

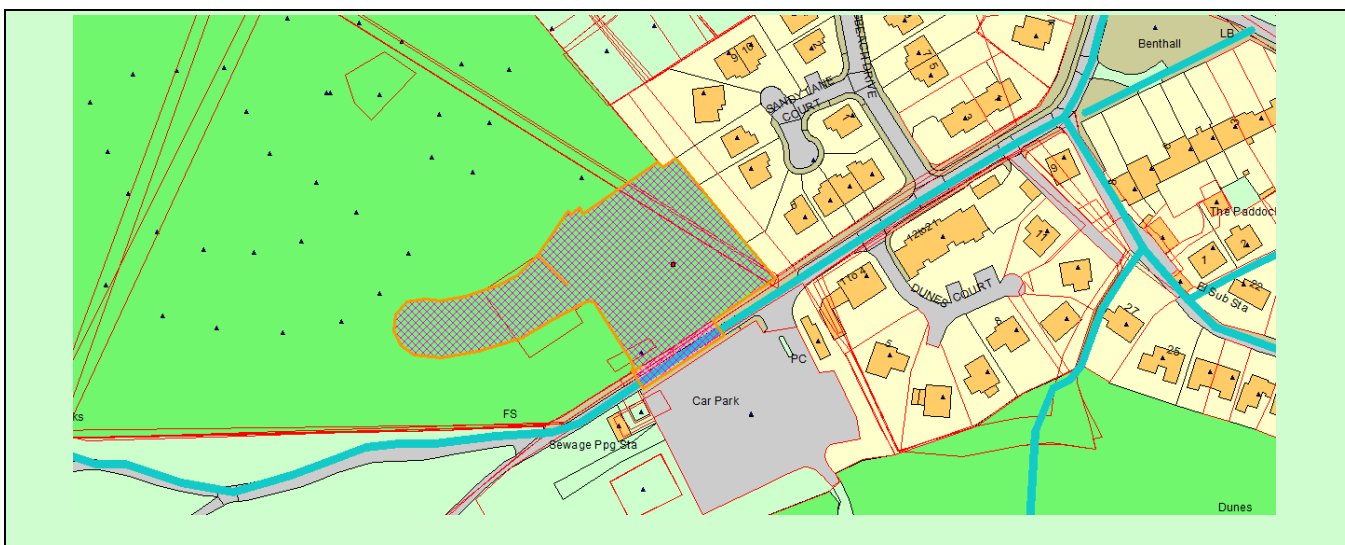


# Northumberland County Council

## North Northumberland Local Area Council 22 August 2019

<b>Application No:</b>	18/03822/FUL		
<b>Proposal:</b>	Construction of a two-storey cafe and restaurant (A3) totalling approx. 522 sqm, 64 car parking spaces, improved access roads, play area / green space, landscaping and other ancillary works (amended 9th January 2019).		
<b>Site Address</b>	Land South West Of Sandy Lane Court, Bernicia Way, Beadnell, Northumberland		
<b>Applicant:</b>	Mr Barry Spall The Northumberland Estates, Estates Office, Alnwick Castle, Alnwick NE66 1NQ United Kingdom	<b>Agent:</b>	Barry Spall The Northumberland Estates, Estates Office, Alnwick Castle, Alnwick NE66 1NQ United Kingdom
<b>Ward</b>	Bamburgh	<b>Parish</b>	Beadnell
<b>Valid Date:</b>	29 October 2018	<b>Expiry Date:</b>	30 April 2019
<b>Case Officer Details:</b>	Name: Mr Chris McDonagh Job Title: Planning Officer Tel No: 01670 622646 Email: Chris.McDonagh@northumberland.gov.uk		

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



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### 1. Introduction

1.1 Under the provisions of the Council's current Scheme of Delegation, due to the number of objections raised locally, the application has been referred to the Head of Service and the Planning Chair of the North Northumberland Local Area Council for consideration to be given as to whether the application should be referred to Planning Committee for determination. The decision taken was for the application to be decided before the North Local Area Committee, with a recommendation of approval.

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

2.1 The application site is set to the south of the main settlement of Beadnell, within the existing development extent of Bernicia Way, a 40 unit holiday park development consisting of clad New England style dwellings with on-site amenities such as a tennis court. As part of the approval under this application (N/09/B/0391), a watersports and visitor centre was proposed to sit at the entrance to the development, occupying a parcel of land to the southeast of the site but was never constructed.

2.2 Planning permission is sought for the erection of a two-storey café within this area of the aforementioned development. The previously approved visitor centre was single storey, but did include a small café. The new café would incorporate an additional storey, and includes a mixture of blue cedar cladding and render to the external elevations, with a large protruding terrace and balcony of steel and glass construction to the front elevation.

