far from being detrimental to the area’s appearance, as the appellants seek to argue.”
- 5.22 The site is also located close to the edge of the Conservation Area where the quality of the urban area reduces considerably into an estate of C20th semi-detached houses with less green space and fewer mature trees; therefore, retaining the gardens and tree cover is extremely important to maintaining the integrity and special character of the Conservation Area.
- 5.23 With likely loss of 90% of Ash trees within the next 10 years, sycamore will become an increasingly important tree in the landscape, that contributes well to supporting wildlife. None of the trees at this site are considered hazardous or dangerous to persons or property. Whilst it is acknowledged that they do have some growth defects which detract from their individual quality, in this instance their contribution to the area is in terms of their qualities as a group. The trees on site collectively have a very high level amenity value and strongly contribute to the character of the Conservation Area.
- 5.24 The application proposes to remove 8 sycamore trees from the site. In addition to this, the remaining trees on the site would be at a high risk of being detrimentally impacted from the proposal as a result of further damage to their rooting zones as a result of compaction and other construction activities.
- 5.25 The trees are particularly vulnerable to indirect construction activities as there has been extreme disturbance to the soil structure around their roots. It is likely that harm has already taken place as the ground has already been scraped of all vegetation and compacted by machines during this process. It is understood that no precautions, ground protection or barriers to protect the

soil structure have been used in this process resulting in soil compaction. Further, the soil has been contaminated with unwashed hard core and road plainings spread over the site. Harmful contaminants from these will leech into the soil causing further harm to the trees.

- 5.26 The proposal is supported by an Arboricultural Method Statement and Tree protection scheme designed to minimise the harm and impact the proposal will have on the trees on the site. Unfortunately, the principles and recommendations contained in the reports have not been implemented prior to the harm that has already taken place on the site. Further disturbance from the proposed development would add to the harm that has already taken place to the health of the trees on the site. Consequently, the proposed tree protection scheme would be ineffective in protecting the remaining trees on the site.
- 5.27 Policy MSGP36 permits loss of trees where it can be clearly demonstrated that harm can be reduced to acceptable levels through the implementation of positive mitigation and enhancement measures either on site or elsewhere. The proposed replacement hedge and tree planting is welcomed, although the location of some of the trees is not appropriate. The trees to rear of the proposed building would not be able to develop, as they would conflict with the new structure, most are proposed to be located close to each and all along the southern boundary, some very close to the proposed building.
- 5.28 Therefore, whilst the new planting would, in time, go some way to minimising the harm to the existing trees directly impacted by the proposal therefore such trees would be likely to be of a type, size and quality that would make a very limited contribution to the character and appearance of the Conservation Area. The very formal linear arrangement of the proposed new trees would also conflict with the collective unplanned, verdant, tranquil character of the gardens and trees in this location, which acts as a counterpoint to the rhythm and uniformity of the surrounding terraces.
- 5.29 The existing and proposed trees on site may also themselves be subject to longer term resentment from future occupiers and subsequent pressure for removal. This would harm the leafy nature of the area which does much to define its special character.
- 5.30 It is also noted that paragraph 131 of the NPPF sets out the important contribution trees make to the character and quality of urban environments and in helping to mitigate and adapt to climate change, stating that existing trees should be retained where possible.
- 5.31 Therefore, the proposal would, in principle, be fundamentally contrary to planning policies which seek to conserve and enhance the historic environment.
- 5.32 In terms of the design of the building, whilst the proposed materials of slate roof, red brick and stone detailing would be typical of the area, it is considered that the form and bulk of the proposed building would be excessive. It is

acknowledged that there are garage buildings immediately to the west of the site, however, these are established and much more modest and appropriate in scale, although themselves do not positively contribute to the Conservation Area. The addition of a new building close to existing discordant garage buildings and eroding the vegetated garden setting would be detrimental, would not respond positively to local distinctiveness and character, and would be contrary to local design and conservation guidance.

