

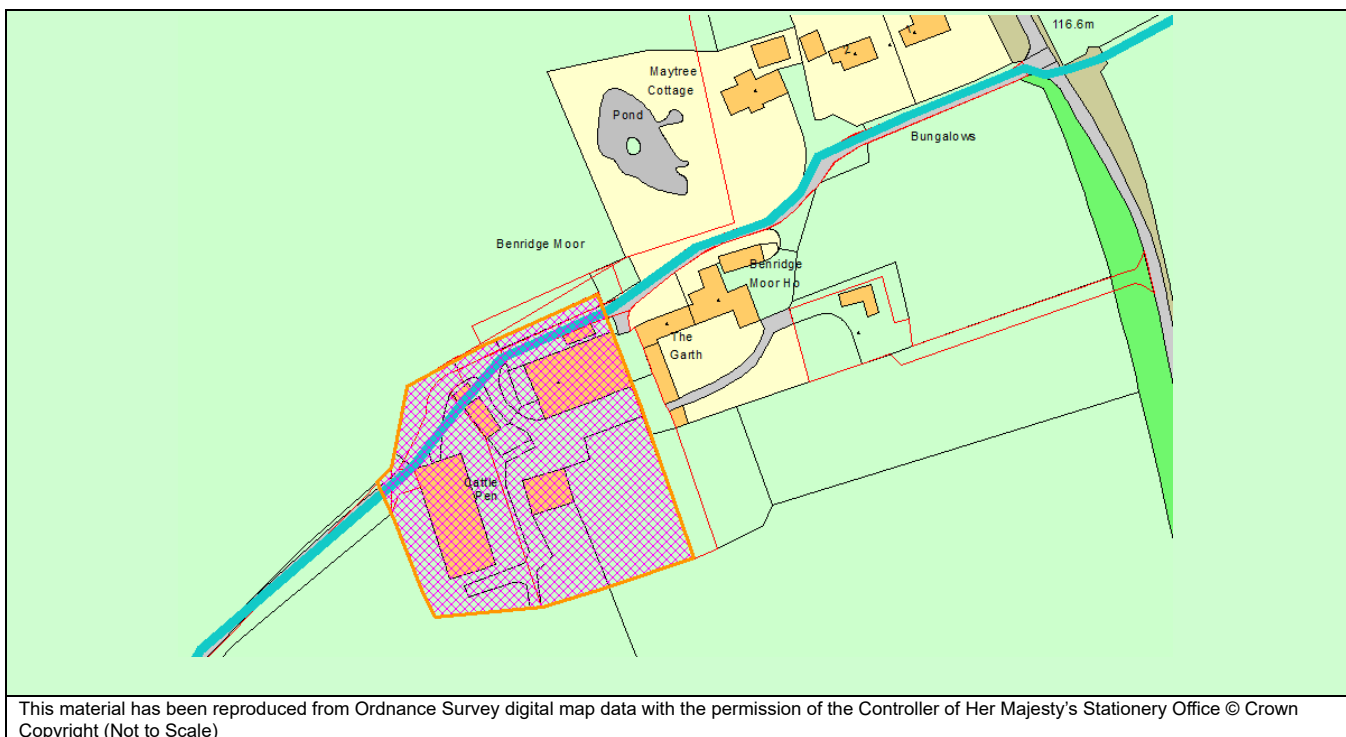


# Northumberland County Council

## CASTLE MORPETH LOCAL AREA COUNCIL 9 MARCH 2020

<b>Application No:</b>	18/01840/FUL		
<b>Proposal:</b>	Demolition of existing farmstead and erection of 3 No dwelling houses.		
<b>Site Address</b>	Benridge Moor Farm, Longhorsley, Morpeth, Northumberland, NE61 3SD		
<b>Applicant:</b>	Mr Clippingdale C / O George F White,	<b>Agent:</b>	Mr Craig Ross 4-6 Market Street, Alnwick, NE66 1TL,
<b>Ward</b>	Pegswood	<b>Parish</b>	Hebron
<b>Valid Date:</b>	31 May 2018	<b>Expiry Date:</b>	10 August 2018
<b>Case Officer Details:</b>	Name: Mr Richard Laughton Job Title: Planning Officer Tel No: 01670 622628 Email: richard.laughton@northumberland.gov.uk		

**Recommendation:** That this application be REFUSED permission



## 1. Introduction

1.1 The application is being determined by the Castle Morpeth Local Area Council due to the application history and significant planning issues in relation to the Green Belt.

1.2 The application has previously been referred to the Castle Morpeth Local Area Council Planning Committee on two separate occasions on 12<sup>th</sup> November 2019 and 11<sup>th</sup> March 2019.

1.3 After members resolved that the application be approved against officers recommendation on 12<sup>th</sup> November 2019, the application was referred back to the planning committee by the Interim Director of Planning as upon review of the decision members' discussion of the application did not address the harm to the Green Belt and if the very special circumstances exist on a sound NPPF-compliant basis. The application was then refused at the planning committee on 11 March 2019 and the decision notice was issued on 18 March 2019.

1.4 The applicant challenged this decision via a Judicial Review on grounds alleging that the decision was ultra vires or an abuse of power, contrary to or in breach of a legitimate expectation, and breach of the Council's duty of fairness (failure to provide 5 clear working days' notice of the meeting on 11 March 2019). The decision was subsequently quashed by consent as follows:

**'UPON** the Claimant and the Defendant agreeing:-

1. That the Defendant's decisions to refer planning application 18/01840/FUL ('the application') back to the Castle Morpeth Local Area Council Planning Committee ('the Planning Committee') at its meeting on 11 March 2019 and the Committee's decision to refuse planning permission at that meeting were neither *ultra vires* the Defendant's constitution nor an abuse of power (in that respect or otherwise); and
2. That the decision made on 11 March 2019 to issue a decision notice refusing planning permission in respect of the application was not contrary to or in breach of any legitimate expectation arising from the resolution that the Planning Committee made on 12 November 2018 to grant planning permission; but
3. That the Defendant's failure to provide the Claimant's agent with 5 clear working days' notice of the Planning Committee's meeting on 11 March 2019 was in breach of its duty of fairness to the Claimant in respect of its handling of the application.

