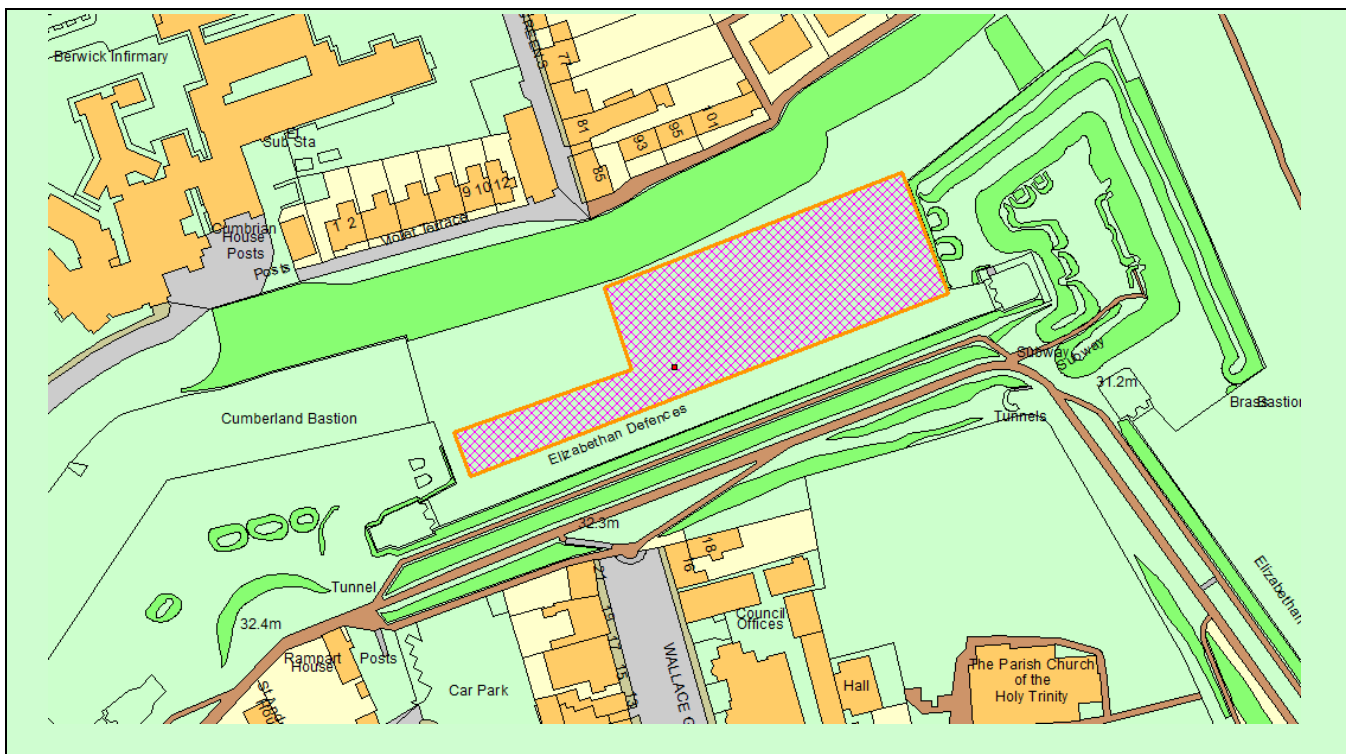




# Northumberland County Council

## North Northumberland Local Area Council 23<sup>rd</sup> August 2018

<b>Application No:</b>	18/01517/CCD		
<b>Proposal:</b>	Renewal of planning consent, ref. C/10/00224/CCD and 15/03718/CCD, to allow the site to continue to be used as an overflow car park. In addition lay timber edging (telegraph pole or similar) fixed to the ground via steel pins or hoops to prevent vehicles from parking within 10m of the Town Walls.		
<b>Site Address</b>	Overflow Car Park, Land North Of Elizabethan Defences, Violet Terrace, Berwick-Upon-Tweed Northumberland		
<b>Applicant:</b>	Mr David Laux County Hall, Morpeth, Northumberland, NE61 2EF	<b>Agent:</b>	Mr Stephen Fletcher County Hall, Morpeth, Northumberland, NE61 2EF
<b>Ward</b>	Berwick North	<b>Parish</b>	Berwick-upon-Tweed
<b>Valid Date:</b>	6 June 2018	<b>Expiry Date:</b>	31 August 2018
<b>Case Officer Details:</b>	Name: Mr Chris McDonagh Job Title: Planning Officer Tel No: 01670 622646 Email: Chris.McDonagh@northumberland.gov.uk		



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## 1. Introduction

1.1 The application has been submitted by Northumberland County Council. In line with the council's scheme of delegation adopted in April 2015, the application was referred to the head of service of planning and the chair of the North Local Area Committee. The decision was for the application to be decided before the committee, with a recommendation for approval.