- 5.33 Similarly, it is considered that the proposed vehicle access would allow for open views of the hardstanding and building on site, and would further exacerbate the harm to the established verdant and tranquil nature of the gardens.
- 5.34 In terms of proposed boundary treatment, the submitted site plan shows timber fencing around the north and eastern boundaries, which is already in place, and hedge and replacement trees along the southern boundary. That said, an officer site visit confirmed that there is close boarded timber fence along all boundaries of the site. Particularly along Earls Drive, it is considered that this boundary treatment is excessive, hard, incongruous and directly at odds with the very strong established character of soft, green and open garden areas.
- 5.35 The modern infill development at the southern end of Worley Terrace and on Earls Drive opposite are identified in the Conservation Area Character Statement, as detractors in this area which is relevant when considering this proposal to further infill original gardens with modern development.
- 5.36 However, fundamentally, it is considered that the proposed development would not make a positive contribution to local character and distinctiveness. The proposal does not contribute to the Conservation Area's significance and character, or conserve and enhance the spaces between and around buildings including gardens and boundaries, or meet the requirements permitting subdivision of gardens and grounds.
- 5.37 Paragraph 202 of the NPPF states:

Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.

- 5.38 The proposal would not sustain or enhance the significance of the heritage asset, as required by policy. It would lead to less than substantial harm to the significance of a designated heritage asset. The Planning Inspector, for the dismissed appeal for the two dwellings, on this and the adjoining site, also considered the public benefits of that development and concluded that whilst the delivery of two additional dwellings would support the aim of increasing housing supply, given the modest scale of that development this could only be given very little weight and it did not outweigh the identified harm to the Conservation Area. In this case, there isn't even the public benefit of

increasing housing supply or the modest economic benefits that an additional household would bring. It is considered that the proposal would not bring about any public benefits, and certainly none that would outweigh the identified harm to the heritage asset.

5.39 The application does not demonstrate clear and convincing justification for the harm to the Conservation Area as required by section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

5.40 NPPF paragraph 134 confirms:

Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents which use visual tools such as design guides and codes.

5.41 Therefore, the proposal would cause unacceptable harm to the designated heritage asset and visual amenity of the area, and it is recommended that the application be refused for this reason, in accordance with the NPPF and policies CS15, CS18, MSGP24, MSGP25 and MSGP36 (in terms of impact on trees) of the Local Plan.

5.42 ECOLOGY
Paragraph 174 of the NPPF states:

Planning policies and decisions should contribute to and enhance the natural and local environment by:

(a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);

(b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;

(c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;

(d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;

(e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into

*account relevant information such as river basin management plans;
and*

*(f) remediating and mitigating despoiled, degraded, derelict,
contaminated and unstable land, where appropriate.*

- 5.43 Local Plan policy MSGP37 also requires development to provide net gains in biodiversity.
- 5.44 The application is supported by an Ecological Impact Assessment and a Biodiversity Net Gain Assessment. The latter suggests that based on calculations, the metric indicates a predicted net gain of 0.33 habitat units, constituting a change of 17.16%. However, officers have concerns regarding the assumptions made about both the pre-development habitat baseline and the post-development habitats that could be achieved on site.
- 5.45 The field survey on which the assessment is based was undertaken on 4th February 2023, outside the optimal survey period (April-September) and assessed the site as being dominated by 'Urban-unvegetated garden'. The site photographs show the site to have been recently cleared, with only bare earth remaining around the trees, which would not remain to be the case during the growth season without continued clearance of the site. Additionally, historic aerial photographs of the site from 2020, 2021 and 2022 show the site as being continuously vegetated. Therefore, officers consider that the site would be more appropriately classified as 'Urban – vegetated garden' with mature trees/hedgerows.
- 5.46 It is also considered that it would not be feasible to create 'Lowland Meadow' within the site, as indicated within the Ecological Impact Assessment and Biodiversity Net Gain Assessment. Insufficient information has been provided to demonstrate how this could be achieved, and this also appears to be in conflict with proposals within the submitted Biodiversity Net Gain metric (ie. creation of an area of 'Grassland-Modified grassland'). In either scenario, it is unclear how the site would be secured and maintained as such for a 30 year period.
- 5.47 It is considered that the post-development habitats would be more appropriately identified as 'Urban – Vegetated Garden'. The post-development habitat plan (and associated metric calculation) also fails to take into account the proposed garage and driveway, which raises concerns about the accuracy of the assessment overall. Insufficient information has been provided on the proposed retention of trees/ tree planting to demonstrate how it has been determined that 0.293 habitat units would be provided by the 'Urban Trees' on site post-development, nor how these would be managed and maintained for a period of 30 years in the context of this site.
- 5.48 Therefore, the application does not demonstrate that the development would deliver a genuine net gain in biodiversity or that this is achievable on site in the long term, which is contrary to the aims and requirements of policies CS18, MSGP36 and MSGP37 of the Local Plan.