**AND UPON** the Defendant undertaking:-

1. To refer the application back to the Planning Committee on a date after 31 October 2019 but before the 31 March 2019 and doing so only after giving the Claimant's agent 5 clear working days' notice of the relevant meeting in writing.

**IT IS ORDERED BY CONSENT THAT:-**

1. Notice of refusal of planning permission (application 18/18040/FUL) dated 18 March 2019 be quashed; and
2. The Defendant shall pay the Claimant's costs of and incidental (*sic*) to the

instant claim to the 30 July 2019 and such further costs as are reasonably incurred in taking advice on a (*sic*) deciding whether to accept the offer of settlement to be subject to detailed assessment if not agreed.'

1.5 The purpose of this officer report is to present the Case Officer's consideration of and recommendation in respect of the current application in accordance with the terms of the order set out above. Members are requested to consider the application afresh, i.e. as if it had not previously been considered by them. Previous reports are not attached, but may be made available for information purposes only.

## **2. Description of the Proposals**

2.1 Planning permission is sought for the demolition of the existing farmstead and erection of 3 No dwelling houses at Land East Of Benridge Moor House, Longhorsley, Northumberland.

2.2 The three separate agricultural structures on site comprise of varying degrees of condition and scale including materials such as brick, metal sheeting and timber boarding to external walls. The site was subject to a prior approval (Ref:17/02685/AGTRES) to convert the 3 main structures to dwellings under a prior approval application but was refused as it was considered that the level of works required would involve substantial structural additions that are considered to be above and beyond 'building operations reasonably necessary'. This was based on the condition of the existing structures and proposed works. Another prior approval application (Ref:18/03164/AGTRES) was subsequently refused for the same reasons on 28<sup>th</sup> November 2018.

2.3 The application seeks to demolish the agricultural buildings on site and replace with 3 detached dwellings rather than a conversion. The submitted planning statement states that the applicant wishes to pursue the redevelopment of the site for residential accommodation rather than upgrade the existing steading including refurbishment of the existing agricultural buildings. The proposed dwellings would be large 4 bedroom detached properties constructed with traditional stonework and sited over the footprint of the existing barns and utilising the existing access.

2.4 The site is located within a small hamlet approximately 650m to the north east of Pigdon. Benridge Moor comprises 5 dwellings and agricultural buildings that lie within the Open Countryside. Heighley Gate Garden site is located approximately 900m to the north west with access via a public footpath.

2.5 The applicant has submitted additional information in which it contends that these seven considerations constitute - individually and cumulatively - 'Very Special Circumstances':

- It is neither appropriate nor desirable for the disused buildings to continue in agricultural use;
- The provision of three new dwellings and the economic, social and environmental benefits that would arise from this;
- The contribution to rural housing, the regeneration of a redundant farmstead and the resulting support of future occupiers for local communities and the rural economy etc.;

- The improvement in the appearance of the Site and surrounding landscaping and the improvement to local amenity;
- The reduction in built form on the Site (with a c.48% decrease in built volume) including in terms of scale, height and footprint (likely resulting in an improvement to GB openness);
- The low levels of local traffic that would result from the Proposed Development;
- The unanimous support of neighbours

These are considered further below.

### 3. Planning History

**Reference Number:** 15/03815/FUL

**Description:** Change of use of agricultural shed into 1no. four bedroom dwelling with attached garaging. Conversion of 2no. small sheds to stabling adjacent to proposed dwelling.

**Status:** Refused

**Reference Number:** 17/02685/AGTRES

**Description:** Notification of prior approval for conversion of three agricultural buildings to provide 3 dwelling houses.

**Status:** Refused

**Reference Number:** 18/00017/AGTRES

**Description:** Change of use of existing agricultural buildings to two dwelling houses

**Status:** Withdrawn

**Reference Number:** 18/03164/AGTRES

**Description:** Change of use of 3 agricultural buildings to dwelling houses.

**Status:** Refused

### 4. Consultee Responses

Hebron Parish Council	No response received.
Highways	No objections subject to conditions
Public Protection	No objections subject to conditions
County Ecologist	No objections subject to conditions
Countryside/ Rights Of Way	No objections
Lead Local Flood Authority (LLFA)	No objections
Northumbrian Water Ltd	No objections

## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	5
Number of Objections	1
Number of Support	12
Number of General Comments	1

### Notices

Site notice - Public Right of Way, 5th June 2018 & 31<sup>st</sup> January 2020

Morpeth Herald 14th June 2018

### **Summary of Responses:**

#### Supporting comments from local residents

- Plans would enhance area and provide a safer environment
- Visual improvement to Benridge Moor and Open Countryside
- Unsuitable site for farm traffic and vehicles

#### Objection from local resident

- Site could do with a 'tidy up' but not a housing site
- Site is isolated and out of place
- Site could be redeveloped for agriculture and less obtrusive than new housing
- Housing would increase traffic to site
- Housing should be directed to areas such as Morpeth and not open countryside.