## 2. Description of the Proposals

2.1 The application seeks full planning permission to use an area of land as an overflow car park to the north of the Elizabethan Defences, Violet Terrace, Berwick-upon-Tweed.

2.2 The site lies towards the middle of the town on a broadly rectangular shaped piece of land covering approximately 0.3 hectares. The site adjoins the existing car park and would be used as overflow parking during busy periods. The construction materials are currently mesh covering the grass present on site, with a proposal to edge the parking spaces with telegraph poles to enforce a barrier between cars and the Walls of 10m as a protection measure.

2.3 The site lies within the curtilage of the medieval fortifications which have the status of a Scheduled Ancient Monument (SAM). The fortifications also benefit from a Grade I listing (entitled "Bell Tower and Remains of Town Walls"). The site further lies within the Conservation Area for Berwick-upon-Tweed.

## 3. Planning History

**Reference Number:** 15/03718/CCD

**Description:** Use of land as an overflow car park

**Status:** Permitted

## 4. Consultee Responses

Berwick-upon-Tweed Town Council	No objection.
Highways	No objection.
County Archaeologist	No objection subject to temporary permission period and management plan .
Building Conservation	Less than substantial harm – impacts to be balanced against public benefits.
Historic England	Less than substantial harm – impacts to be balanced against public benefits. Conditions requested to limit time period and management of site.

## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	20
Number of Objections	1
Number of Support	0

Number of General Comments	0
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## Notices

Site Notice – Conservation Area & Listed Building, posted 25th June 2018

Press Notice - Berwick Advertiser 14th June 2018

## Summary of Responses:

1 no public objection received on the following grounds;

1. Damage to archaeological features;
2. Impact on setting of Brass and Cumberland bastions from cars parking;
3. Impact on important area of green space.

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=P7UBYRQSG6Q00>

## **6. Planning Policy**

### 6.1 Development Plan Policy

*Berwick Local Plan (BLP) 1999*

F1 Environmental Wealth  
F5 Berwick-upon-Tweed  
F31 Social and Economic Welfare

### 6.2 National Planning Policy

National Planning Policy Framework (NPPF) (2018)  
National Planning Practice Guidance (2014, as updated)

### 6.3 Emerging Policy

*Northumberland Local Plan*

Draft Plan for Regulation 18 Consultation (2018)

## **7. Appraisal**

7.1 The NPPF operates under a presumption in favour of sustainable development. It states that development proposals, which accord with the development plan, should be approved without delay. The adopted Development Plan for the area within which the application site is located, comprises the saved policies of the Berwick Local Plan.

7.2 In accordance with paragraph 216 of the NPPF weight may be given to the policies in emerging plans, depending on: the stage of preparation of the plan, the extent to which emerging policy aligns with the NPPF; and the extent of unresolved objections to the emerging plan. The Northumberland Local Plan was published in draft for consultation on 04/07/18. In accordance with Paragraph 216 of the NPPF; the policies contained within the document at this stage carry minimal weight in the appraisal of planning applications.

7.3 The main issues in the consideration of this application are;

- *Principle of Development*
- *Design*
- *Listed Building/SAM*
- *Conservation Area*
- *Highway Safety*
- *Amenity*

#### *Principle of Development*

7.4 Policy F1 of the BLP gives primary importance is given to development that sustains and enhances environmental wealth, including its landscape and coast, native biodiversity and human heritage.