2.3 The proposal also includes a parking area to the south of the café, public space in the form of seating and a play area and landscaping. The floor plans were amended on 9th January 2019 to provide additional highway details on the proposed site plan and again on 5th March 2019 to secure public toilet provision on the cafe ground floor.

2.4 The application site is located within or adjacent to the following environmental areas of constraint;

- Northumberland Coast Area of Outstanding Natural Beauty (AONB);
- Northumberland Shore Site of Special Scientific Interest (SSSI) Impact Risk Zone (IRZ);
- Northumberland Coast Special Protection Area (SPA);
- Berwickshire and North Northumberland Coast Special Area of Conservation (SAC); Northumbria Coast Ramsar;
- Flood and Coastal Management Area.

## **3. Planning History**

**Reference Number:** 18/02648/FUL

**Description:** Construction of two-storey cafe and restaurant (A3) totalling approx. 522 sqm, 50 car parking spaces, improved access roads, landscaping and other ancillary works

**Status:** WDN

## **4. Consultee Responses**

Beadnell Parish Council	<p><b>No objection (first consultation)</b></p> <p><i>Beadnell Parish Council have considered the above Planning Application and agreed not to object to the application. However, the Parish Council would like to see the following community benefits considered and agreed under a S106 Agreement before permission is granted:</i></p> <ul style="list-style-type: none"> <li>• <i>That the onsite car parking and green spaces will remain open to all members of the public.</i></li> <li>• <i>Additional Electric charging points will be installed in the car park.</i></li> <li>• <i>There will be soft landscaping between the car park, tennis court and housing.</i></li> <li>• <i>The bike store will be visible for safety reasons.</i></li> <li>• <i>The public toilets will be available to the public.</i></li> </ul> <p><i>If the applicant is minded to provide additional community benefits, the residents at the meeting identified the need for land and a shed to house the new Bamburgh and Beadnell Community Rowing group skiff which is launched from Beadnell Bay but currently has no 'home'.</i></p> <p><i>If the development is approved the council and residents felt it needs to be a real asset to Beadnell village.</i></p> <p><b>No objection (reconsultation)</b></p> <p><i>Beadnell Parish Council have considered the amendments &amp; additional information in connection with the above Planning Application and have agreed not to formally object to the application. However, Parish Councillors have agreed the following conditions need to be included within the approval documents if the application is approved:</i></p> <ol style="list-style-type: none"> <li>1. <i>The toilets, car parking and green space must be available in perpetuity to all members of the general public.</i></li> <li>2. <i>There needs to be a greater community benefit, than what is proposed within the planning application.</i></li> <li>3. <i>A condition to be attached to the approval stating that a Change of use application will not be supported/approved.</i></li> <li>4. <i>The surrounding area is prone to flooding so alleviation measures need to be considered.</i></li> </ol>
Highways	<p><b>No objection</b></p> <p>Subject to conditions.</p>
County Ecologist	<p>No objection subject to conditions</p>
Northumberland Coast AONB	<p><b>Initial objection</b></p> <p>No objection subject to toilet provision</p> <p><i>Further to our discussion I can confirm that the Northumberland Coast AONB Partnership welcome the commitment from the Northumberland Estate to make the toilet provision, on the ground floor level of the proposed cafe, publicly available and accessible. The Partnership see this as a positive contribution to the public amenity which goes some way to mitigate the visual impact of the development.</i></p>
Public Protection	<p><b>No objection</b></p>

	Subject to conditions.
Northumbrian Water Ltd	<b>No objection</b>
Countryside/ Rights Of Way	<b>No objection</b>
Natural England	<b>No objection</b> Subject to Coastal Mitigation contribution.
Lead Local Flood Authority (LLFA)	<b>No objection</b> Subject to conditions.
Tourism, Leisure & Culture	<b>No response received.</b>
Strategic Estates	<b>No comment</b>

## 5. Public Responses

### Neighbour Notification

Number of Neighbours Notified	47
Number of Objections	105
Number of Support	8
Number of General Comments	2

### Notices

Site notice - Public Right of Way, posted 19th November 2018

Press notice - Berwick Advertiser 15th November 2018

### Summary of Responses:

115no representations received in total. Of these, 108 are objections, 2 are general comments and 8 are in support. The issues raised cover the following:

### Objections

- Previous public benefits have been removed from Bernicia Way approval;
- Noise and odour;
- Viability of business;
- Noise from customers;
- Poor design;
- Landscape impact/AONB;
- No need for another cafe;
- Profit of development;
- Litter;
- Impact on existing businesses in Beadnell;
- Opening hours;

- Unhealthy food to be served;
- Ecology impacts;
- Anti-social behaviour;
- Parking;
- Traffic;
- Light pollution;
- Live music.

