

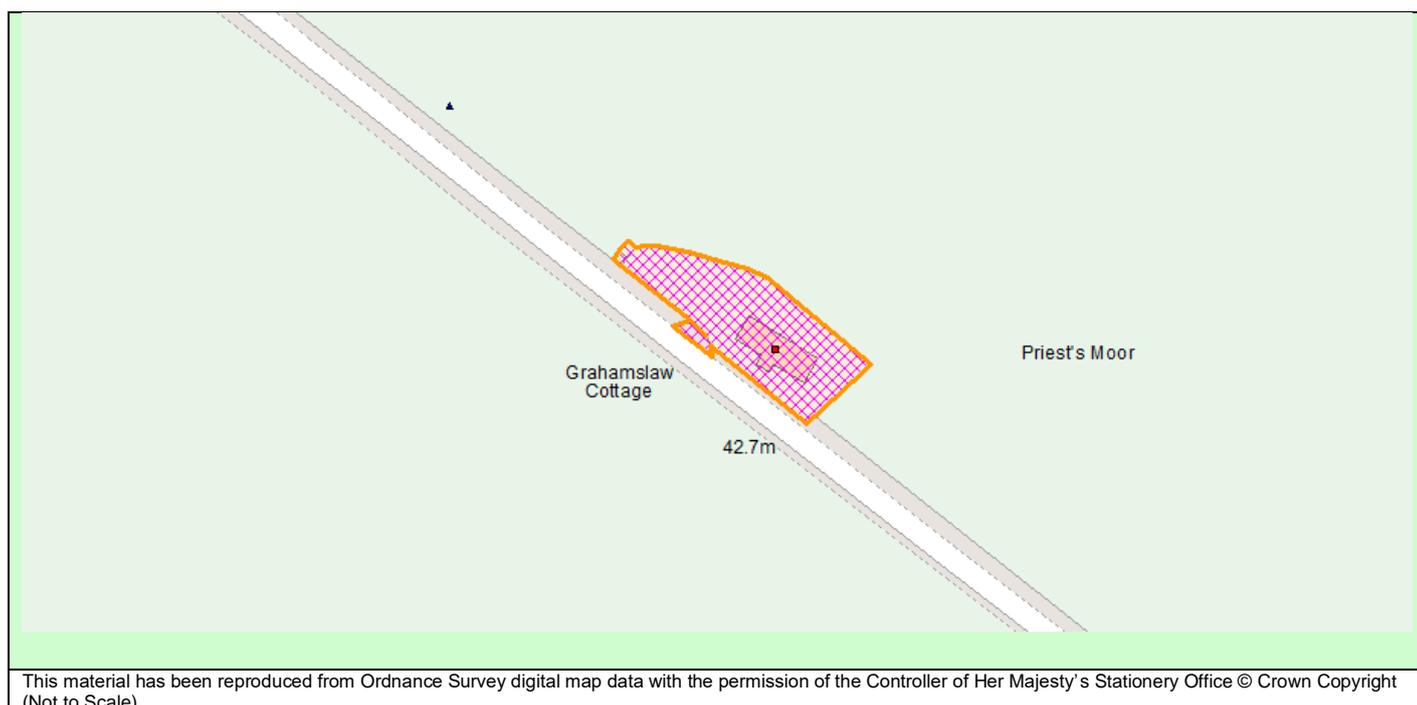


Northumberland County Council

North Northumberland Local Area Council, 23rd June 2022

Application No:	21/04960/FUL		
Proposal:	Resubmission: Rebuilding of Grahamslaw Cottage following significant fire damage. Detached garage.		
Site Address	Grahamslaw Cottage, Priests Moor, Christon Bank, Northumberland		
Applicant:	Grahamslaw C/O Agent	Agent:	Mr Craig Ross 4-6 Market Street, Alnwick, NE66 1TL,
Ward	Longhoughton	Parish	Embleton
Valid Date:	22 December 2021	Expiry Date:	13 May 2022
Case Officer Details:	Name: Mr James Hudson Job Title: Senior Planning Officer Tel No: 01670 622646 Email: James.Hudson@northumberland.gov.uk		

Recommendation: That this application be REFUSED permission



1. Introduction

1.1 Following support from the Parish Council contrary to officer recommendation for refusal the application was referred to the Director of Planning and the Chairs of Planning Committee where it was resolved that the application should be determined by the North Northumberland Local Area Council.