7.5 Policy F5 of the BLP is underpinned by F1 as an area based policy within the town of Berwick-upon-Tweed, including Tweedmouth, Spittal and East Ord, stating development will be permitted provided that:

- i) it accords with its surroundings by virtue of its scale, density, height, massing, layout, materials, hard and soft landscaping including indigenous species, means of enclosure and access; and,*
- ii) it accords with Policies elsewhere in the Plan.*

7.6 More specifically with regards to car parking, the NPPF seeks to ensure adequate facilities of this nature in Paragraph 106;

*In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.*

7.7 The application site is located within the town centre of Berwick and has previously been approved for temporary use under applications C/10/00224/CCD and 15/03718/CCD. Accordingly, the principle of the development is considered acceptable and in accordance with the BLP and NPPF.

#### *Design*

7.8 Policy F1 of the BLP gives primary importance is given to development that sustains and enhances environmental wealth, including its landscape and coast, native biodiversity and human heritage.

7.9 Policy F5 of the BLP is underpinned by F1 as an area based policy within the town of Berwick-upon-Tweed, including Tweedmouth, Spittal and East Ord, stating development will be permitted provided that:

*i) it accords with its surroundings by virtue of its scale, density, height, massing, layout, materials, hard and soft landscaping including indigenous species, means of enclosure and access; and,*

7.10 Paragraph 124 of the NPPF forwards 'The creation of high quality buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.'

7.11 The car park is existing and little is proposed to change with regards to its layout and materials, save for the implementation of telegraph poles laid to enforce a 10m separation distance from the Walls to the south. The design is functional for the most part and having been considered acceptable in previous incarnations of this proposal, it is not considered justified to warrant refusal on this basis alone.

7.12 The application is therefore considered in accordance with the BLP and NPPF.

### *Impact on Heritage Assets*

#### *Listed Buildings*

7.13 Policy F1 of the BLP gives primary importance is given to development that sustains and enhances environmental wealth, including its landscape and coast, native biodiversity and human heritage.

7.14 The National Planning Policy Framework (NPPF) is a material Planning consideration in the assessment of the application. Paragraph 185 of the NPPF states that, in determining applications, Local Planning Authorities should take account of a number of criteria, in particular the desirability of sustaining and enhancing the significance of heritage assets. Paragraphs 193-194 of the NPPF introduce the concept that harm can be caused by development that affects the setting and significance of heritage assets. The degrees of harm are defined as 'total loss', 'substantial harm', or 'less than substantial harm' and introduces the need to balance any harm against the benefits of the development.

7.15 The application site lies within the curtilage of the Medieval Fortifications Scheduled Ancient Monument, immediately adjoins the Grade I listed Bell Tower and Remains of Town Walls structure and lies within the Berwick-upon-Tweed Conservation Area. As such, consultation was undertaken with both the in-house Building Conservation team of the County Council as well as Historic England.

7.16 NCCs conservation officer has raised concern regarding the proposal but referred the application to the balance to be struck between less than substantial harm and the inherent public benefits, as per paragraph 196 of the NPPF. Similarly, Historic England also recognise the potential harm to the aforementioned heritage assets, stating Historic England has concerns regarding the application on heritage grounds, stating the following;

*We consider that the issues and safeguards outlined in our advice need to be addressed in order for the application to meet the requirements of paragraphs 132 and 134 of the NPPF*

*While harm is recognised, it is considered that the public benefits of the application would outweigh those impacts identified.*

7.17 NCCs archaeologist was also consulted on the proposals, offering advice in line with the building conservation officer and Historic England, stating;

*The present application is not substantially different from the previously approved scheme. The circumstances and context of the application have not substantially changed; the current use of the site for car parking is harming the significance of the scheduled monument (a designated heritage asset in the context of the NPPF) and will continue to do for as long as the site remains in use as a car park.*

7.18 As per the recommendations of both NCC building conservation team and Historic England, this application falls to be determined within the scope of public benefits when weighed against the adjudged harm upon the setting of the adjacent heritage assets. This is now assessed against Paragraph 196 of the NPPF since the July 2018 update to this document.

7.19 Within the application approved under 15/03718/CCD, the overflow was considered to provide substantial public benefit in the form of additional parking within walking distance to the town centre and its facilities and services. I see no reason to change this view, especially considering the measures to provide a buffer between the walls and parked cars of 10m is to be introduced, which should lessen the impact upon the setting of the heritage assets to a degree from the plans approved under the 2015 application.