### Neutral

- Needs cycle stands but otherwise ok;
- Should be made to include original public benefits of Bernicia Way development.

### Support

- Targeted campaign to raise objections;
- Will redevelop wasted area of Bernicia Way;
- Will create jobs;
- Meets demand of increasing tourist numbers to Beadnell;
- Sustain and enhance existing services.

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=PH7OINQSJWM00>

## **6. Planning Policy**

### 6.1 Development Plan Policy

*Berwick Local Plan (1999) - BLP*

F1 Environmental Wealth

F2 Coastal Zone

F6 Special Protection Areas, Special Areas of Conservation and Ramsar Sites

F7 National Nature Reserves and Sites of Special Scientific Interest

F9 Wildlife

F31 Social and Economic Welfare

*North Northumberland Coast Neighbourhood Plan (NNCNP) - 2018*

Policy 1 Sustainable Development

Policy 2 Landscapes and Seascapes

Policy 3 Habitats and Species

Policy 5 Design in New Development

Policy 8 Sustainable Development within the Settlements

### 6.2 National Planning Policy

NPPF - National Planning Policy Framework (2018)

NPPG - National Planning Practice Guidance (2014, as updated)

## 6.3 Emerging Policy

Northumberland Local Plan - Publication Draft Plan (Regulation 19) and proposed minor modifications, submitted on 29 May 2019

STP 1 Spatial strategy (Strategic Policy)

STP 2 Presumption in favour of sustainable development (Strategic Policy)

STP 3 Principles of sustainable development (Strategic Policy)

STP 4 Climate change mitigation and adaptation (Strategic Policy)

QOP 1 Design principles (Strategic Policy)

QOP 2 Good design and amenity

QOP 3 Public realm design principles

QOP 4 Landscaping and trees

QOP 5 Sustainable design and construction

QOP 6 Delivering well-designed places

TRA 1 Promoting sustainable connections (Strategic Policy)

TRA 2 The effects of development on the transport network

TRA 4 Parking provision in new development

ENV 1 Approaches to assessing the impact of development on the natural, historic and built environment (Strategic Policy)

ENV 2 Biodiversity and geodiversity

ENV 3 Landscape

ENV 5 Northumberland Coast Area of Outstanding Natural Beauty

WAT 3 Flooding

WAT 4 Sustainable Drainage Systems

POL 1 Contaminated Land

## **7. Appraisal**

7.1 Section 38 (6) of the Planning and Compulsory Purchase Act 2004 requires applications for planning permission to be determined in accordance with the development plan, unless material considerations indicate otherwise. 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 where the site is located comprises the saved policies of the Berwick Local Plan.

7.2 In accordance with paragraph 48 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 of Regulation 30 January 2019. In accordance with 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 therefore are;

- Principle of Development
- Design
- Landscape Impact/AONB
- Highway Safety

- Amenity
- Ecology
- Water Management
- Public Protection
- Other Issues

7.4 The application site is subject to an extant permission for a visitor centre with integral café under N/09/B/0391. It is considered therefore that the principle of a café in this location is acceptable, although this was not the primary use of that approved building. An assessment of the development plan is therefore offered; Policy F1 of the BLP states that 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 F2 of the BLP is underpinned by F1 as an area based policy that supports development;

- i) Within or immediately adjoining an existing settlement;*
- v) That it accords with policies elsewhere within the plan.*

7.6 Policy F31 alongside F1 allows weight to be given to proposals that enhance the quality of life of communities or to complement the range of social or economic functions which any of them performs.

7.7 The application site is within Beadnell and would contribute to enhancing the range of social and economic functions of the area. The application is therefore broadly in line with the saved policies of the BLP.

7.8 Within the NNCNP, Policy 1 forwards a general level of support for sustainable development within the settlements;

*Within the Neighbourhood Plan area, subject to compliance with Policy 3 and other relevant policies in the development plan, including those in this Plan, and having regard to other material planning considerations, small-scale development will be supported which provides:*

- d) new and expanded social, community, leisure and educational facilities which contribute to the maintenance or growth of local sustainable communities.*

7.9 The NPPF seeks to promote sustainable development with paragraph 8 providing the starting point against which the sustainability of a development proposal should be assessed. This identifies three dimensions to sustainable development - an economic element, a social element and an environmental element.

