

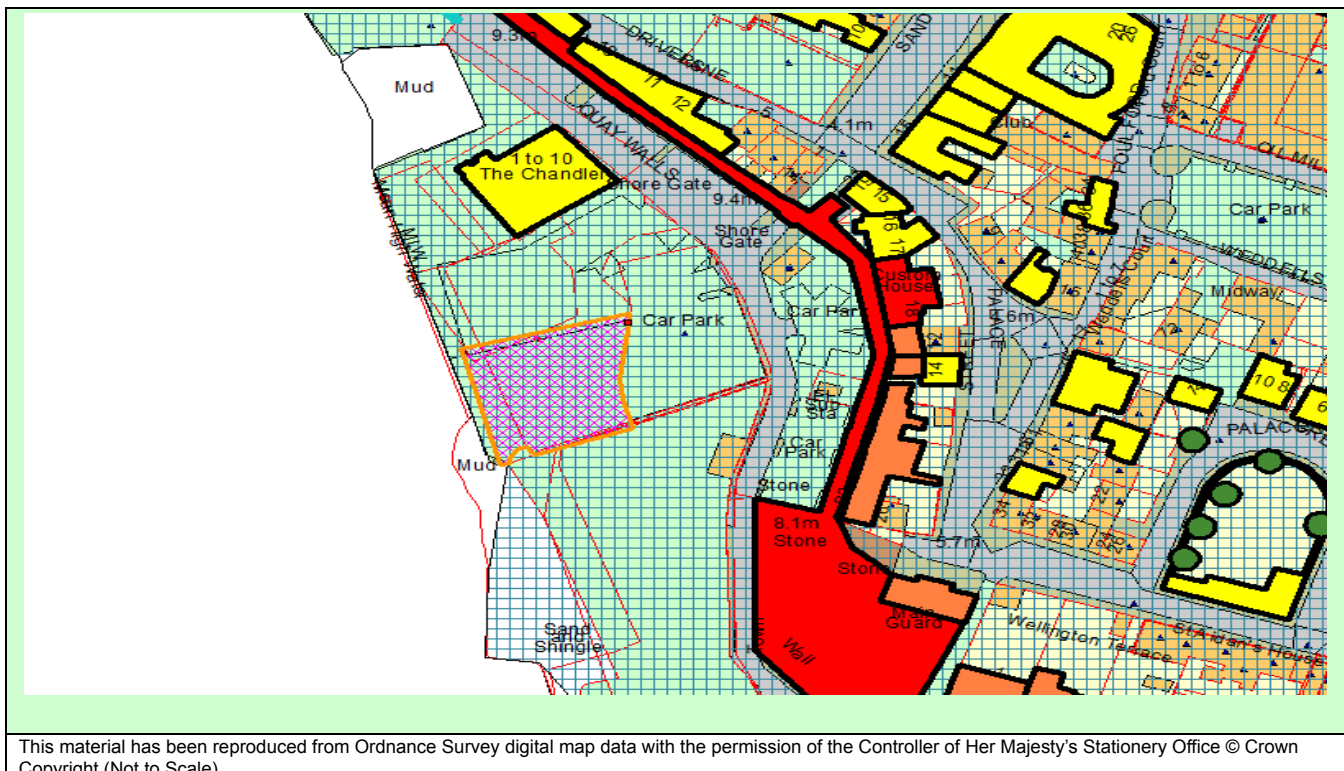


Northumberland County Council

North Local Area Council Planning Committee 22nd August 2019

Application No:	19/01303/FUL		
Proposal:	Extension of existing car park into adjacent scrub land to create additional car parking bays		
Site Address	The Chandlery Car Park, Quayside, Berwick-Upon-Tweed, Northumberland TD15 1HE		
Applicant:	Northumberland County Council (James Ellis) Technical Services, County Hall, Morpeth, NE61 2EF	Agent:	Mr James Ellis County Hall , Morpeth, NE61 2EF,
Ward	Berwick North	Parish	Berwick-upon-Tweed
Valid Date:	23 April 2019	Expiry Date:	7 August 2019
Case Officer Details:	Name: Miss Stephanie Forster Job Title: Planning Officer Tel No: 01670 622706 Email: stephanie.forster@northumberland.gov.uk		

Recommendation: That this application be GRANTED permission subject to conditions.