7.20 Historic England have recommended the application should only be approved on a temporary basis, which is in line with previous applications submitted and this has been implemented via a condition securing this time period. The submitted heritage statement outlines the proposal to close the overflow during the quieter winter months, when the car park does not require additional spaces, as well as the installation of metal barriers to reinforce this closure. While this is a positive step, further details are required to be submitted to ensure acceptability of the proposal and have been attached to this permission as a condition to be submitted within 3 months of this permission being granted.

7.21 Consequently, on balance, the application is considered in accordance with the BLP and Paragraph 196 of the NPPF given the benefits when weighed against the impacts.

### *Conservation Area*

7.22 The local planning authority must have regard to Section 72(2) of the Planning (Listed Buildings and Conservation Areas) Act which requires that special attention shall be paid to the desirability of preserving or enhancing the character and appearance of the Conservation Area.

7.23 Paragraph 201 of the NPPF forwards the notion that different elements of a Conservation Area contribute to its significance to differing degrees and this should be taken into account during the decision making process. Clearly the SAM and Grade I Listed Building adjacent make a valuable contribution to the Conservation Area and as per the appraisal of the Listed Building and SAM in the previous section of this report, this is judged to be of less than substantial harm.

7.24 As per this previous discussion, given the inherent public benefits of the proposal it is considered in accordance with the provisions of the NPPF with regards to the Berwick Conservation Area.

#### *Highway Safety*

7.25 Paragraph 109 of the NPPF seeks to ensure highway safety and states 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.

7.26 The application site would utilise the existing access to and from Castlegate to the west, which leads to the town centre to the south and A1 bypass to the north. The Highways Development Management (HDM) team was consulted on the proposals, offering no objection in principle to the application pending the adjustment of the application red line boundary. Following clarification on this issue, the HDM team have no concerns regarding the proposal, in accordance with the NPPF.

#### *Amenity*

7.27 Paragraph 127 of the NPPF advocates the creation places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users.

7.28 The application site is currently in operation and has previously been approved on two separate occasions. Given the separation distance between the site and the nearest houses to the north, it is unlikely there would be any resulting impacts upon amenity as a result of the continued use of the site as an overflow given the permanent areas of car parking are closer to these houses.

7.29 The application is therefore in accordance with the NPPF with regards to residential amenity.

#### *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 stating accordance with relevant Development Plan Policy. The application has also been considered against the relevant sections within the National Planning Policy Framework (NPPF) and there is not considered to be any conflict between the local policies and the NPPF on the matters of relevance in this case.

8.2 The application has addressed the main considerations and would accord with relevant policy. The proposal is therefore recommended for approval.



## 9. Recommendation

That this application be GRANTED permission subject to the following:

### Conditions

#### 01. Temporary Period

The planning permission hereby granted shall expire upon 23rd August 2021. The site shall thereafter be restored, within 28 days, to its former state and the use hereby granted abandoned.

Reason: To ensure, in accordance with the National Planning Policy Framework, that the use hereby approved does not cause substantial harm to heritage assets.

#### 02. Approved Plans

The development hereby permitted shall not be carried out otherwise than in complete accordance with the approved plans. The approved plans for this development are:-

1. Location plan; Drawing ref: HE174349/01/A1167/01/02
2. Proposed site plan; Drawing ref: HD174349/01/A1167/01/03

Reason: To ensure that the approved development is carried out in complete accordance with the approved plans and complies with the National Planning Policy Framework.

#### 03. Materials

The facing materials and finishes to be used in the construction of the development shall be in accordance with details contained in the application. The development shall not be constructed other than with these approved materials.

Reason: In the interests of the satisfactory appearance of the development upon completion and in accordance with the provisions of Policy F5 of the Berwick Local Plan.

#### 04. Management Strategy

Within 3 months of this planning permission being granted, a Management Plan for the development site shall be submitted to and approved in writing by the Local Planning Authority. The document shall include details of metal barriers proposed to block off the site in winter months and how the operator will control or mitigate any impacts to the Scheduled Ancient Monument associated with vehicle damage and adverse weather conditions.

Thereafter, any requirements of the plan shall be strictly adhered to, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In the interests of preserving the Scheduled Ancient Monument, in accordance with the National Planning Policy Framework.

**Date of Report:** 13.08.2018

**Background Papers:** Planning application file(s) 18/01517/CCD