

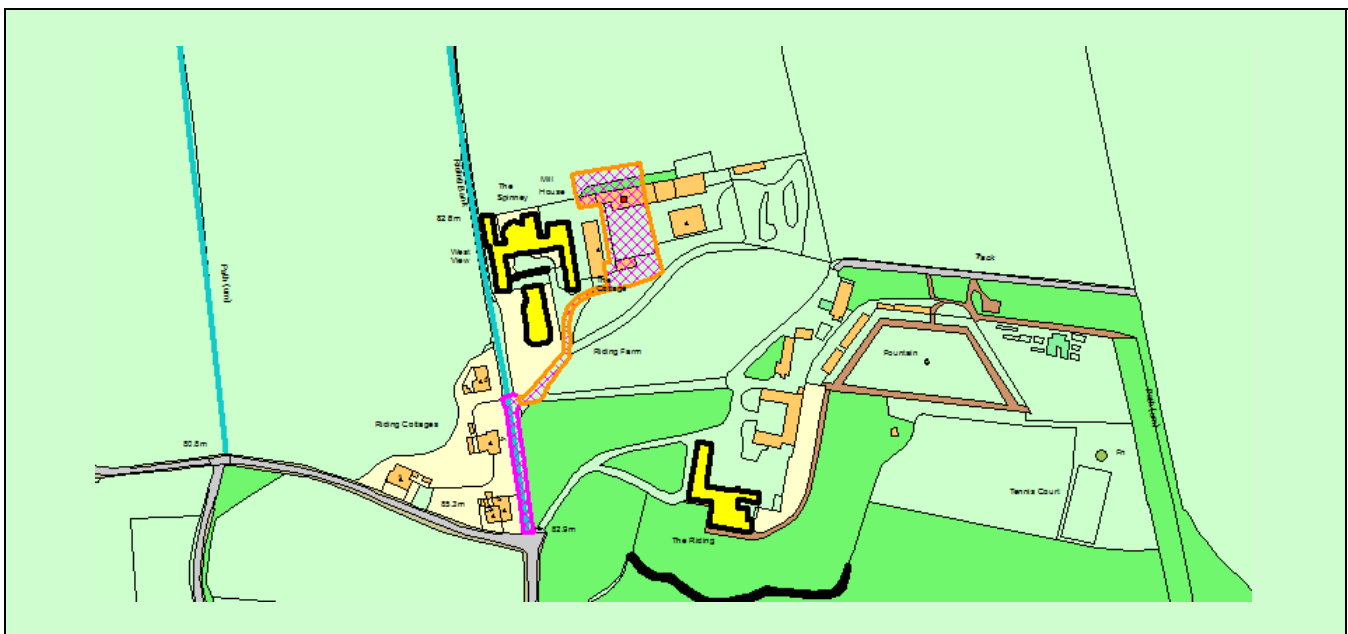


Northumberland County Council

Tynedale Local Area Council Planning Committee 11 December 2018

Application No:	18/02238/FUL		
Proposal:	Application to rebuild barn which had permission under T/20080196 for change of use and conversion of existing barn to create a single residential dwelling and garage (retrospective)		
Site Address	Acomb View, The Riding, Acomb, Hexham, Northumberland, NE46 4PF		
Applicant:	Mr & Mrs Cessford C/o Agent, Eastburn, South Park, Hexham NE46 1BS	Agent:	Jenny Ludman, Ludman Planning, Eastburn, South Park, Hexham, NE46 1BS
Ward	Hexham Central With Acomb	Parish	Acomb
Valid Date:	12 July 2018	Expiry Date:	14 December 2018
Case Officer Details:	Name: Mr Neil Armstrong Job Title: Senior Planning Officer Tel No: 01670 622697 Email: neil.armstrong@northumberland.gov.uk		

Recommendation: That this application be REFUSED



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1. Introduction

- 1.1 Under the provisions of the Council's current Scheme of Delegation the application has been referred to the Head of Service and the Chair of the relevant Planning Committee for consideration to be given as to whether the application should be referred to a Planning Committee for determination. This matter has been duly considered under these provisions and it has been confirmed that the application should be referred to the Committee for determination.