7.10 Paragraph 11 of the NPPF then establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise); approving development proposals that accord with the development plan without delay; and where the development plan is absent, silent or relevant policies are out-of-date, granting permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole; or specific

policies in the Framework indicate development should be restricted.

7.11 The application site is located within the settlement of Beadnell; it is considered that the proposed location and scale of development would be sustainable in relation to economic and social considerations. It would deliver economic and social benefits through an increase in service provision and recreation while also providing a boost to the local economy through increased visitor spending.

7.12 In terms of its environmental role there would not be any significant or unacceptable harmful impacts on the site and wider area and the development could be assimilated into this location. This is assessed further within the ecology and landscape sections of this report.

7.13 It is therefore considered that the principle of development is acceptable and in accordance with F1, F2 and F31 of the BLP, Policy 1 of the NNCNP, and the relevant provisions of the NPPF.

7.14 Consideration is also had to the spatial vision of the emerging Northumberland Local Plan (NLP). Due to the stage of preparation, limited weight is afforded to these policies but it is considered the application would be in accordance with the relevant policies contained within.

## Design

7.15 Policy F1 of the BLP requires that primary importance is given to development that sustains and enhances environmental wealth, including its landscape and coast. Policy F2 of the BLP is underpinned by F1 as an area based policy that supports development;

*ii) it accords with its surroundings by virtue of its scale, density, height, massing, layout, materials, hard and soft landscaping including species appropriate to the north Northumberland coastal environment, means of enclosure and access*

7.16 Policy 5 of the NNCNP seeks to secure high quality design within the plan area and forwards the following principles;

*All new development in the Plan area, including extensions and conversions, should incorporate high quality design and demonstrate how:*

- a) local context and character is respected in terms of scale, density, height, massing, layout, materials, hard and soft landscaping, means of enclosure and access; and*
- b) features including windows, doors, roof lights, chimneys, flues, roofs, and boundary treatments have regard to surrounding character and materials; and*
- c) appropriate landscaping and the use of indigenous species have been incorporated into the scheme; and*
- d) sustainable design measures have been incorporated including Sustainable Urban Drainage Systems where possible; and*
- e) measures have been incorporated to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation; and*
- f) in terms of the massing, height, scale and proximity, of the proposed development does not result in an unacceptable loss of light or overshadowing, or other adverse*



*amenity impacts on existing or future residents.*

7.17 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.

7.18 Representations raising issues over design have been considered in this section. The proposed building is of two-storey scale, with external timber clad and rendered walls and a pitched, slate roof. Design cues are taken from the host Bernicia Way development, using the houses' timber clad external appearances. The building's materials, massing and scale are appropriate for its location and intended use, and as per the NPPF, good design helps to create better communities in which to work and live.

7.19 It is agreed that through its function and design, the café contributes to its surroundings positively, in accordance with Policies F1 & F2 of the BLP, Policy 5 of the NNCNP, and provisions of the NPPF.

7.20 It is also considered the proposal is in accordance with policies QOP1, QOP2, QOP3, QOP4, QOP4 & QOP6 of the emerging NLP.

#### Landscape Impact/AONB

7.21 Policy F1 of the BLP requires that primary importance is given to development that sustains and enhances environmental wealth, including its landscape and coast. Policy F2 of the BLP is underpinned by F1 as an area based policy that supports development that;

*ii) accords with its surroundings by virtue of its scale, density, height, massing, layout, materials, hard and soft landscaping including species appropriate to the north Northumberland coastal environment, means of enclosure and access.*

7.22 Policy 2 of the NNCNP advocates the requirement for planning proposals to preserve and enhance the landscape and seascapes of the area, stating; Great weight will be given to the conservation of these local landscapes, the Heritage Coast, and the scenic beauty of the coast including views into and out of the Northumberland Coast AONB within the Plan area. Opportunities for landscape enhancement should be taken wherever possible.

7.23 Meanwhile, the NPPF forwards in paragraph 172 that great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.

7.24 Issues raised within public objections over impact on the AONB have been addressed here. As per the appraisal of design, the building sits well within its surroundings, integrating into the vernacular by way of appropriate materials, taking account of the local area and its history as well as being of a suitable scale. The AONB Partnership was consulted on the proposals during the consultation period,

offering no objection for the development subject to appropriate public benefit being secured in the form of public toilet provision.

7.25 The applicant has responded to this request positively, placing toilets on the ground floor level which will be available for public use during opening hours.

7.26 It is therefore considered the application is in accordance with Policies F1 & F2 of the BLP, Policy 2 of the NNCNP and relevant sections of the NPPF.