1. Introduction

1.1 This application falls to be determined by the North Northumberland Local Area Council as the applicant is Northumberland County Council. The application is recommended for approval.

2. Description of Proposals

2.1 Planning permission is sought for the extension of the existing car park into adjacent scrub land to create additional car parking bays at The Chandlery Car Park, Quayside, Berwick-Upon-Tweed.

2.2 The application site is located on the Quayside in Berwick-Upon-Tweed and would extend the car park to alleviate some of the parking issues in the area.

2.3 The application site is located in the Berwick Conservation Area and also in an Article 4 area. It is also located in an archaeological area and in a flood zone.

3. Planning History

Reference Number: N/00/B/0299

Description: Proposed installation of cctv camera.

Status: Permitted

Reference Number: N/95/B/0096/P

Description: Extension to existing car park.

Status: Permitted

Reference Number: N/98/B/0082/P

Description: Demolition of buildings.

Status: Permitted

Reference Number: N/98/B/0041/P

Description: Demolition of disused buildings refurbishment of quay wall and quayside.

Status: Permitted

4. Consultee Responses

Building Conservation	Objection received on the basis that the proposals would result in less than substantial harm to the Berwick Upon Tweed Conservation Area
Berwick-upon-Tweed Town Council	The Berwick Town Council have asked that the application be considered at planning committee.
Highways	No objection subject to conditions.
Lead Local Flood Authority (LLFA)	No objection.
County Archaeologist	No objection.
County Ecologist	No objections subject to conditions.
Environment Agency	No objection subject to conditions.
Strategic Estates	No response received.
Natural England	No objection subject to an appropriate assessment being submitted. This has now been received.
Historic England	No objection.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	11
Number of Objections	5
Number of Support	2
Number of General Comments	1

Notices

Site notice Conservation & affect LB, 8th May 2019

Berwick Advertiser 9th May 2019

Summary of Responses:

5no objections have been received in relation to the application on the basis that the proposal would not accord with the provisions in the emerging Neighbourhood Plan. However, the plan has not yet been made, and is not yet at a stage where it carries any weight. Concerns were also raised with regard to congestion and highways issues which would occur as a result of the proposals.

2no comments in support of the application have been received. These support comments have been received on the basis that the proposals will alleviate parking problems and the additional pressures on existing parking facilities in the city centre.

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=PQ5FQ6QSFN700>

6. Planning Policy

6.1 Development Plan Policy

F1 Environmental Wealth - Berwick upon Tweed Local Plan

F31 Social and Economic Welfare - Berwick upon Tweed Local Plan

F5 Berwick-upon-Tweed - Berwick upon Tweed Local Plan

F6 Special Protection Areas, Special Areas of Conservation and Ramsar Sites - Berwick upon Tweed Local Plan

F7 National Nature Reserves and Sites of Special Scientific Interest - Berwick upon Tweed Local Plan

F10 Protected Species - Berwick upon Tweed Local Plan

W34 Development at Berwick Quayside and Dewars Lane - Berwick upon Tweed Local Plan

M14 Car Parking Standards - Berwick upon Tweed Local Plan

6.2 National Planning Policy

National Planning Policy Framework (2019)

National Planning Practice Guidance (2019, as updated)

6.3 Emerging Planning Policy

Northumberland Local Plan - Draft Plan for Regulation 19 Consultation (2019) and proposed minor modifications, submitted 29th May 2019.

6.4 Other Documents/Strategies

None relevant

7. Appraisal

7.1 In assessing the acceptability of any proposal, regard must be given to policies contained within the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework (NPPF) is a material consideration and states that the starting point for determining applications remains with the development plan, which in this case contains policies from the Berwick Upon Tweed 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 on 04/01/19 and proposed minor modifications submitted 29th May 2019. In accordance with Paragraph 48 of the NPPF; the policies contained within the document at this stage carry minimal weight in the appraisal of planning applications. The main considerations in the assessment of this application are:

Principle of Development
Design
Impact on Amenity
Impact on Conservation Area
Impact on Highway
Flood Impact
Ecological Impact
Archaeological Impact

Principle of Development

7.3 The application proposes the extension of the Chandlery car park in Berwick upon Tweed into the surrounding land. It is stated in the Berwick-Upon-Tweed Local Plan that the car parking facility may be retained in conjunction with other uses.