The above is a summary of the comments. The full written text is available on our website at:

<http://publicaccess.northumberland.gov.uk/online-applications//applicationDetails.do?activeTab=summary&keyVal=P94JWPQSGP700>

## 6. Planning Policy

Morpeth Neighbourhood Plan 2011-2031 (Made 10th May 2016)

Policy Sus1- Sustainable Development Principles

Policy Des 1 –Design Principles

Policy Set1- Settlement Boundaries

Policy Env1- Landscape and Wildlife Corridors

Policy Tra3 – Transport Requirements for New Developments

CMDLP (2003) ('CMDLP')

C1 – Settlement Boundaries

C11 – Protected Species

C15 – Trees in the Countryside and Urban Areas

C16 – Green Belt

C17 – Green Belt  
RE6 – Service Infrastructure  
RE8 – Contaminated Land  
RE9 – Ground Stability  
H1 – Housing Land Supply  
H9 – Affordable Housing in Rural Areas  
H15 – New Housing Developments  
H16 - Housing in the Countryside  
R8 - Public Footpath and Bridleways

Saved Policy S5 of the Northumberland County and National Park Joint Structure Plan First Alteration (February 2005)

### 6.2 National Planning Policy

National Planning Policy Framework (February 2019)  
National Planning Practice Guidance (current)

### 6.3 Other Documents

Northumberland Local Plan Publication Draft Plan (Regulation 19) (Examination Stage) ('NLP')

Policy STP 1 Spatial strategy (Strategic Policy)  
Policy STP 2 Presumption in favour of sustainable development (Strategic Policy)  
Policy STP 3 Principles of sustainable development (Strategic Policy)  
Policy STP7 Strategic approach to the Green Belt  
Policy STP 8 Development in the Green Belt  
Policy HOU 2 Provision of new residential development (Strategic Policy)  
Policy HOU8 Residential development in the Open Countryside  
Policy HOU 9 Residential development management  
Policy QOP 1 Design principles (Strategic Policy)  
Policy QOP 2 Good design and amenity  
Policy QOP 4 Landscaping and trees  
Policy QOP 5 Sustainable design and construction  
Policy QOP 6 Delivering well-designed places  
Policy TRA 1 Promoting sustainable connections (Strategic Policy)  
Policy TRA 2 The effects of development on the transport network  
Policy TRA 4 Parking provision in new development  
Policy ENV 1 Approaches to assessing the impact of development on the natural, historic and built environment (Strategic Policy)  
Policy ENV 2 Biodiversity and geodiversity 1  
Policy WAT 1 Water quality  
Policy WAT 2 Water supply and sewerage  
Policy POL 1 Unstable and contaminated land  
Policy POL 2 Pollution and air, soil and water quality  
Policy INF5 Open Space and facilities for Sport and Recreation

In February 2019 the Government published an updated National Planning Policy Framework (the NPPF). The policies within this Framework are material considerations which Local Planning Authorities should take into account from the day of its publication. The NPPF operates under a presumption in favour of sustainable development which is at the heart of the NPPF. It states that development proposals which accord with the development plan should be approved

without delay unless material considerations indicate otherwise. The NPPF also provides specific policy guidance on development proposals which is, in itself, a material consideration in the determination of such schemes.

The adopted Development Plan for the area within which the application site is located comprises:

- the Morpeth Neighbourhood Plan 2016;
- saved Policies of the CMDLP, adopted in 2003; and
- saved Policy S5 in the Northumberland County and National Park Joint Structure Plan First Alteration (February 2005) (Policy S5 establishes the general extent of an extension to the Tyne and Wear Green Belt around Morpeth).

### Housing Land Supply

In accordance with the NPPF, the Council is required to identify and update annually a supply of specific deliverable sites sufficient to provide five year's worth of housing against their housing requirement. The five year housing land supply position, as well as the Housing Delivery Test, is pertinent to proposals for housing in that paragraph 11(d) and corresponding footnote 7 of the NPPF indicates that the presumption in favour of sustainable development applies where a Local Planning Authority cannot demonstrate a five-year supply of deliverable housing sites or where recent housing delivery is below a 75% threshold. This situation is the principal means (albeit not the only way) by which existing policies relevant to housing can be deemed out-of-date.

As identified in the Northumberland Strategic Housing Land Availability Assessment (September 2019), the Council can demonstrate a plentiful five-year housing land supply from 'deliverable' sites against the County's minimum Local Housing Need figure. Using the 2014-based household projections for the 2019-2029 period, together with the latest 2018 affordability ratio, gives a minimum Local Housing Need of 676 dwellings per annum (Figure 3). Allowing for the 5% buffer therefore means that the SHLAA's identified 7,956 dwellings 'deliverable' supply would equate to a 11.2 years housing land supply (Figures 12-14).

The Housing Delivery Test result records that Northumberland achieved 197% delivery against its minimum housing need for the initial three years 2015-18, while delivery over the last three years 2016-19 means that the HDT result for 2016-19 is expected to be even higher at 238% (Figure 2).

Therefore, in the context of paragraph 11(d) and footnote 7 of the NPPF, the presumption in favour of sustainable development does not apply.

That said, the presumption is also displaced by virtue of paragraph 11(d)(i) and footnote 6, since the site is within the Green Belt and application of that policy provides a clear reason for refusal

## 7. Appraisal

7.1 The relevant planning consideration in the determination of this application are as follows:

- Principle of Development
- Design and Visual Amenity
- Impact on Residential Amenity
- Highway Safety
- Ecology
- Land Contamination

### Principle of Development

#### *Open Countryside*

7.2 The application site lies in an area beyond the settlement boundaries of Morpeth as defined in both the Morpeth Neighbourhood Plan and CMDLP (2003). Morpeth Neighbourhood Plan Policy Sus 1 states that proposals for new development will be expected to be accommodated within settlement boundaries defined in the neighbourhood plan other than in those circumstances defined in Policy Set1. Morpeth Neighbourhood Plan Policy Set 1 states that:

*“Areas outside the settlement boundaries will be treated as open countryside where development will only be supported where it serves or supports the following purposes or activities:*

- A. Farming and other land based rural businesses, or the sustainable diversification of these activities; or*
- B. Existing business and enterprises; or*
- C. A sustainable visitor attraction that is related to the experience or interpretation of the countryside or a sustainable leisure development which respects the character of the countryside where needs are met by existing facilities within settlement boundaries; or*
- D. The development of local services and community facilities to support a rural community; or*
- E. Housing that meets the criteria in paragraph 55 of the NPPF; or*
- F. Appropriately designed extensions to existing buildings, including extensions to dwellings, which are subservient to and respect the scale and appearance of the existing building”.*

It is considered that the proposal would be compliant with Policy Set1 if it accords with or does not breach both paragraphs 78 and 79 in the new NPPF (February 2019) (paragraph 55 of the previous NPPF).