1.2 Planning permission 21/00257/FUL for the construction of a 1.no 1.5 storey dwelling and detached garage was refused on 20.08.21 under delegated decision.

2. Description of the Proposals

2.1 The application seeks permission for the construction of 1.no 1.5 storey dwelling and detached garage located on the site of the former Grahamslaw Cottage, Priests Moor, Christon Bank.

2.2 The dwelling is located on the site of the former Grahamslaw Cottage, which had sustained significant fire damage. The dwelling itself will be located on the same footprint of the prior cottage with the garage located in north west corner of the site. The proposed dwelling would be four bedroomed and would have living accommodation on the ground floor and bedrooms incorporated into the roof spaces. The dwelling will be approximately 7.1m in height, 18.4 in length and 7.3m in width and constructed from redbrick and natural stone quoins, cills and heads. The roof will be constructed from natural slate. The front of the property will have a porch, two windows with two dormer windows built into the eave line. All weather goods, doors and garage door will be painted black. The garage will be approximately 4m in height, 6m in length and 3m in width and constructed from red brick with a natural slate roof and traditional fixings.

2.3 The site is located in open countryside and bound by agricultural fields and adjacent to the U3001, approximately 300m north of Christon Bank with Embleton located approximately 1.4km south-east. The proposed site occupied a former dwelling which sustained fire damage in May 2020 and is largely overgrown with only 3 chimney stacks of the dwelling remaining in situ.

2.4. The applicant proposes to use and upgrade the existing access onto the U3001 in accordance with NCC design specification and with fronting hedge to be removed and re-planted to enable improved junction visibility

3. Planning History

Reference Number: 21/00257/FUL

Description: Rebuilding of Grahamslaw Cottage following significant fire damage. Detached garage.

Status: REF

4. Consultee Responses

Embleton Parish Council	Support the proposal.
County Ecologist	No objections, subject to condition and developer contribution towards the coastal mitigation service.
Highways	No objection, subject to condition.
Natural England	No objection subject to a developer contribution towards the coastal mitigation service.
Public Protection	No objection, subject to condition

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	0
Number of Objections	0
Number of Support	4
Number of General Comments	1

Notices

General site notice, 11 February 2022
No Press Notice Required.

Summary of Responses:

4.no letters of support. Comments relate to the replacement dwelling appearing to be a sympathetic to the area in design and size.

6. Planning Policy

Development Plan Policy

Northumberland Local Plan - (2018 - 2038) Adopted March 2022

Policy STP 1 - Spatial Strategy (Strategic Policy)
Policy STP 2 - Presumption in Favour of Sustainable Development (Strategic Policy)
Policy STP 3 - Principles of Sustainable Development (Strategic Policy)
Policy ENV 2 - Biodiversity and Geodiversity
Policy HOU 2 - Provision of New Residential Development (Strategic Policy)
Policy HOU 9 - Residential Development Management
Policy QOP 1 - Design Principles (Strategic Policy)
Policy QOP 2 - Good Design and Amenity
Policy QOP 4 - Landscaping and Trees
Policy QOP 5 - Sustainable Design and Construction
Policy QOP 6 - Delivering Well-Designed Places
Policy TRA 1 - Promoting Sustainable Connections (Strategic Policy)
Policy TRA 2 - The Effects of Development on the Transport Network
Policy TRA 4 - Parking Provision in New Development
Policy WAT 2 - Water Supply and Sewerage
Policy WAT 4 - Sustainable Drainage Systems
Policy ICT 2 - New developments
Policy INF 1 - Delivering development related infrastructure (Strategic Policy)

Embleton Neighbourhood Plan made June 2021

Policy 1 - Sustainable Development
Policy 2 - Landscapes and Seascapes in the NP area
Policy 3 - Habitats and Species

Policy 4 - Design in New Development
Policy 5 - Settlement Boundaries for Christon Bank and Embleton Village
Policy 10 - Principal Residence Housing
Policy 15 - Provision and Improvement of Pedestrian and Cycle Routes

National Planning Policy

National Planning Policy Framework (NPPF) (2021)
National Planning Practice Guidance (NPPG) (2021)

Other Documents/Strategies

National Design Code (2021)
National Design Guide (2021)

7. Appraisal

7.1 In accordance with Section 38 (6) of the Planning and Compulsory Purchase Act 2004, planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. In this case the development plan comprises the Northumberland Local Plan 2016-2036 (adopted March 22) and the Embleton Neighbourhood Plan. The National Planning Policy Framework (NPPF) (2021) and Planning Practice Guidance (PPG) are also material considerations in determining this application.