7.4 The site is located within Berwick upon Tweed Town Centre. Saved Policy F5 states; Within the town of Berwick upon Tweed, 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.

7.5 Part of the proposed site is allocated in the Berwick plan under saved policy W34. This policy refers to two sites in Berwick - the Quayside (which is the proposed site minus the area currently used for car parking) and Dewar's Lane a short distance to the North-West of the proposed site. The policy is reproduced below without the parts that make specific reference to the Dewar's Lane site. This has already been partially developed, with a youth hostel now on part of the site.

7.6 Within the town of Berwick upon Tweed, the development of land and buildings at Berwick Quayside for dwellings together with uses falling within Classes A1 (Shops), A2 (Financial and Professional Services), A3 (Food and Drink), B1 (Business), C1 (Hotels) or D1 (Non-Residential Institutions), will be permitted provided that:

- i) part of the former S.S.E.B. building at the Quayside, to be agreed by the local planning authority, is retained;
- ii) the slip-way for the repair and manufacture of boats is retained;
- iii) public open space parking and circulation spaces is provided within the redevelopment of the Quayside, the location and extent of which will be agreed by the local planning authority;
- v) views of the Elizabethan walls from the south of the river are as far as practicable opened up; and
- vi) it accords with Policies elsewhere in the Plan.

7.7 The supporting text states that particular encouragement will be given to the development of a Youth Hostel, in accordance with the specifications of the Youth Hostel Association; accommodation for the provision of Further or Higher Education; workspace accommodation; interpretation facilities for the adjacent Tweed Estuary Proposed Special Protection Area; and/or other services which will enhance the town's infrastructure for tourism. An element of housing, within existing buildings, will be considered against Policies elsewhere in the Plan.

7.8 Whilst the provision of a car park is not referenced in Policy W34, it is considered that the car park extension will help to enhance the town's infrastructure for tourism and is therefore an appropriate and necessary form of development. In addition, the car park would meet the definition provided in the NPPF for previously developed (brownfield) land.

7.12 This is a sustainable location for new development that is well-related to and within a sustainable main town. The NPPF sets out a presumption in favour of sustainable development, and states that local planning authorities should improve the quality of parking in town centres so that it is convenient, safe and secure. It is considered that the principle of a car park extension in this location would be in accordance with the general principles of sustainable development and would accord with the NPPF.

7.13 Limited weight needs to be given to the policies of the emerging Northumberland Local Plan. Having assessed the proposals against policies STP1 and STP2 of the emerging Northumberland Local Plan, it is considered that the proposals are in line with the emerging plan policies and are considered to be acceptable.

Design

7.13 Policy F5 of the BLP sets out the criteria against which new development shall be assessed. This includes the impact on adjacent land uses in terms of scale, massing, materials, etc and sets out locational requirements for development. Paragraph 124 of the NPPF attaches great importance to the design of the built environment and states that 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.

7.14 The proposal is considered to be of a high quality design for a car park development. It is considered that the proposals are acceptable in this regard and would not have a significant negative impact upon the wider street scene. It is therefore considered that the proposals are in accordance with Policy F5 of the BLP and the NPPF.

7.15 The proposals have also been considered against policies QOP1 and QOP2 of the emerging Northumberland Plan and it is considered that they accord with the relevant policies and are acceptable in this regard.

Impact on Amenity

7.16 Policy W6 of the BLP seeks to ensure that development that could be reasonably expected to adversely affect surrounding land uses can be suitably mitigated in order to safeguard other land users and the wider community. Paragraph 127 of the NPPF seeks to ensure that developments will create places with a high standard of amenity for existing and future users.

7.17 The application site is located on and adjacent to an existing car park in the centre of Berwick. It is considered that the proposal would have limited or no impact upon the amenity of neighbouring residents as the proposal seeks to extend an existing car park. It is considered that there would not be any substantive impacts on amenity resulting from the proposal in terms of loss of light, outlook or privacy and as such, the proposal is considered to be in accordance with the NPPF in this respect.