7.3 The site also falls outside a defined settlement boundary in the Proposals Map and under saved Policy C1 (settlement limits). The proposal is therefore identified as ‘open countryside’ and Policy C1 of the CMDLP restricts development beyond settlement limits unless in accordance with the relevant criteria of the identified policies within the plan. This includes CMDLP Policy H16 which states that new houses in the open countryside will only be permitted if:



- “i) they are required in connection with the day-to-day operation of an agricultural or forestry enterprise;*
- ii) it can be clearly shown that it is essential for a full time worker to live adjacent to his or her place of work;*
- iii) the unit and agricultural activity concerned have been established for at least three years, have been profitable for at least one of them, are currently financially sound, and have a clear prospect of remaining so;*
- iv) the accommodation cannot be provided by the conversion of an existing building on the holding;*
- v) there are no suitable dwellings in the area available for occupation by that worker”.*

7.4 As the new dwelling would not conform to these criteria, it would be contrary to Policies C1 and H16 as no such exceptions have been demonstrated.

7.5 At its current stage, some weight can be afforded to the Northumberland Local Plan and Policy STP1 of the NLP directs new development towards the ‘Main Towns’ and ‘Service Centres’ of the County. It further states that sustainable development will be supported within the constraints of the Green Belt and settlement boundaries defined on the Local Plan policies map or in neighbourhood plans. Sustainable development within the built up form, or immediately adjacent to Main Towns, Service Centres and Service Villages without defined settlement boundaries, will be supported if is commensurate with size of the settlement, and it can be demonstrated that it does not adversely impact upon the character of the settlement;

*e) In order to support the social and economic vitality of rural areas, and recognising that development in one village can support services in a nearby village, small scale sustainable development within, or immediately adjacent to the continuous built form of settlements not listed in this policy, will be supported if it:*

- i. Retains the core shape and form of the settlement; and*
- ii. Does not adversely impact upon the character and appearance of the settlement, the rural setting of the settlement or the surrounding countryside; and*
- iii. Does not increase the number of dwellings in the settlement over the plan period by more than 10%.*

7.6 Policy HOU 2 of the NLP states that the provision of new residential development should make the best and most efficient use of land and buildings, encouraging higher densities in the most accessible locations and prioritising the redevelopment of suitable previously-developed ‘brownfield’ sites wherever possible and viable to do so.

7.7 Turning then to the NPPF, paragraph 78 states that:

*“ To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby”.*

7.8 Paragraph 79 states that:

*“Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*

- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
- b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
- c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
- d) the development would involve the subdivision of an existing residential dwelling;*  
*or*
- e) the design is of exceptional quality, in that it:*
  - is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*
  - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area”.*

7.9 The site is agricultural that lies within the open countryside and is detached from a village or large settlement. It is accepted however, that - as it is situated to the west of a small hamlet of 5 dwellings - it cannot be considered as an ‘isolated’ location and is therefore not required to fall within any of the exceptions within paragraph 79 of the NPPF. In the context of paragraph 78 however, the site is located within a small cluster of properties and not in a ‘village’. Neither are there services in a village nearby that the additional housing would help support.

7.10 The applicant has submitted a supporting opinion from leading counsel that interprets paragraph 78 as referring more generally to ‘local services’ including rural services which are not located in a village, such as Heighley Gate Garden Centre.

7.11 Heighley Gate is an isolated Garden Centre and not within a settlement, therefore not relevant to the objective of paragraph 78 which is to *“identify opportunities for villages to grow and thrive”* – whether by development in that or another settlement. The wider interpretation of paragraph 78 referred to above is not agreed by counsel advising the Council. As the site is outside of settlement boundaries, it is also not in accordance with the CMDLP principles of maintaining the rural character of the open countryside, nor is it supporting services in other rural settlements, as set out within the NPPF and Policy Set 1 of the Morpeth Neighbourhood Plan.

7.12 Overall, the proposal would be unjustified development within the open countryside and would be contrary to Morpeth Neighbourhood Plan Policies Sus 1, Set 1 and the NPPF paragraph 78. In addition the proposal would be contrary to CMDLP Policy C1 as the proposal can not be justified as being essential to the needs of agriculture or forestry. It should not be permitted pursuant to CMDLP Policy H16 as this only allows new housing in the open countryside where it is required in connection with the day-to-day operation of an agricultural enterprise and where the proposal accords with other criteria.

## *Sustainability*

7.13 Section 2 of the NPPF identifies the purpose of the planning system to meet sustainable development with 3 overarching objectives; economic, social and environmental.

7.14 In terms of the economic role, proposals should be located in the right places at the right time to support growth. As the Authority can demonstrate a 5 year housing land supply and therefore, up to date housing policies within the development plan as a whole, there has to be weight given to these policies and the principles of directing development towards existing towns and villages to prevent the unnecessary intrusion of development into the countryside. There would be an economic benefit through the construction phase of 3 dwellings although this would be a minor contribution that would not justify or explain the location of this development within the open countryside.

7.15 Turning to the social role, the site is generally isolated from other settlements that offer access to essential services. There are no existing footways or street lighting in the vicinity and no immediate links to regular public transport. The neighbouring settlements and hamlets such as Pigdon and Espley offer no form of public services. It is acknowledged that Heighley Gate Garden Centre is located to the east of the site but via an unlit public footpath/track across open fields approximately 900m away. The facility available may offer some form of ancillary uses but the site is predominantly a garden centre.