7.2 The key issues for consideration include:

- Principle of Development,
- Scale, Design & Visual Impact
- Amenity
- Ecology
- Highways
- Climate Change
- Broadband Connectivity

Principle of Development

7.3 Policy STP 1 of the NLP (Northumberland Local Plan) defines settlement boundaries and the proposal is outside of these boundaries and considered to be within the open countryside.

7.4 Policy STP 1 (g)(iv) relates to housing in the open countryside and advises development in the open countryside will be supported if it can be demonstrated that it provides for residential development in accordance with Policies HOU 7 or HOU 8

7.5 Policy HOU 7 provides for the delivery of exception sites, in accordance with the NPPF the plan does not generally support the development of isolated homes in the countryside, detached from existing settlements, except in certain circumstances. The proposal is not considered a rural exception site and policy HOU 7 is not considered applicable.

7.6 Policy HOU 8 relates to isolated housing development in the open countryside and supports development where:

a. There is an essential and clearly established need for a full-time rural worker necessary to meet the operational needs of a rural business to live permanently at or near their place of work in the countryside, and where it can be demonstrated that:

i. The business is financially sound and viable with a clear prospect of remaining so, the activity and landholding units concerned having been established for at least three years and been profitable for at least one of those last three years; and

ii. The functional need could not be fulfilled by any existing dwelling on the landholding unit or any other existing accommodation in the immediate area, which is suitable (including by means of refurbishment or appropriate extension) and potentially available for occupation by the workers concerned; or

b. It represents the optimal viable use of a heritage asset, or represents appropriate enabling development to secure the future of a heritage asset(s);
or

c. It re-uses redundant or disused buildings and enhances its immediate setting;
or

d. It involves the appropriate sub-division 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 of architecture, and would help to raise the standards of design in rural areas, and it would significantly enhance its immediate setting.

7.7 Policy STP 1 (h) advises forms of development in the open countryside, other than those identified in criterion g, will be permitted if they are supported in a made neighbourhood plan.

7.8 The proposed development is located within Embleton Neighbourhood Plan area. Policy 1 of the Embleton Neighbourhood Plan gives an overview of the types of development that will be supported in the Neighbourhood Area in order to deliver sustainable development. Embleton Neighbourhood plan states:

'Within the Neighbourhood Area, unless material considerations indicate otherwise, development will be supported which provides:

a. new Principal Residence dwellings within the settlement boundaries of Embleton village and Christon Bank;

b. affordable housing either within and/or on the edge of the settlements of Embleton village and Christon Bank delivered as 'rural exception sites';

c. the re-use of redundant or disused buildings (including for use as Principal Residence housing) where these buildings were originally of substantial construction and where the scheme would improve the appearance of the site and/or where the proposal secures the optimum viable use of a heritage asset;

d. rural business, tourism and employment opportunities as set out in Policy 9;

e. new and expanded social, community, leisure, recreational and educational facilities to serve the communities in Embleton village and Christon Bank;

f. new small-scale visitor facilities, particularly where these also benefit the local community'

7.9 Policy 5 of the ENP refers to the settlement boundaries for Embleton Village and Christon Bank and advises:

'Proposals for development will be supported within the defined settlement boundaries for Embleton village and Christon Bank shown on the Policies Map subject to other policies in the Development Plan. All land outside these settlement boundaries is considered to be 'open countryside' for planning purposes. The proposed development site falls outside the appended settlement boundary map within the ENP and is therefore considered 'open countryside'.

7.10 NPPF Paragraph 79 states that to promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities, and where there are groups of smaller settlements, development in one village may support services in a village nearby.

7.11 The NPPF Paragraph 80 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; 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

7.12 It is considered that the proposal would result in the construction of a new isolated dwelling in the open countryside that is not considered to be a sustainable form of development. No justification has been put forward to demonstrate that there is an essential need for a new dwelling in this location and there are not considered to be any overriding material considerations that would justify the construction of the new dwelling. The proposal is therefore considered to be contrary to Policy 1 and 5 of the ENP, Policy STP 1 and Paragraphs 79 and 80 of the NPPF.

7.13 The applicant has submitted a supporting statement with the application in which they have stated that this application is not seeking to establish the principle of new residential accommodation but reinstate a residential use which was provided by the original Grahamslaw Cottage but which was lost due to fire. They have furthermore undertaken a review of planning guidance and caselaw to reflect the loss of existing dwellings by means of fire or accident giving examples of where the planning authority have accepted the rebuilding of dwellings in the open countryside due the loss from fire.