Impact on Conservation Area

7.18 Section 16(2) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires the local authority to have special regard to the desirability of preserving the Listed Building or its setting or any features of special architectural or historic interest which it possesses.

7.19 Paragraph 192 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 193-196 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.

7.20 Building Conservation have been consulted in relation to the application in order to assess the impact that the proposal will have on the conservation area, and have responded to the consultation stating that, 'Car parking is not an attractive feature in such a regionally significant location which is open in views to the river and consequently detracts from the character or appearance of the CA. Nevertheless the site would be viewed in much the same manner as that currently on the existing Chandlery car park such that the further harm would be restricted to *less than substantial harm* within the terms of the NPPF.' Building Conservation have confirmed that the proposals will result in less than substantial harm, and it would then be up to the decision maker to determine whether or not the public benefit brought about by the development would outweigh the less than substantial harm caused to the Berwick-Upon-Tweed Conservation Area.

7.21 The recent completion of a hotel complex has resulted in the permanent removal of 10no car parking spaces from the centre of Berwick-Upon-Tweed and has also placed additional pressures on existing car parking facilities, which are struggling to meet the needs of the visitors to the area. It is considered that the proposals would help to alleviate some of the parking problems which have been identified in the city centre and in this respect would outweigh the less than substantial harm which would arise as a result of the proposals. The proposal is considered acceptable and in accordance with the relevant local and national planning policy in this regard.

Impact on Highway

7.22 The NCC Highways Officer has been consulted in relation to the application and has returned comment stating that, 'When assessing applications for planning permission the Highway Authority checks that the proposal will not result in an adverse impact on the safety of users of the highway, the highway network or highway assets. The information submitted has been checked against this context. The proposal is considered to be acceptable in principle in terms of the National Planning Policy Framework and the Highway Authority does not object to the granting of planning permission.'

7.23 The NCC Highways Officer has not identified any congestion problems which would result from the proposals, as suggested in the objection comments. Conversely, it is acknowledged that the proposals will alleviate parking problems in the centre of Berwick-Upon Tweed. It is considered that there would not be a

substantial impact on highway safety as a result of the development and the proposals are considered to be acceptable subject to the imposition of conditions requiring the submission of a construction method statement and the implementation of the vehicle parking and manoeuvring area. It is therefore considered that the proposals are acceptable from a highways perspective and in accordance with local and national planning policy.

Flood zone Impact

7.24 The LLFA have been consulted in relation to the application and have returned comment stating that they have no objection to the proposals. It is considered that the proposals are acceptable in this regard in accordance with local and national planning policy.

Ecological Impact

7.25 The NCC Ecology Officer has been consulted in relation to the application and has returned comment stating that, 'While the operation of the car park extension is unlikely to affect the SSSI, it is important that protective measures are implemented during its construction to avoid disturbance to or pollution of the SSSI. Mitigation is proposed, including a Construction Environmental Management Plan (CEMP). Regulation 63 of the Conservation of Habitats and Species Regulations 2017 obliges the LPA to undertake an appropriate assessment of any development proposal likely to have a significant effect on a European site. As with the SSSI, there is the potential for significant effects during construction, for which mitigation has been proposed. As the scheme would be likely to have a significant effect in the absence of mitigation, an appropriate assessment is required.'

7.26 An appropriate assessment has been carried out and submitted and it is considered that subject to conditions the proposals are acceptable and in line with local and national planning policy in this regard.

Archaeological Impact

7.27 The County Archaeologist has been consulted in relation to the application and has returned comment stating that, 'Although located in a sensitive archaeological location, previous trenching in this area has established that modern and 19th century deposits are likely to be present to a depth of between 0.45 and 1.2m below current ground level, overlying post-medieval ballast deposits to a depth of 3.35 - 4.1m below current ground level, overlying medieval deposits. The proposed development largely involves groundworks to a depth of c.0.45m below current ground level which are unlikely to impact on significant archaeological remains. As a result no archaeological monitoring work is required in this instance.' It is considered that the proposals are acceptable in this regard and in accordance with local and national planning policy.

Equality Duty

7.28 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

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

Human Rights Act Implications

7.30 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.

7.31 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.