7.16 The application has been further supported with information to claim that the site is within 'reasonable' walking distance to Heighley Gate Garden Centre and makes reference to an application for housing at Hebron Hill approved back in 2017 with a comparison of walking distances to bus stops and car travel times further afar to Morpeth. Whilst both sites share comparisons with their rural surroundings, the Hebron Hill site is near the village of Hebron with shorter walking distances to bus stops. In any instance, the proposed application should be assessed on its own merits and proposals should not rely on private transport to reduce carbon emissions and steer development to accessible and sustainable locations.

7.17 Paragraph 8 of the NPPF states that development should be accessible to services and whilst only some weight can be afforded to the NLP, Policy STP 4 of the NLP ensures development proposals should mitigate climate change and contribute to meeting targets to reduce greenhouse gas emissions. It states that "*When determining planning applications, consideration will be given to how development proposals:*

*a. Through their location, layout and pattern of development, reduce the need to travel for both people and goods, and encourage sustainable modes of transport, including walking, cycling and the use of public transport*".

7.18 As previously highlighted, the public right of way from the Garden Centre is a field access with no formal hardstanding or lighting. In particular the natural landscape would provide challenging terrain, especially through the winter months and during complete darkness at night. Furthermore, there are no bus stops or public transport connections nearby. The site has a poor level of connectivity to Heighley Gate Garden Centre which is also not recognised as a settlement. As there will be a

reliance on a vehicle for everyday services to Morpeth and settlements beyond, the application is not within a sustainable location. It is not considered that proximity to the Garden Centre or other factors suggest that the proposal would meet the social objectives of sustainable development.

7.19 The scheme would replace agricultural buildings that are currently in a poor state of repair with housing and associated landscaping. The site is not considered as previously developed land within the NPPF (it is or was last occupied by agricultural buildings) and therefore, as a greenfield site, there are no overriding environmental benefits.

7.20 Overall, the proposal would not meet the sustainability objectives within the NPPF and in particular would not be located within in an area that is accessible to everyday facilities.

### *Green Belt*

7.21 Northumberland Structure Plan Policy S5 established the general extent of a Green Belt extension around Morpeth. While the plan did not define a detailed outer boundary or boundaries to settlements located within the general extent, as worded in Policy S5, the settlement boundary for Morpeth as identified in the Morpeth Neighbourhood Plan effectively forms the basis of the inner Green Belt boundary for all decision-making during the interim period. As such, given the site falls outwith the defined settlement boundary in the Morpeth Neighbourhood Plan and clearly falls within the proposed Green Belt, under the Joint Structure Plan(JSP) Policy S5 definition, it is considered that the application site is located within the Green Belt extension. Appeal decisions ref: APP/P/2935/W/17/31677263 at High House Lane, and Appeal Ref: APP/P2935/W/17/3167852 Lynebank, B1337 Ulgham Village Main Road, Ulgham NE61 3AW, set out a consistent approach for establishing whether a site lies in the general extent of the Green Belt extension where no boundaries have been clearly defined. It is considered appropriate that this same approach should be applied in this case.

7.22 To determine whether the site is within the general extent of the Green Belt, an assessment of the sites contribution towards the Green Belt purposes needs to be made. Both Inspectors referred to another appeal decision by the Secretary of State on an appeal for 'Land off Avon Drive' near York where it was concluded that it is enough for a site to make a contribution to one of these purposes for it to be within the general extent of the Green Belt.

7.23 In terms of the site's contribution to the five purposes of the Green Belt as defined by paragraph 80 of the Framework, the first Green Belt purpose is "to check the unrestricted sprawl of large built up areas". The site is not near a large built up area and does not act as a barrier to the unrestricted sprawl therefore it does not make a contribution to the first Green Belt purpose. The proposal would also not lead to "neighbouring towns merging into one another", and the second Green Belt purpose is therefore not an issue. The third Green Belt purpose is to "assist in safeguarding the countryside from encroachment". The proposed development would represent an encroachment into the countryside and contributes to the third Green Belt purpose. The fourth Green Belt purpose is "to preserve the setting and special character of historic towns". It is considered that the site does not make a significant contribution to the fourth Green Belt purpose. The fifth Green Belt purpose

is “to assist in urban regeneration, by encouraging the recycling of derelict and other urban land”. The inclusion of the site in the Green Belt would direct development to urban areas, including potentially suitable sites within Morpeth, thereby contributing to urban regeneration. As such, the site contributes to the third and fifth of the Green Belt purposes. It can therefore be concluded that the site is within the general extent of the Green Belt as established by Policy S5 of the JSP.

7.24 Some weight can be afforded to the NLP which includes the site within the Green Belt under the proposal maps and specific policies STP7 & STP8 state a consistent approach with Green Belt guidance with the NPPF.

7.25 The next step in a Green Belt analysis involves identification whether the proposal is for appropriate or inappropriate development. Both the NPPF and Policy C17 of the CMDLP identify a list of appropriate uses in the Green Belt for which new build development may be permitted. Any other uses not identified are deemed to be inappropriate.

7.26 The provision of new build housing is not listed as one of the appropriate uses in the Green Belt under CMDLP Policy C17. The NPPF, at para 145, lists forms of development that are considered to be appropriate in the Green Belt. This does however, differ slightly to the exceptions listed under CMDLP Policy C17 and greater weight should be given to the much more recent NPPF. In terms of new buildings in the Green Belt the NPPF, under para 145, allows;

*“a) buildings for agriculture and forestry;*

*b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;*

*c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;*

*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;*

*f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and*

*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; or*

*● not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority”.*

7.27 The proposed dwellings would represent inappropriate development in the Green Belt, which by definition is harmful, as the buildings proposed do not fall within any of the categories under which new build in the Green Belt would be allowed as appropriate in the NPPF or CMDLP Policy C17. In particular (so far as (g) above is concerned), the application site consists of agricultural barns with the intention to demolish and rebuild new dwellings. The definition of previously developed land excludes land that is or was last occupied by agricultural or forestry buildings. The

current and previous use of the site is agricultural and therefore, not recognised within the NPPF as previously developed land.