7.27 It is also considered that, having regard to policies ENV 3 and ENV 5 of the emerging NLP, the application would be in accordance with the plan.

### Highway Safety

7.28 Paragraph 109 of the NPPF 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.

7.29 Objections were raised during the consultation period from members of the public regarding the development's impact on highway safety. The application proposes to introduce new parking areas and manoeuvring space, while maintaining but altering the existing access.

7.30 Highways Development Management (HDM) team were consulted raising no objection following amendments to the scheme subject to conditions to secure further details of refuse servicing, car parking, cycle parking, electric charge points and management of the site over the construction period all of which have been set out in the recommendation.

7.31 On this basis, the application is in accordance with the NPPF.

7.32 The application has also been assessed against the emerging NLP and is considered in accordance with policies TRA2 & TRA 4.

### Amenity

7.33 Policy 5 of the NNCNP states development in the plan area should adhere to the following;

*e) measures have been incorporated to limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation; and  
f) in terms of the massing, height, scale and proximity, of the proposed development does not result in an unacceptable loss of light or overshadowing, or other adverse amenity impacts on existing or future residents.*

7.34 Meanwhile Paragraph 127 of the NPPF presents the overarching general principle at a national policy level that development should incorporate a high standard of amenity for existing and future users.

7.35 Issues were raised over amenity through submitted consultation responses. This was with regard to noise, odour, light and the potential opening hours of the development impinging on residential amenity locally. Given the separation distance

from any residential properties, it is unlikely the building itself would lead directly to light or noise pollution, or loss of daylight or overlooking as a result of the building's construction. The nearest dwellings are located circa 40m to the east at The Dunes, but are not considered at risk from amenity impacts. Conditions have been appended to this permission on the advice of Public Health Protection (PHP) to further secure these details.

7.36 The application is therefore in accordance with the NNCNP Policy 5 and NPPF with regards to amenity.

7.37 The application has also been assessed against policy QOP2 of the NLP, and is considered in accordance with the aims of the plan in this regard.

### Ecology

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

7.39 Policy 3 of the NNCNP states proposals which promote the preservation and/or restoration of priority habitats in the Plan area will be supported. The impact of proposals in the Plan area on European Sites will be assessed in accordance with the Conservation of Habitats and Species Regulations 2010 (as amended) (The Habitats Regulations).

7.40 At a National level, the NPPF forwards in paragraph 174 the requirement of development to identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity.

7.41 Meanwhile, Paragraph 175 applies the following conservation principles, in terms of protecting and enhancing the natural environment, designated habitats and biodiversity/geodiversity;

*b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted.*

7.42 Paragraph 176 of the NPPF expands this protection to;

*a) potential Special Protection Areas and possible Special Areas of Conservation;  
b) listed or proposed Ramsar sites*

7.43 The application site is adjacent to the Northumberland Shore SSSI, Northumberland Coast SPA Berwickshire and North Northumberland Coast SAC and Northumbria Coast Ramsar wetland area.

7.44 Given the relatively high number of off-site ecological constraints, both NCC's in-house ecological team and Natural England were consulted on the proposal. Both consultees have requested additional information is received in the form of surveys, mitigation and contributions to the management of recreational disturbance to the Coastal SSSI from dog walkers.

7.45 As this is a proposed development within 7km of the coast consideration will need to be given to the impact of increased recreational disturbance to bird species that are interest features of the coastal SSSIs and European sites, and increased recreational pressure on dune grasslands which are similarly protected. When developers apply for planning permission for new residential development within the coastal zone of influence, the LPA has to fulfil its obligations under the Wildlife and Countryside Act (for SSSIs) and the Conservation of Habitats and Species Regulations (for SPAs, SACs and Ramsar Sites), by ensuring that the development will not have adverse impacts on designated sites.

7.46 The Council has introduced a scheme whereby developers can pay a contribution into a strategic mitigation service which will be used to fund coastal wardens who will provide the necessary mitigation. Contribution to the Coastal Mitigation Service (CMS) enables a conclusion of no adverse effect on site integrity to be reached when a planning application is subject to appropriate assessment, without the developer having to commission any survey or mitigation work. Similarly it enables a conclusion of no adverse effect on the interest features of coastal SSSIs.

7.47 The Council's Ecologist has carried out an HRA which has concluded that a facility such as this is unlikely to draw people to the coast who wouldn't have been visiting anyway and so wouldn't cause a net increase in recreational disturbance. It is likely to cause a local re-distribution of recreational users as people incorporate the cafe into their visits, and this will be addressed through the provision of an information point for the Coastal Mitigation Service in the cafe, which is covered by the planning condition in my response to you. Therefore, there is no requirement for a financial contribution towards coastal mitigation.