5.49 HIGHWAY SAFETY AND PARKING

The driveway is proposed to exit onto Earls Drive, and it is acknowledged that the existing on-street parking in this area is known to be in high demand. Transport officers have previously completed numerous spot-check surveys of the area: two of an afternoon and three of an evening/late evening, reviewing the section of Earls Drive from Durham Road to the unnamed rear lane to the west of the site.

- 5.50 Whilst the addition of a new access point on Earls Drive is not ideal, it is considered that it would not be unacceptable in principle in terms of highway safety. The driveway would result in approximately one on-street parking spaces being lost, however, during previous inspections Council officers observed at least two spaces free on the street at any given time (as observed between Durham Road and the unnamed rear lane to the west of the application site). Significantly more unoccupied on-street parking space was observed west of Glenbrooke Terrace.
- 5.51 Regarding the proposed layout, a 2m x 2m pedestrian visibility splay would need to be provided at the vehicle access, accommodated within the curtilage of the site and with nothing above 0.6m in height within this splay. Submitted plans do not demonstrate an appropriate splay, whilst there is potential for this to be achieved on site generally, this would rely on the removal of trees and, in the absence of evidence to the contrary, potential impact on the roots and health of trees proposed to be retained.
- 5.52 Additionally, as above, it is considered that the design of the boundary treatment would cause harm to the Conservation Area, and the application does not propose an appropriate treatment that would both be appropriate in terms of design and providing an adequate visibility splay. As such, it is considered that insufficient information has been submitted with the application to allow the Local Planning Authority to be satisfied that an acceptable visibility splay could be provided at the proposed access.
- 5.53 Notwithstanding the above, although there would be no turning facility for vehicles on site, the application proposes one vehicle access to a site that would not accommodate a dwelling with associated movements/trips, and it is acknowledged that there are existing driveways on Earls Drive that do not allow for vehicle turning. Whilst the ability for vehicles to enter and exit the site in a forward gear is desirable, it is considered that a lack of this provision would not warrant recommendation to refuse the application in itself.
- 5.54 The separation distance between the edge of the new driveway and the unnamed rear lane to the west (to the rear of Glenbrooke Terrace) would be approximately 9.2m, and whilst officers would not anticipate the separation distance shown to be a significant highway safety concern in Planning terms, it is noted that the vehicle dropped crossing protocol, separately regulated by the Council's Network Management team, requires a minimum 10m junction separation distance to be provided for new crossings, as well as a 2m x 2m pedestrian visibility splay.

- 5.55 The heavy parking that occurs along Earls Drive may make manoeuvres into/out of the driveway difficult, however, this is the nature of the location of the applicant's site and the Council would not consider road markings (or similar measures) post-completion of the development to deter instances of indiscriminate parking.
- 5.56 However, insufficient information has been submitted with the application to allow the LPA to be satisfied that vehicles could access and exit the site without resulting in unacceptable harm to highway safety, and/or unacceptable loss of trees, contrary to the aims and requirements of policies CS13 and MSGP15 of the Local Plan.
- 5.57 **RESIDENTIAL AMENITY**
In terms of noise/disturbance, as above, it is considered that the proposal would not result in a material change of use. A new garage/outbuilding in a residential area would not give rise to concerns regarding long term impact in terms of noise, but if the application was recommended to be granted, condition(s) could be imposed relating to hours of construction/works.
- 5.58 The building is proposed to be set back within the site and there would be approximately 13m between the side elevation and the rear offshoot elements at properties on Glenbrooke Terrace to the west. There are also existing single storey garages between the site and these neighbouring properties, albeit at a reduced height and bulk. There are no openings proposed on the western elevation, and it is considered that the proposal would not result in an unacceptable loss of privacy, light or outlook, or unacceptable overbearing impact or overshadowing at these neighbouring residential properties. If planning permission were to be granted, a condition restricting the insertion of new openings at the building could be imposed.
- 5.59 The proposed building would also be approximately 60m away from the front elevations of properties on Worley Avenue to the east, and approximately 19m to the boundary with garden land to the east. It is considered that the proposal would not result in an unacceptable impact on residential amenity at land or properties to the east of the site.
- 5.60 Further, whilst the southern elevation of the proposed building would be almost running along the southern boundary of the site, given there are no openings on this gable elevation and given the orientation and proposed positioning of the building, it is considered that the proposal would not result in an unacceptable loss of privacy, light or outlook, or unacceptable overbearing impact or overshadowing at neighbouring garden land to the south.
- 5.61 Subject to conditions if the application was recommended to be granted, the proposal would not conflict with the aims and requirements of the NPPF and policies CS14, MSGP17 and MSGP18 of the Local Plan.
- 5.62 **OTHER MATTERS**