7.28 Paragraph 144 in the NPPF states the planning policy test for appraisal of proposals for inappropriate development in the Green Belt as follows:

*“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”.*

7.29 The potential harm to the Green Belt by inappropriateness or otherwise must be given substantial weight and any positive factors identified by the proposal would need to clearly outweigh this harm. The identification of individual and cumulative benefits is not sufficient reason of itself to automatically conclude that very special circumstances have been demonstrated, and a planning balance - qualitatively rather than quantitatively - is necessarily engaged instead. Paragraph 144 of the NPPF refers to ‘*any other harm*’, i.e. harm arising otherwise than or in addition to that arising because the proposal is inappropriate in the Green Belt. The two refusal reasons referred to above (concerning development in the open countryside and failure to support the services of other villages) themselves indicate that the proposal would also cause ‘*other harm*’ in this context.

7.30 Additional harm would arise because the proposal is contrary to Green Belt purposes identified within the NPPF insofar as it involves encroachment into the open countryside and fails to assist in urban regeneration. Harm to openness itself should be considered on the footing that the proposal involves the replacement of agricultural structures appropriate in the Green Belt and, in part, skeletal and within an open setting. The proposed 3 dwellings would appear as solid structures with surrounding residential curtilages accommodating domestic paraphernalia and these features would also impact adversely on the openness of the Green Belt both intrinsically (by reason of inappropriate physical development in the Green Belt *per se*) and by means of their visual impact.

7.31 The application has been supported by submissions that ‘very special circumstances’ have been shown to exist since it has been accepted that the proposal is properly identified as inappropriate development. Demonstrating very special circumstances is a high test (see NPPF paragraph 144) and should be decided as a matter of planning judgement. In general, whilst a number of combined positive factors may equate to very special circumstances, the appraisal should be based on qualitative rather than quantitative assessment. The appraisal is summarised by responding to each heading identified on behalf of the appellant (albeit re-ordered):

- *It is neither appropriate nor desirable for the disused buildings to continue in agricultural use;*
- *The low levels of local traffic that would result from the proposed development;*

7.32 The supporting information within the application has provided photographs and documentation to highlight the difficulty of manoeuvring larger agricultural vehicles

through Benridge Moor to the site. The evidence provided does not support the assertion that larger vehicles cannot in fact access the site via the existing private access road. Whilst this may not be a desirable situation and it may not be 'desirable' in that context to retain the land for agriculture, this does not contribute to any significant degree to a justification for inappropriate development and use in the Green Belt, or to overriding the identified harm that would flow from the development.

7.33 In addition, the site currently has a low level of traffic. It is not considered that retaining a similar traffic flow would be considered a benefit to override the harm to the Green Belt.

- *The provision of three new dwellings and the economic, social and environmental benefits that would arise from this*

7.34 There would only be a minor economic contribution due to the nature and scale of the proposal. The site also has poor connectivity to local services and the proposal does not result in overriding environmental benefits compared to its existing greenfield condition. There is insufficient detail within the submitted information to demonstrate the 3 sustainability objectives as a very special circumstance.

- *The improvement in the appearance of the site and surrounding landscaping and the improvement to local amenity;*
- *The reduction in built form on the Site (with a c.48% decrease in built volume) including in terms of scale, height and footprint (likely resulting in an improvement to GB openness);*

7.35 The site consists of agricultural buildings of varying sizes and condition. Agricultural buildings falls within the list of exceptions set out in paragraph 145 of the NPPF and as such are appropriate in the Green Belt without taking into consideration the impact to openness and therefore, acceptable in principle regardless of size or appearance. The proposed development for housing, by contrast, is inappropriate development in the same list of exceptions in the NPPF and despite the proposal resulting in a reduced built form, there would be – contrary to the applicant's submission - no identified benefit to the impact on openness in comparison to the existing use.

7.36 A recent appeal decision in January 2020 (*APP/D3640/W/19/3235041 Castle Grove Nursery, Scotts Grove Road, Chobham, Woking GU24 8DY*) was for the erection of 40 dwellings on a plant nursery site. This case presents a very similar set of circumstances for developing housing on an agricultural site within the Green Belt. The inspector stated that:

*"..the fact that the proposed development would be inappropriate in the green belt, the appeal scheme has been promoted on the basis that its built-form would occupy less space than the glasshouses, and thus that it would have a less impact on the openness of the Green Belt. However, in this context effects on openness cannot be ascertained with reference to those of the existing development on site, given the latter are, by definition, acceptable. Indeed were I to take the contrary view, it would undermine the logic underpinning national policy as set out within the Framework".*

7.37 An assessment of harm to the Green Belt should also have regard to the fact that the proposal would include three solid two storey buildings, where some existing buildings are part skeletal. The proposed buildings would each have a permanent physical and visual presence and occupy land within a residential curtilage including garden space, parking provision, fencing, landscaping and domestic paraphernalia. This would have an adverse visual impact in terms of a residential expansion which is currently obvious and contrasting to the existing agricultural use. This is also similar to the situation identified in the appeal case where the inspector described the case as a suburban expansion that would have an “*appreciably erosive effect on the openness on the Green Belt*” in visual and spatial terms due to the encroachment to the open countryside and changing use whereby agricultural buildings are a common feature in the rural landscape.