7.48 Regarding on-site implications, while impacts on ecology interests were raised within public objections, this has been assessed by Council ecologists and there are not considered to be any on-site impacts subject to mitigation.

7.49 As such the application is in accordance with Policy F1 of the BLP, Policy 3 of the NNCNP and the provisions of the NPPF subject to conditions.

7.51 The application has also been assessed against the aims of the emerging NLP through policies ENV 1 & ENV 2 and is considered acceptable in this regard.

#### Flood Risk and Water Management

7.52 The NPPF advises in Paragraph 148 that planning should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change.

7.53 The site is not located within a Flood Risk Zone 2 or 3, so consultation with the Environment Agency was not undertaken. However, with regards to drainage and surface water disposal, the Council's internal Local Lead Flood Authority was consulted, offering no objection subject to conditions to secure further details regarding the means of disposal of water from the site and the use of drainage systems. Northumbrian Water queried whether the development would be connected to the main sewer network, which is confirmed to be the case. This will involve a separate application to NW by the applicant as the statutory undertaker for the sewerage system.

7.54 Water management is therefore achievable on site, and there are no objections on this basis in accordance with the NPPF.

7.55 The application has also been considered alongside the water management provisions of the emerging NLP and is in accordance with policies WAT 3 & WAT 4 of the plan.

### Public Protection

7.56 The application site has been assessed with regard to potential residential amenity impacts by PHP. Notwithstanding this, further regard was had to the potential for ground gases to be potentially dangerous in this location. To mitigate against this, further details have been requested in the form of a report to be submitted to PHP investigating the potential for this impact. Subject to the successful agreement of these details, there are not considered to be any issues that cannot be mitigated and this should not withhold permission.

7.57 The application is therefore considered in accordance with the NPPF in this regard.

7.58 The application has also been assessed against policies of the NLP and is considered in accordance with policy POL 1 subject to condition.

### Other Matters

7.59 During the consultation process, 115 public representations were received. The issues raised which are relevant to the planning appraisal of the development are addressed within section 7 of this report. Of the remaining issues, the following are not planning considerations and were therefore not discussed within this report:

- Viability of the business proposed;
- No need for another cafe;
- Built purely for profit;
- Litter;
- Unhealthy food consumption;
- Anti social behaviour;

7.60 The comments made with respect to the loss of the benefits from the previous permission (N/09/B/0391) are not relevant to the determination of this application and do not therefore form material considerations.

### 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

## **Development Management**

### 01. Time

The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: To comply with Section 91 of the Town and Country Planning Act 1990 (as amended)

### 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: 3708-JDDK-A-1002-C
2. Proposed site plan; Drawing ref: 3708-JDDK-A-1001-C
3. Proposed floor plans; Drawing ref: 3708-JDDK-A-2001-C & 3708-JDDK-A-2002C
4. Proposed elevations; Drawing ref: 3708-JDDK-A-3001C
5. Proposed sections; Drawing ref: 3708-JDDK-A-4001C & 3708-JDDK-A-4002C

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 F2 of the Berwick Local Plan.

## **LLFA**

### 04. Surface Water Disposal

Prior to the construction, a scheme for the disposal of surface water from the development which shall use sustainable drainage techniques wherever possible and include provisions for suitably managing existing overland flow routes shall be submitted to and approved by the Local Planning Authority. The approved surface water drainage scheme shall be implemented in accordance with the approved details before the development is brought into use and thereafter maintained in accordance with the approved details.

Reason: To ensure the effective disposal of surface water from the development and to ensure Highway Safety in accordance with the National Planning Policy Framework.

#### 05. SuDS

Prior to first occupation details of the adoption and maintenance of all SuDS features shall be submitted to and agreed by the Local Planning Authority. A maintenance schedule and log, which includes details for all SuDS features for the lifetime of development shall be comprised within and be implemented forthwith in perpetuity.

REASON: To ensure that the scheme to disposal of surface water operates at its full potential throughout the developments lifetime.

#### 06. Implementation of car parking area

The development shall not be brought into use until the car parking area indicated on the approved plans, including any disabled car parking spaces contained therein, has been hard surfaced, sealed and marked out in parking bays in accordance with the approved plans. Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the development.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

### **Highways**

#### 07. Details of means of vehicular access to be constructed

The development shall not be brought into use until details of the vehicular access have been submitted to and approved in writing by the Local Planning Authority and implemented in accordance with the approved details. Thereafter, the vehicular access shall be retained in accordance with the approved details.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

#### 08. Completion of footpath connection works before occupation

Development shall not commence until details of the proposed footway connection from Benicia Way to the Beadnell Bay and Beadnell Links Caravan Parks have been submitted to and approved in writing by the Local Planning Authority. The development shall not be brought into use until the footpath works have been constructed in accordance with the approved plans.