7.32 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 It is considered that the principle of a car park extension in this location would be in accordance with the general principles of sustainable development and would accord with the NPPF.

8.3 It is considered that the provision of a car park extension within the town will help to support the retail and tourist economy and encourage more visitors to the town.

8.4 It is not considered that the proposal would result in a significantly detrimental impact upon the amenities of the neighbouring properties, the Conservation Area or highway safety.

9. Recommendation

That this application be GRANTED permission subject to the following:

Conditions

01. 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. Except where modified by the conditions attached to this planning permission, the development shall be carried out in accordance with the details shown on plan number;

1. Location Plan
2. General Layout
3. Contour Plan
4. Sections
5. Construction Details
6. Drainage

Reason: To ensure the development is carried out in accordance with the approved plans.

03. Development shall not commence until a Construction Method Statement, together with supporting plan 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 and plan shall, where applicable, provide for:

- i. details of temporary traffic management measures, temporary access, routes and vehicles;
- ii. vehicle cleaning facilities;
- iii. the parking of vehicles of site operatives and visitors;
- iv. the loading and unloading of plant and materials;
- v. 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.

04. The vehicle parking and manoeuvring area, including any disabled car parking spaces contained therein, shall not be taken into use until it has been implemented and marked out in accordance with the approved plans. Thereafter, the vehicle car parking and manoeuvring area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking and manoeuvring of vehicles.

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

05. The development shall be carried out in accordance with the submitted Flood Risk Assessment and Drainage Strategy (ref FC180008-01) and the following mitigation measures:

Site ground levels and gradients shall be retained as existing.

These mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the scheme's timing/ phasing arrangements. The measures detailed above shall be retained and maintained thereafter throughout the lifetime of the development.

Reason: To prevent flooding elsewhere.

06. A Construction Environmental Management Plan (CEMP) should be produced and approved by the Local Planning Authority prior to works commencing. The CEMP should include the measures 1-15 set out on page 22-23 of the 'Ecological Impact Assessment, Car Park Extension, Land South of The Chandlery, Berwick upon Tweed', April 2019.

Reason: Otter is a protected species under The Wildlife and Countryside Act 1981 (as amended), Conservation and Habitats Regulations 2017 and the Wild Mammals (Protection) Act 1996. It is an offence to capture, kill, disturb or injure an otter or to damage or destroy their breeding or resting places. It is also an offence to obstruct access to their resting or sheltering places (deliberately or by not taking enough care). In addition, all species of cetacean are listed on Annex IV of the Habitats Directive (92/43/EEC), whilst lamprey species are protected under Annex II of the Habitats Directive. There is potential for harm/disturbance to such species as a result of the development.

07. Prior to construction commencing the applicant shall submit a Construction Environmental Management Plan to the LPA, to be fully implemented as approved. This will detail measures to prevent pollution of the watercourse by run-off, dust or litter, including but not restricted to:

The appointment of an Ecological Clerk of Works to monitor site setup and provide toolbox talks to the contractors.

During construction no works which will create noise in excess of 70dB LA Max (measured at the edge of the site adjacent to the estuary) will be permitted during the migratory and overwintering period August-March inclusive.

A 2m high screen to be erected prior to construction commencing and maintained until construction is complete to shield the site from the estuary, comprising a material suitable to limit visual intrusion and reduce noise spill and pollution by litter and dust.

A bund strip with a suitable absorbent spill sock will be installed to the site boundary, encompassing the construction boundary.

Details of plant refuelling and the prevention, control and reporting of spills

Details of the storage and disposal of waste and the management of dust

No works on site to commence during the bird nesting period March to August

inclusive unless a suitably qualified ecologist has first confirmed that no nesting birds are present.

Any construction pits and trenches must be fitted with a means of escape for mammals.

Reason: To avoid harm to designated sites of nature conservation importance. This is required to be a pre-commencement condition because it includes actions that must be undertaken prior to construction commencing.

08. Prior to completion of construction two woodcrete sparrow terrace nest boxes will be mounted to the wall to the rear of the new car park, to a design and in a location approved by the Ecological Clerk of Works.

Reason: to To secure ecological enhancement, in accordance with paragraph 175 of the NPPF

Background Papers: Planning application file(s) 19/01303/FUL