7.37 Furthermore, the inspector identified that the site would conflict with the third purpose of the Green Belt in the NPPF, as it would not assist in urban regeneration as is it not urban, nor previously developed. Significant harm can therefore be attached which has been contested in the supporting information within the application

7.38 Whilst it can be accepted that there will be a reduction in the volume in footprint of the buildings, this attracts little weight as a very special circumstance. The inspector in the same appeal case concluded that;

*“The appellant states that the appeal scheme would improve the openness of the Green Belt. This is because the built form of the proposed development would occupy significantly less space in terms of volume, footprint and spread, than the glasshouses.....However...given that the glasshouses are a building which is not inappropriate in the Green Belt and, whose effects on openness are implicitly acceptable, such a comparison cannot form a legitimate basis to justify development which would itself be inappropriate, and would further conflict with the third purpose of designation. To do so would undermine the function and robustness of the Green Belt. I cannot therefore attach any weight to the claimed improvement of openness as a consideration in favour of the appeal scheme”.*

7.39 The application proposes new dwellings with a traditional design and use of materials. A very particular development, individual site characteristics or unique planning history may contribute to a conclusion that very special circumstances have been shown to exist; but none of these feature here. If there is a possibility that the very special circumstances relied upon could be replicated elsewhere leading to a number of permissions that would degrade a stretch of Green Belt, this may be an appropriate reason for rejecting them. As demonstrated in *Doncaster MBC v SoS 10/4/2002*, in quashing an inspector’s decision relating to an authorised gypsy caravan site, the court stated, in relation to the decision-making test set out in national planning policy, that it is very important that full weight is given to the proposition that inappropriate development is by definition harmful to the green belt:

*“The policy (at that time set out in PPG2) is a reflection of the fact that there may be many applications in the green belt where the proposal would be relatively inconspicuous or have a limited effect on the openness of the green belt, but if such arguments were to be repeated the cumulative effect of many permissions would destroy the very qualities which underlie green belt designation”*



7.40 As such, reasoning around improving the visual appearance of the site could be repeated for many similar circumstances within the Green Belt on agricultural buildings and should not be afforded great weight. Whilst there is merit with the proposed design and traditional appearance, it is not of truly exceptional design that would raise standards in a rural area with innovative architecture or techniques.

- *The contribution to rural housing, the regeneration of a redundant farmstead and the resulting support of future occupiers for local communities and the rural economy etc.*

7.41 The Council can demonstrate a 5 year housing land supply of deliverable sites, As such, there is no current housing need or contribution required to develop within rural areas, particularly those sites that are unsustainable or cause harm to the Green Belt. In addition, paragraph 117 of the NPPF promotes the effective use of land in meeting the need for homes including giving substantial weight to the value of brownfield land. Paragraph 122 of the NPPF promotes the desirability of maintaining the prevailing character and setting of an area to further support an efficient use of land. Given the harm to the character of the site and Green Belt and lack of need for housing, the proposed contribution of 3 new houses is not an overriding need in its location whilst failing to support an efficient and effective use of land.

- *The unanimous support of neighbours*

7.42 The level of support from neighbours results in 12 letters of representation but also 1 objection. This does not generate a high level of support and no public benefits have been demonstrated that would outweigh the harm from various sources to the Green Belt.

7.43 The aim of local plan settlement policies within the MNP and CMDLP is to prevent the encroachment of settlements into the open countryside and encourage the use of brownfield land. The purpose of the Green Belt also includes safeguarding the countryside from encroachment and assist in urban regeneration. The principle of development for agricultural structures is generally acceptable with less stringent policies for an appropriate countryside activity. As such, agricultural buildings are a common feature within our rural landscape but many of these may, through the years, be falling into disrepair. If very special circumstances have not been clearly demonstrated to justify replacing agricultural buildings with new housing, this would undermine existing local development plan policies and the NPPF. This stance has also been supported by recent case law.

7.44 Overall, it is not considered that the factors identified are truly exceptional or special in isolation or in combination. It is therefore considered that the development of new dwellings on this site in the Green Belt would be inappropriate and that very special circumstances have not been demonstrated in accordance with paragraph 144 of the NPPF. The application would be contrary to CMDLP Policy C17, and the NPPF.

7.45 As a footnote it is noted that leading counsel advising the applicant considers that the various factors relied upon to justify a conclusion that very special circumstances exist – whether considered individually or cumulatively. Counsel

advising the Council does not agree. Whether or not this is so, however, is a matter entirely for the judgment of the decision-maker, i.e. members.

### Design and Visual Amenity

7.46 Policy Des1 of the MNP sets design principles for new development which in summary includes:

- Ensuring that the design and layout of the development achieves a sense of place by protecting and enhancing the quality, distinctiveness and character of settlements;
- Respecting or enhancing the character of the site and its surroundings in terms of its proportion, form, massing, density, height, size, scale, materials and detailed design features;
- Ensuring development safeguards, respects and enhances the natural environment, the biodiversity, landscape and wildlife corridors and the countryside;
- Incorporating, where appropriate, biodiversity, landscaping and public and private open spaces which meet the County Council's open space standards and supports the creation of wildlife corridors;
- Ensuring that the layout and design take account of the potential users of the development to provide safe, convenient and attractive links within the development and to existing networks for people with disabilities and restricted mobility, pedestrians, cyclists and public transport users;
- Providing vehicular access and parking suitable for the development's use and location.

7.47 Policy H15 of the CMDLP states the design criteria for housing development and the NPPF states that planning decisions should ensure that developments:

- 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).

7.48 The proposal would increase the number of properties in the hamlet by 60% (notably above the threshold in policy STP1 in the emerging NLP) and the siting of the new dwelling would expand into the open countryside rather than be contained within the cluster of existing housing. There is no particular vernacular to confirm to and the individual design has merit in terms of the form and use of traditional materials. The new housing may also correspond with the adjacent residential development however, the sporadic layout would not. This would be to the detriment of the appearance of the area and not create a cohesive form of development.

7.49 The development would expand into the open countryside and erode the rural character of the area. On this basis, the design and layout of the development would not protect or enhance the distinctiveness and character of the settlement or respect the site and its surroundings. The application would not be in accordance with Policies Des 1 of the Morpeth Neighbourhood Plan and Policy H15 of CMDLP. Whilst

limited weight can be given to the NLP the proposal would also be contrary to NLP Policy QOP1.