2. Description of the Proposals

- 2.1 Full planning is being sought to rebuild a barn that has previously been granted planning permission for conversion to create a single residential dwelling and garage and conversion of outbuilding to ancillary playroom, and that had subsequently been implemented. During the course of conversion works the original barn has been demolished and as such the site no longer benefits from planning permission for the conversion of the original barn, and planning permission is effectively being sought for the construction of a new dwelling on the site in a similar design to the previously approved conversion scheme.
- 2.2 The application site is located in the Green Belt and within the countryside adjacent to a group of dwellings and buildings at The Riding, St John Lee, which is around 1 km to the north of Hexham and 400 metres south of the village of Acomb. The site lies immediately to the east of the Grade II listed Riding Home Farm, with outbuildings that are also listed and that have previously been converted to three dwellings. The Grade II listed The Riding is located to the south of the site. A group of five cottages is located around 80 metres to the south-west of the site, with the Grade II* listed St John Lee Church further south-west, along with the Grade II listed Rectory and St John Lee Hall. To the east of the site is land and buildings used for caravan storage as approved under application 20090414. To the north of the site is open countryside that separates the group of buildings from Acomb.
- 2.3 Planning permission had originally been granted for the change of use and conversion of the buildings on the site to a dwelling along with the conversion of a detached outbuilding to an ancillary playroom under application 20080196. Permission was then granted through previous planning legislation to extend the time to implement that approval for a further three years under application 20110185, and it is understood that this was subsequently implemented but this did not include any works to convert the main building/barn.
- 2.4 The submitted Design and Access Statement states that during the course of construction it became evident that tree roots had caused problems with the foundations of the barn, and the walls were subsequently removed in order to ensure that the correct foundations could be put in place. Following investigation and discussions with the Council's Enforcement officers the applicant was advised that the site no longer had the benefit of planning permission, with this being granted on the basis of a conversion only. The

application therefore seeks full permission to rebuild the buildings in a similar form and footprint to that previously approved.

3. Planning History

Reference Number: T/91/E/670

Description: Change of use of agricultural land to storage of 20 caravans.

Status: Permitted

Reference Number: T/20060562

Description: Change of use and conversion of existing farm buildings to create one dwelling with associated garden, access and detached double garage with store

Status: Withdrawn

Reference Number: T/20080196

Description: Change of use and conversion of existing barn to create a single residential dwelling and garage and conversion of outbuilding to ancillary playroom

Status: Permitted

Reference Number: T/20090414

Description: Part retrospective change of use of existing buildings and associated curtilage land from agricultural use to storage of 20 touring caravans/mobile homes, together with external cladding of open part of northern elevation of unit 3, erection of new section of retaining wall, erection of screen wall/fence on western boundary and new landscaping, as amended

Status: Permitted

Reference Number: T/20110185

Description: Application for a new planning permission to replace an extant planning permission in order to extend the time limit for implementation - 20080196 Change of use and conversion of existing barn to create a single residential dwelling and garage

Status: Permitted

Reference Number: 14/03716/DISCON

Description: Discharge of conditions 4, 9, 10, 12, 15, 20, 21, 23, 24 and 27 relating to planning permission 20110185 (Application for a new planning permission to replace an extant planning permission in order to extend the time limit for implementation - 20080196 Change of use and conversion of existing barn to create a single residential dwelling and garage and conversion of outbuilding

Status: Permitted

4. Consultee Responses

Acomb Parish Council	Support the application.
Northumbrian Water Ltd	No comments
Countryside/ Rights Of Way	No objection on the condition that Public Bridleway No.7 is protected throughout.
Highways	No objection subject to conditions in respect of car parking, refuse storage/strategy and cycle parking.
Building Conservation	The revisions presented preserve the setting of listed building and respond sympathetically to the host and character of the site.
County Ecologist	No objection subject to condition securing avoidance, mitigation and enhancement measures.
Lead Local Flood Authority (LLFA)	No comments as this is minor development – informative and advice provided in respect of surface water drainage matters.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	9
Number of Objections	0
Number of Support	1
Number of General Comments	0