Reason: In the interests of sustainable development and highway safety, in accordance with the National Planning Policy Framework.

#### 09. Road Markings and Signage

The development shall not be brought into use until details of a system of road markings and signage for the one-way system within the Eastern Car Park have been submitted to and approved in writing by the Local Planning Authority and



implemented in accordance with the approved details. Thereafter, the system of road markings and signage shall be retained in accordance with the approved details.

Reason: In the interests of highway safety, in accordance with the National Planning Policy Framework.

#### 10. Implementation of cycle parking

The development shall not be brought into use until the cycle parking shown on the approved plans has been implemented. Thereafter, the cycle parking shall be retained in accordance with the approved plans and shall be kept available for the parking of cycles at all times.

Reason: In the interests of highway safety, residential amenity and sustainable development, in accordance with the National Planning Policy Framework.

#### 11. Implementation of Electric Vehicle Charging

Prior to the development being brought into use the Electric Vehicle Charging points shown on the approved plans shall be implemented. Thereafter, the Electric Vehicle Charging Points shall be retained in accordance with the approved plans and shall be kept available for the parking of electric vehicles at all times.

Reason: In the interests of Sustainable Development, in accordance with the National Planning Policy Framework.

#### 12. Construction Method Statement

Development shall not commence until a Construction Method Statement has been submitted to and approved in writing by the Local Planning Authority. The approved Construction Method Statement shall be adhered to throughout the construction period. The Construction Method Statement shall, where applicable, provide for:

- i. vehicle cleaning facilities;
- ii. the parking of vehicles of site operatives and visitors;
- iii. the loading and unloading of plant and materials;
- iv. storage of plant and materials used in constructing the development

Reason: To prevent nuisance in the interests of residential amenity and highway safety, in accordance with the National Planning Policy Framework.

#### 13. Refuse - No external refuse outside of the premises

No external refuse or refuse container shall be stored outside of the approved refuse storage area except on the day of refuse collection.

Reason: In the interests of the amenity of the surrounding area and highway safety, in accordance with the National Planning Policy Framework.

### **Public Health Protection**

#### 14. Noise

The noise rating level from the development shall not exceed a value of 44 dB LAeqT at the boundary of the nearest noise sensitive premises in lawful existence at the time of this planning permission, when measured using BS4142:2014 methodology.

\*T shall be assessed as one hour during daytime (0700 - 2300)

Reason: To protect residential amenity by providing a commensurate level of protection against noise.

#### 15. Noise Complaints

Within 21 days from receipt of a written request from the Local Planning Authority notifying the operator of a justified noise complaint the Operator shall, employ a competent independent acoustic consultant to assess the level of noise emissions from the development at the complainant's property.

The assessment shall be undertaken in accordance with the methodology described in BS 4142:2014. The operator shall submit a report based on the consultant's findings to the Local Planning Authority for written approval. Where the noise levels from the development exceeds the levels stated in condition 14, at the complainant's property, appropriate mitigation measures shall be agreed and implemented in full within a timescale approved in writing by the Local Planning Authority.

Reason: To protect residential amenity and provide a commensurate level of protection against noise

#### 16. Opening Hours

The premises shall not operate outside the hours of:

Monday to Saturday - 10:00 to 23:00

Sunday and Bank Holidays 11:00 to 23:00

Reason: To protect residential amenity and provide a commensurate level of protection against noise.

#### 17. Ground Gas Protection

No buildings shall be constructed until a report detailing the protective measures to prevent the ingress of ground gases, including depleted Oxygen (<19%), to the CS2 standard specified in BS8485:2015 (Code of Practice for the design of protective measures for Methane and Carbon Dioxide ground gases for new buildings), have been submitted to and approved in writing by the Local Planning Authority. The report shall contain full details of the validation and verification assessment to be undertaken on the installed ground gas protection, as detailed in CIRIA C735 (Good practice on the testing and verification of protection systems for buildings against hazardous ground gases)

Reason: In order to prevent any accumulation of ground gas, which may potentially be prejudicial to the health & amenity of the occupants of the respective properties

## 18. Validation and Verification of Ground Gas Protection

No building shall not be brought into use or occupied until the applicant has submitted a validation and verification report to the approved methodology in Condition 17, which has been approved in writing by the LPA. in this list of conditions

Reason: In order to prevent any accumulation of ground gas, which may potentially be prejudicial to the amenity of the occupants of the respective properties

## 19. Light

Before the scheme is brought into use, or continues in use, the applicant shall submit a report to the local planning authority for its written approval. This report shall detail the lighting scheme to be used on site and demonstrating compliance with the pre and post curfew Lux levels contained for Environmental Zone E1, as defined in the Institute of Lighting Professionals Guidance Notes for the Reduction of Obtrusive Light. The approved scheme shall be implemented in full.

