

Committee Report

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

1.0 The Application:

1.1 BACKGROUND

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

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

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

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

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

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

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

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

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

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

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

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

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

Wider site

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

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

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

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

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

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

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

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

Adjacent site (St Hilda's Church)

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

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

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

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

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

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

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

2.0 Consultation Responses:

Tyne and Wear Archaeologist

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

Historic England

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

Battlefields Trust

No response received

National Grid

No response received

3.0 Representations:

3.1 Neighbour notifications were carried out in accordance with the formal procedures introduced in the Town and Country Planning (Development Management Procedure) Order 2015, including the display of 2no. site notices.

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

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

4.0 Policies:

NPPF National Planning Policy Framework

NPPG National Planning Practice Guidance

CS5 Employment-Economic Growth Priorities

CS8 Leisure, Culture and Tourism

CS13 Transport

CS14 Wellbeing and Health

CS15 Place Making

CS19 Green Belt

MSGP15 Transport Aspects of Design of Dev

MSGP17 Residential Amenity

MSGP18 Noise

MSGP23 Areas of Special Character

MSGP24 Design Quality

MSGP25 Conservation/Enhancement Heritage Assets

MSGP26 Heritage at Risk

MSGP27 Archaeology

MSGP34 Dev in Settlements within Green Belt

GPGSPD Gateshead Placemaking Guide SPG

5.0 Assessment of the Proposal:

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

keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”.

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

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

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

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

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

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

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

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

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

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

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

5.49 HERITAGE CONSIDERATIONS

The application site is located within the Battle of Newburn Ford 1640 Registered Battlefield. The application is supported by a Heritage Statement.

5.50 NPPF Paragraph 199 states that when considering the impact of a proposed development on the significance of a designated heritage asset great weight should be given to the conservation of the asset, irrespective of the level of harm to its significance. NPPF Paragraph 200 continues by stating that any harm or loss of significance requires clear and convincing justification. As at Paragraph 202, where the development will lead to less than substantial harm, the harm should be weighed up against the public benefits of the proposal.

5.51 Local Plan policy CS15 requires development to contribute to good place-making through the conservation and enhancement of the historic environment. This is supported by policy MSGP25, which seeks to conserve and enhance heritage assets, policy MSGP26 (MSGP26.1), which states that the significance of the Battlefield will be protected, sustained and enhanced, and policy MSGP27, which requires development to sustain, conserve and enhance the Borough's archaeological legacy.

5.52 The Oxford Archaeology 2018 Historic England project NHPP 4EI: Strategic Research for the Registered Battlefields at Newburn Ford and Boroughbridge: Newburn Ford Report provides an appraisal of the Battlefield and divides this into character areas. The application site is within Character Area 4 which is an area of moderate sensitivity and capacity for change, with little archaeological potential.

5.53 Taking into consideration the proposals and site it is considered that the proposed development would not have a detrimental impact upon the Registered Battlefield. Furthermore, the proposed development would utilise a raft foundation at and above existing ground level; as such it is considered that the proposed development would not have any significant impact on any known heritage asset and no archaeological work is required.

5.54 On the basis of the above the proposed development is considered to be acceptable in respect of impact upon heritage assets, including archaeology, and accords with the NPPF and policies CS15, MSGP25, MSGP26 and MSGP27 of the Local Plan for Gateshead.

5.55 COMMUNITY INFRASTRUCTURE LEVY (CIL)

On 1st January 2017 Gateshead Council became a Community Infrastructure Levy (CIL) Charging Authority. This application has been assessed against the Council's CIL charging schedule and the development is not CIL chargeable development as it is not for qualifying retail or housing related.

5.56 OTHER CONSIDERATIONS

5.57 Green Belt

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- 5.71 In relation to circumstance 8, Officers acknowledge that the site provides a visitor attraction, support for which is given under Local Plan policy CS8. Weight must however be given to the Inspector's decision which refers to trade and the economy however concludes that this and the other circumstances highlighted in the appellant's case would not outweigh the harm to the Green Belt. Therefore, Officers consider that this is not sufficient to outweigh the harm to the Green Belt and any other harm.
- 5.72 Regarding circumstance 9, in dismissing the appeal the Inspector concluded that whilst this would result in workers and customers with special needs being unable to visit or be employed at the café, there was "*...no clear distinction that the café provides special requirements for those with specific needs that other businesses cannot provide. The loss of the café would not prevent workers from obtaining employment elsewhere nor would it affect customers' ability to visit other establishments*".
- 5.73 Officers acknowledge the applicant's comments about the beneficial opportunities that the nursery provides for a variety of users, although note that this argument appears to relate to the garden centre/nursery, rather than the café which is the subject of this planning application; no evidence has been provided to demonstrate that the loss of the café would undermine the community service role of the nursery. Notwithstanding this, giving weight to the 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

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

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

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

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

7.0 **Recommendation:**

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

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

2

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



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