Notices

Site Notice - Affecting Listed Building: displayed 30 July 2018

Press Notice - Hexham Courant: published 26 July 2018

Summary of Responses:

One letter of support has been received from the owner of The Riding to the south of the site, and former owner of the application site. This comments that prior to the sale to the applicants the property had stood vacant for a significant number of years, had become overgrown and fallen into substantial disrepair, and had a negative impact on adjacent properties and the surrounding area. They comment that the form of the building appears to be as per the original structure and aligns with what has previously been approved. It is felt that the properties and surrounding area would be adversely affected if the project was not completed.

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=PAVA76QSHD100>

6. Planning Policy

6.1 Development Plan Policy

Tynedale Local Plan (2000)

GD2 Design criteria for development
GD4 Range of transport provision
GD6 Car parking standards
NE7 New buildings in the Green Belt
NE8 New dwellings in the Green Belt
NE14 Use of existing buildings in the Green Belt
NE27 Protection of protected species
NE33 Protection of trees, woodland and hedgerows
NE37 Landscaping in developments
BE22 The setting of listed buildings
H32 Residential design criteria
CS27 Sewerage

Tynedale LDF Core Strategy (2007)

GD1 General location of development
GD2 Prioritising sites for development
GD4 Principles for transport and accessibility
GD5 Minimising flood risk
NE1 Principles for the natural environment
BE1 Principles for the built environment
H1 Principles for housing
H2 Housing supply
H3 The location of new housing

6.2 National Planning Policy

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

6.3 Emerging Planning Policy

Acomb Neighbourhood Plan 2017 – 2032 (Submission Draft Plan – March 2018)
(Post-Examination Plan)

Northumberland Local Plan – Draft Plan for Regulation 18 Consultation (July 2018)

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 Tynedale Local Plan and Tynedale Core Strategy as identified above.
- 7.2 Paragraph 48 of the NPPF states that weight can be given to policies contained in emerging plans dependent upon the stage of preparation of the plan, level of unresolved objections to policies within the plan and its degree of consistency with the NPPF. The Acomb Neighbourhood Plan has been through examination and is therefore a post-examination plan. Section 1 of the Neighbourhood Planning Act 2017 amends section 70 of the Town and Country Planning Act 1990, which places a duty on Local Planning Authorities to have regard to post-examination Neighbourhood Plans so far as they are material to the decision on an application. Very substantial weight can therefore be given to this Plan now insofar as its policies are relevant to the current application. In addition, the emerging Northumberland Local Plan is in the process of preparation with consultation having taken place during July/August 2018 and publication expected in January 2019, although limited weight can be given to this at this stage.
- 7.3 Following assessment of the application and representations received during the construction period, the main issues for consideration include:
- Principle of development
 - Location
 - Green Belt
 - Very special circumstances
 - Design and impact upon heritage assets
 - Residential amenity
 - Highway safety
 - Ecology and trees

Principle of Development

Location

- 7.4 Policy GD1 of the Tynedale Core Strategy sets out principles for the location of new development with the main focus for development being the main towns and then local centres, smaller villages and development in the open countryside being limited to reuse of existing buildings. The Tynedale Local Development Framework Proposals Map does not show a settlement boundary around this group of properties. Furthermore, the Core Strategy states that the open countryside is defined as everywhere outside the built up area of a town or village and includes sporadic groups of buildings. The site is therefore considered to fall within the open countryside.
- 7.5 Policy H1 of the Core Strategy goes on to apply principles for housing, including limiting housing to main towns, local centres and smaller villages with adequate services. New build housing is not permitted in the countryside

under Policy H3 of the Core Strategy as this seeks to direct housing to the main towns, local centres and smaller villages which are sustainable. However, Policy H6 of the Core Strategy permits the change of use of existing buildings to residential. Such development will be permitted in the open countryside where criteria is met, including where the building is of permanent construction and has visual or historic merit which contributes to the distinctive character of the area and justifies its retention; and the change of use does not involve any extension, significant rebuilding or harm to its character.