Whilst the proposal would result in the loss of trees, new planting is also proposed, and it is considered that the impact of the development on climate change would not warrant refusal of the application.

- 5.63 The application is for minor development that would not result in a more vulnerable use, in flood zone 1 and, although within the local authority defined critical drainage area, the site is less than 0.5ha, therefore, a flood risk assessment and a drainage assessment were not required to be submitted as part of the application.
- 5.64 Additionally, it is considered that the proposal would not give rise to a significant increase in anti-social behaviour.

6.0 CONCLUSION

- 6.1 Taking all the relevant issues into account, the development would cause less than substantial harm to the significance of Low Fell Conservation Area, which would not be outweighed by public benefits. The application fails to demonstrate that a Biodiversity Net Gain would be forthcoming and insufficient information has been provided to demonstrate that an acceptable visibility splay can be provided at the site access, without resulting in the damaging loss of trees from the site. Therefore, the proposal would be contrary to section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, the aims and objectives of the NPPF, The National Design Guide, Local Plan policies CS15, CS18, MSGP24, MSGP25 and MSGP36, and the Gateshead Placemaking SPD, and it is recommended that planning permission should be refused.

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:

1

The proposed development would result in less than substantial harm to the significance of the Low Fell Conservation Area by means of inappropriate merging and subdivision of grounds, loss of trees and inappropriate building and boundary treatment design, which would not respond positively to local distinctiveness and character and would be contrary to national and local design and conservation guidance. This harm would not be outweighed by public benefits nor does the application demonstrate clear and convincing justification for the harm to the Conservation Area. The proposal is contrary to the aims and objectives of the National Planning Policy Framework, The National Design Guide, Local Plan policies CS15, CS18, MSGP24, MSGP25 and MSGP36, and the Gateshead Placemaking SPD.

2

The application does not demonstrate that the development would deliver net gain in biodiversity or that this is achievable on site in the long term, contrary to the National Planning Policy Framework and policies CS18, MSGP36 and MSGP37 of the Local Plan.

3

Insufficient information has been submitted with the application to allow the Local Planning Authority to be satisfied that an appropriate visibility splay could be achieved on site so vehicles could access and exit the site without resulting in unacceptable harm to highway safety or an unacceptable loss of trees. This is contrary to the aims and requirements of the National Planning Policy Framework and policies CS13 and MSG15 of the Local Plan.



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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 07.04.23 and ending 03.05.23 the enforcement team has received 146 new service requests. The enforcement team currently has 632 cases under investigation.

TYPE OF SERVICE REQUEST	NEW SERVICE REQUESTS RECEIVED	CASES ALLOCATED TO OFFICER	CASES RESOLVED	UNDER INVESTIGATION	PENDING PROSECUTIONS
Planning	35	10	23	263	1
Empty/vacant properties & sites	5	5	0	79	0
Highways	18	2	10	150	0
Abandoned vehicles	42	17	40	17	0
Waste investigations	46	27	3	123	0
TOTALS	146	61	76	632	1

COURT HEARINGS
No court hearings have occurred in this period.