Reason: To protect residential amenity and provide a commensurate level of protection against light

## 20. Odour

Prior to the installation of the extraction system, the system being brought into use or continue in use, the applicant shall provide full details of the odour treatment system to be installed into the development which shall provide a Very High level of odour control, as defined in the DEFRA document "Guidance on the Control of Odour and Noise from Commercial Kitchen Exhaust Systems". The details shall be submitted to the LPA for its written approval with the approved scheme implemented in full.

Reason: To protect residential amenity and provide a commensurate level of protection against odour

## **Ecology**

### 21. Ecology

Prior to the opening of the cafe/restaurant, the developer shall submit for the approval of the LPA a proposal for display space in the foyer of the building to be used by the Northumberland Coastal Mitigation Service. The proposal shall be fully implemented as approved.

Reason: To ensure that the development will not have an adverse effect on designated sites on the coast.

### 22. Ecology

Prior to development proceeding beyond damp-proof course level a detailed landscaping and biodiversity enhancement plan for the site shall be submitted to the LPA. The plan shall be fully implemented as approved.

Reason: To ensure the satisfactory landscaping of the site and to secure biodiversity enhancements as required by paragraph 175 of the NPPF.

### Informatives

#### 01. Permeable Surfaces

Where possible the development shall be constructed of a permeable surface so flood risk is not increased elsewhere. There are three main types of solution to creating a permeable areas:

Using gravel or a mainly green, vegetated area.

Directing water from an impermeable surface to a border rain garden or soakaway.

Using permeable block paving, porous asphalt or concrete.

Further information can be found here -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/7728/pavingfrontgardens.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7728/pavingfrontgardens.pdf)

In addition the development should explore looking at and installing rainwater harvesting units and water butts.

#### 02. Reminder to obtain advertisement consent

This permission does not give consent to any advertisement(s) intended to be displayed on the site for which separate Express Consent may be necessary under the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (as Amended/Revoked).

#### 03. Alterations to vehicle crossing point (widening driveway) (S184)

You should note that alterations to the existing vehicle crossing point(s) are required. These works should be carried out before first use of the development. To arrange alterations to the existing vehicle crossing point(s) (and to make good any damage or other works to the existing footpath or verge) you should contact the Highways Area Office at [northernareahighways@northumberland.gov.uk](mailto:northernareahighways@northumberland.gov.uk).

#### 04. Highway condition survey

You should note that a highway condition survey should be carried out before the commencement of demolition and construction vehicle movements from this site. To arrange a survey contact Highway Development Management at [highwaysplanning@northumberland.gov.uk](mailto:highwaysplanning@northumberland.gov.uk).

#### 05. Reminder to not store building material or equipment on the highway

Building materials or equipment shall not be stored on the highway unless otherwise agreed. You are advised to contact the Streetworks team on 0345 600 6400 for Skips and Containers licences.

#### 06. Reminder to not deposit mud/ debris/rubbish on the highway

In accordance with the Highways Act 1980 mud, debris or rubbish shall not be deposited on the highway.

07. Nuisance

08. Ecology

The effectiveness of the development's design in ensuring that a nuisance is not created, is the responsibility of the applicant / developer and their professional advisors / consultants. Developers should, therefore, fully appreciate the importance of obtaining competent professional advice. In all cases, the Council retains its rights under Section 79 of the Environment Protection Act 1990, in respect of the enforcement of Statutory Nuisance.

There is a risk that birds' nests will be damaged if vegetation is removed during the breeding season (typically mid-March to mid-August). All wild birds and active nests are protected and it is an offence to intentionally destroy nests or dependent young when on or near the nest, or to kill or take them.

Applicants and contractors should note that the protected species legislation operates independently of the planning system, planning consent does not override the legislation relating to protected species and that they should be aware of this risk. Professional advice can be obtained from an Ecological Consultant, and a list of such consultants can be found on the website of the Chartered Institute of Ecology and Environmental Management at <http://www.cieem.net/members-directory> .

**Background Papers:** Planning application file(s) 18/03822/FUL