- 7.6 The previous permissions for residential use on the site were therefore permitted on the basis of being a conversion of an existing building in the countryside that would be in accordance with Policies GD1 and H6 of the Core Strategy. There is a clear material change in circumstances in the assessment of this application, which no longer relates to the conversion of the buildings on the site, other than the smaller outbuilding. The applicant is therefore effectively seeking permission for the construction of a new dwelling in the countryside that would be contrary to Policies GD1, H1 and H3 of the Core Strategy.
- 7.7 In addition to the above development plan policies, consideration has been given to the national policy context, which is a material consideration in assessing applications. Paragraph 78 of the NPPF states that *“to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby”*. Given the nature and scale of the group of properties in the locality it is not felt that this could be classed as a village or smaller settlement, although it is acknowledged that the site is not a substantial distance from Acomb (smaller village in the Core Strategy) or Hexham (main town).
- 7.9 Paragraph 79 of the NPPF states that *“planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:*
- a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;*
 - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;*
 - c) the development would re-use redundant or disused buildings and enhance its immediate setting;*
 - d) the development would involve the subdivision of an existing residential dwelling; or*
 - e) the design is of exceptional quality, in that it:*

- *is truly outstanding or innovative, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and*

- *would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area”.*

7.10 The policies of the Core Strategy above are considered to be largely consistent with the NPPF’s approach to avoiding isolated new homes in the countryside, although they do not wholly accord with the wider range of circumstances as exceptions. The proposed development as a whole, including the rebuilding of the main barn as a dwelling, would not meet the circumstances set out above.

7.11 Having regard to recent case law in the case of the Braintree Court of Appeal decision though, officers have also considered whether the development would be ‘isolated’ in the context of the NPPF given its location and relationship to other existing development in the immediate locality. It is felt that the site could not reasonably be considered to be in a village or settlement in this context. The development could not accord with the Framework’s example of development in a village supporting services in a nearby one as it would not be in a village itself. The development would result in the new isolated housing development in the countryside which the Framework seeks to avoid. In terms of transport new occupiers would be mainly reliant on the private car in this location and there are very limited services in the immediate area. The construction of a dwelling would have a negligible impact with regard to economic and social objectives set out within the NPPF, with the contribution of the development to economic and social sustainability being limited.

Green Belt

7.12 In addition to new housing in the countryside, the proposal would also result in development within the Green Belt. Policy NE7 of the Local Plan sets out circumstances when the construction of new buildings in the Green Belt may be permitted, including limited infilling within identified villages, limited affordable housing and proposals for the limited extension, alteration or replacement of existing dwellings. The proposal would not fall within any of the purposes identified. Furthermore, Policy NE8 of the Local Plan relates specifically to new dwellings and states there will be a presumption against the construction of new dwellings in the Green Belt.

7.13 The most up-to-date Green Belt policy guidance is set out within the NPPF. Paragraph 133 states that *“the Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence”*. Paragraph 143 states that *“inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances”*. Paragraph 144 goes on to state that *“when considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. ‘Very special circumstances’ will not exist unless the*

potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations”.

7.14 Paragraph 145 of the NPPF states that *“a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:*

a) buildings for agriculture and forestry;

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

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

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages;

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

g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

– not have a greater impact on the openness of the Green Belt than the existing development; or

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

7.15 Paragraph 146 also states that other forms of development are not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These include the re-use of buildings provided that the buildings are of permanent and substantial construction. The conversion of an existing building, as previously permitted on the site, would not therefore be inappropriate development.

7.16 The applicant’s statement seeks to argue that the proposed rebuilding of the barn and construction of a new dwelling would not amount to inappropriate development under paragraph 145 e) of the NPPF by virtue of being limited infilling in a village. However, as set out earlier it is not considered that this location could be considered to be a village, and as such the proposal would fail in relation to this exception.