**REPORT TO PLANNING AND
DEVELOPMENT COMMITTEE**

17th May 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>	<p>04.05.2023 – The Environment Agency have attended and assessed the site in relation to green waste, environmental permits, vehicles, and vehicle parts storage.</p> <p>They have no concerns with the site and are not proposing any further action. Site owner has provided details to the local authority of all vehicles on site and has given assurances that the site will be tidied further.</p> <p>Ongoing monitoring to ensure improvement is made. Proposal to remove from future reports as current status does not warrant enforcement action.</p>
	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>	<p>04.05.2023 – Site meeting took place with with owner, Environment Agency, Planning, Enforcement and consultant on 03.05.23.</p> <p>Agreed on action that is required by owner to ensure compliance and required timescales. Ongoing monitoring in place to ensure the works continue and conditions are met.</p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	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>	<p>04.05.2023 – Site meeting took place with with owner, Environment Agency, Planning, Enforcement and consultant on 03.05.23.</p> <p>Agreed on action that is required by owner to ensure compliance and required timescales. Ongoing monitoring in place to ensure the works continue and conditions are met.</p>
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>	<p>04.05.2023 – Ongoing monitoring to ensure works continue. Good progress being made.</p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Case History	Current Update
5.	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> <p>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.</p>	04.05.2023 – Ongoing monitoring to ensure compliance. Site visit arranged with Owner and agent for 01.06.23
6.	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</p>	04.05.2023 – Ongoing monitoring to ensure compliance. Site visit arranged with Owner and agent for 01.06.23

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>further enforcement action.</p> <p>Notices have not been responded to and are being pursued.</p> <p>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.</p>	
7. Page 55	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>	<p>04.05.2023 – Work is continuing to progress demolition costs and methodology by construction services.</p> <p>The building had recently been secured with perimeter fencing but this has already been damaged. This may have been by TWFRS following a further fire.</p> <p>Owner requested to repair this immediately or works will be carried out in default by the local authority.</p>

Item Number	Site	Ward	Alleged Breach of Planning Control	Date Approval given for Enforcement Action	Date Served	Date Notice comes into Force	End of Compliance Period	Case History	Current Update
8.	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.	04.05.2023 – site visited 19.04.23 and the unauthorised development has been removed. Notice has been substantially complied with and the breach of planning control resolved.
9.	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.	04.05.2023 – site visited 19.4.23 April and the unauthorised use as storage has ceased. Notice has been substantially complied with and the breach of planning control resolved.



**REPORT TO PLANNING AND
DEVELOPMENT COMMITTEE
17 May 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 has been **one** new appeal lodged since the last committee:

DC/21/00595/TPO - 42 Woodlands Park Drive, Axwell Park, Blaydon NE21 5PQ
Tree works at 42 Woodlands Park Drive (amended 11/06/21).
This was a delegated decision granted on 19 May 2022

Appeal Decisions

3. There have been **no** new appeal decisions received since the last Committee.

Appeal Costs

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

Outstanding Appeals

5. Details of outstanding appeals can be found in **Appendix 2**.

Recommendation

6. It is recommended that the Committee note the report

Contact: Emma Lucas Ext: 3747

FINANCIAL IMPLICATIONS

Nil

RISK MANAGEMENT IMPLICATIONS

Nil

HUMAN RESOURCES IMPLICATIONS

Nil

EQUALITY AND DIVERSITY IMPLICATIONS

Nil

CRIME AND DISORDER IMPLICATIONS

Nil

SUSTAINABILITY IMPLICATIONS

Nil

HUMAN RIGHTS IMPLICATIONS

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

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

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

WARD IMPLICATIONS

Various wards have decisions affecting them in Appendix 3.

BACKGROUND INFORMATION

Start letters and decision letters from the Planning Inspectorate

APPENDIX 2

OUTSTANDING APPEALS

Planning Application No	Appeal Site (Ward)	Subject	Appeal Type	Appeal Status
DC/21/00595/TPO	42 Woodlands Park Drive Axwell Park Blaydon NE21 5PQ	Tree works at 42 Woodlands Park Drive (amended 11/06/21)	Written	Appeal in Progress
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 Of Pelaw Youth Centre Shields Road Felling Gateshead NE10 0YH	CERTIFICATE OF LAWFULNESS FOR EXISTING USE OR DEVELOPMENT: Use of land as private general amenity space (Sui Generis). (Additional	Written	Appeal in Progress

		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



REPORT TO PLANNING AND DEVELOPMENT COMMITTEE

17 May 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 17 May 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