7.50 The proposed dwellings would not have a detrimental impact to neighbouring amenity in terms of loss of light, outlook and privacy due to the adequate separation distances retained. In terms of impact on residential amenity, it is considered the proposals would be in accordance with Policy H15 of the CMDLP and the NPPF. Whilst limited weight can be given to the NLP in this respect the proposal would also accord with NLP Policy QOP 1 and QOP 2.

#### Contaminated Land

7.51 Public Protection has no objections to the application based on the submitted phase 1 assessment submitted on 14<sup>th</sup> December 2018 which concludes that the risk to the end users is low, as well as proposing ground gas protection. Given the former use of the site there is still the need for an intrusive investigation, however, as the risk rating is low this could be controlled by condition. The application is considered to be in accordance with the NPPF in relation to land contamination subject to conditions relating to further information for a scheme to deal with any contamination of land or controlled waters and protection measures for the ingress of ground gases.

#### Ecology

7.52 Any potential impacts on protected habitats/species that may be present will need to be accounted for by way of appropriate avoidance, mitigation and/or enhancement strategies to ensure that favourable conservation status of the population/habitat is at least maintained and to ensure that individual animals are not harmed in accordance with Paragraph 174 of the National Planning Policy Framework.

7.53 Paragraph 99 of the ODPM circular states that it is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision.

7.54 The County Ecologist has no objections to application based on the submitted Ecological Appraisal and Bat Survey submitted on 14<sup>th</sup> December 2018 as there was negligible roosting potential for bats. The surrounds site was considered to have a moderate potential for roosting bats and a pond which cannot rule out the presence of protected species. The avoidance, mitigation and enhancement measures would have to be imposed within a detailed condition to conserve and enhance biodiversity of the site in accordance with paragraphs 8, 118 and 170 of the NPPF.

#### Highways

7.55 The Highways Authority has been consulted and has no objections as it is considered that the proposal will not create any road safety issues at this location. Considering highway and pedestrian safety and the amenity of the surrounding areas, a construction method statement would be required prior to the start of any works and also identify the routes to the site. The provision for vehicles cleaning

facilities, parking facilities for the visitors as well as for the workers should be submitted along with the storage areas and loading/unloading zones. Such information can be imposed via suitable conditions to any approval granted. As the application presents to risk to highways safety, the application is in accordance with the NPPF.

### Other issues

7.56 The application has made reference to the approval of other applications of a similar nature however, the current proposal has to be considered on its own merits and assessed against the criteria within national and local planning policy.

### ***Equality Duty***

The County Council has a duty to have regard to the impact of any proposal on those people with characteristics protected by the Equality Act. Officers have had due regard to Sec 149(1) (a) and (b) of the Equality Act 2010 and considered the information provided by the applicant, together with the responses from consultees and other parties, and determined that the proposal would have no material impact on individuals or identifiable groups with protected characteristics. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

### ***Crime and Disorder Act Implications***

These proposals have no implications in relation to crime and disorder.

### ***Human Rights Act Implications***

The Human Rights Act requires the County Council to take into account the rights of the public under the European Convention on Human Rights and prevents the Council from acting in a manner which is incompatible with those rights. Article 8 of the Convention provides that there shall be respect for an individual's private life and home save for that interference which is in accordance with the law and necessary in a democratic society in the interests of (inter alia) public safety and the economic wellbeing of the country. Article 1 of protocol 1 provides that an individual's peaceful enjoyment of their property shall not be interfered with save as is necessary in the public interest.

For an interference with these rights to be justifiable the interference (and the means employed) needs to be proportionate to the aims sought to be realised. The main body of this report identifies the extent to which there is any identifiable interference with these rights. The Planning Considerations identified are also relevant in deciding whether any interference is proportionate. Case law has been decided which indicates that certain development does interfere with an individual's rights under Human Rights legislation. This application has been considered in the light of statute and case law and the interference is not considered to be disproportionate.

Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for

planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

## **8. Conclusion**

8.1 The main planning considerations in determining this application have been set out and considered above and assessed against the relevant development plan policies and the National Planning Policy Framework (NPPF). It is considered that the application proposes an inappropriate form of development in the Open Countryside and Green Belt and there has been no acceptable demonstration of very special circumstances. The proposal would also be an unsustainable location and impact the character of the settlement and surrounding rural area.

## **9. Recommendation**

That this application be REFUSED permission subject to the following:

### Reasons

01. The proposal would represent unnecessary and unjustified development in the open countryside outside any defined settlement boundary, contrary to Morpeth Neighbourhood Plan Policies Sus1 and Set1, and Policies C1 and H16 of the CMDLP and paragraph 78 of the NPPF.

02. The application site lies in an unsustainable location with no services or facilities and is some distance from local facilities, where access to and from the site would be reliant on the private car. As such it is not considered to be in a location where it could also support services in a village 'nearby' using sustainable transport methods. The principle of the residential development in such an unsustainable location would be contrary to the general provisions of the NPPF and Policy Sus1 of the Morpeth Neighbourhood Plan as it would not promote a sustainable form of development in a rural area.

03. The development represents an inappropriate form of development in the Green Belt and harmful as such. It would also be contrary to the purposes of the Green Belt (by virtue of encroachment into it and failure to assist urban regeneration), harmful to its openness, and cause 'other harm'. The potential harm to the Green Belt and other harm are not clearly outweighed by other considerations such that 'very special circumstances' have been demonstrated to outweigh the harm to the Green Belt. The development is therefore contrary to the NPPF and Saved Policy S5 of the Northumberland County and National Park Joint Structure Plan.

04. The siting and layout of the development would not protect or enhance the distinctiveness and character of the settlement or respect the character of the site and its rural surroundings. The application would not be in accordance with Policies Des 1 of the Morpeth Neighbourhood Plan and Policy H15 of CMDLP.

**Date of Report: 24.02.2020**

**Background Papers:** Planning application file(s) 18/01840/FUL