- 7.17 During the course of the application officers have discussed the development in the context of whether it would meet any of the exceptions to inappropriate development set out within paragraph 145 of the NPPF. With regard to part d) and *“the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces”*, officers do not consider this would apply given that the proposal was not replacing an existing dwelling as it had not yet been converted.
- 7.18 Consideration has also been given to part g), and whether the proposal would be *“limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would: not have a greater impact on the openness of the Green Belt than the existing development”*. On the basis of being former agricultural buildings the site would not constitute ‘previously developed land’ having regard to the definition within the NPPF, which excludes land that was last occupied by agricultural buildings. However, the site has previously had a consent for the ‘change of use of agricultural land to storage of 20 caravans’ that was subsequently implemented and operated under application 91/E/670.
- 7.19 A further application for further caravan storage use was permitted on land to the east under application 20090414. The officer report for that application makes reference to caravan storage use taking place over a number of years on the application site for the current rebuild of the barn. It goes on to say that the over time, and following various approvals for conversion of buildings making up the listed farmstead, the area that benefitted from caravan storage use has been diminished in size. It then refers to permission also being granted for the original conversion of the buildings on the current application site under planning permission 20080196.
- 7.20 In light of the above, and notwithstanding that the site area for the caravan storage use permitted under 91/E/670 has reduced and it is not clear when this was last used as such, it would appear that the last lawful use of the application site was for a caravan storage use. On this basis, it could be argued that the site can be classed as previously developed land, and given the existing of existing development could also be deemed to be limited infilling. The test under paragraph 145 g) of the NPPF in terms of being an exception to inappropriate development in the Green Belt is therefore whether or not it would have a greater impact on the openness of the Green Belt than the existing development.
- 7.21 Following the demolition of the former barn, which was the principal building on the site providing the main living accommodation, the assessment of the ‘existing development’ is that the site is currently vacant of buildings, save for the small outbuilding which has been retained. It follows that there would be a ‘greater impact’ on the openness of the Green Belt than the existing development on the site. It should also be noted that significant sized trees that it is understood were to be retained as part of the development have been removed, which could have reduced the impact of any development on the wider landscape. The proposals would therefore be considered to have a greater impact on the openness of the Green Belt than the existing development, contrary to the provisions of the NPPF.

7.22 Having regard to the above the construction of a new dwelling in this location would amount to inappropriate development within the Green Belt that does not strictly meet any of the exceptions identified within paragraph 145 of the NPPF. On this basis there would need to be very special circumstances demonstrated to outweigh the harm to development in the Green Belt be able to approve such a development.

Very Special Circumstances

7.23 The Design and Access Statement includes a section on the 'special circumstances' of the applicants, which it is suggested are a material consideration in this instance. These are not presented in a way of being 'very special circumstances' to outweigh the harm to the Green Belt, but have been considered by officers as part of the application.

7.24 The statement makes reference to some personal circumstances of the applicants, including age and the fact they had sold their home to purchase the site and retire into, rather than seeking to develop and then sell on the site. Whilst it is fully acknowledged that this is a particularly difficult situation for the applicants, these are not considered to be special circumstances that officers could give significant weight to as material planning considerations.

7.25 The statement refers to the significant problems of tree root systems and discussions with the applicant's building control advisers regarding the need for new foundations, thereby resulting in the removal of the buildings. However, as referred to earlier it should also be noted that the previous permission sought the protection of existing mature trees as part of the development through planning conditions, although these have since been removed. It is unclear as to why the LPA's advice was not sought at the time when problems were first encountered during construction and the applicants could have been advised of the effects of demolition upon the planning permission for conversion of the buildings, before it was purposely demolished.

7.26 The statement refers to a planning appeal decision elsewhere in the country where the applicants were unable to complete an approved conversion scheme without structural alterations, which necessitated the removal of the existing structure. In that decision the Inspector allowed the appeal and stated:

"... a structural engineer's report indicates that it is necessary to take down and rebuild the south facing courtyard elevation and the return wall to enable the conversion to be completed. Thus, without approval for the works currently sought, the appellants appear to be faced with 2 choices. They could attempt to complete the conversion of Plot 5 without following the structural engineer's advice. However, given the history of previous collapses, I consider this would be risky and inherently unsafe. The alternative would be to abandon this half completed building on the basis that the extant planning permission cannot be implemented. As to Plot 6, given the extent of walls currently missing and the structural state of the remaining walls this part of the conversion cannot be completed without rebuilding almost the whole building. In my view the only

alternative open to the appellants would be to abandon Plot 6; leaving in effect a pile of rubble.”

The Inspector also stated:

“...if the appellants ... abandon the conversion of Plot 6 or abandon the whole project, the concerns raised by the Council in January 2005 regarding the integrity of this U shaped group of buildings and the complex as a whole would be realised. Indeed, if the appellants abandon the whole scheme the remains of the building would, in my view, have an adverse effect on the integrity and appearance of the complex as a whole and the surrounding countryside.”

- 7.27 The statement also makes reference to a High Court decision in respect of works of partial demolition and rebuilding, and where an Inspector had concluded that the overall environmental effect of changes was not that substantial and granting permission would be preferable to leaving the barn unfinished and part-demolished.
- 7.28 Although no detailed information on these cases has been provided, and it is unclear how comparable these are to the current application, it is considered that there may be circumstances whereby rebuilding could be deemed acceptable in the context of a scheme formerly allowed as a conversion in the countryside. However, as local planning authority these would need to be assessed on their merits and prior to demolition taking place, and care taken to ensure that the integrity of permissions granted as conversion schemes in the countryside where new build housing would not normally permitted are retained.
- 7.29 In this instance, the applicants have completely removed buildings rather than some partial demolition, whilst trees have also been completely removed from the site that contributed to the character of the area and the rural setting. Whilst there may be some perceived improvement to the vacant site in allowing rebuilding in a similar form to the dwelling as approved, officers do not consider that very special circumstances have been demonstrated to outweigh the harm to the construction of a new dwelling in the Green Belt and open countryside.

Design and Impact on Heritage Assets

- 7.30 Policies GD2 and H32 of the Tynedale Local Plan seek to ensure that development is appropriate for its location in terms of matters such as layout, scale, design and impact upon the amenity of residents. Policy BE1 of the Core Strategy seeks to conserve and enhance Tynedale's built environment. Policy NE1 of the Core Strategy sets out principles for the natural environment, including protecting and enhancing the character and quality of the landscape and avoiding the urbanisation of the countryside. The NPPF seeks to conserve and enhance the natural environment and looks to ensure that good design in new development is appropriate for its location.
- 7.31 Given the location of the site within the setting of listed buildings, Policy BE22 of the Local Plan is also relevant, which states that proposals for development

which would adversely affect the essential character or setting of a Listed Building will not be permitted. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 states that in considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

- 7.32 The previous applications and approved development were deemed to be acceptable in terms of design having regard to its form as a conversion scheme that was felt to be sympathetic to the character of the original buildings and the appearance of the area. The current application had been submitted in a similar form to the approved scheme in terms of the overall footprint, scale and massing of the new building. However, officers had raised concerns about some elements of the design, which were not felt to be appropriate to the character of the site or the former buildings.
- 7.33 Following further discussions with the applicant and Building Conservation Officer (BCO) amended plans have been received that now address the concerns raised in relation to fenestration, construction of a new porch, rainwater goods and materials. The BCO considers that the amended plans preserve the setting of the listed building and respond sympathetically to the character of the site, and they now support the application. In design terms the proposals are now considered to be acceptable and would be in accordance with Policies GD2, H32 and BE22 of the Local Plan and Policies BE1 and NE1 of the Core Strategy.

Residential Amenity

- 7.34 As well as looking to achieve a good quality of design in new residential development, Policies GD2 and H32 of the Local Plan set out the requirements for developments to ensure there would be no adverse effects upon residential amenity, and future occupants would also achieve acceptable standards of amenity.
- 7.35 On the basis of the plans as submitted, and having regard to the layout and relationship with existing dwellings to the west of the site, the proposal is not considered to result in any adverse or harmful impacts in relation to residential amenity. The proposal would therefore be in accordance with Policies GD2 and H32 of the Local Plan.

Highway Safety

- 7.36 New development will need to deliver an appropriate form of development in terms of highway safety and infrastructure having regard to Policies GD4 and GD6 of the Local Plan, Policy GD4 of the Core Strategy and the NPPF. Paragraph 109 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.

- 7.37 Following consultation, no objections have been raised by Highways Development Management subject to conditions that formed part of the previous permission. On this basis, subject to conditions in respect of car/cycle parking and refuse storage/strategy, the proposal would be in accordance with Policies GD4 and GD6 of the Local Plan and Policy GD4 of the Core Strategy.

Ecology and Trees

- 7.38 The Local Plan, Core Strategy and NPPF highlight the importance of considering potential effects upon the biodiversity and geodiversity of an area, as well as impacts upon trees and hedgerows. Policies NE27, NE33, NE34 and NE37 of the Local Plan and Policy NE1 of the Core Strategy are therefore relevant. Section 15 of the NPPF relates specifically to the conservation and enhancement of the natural environment, including impacts on habitats and biodiversity.
- 7.39 The original approvals for the conversion of the buildings and development of the site were subject to conditions that secured ecological mitigation and tree protection. As referred to earlier the unauthorised works that have been undertaken have resulted in the demolition of buildings and the removal of trees.
- 7.40 The comments of the Council's Ecologists highlight that the submitted bat survey results notes that prior to demolition the buildings supported a small number of roosting pipistrelle bats. The buildings were demolished before all surveys were completed, and as such the requirements for bat mitigation and compensation reflect this. Following discussions with the Ecologists the applicant has submitted amended plans that show bat roosting provision mitigation reflecting the loss of the roost. No objection has now been raised by the Ecologists on ecological grounds subject to a condition that secures avoidance, mitigation and enhancement measures, including the installation of bat roosting provision within the building.
- 7.41 The loss of the mature trees to the northern boundary of the site is also particularly disappointing as these contributed to the character and appearance of the site and wider area, which results in a loss of visual amenity. It is considered that replacement planting could be secured by a condition should permission be granted, although this would not mitigate the visual impact to the same degree as previously or make up for the ecological benefits lost.

Other Matters

- 7.42 On other matters consultation has taken place with Northumbrian Water and the Lead Local flood Authority, and no objections or comments have been raised. No objection has been raised by the Council's Countryside Support and Rights of Way team provided that a right of way to the west of the site is maintained, although this would not be affected by the development and a section is already used as vehicular access to the site and adjacent properties.

Equality Duty

- 7.43 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

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

Human Rights Act Implications

- 7.45 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.
- 7.46 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.
- 7.47 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 site has previously had planning permission for the re-use and conversion of the former buildings to a dwelling on the site that were deemed to be acceptable in line with relevant development plan policies and the NPPF in respect of new housing in the countryside and the Green Belt. Following the

demolition of the buildings on the site, there is no longer an extant permission for a new dwelling. There is now a material change in circumstances in relation to the assessment of an application for a new build dwelling on the site as opposed to the conversion of existing buildings. The proposal would result in the construction of a new dwelling in the countryside and the Green Belt, which would be inappropriate development, contrary to the NPPF.

9. Recommendation

That this application be REFUSED permission for the following reason;

Reason

1. The construction of a new dwelling in this location would amount to inappropriate development within the Green Belt and open countryside contrary to Policies GD1, H1 and H3 of the Tynedale Core Strategy, Policies NE7 and NE8 of the Tynedale Local Plan and the National Planning Policy Framework.

Background Papers: Planning application file(s) 18/02238/FUL