7.14 In this case, the applicant believes it can be shown that the re-building of Grahamslaw Cottage will not undermine the content or weight afforded to the Local and Neighbourhood Plans because of the very special circumstances of the case as a result of the fire and the weight afforded to it as a material planning consideration.

7.15 Loss by fire is a concept that case law has considered, a dwelling may be burnt down or otherwise collapse by accident and in such cases inspectors have considered personal circumstances to override planning objections. It is clearly unfair and unreasonable that someone whose dwelling has collapsed or been burnt down should be denied permission to replace it because of an accident or the unlawful acts of others and inspectors are normally sympathetic and exercise a common sense judgment.

7.16 It is understood from assessing the proposal and discussion with the planning agent that that the building was originally used as a residential dwelling which was part of the Grahamslaw Family, however, that use ceased some 20 years ago. The building required refurbishment, although to what extent it does not appear to be clear. The building has then unfortunately been subject to a fire in May 2020 which destroyed all of the building with the exception of the 3 chimney stacks. There is no structural report provided due to the nature of the building's loss, the agent has advised that it had four walls and a roof but not a lot else. Aerial photographs of the site have been submitted by the agent showing the site prior to the fire with the site appearing overgrown with the roof of the building being partially vegetated. A site photograph taken from the U3001 in 2018 shows the site access is open and overgrown, the dwelling is highly vegetated to the point where there are no visible features of the dwelling remain.

7.17 The agent has advised that case law indicates that the proposed development in this case is acceptable as circumstances in this case fire, form a material consideration, which should carry significant weight. While this principle is agreed, it is considered that having assessed all the relevant information before the LPA it is reasonable to believe the use of the dwelling was abandoned prior to the fire in 2020. Therefore, circumstance relating to the fire is not afforded significant weight in the determination of this application.

7.18 The proposal represents new build development in an isolated and sensitive landscape area of the open countryside and is contrary to the NLP, ENP and NPPF for the reasons set out above.

Scale, Design & Visual Impact

7.19 Policy QOP 1 of the Northumberland Local Plan sets out design principles for all types of development to adhere to. One of the principles states proposals will be supported where design "makes a positive contribution to local character and distinctiveness and contributes to a positive relationship between built and natural features, including landform and topography". Another principle of this policy states proposals will be supported where design "respects and enhances the natural and built environment, including heritage, environmental and ecological assets, and any significant views or landscape setting.

7.20 Policy ENV 3 of the Northumberland Local Plan is also relevant and relates specifically to landscape. This policy seeks to ensure that proposals conserve and enhance the character of the landscape.

7.21 Paragraph 126 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. Paragraph 127 seeks to ensure that developments are sympathetic to local character and design.

7.22 In June 2021 new provisions were added to the NPPF in relation to design. Paragraph 129 of the NPPF advises that the guidance contained in the National Design Guide and the National Model Design Code should be used to guide decisions on applications in the absence of locally produced design guides or design codes. Northumberland does not yet have any NPPF-compliant Local Design Guides. Until such time as it does, we must use the National Design Guide and National Model Design Code to guide decisions on applications. In accordance with the new provisions in NPPF, development that is not well designed should be refused, especially where it fails to reflect government guidance on design. Conversely, significant weight should be given to development which reflects government guidance on design; and/or outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.

7.23 The site is located within the open countryside on land surrounded by open fields. The dwelling will measure 7.8m in height and given the surrounding sparse flat topography will be highly visible in the landscape. A detached garage will be located to the east of the dwelling measuring 4m in height. The design of the dwelling is more in the style of a typical residential dwelling with a front porch, dormer windows and rooflights and does not reflect the surrounding agricultural landscape. Given the proposed scale, height, design and location of the development it is considered that the proposal would have a significant impact upon the character and appearance of the site and surrounding aesthetic. Having assessed the proposal against local and national planning policy and the 10 characteristics outlined in the National Design Guide it is considered that the proposal would have a significantly harmful effect on the character and appearance of the open countryside in this area. It is therefore considered that the proposal would not accord with the NLP, National Design Guide or Paragraphs 126 and 127 of the NPPF.

Amenity

7.24 Policy QOP 2 of the NLP states that development will be required to provide a high standard of amenity for existing and future users of the development itself and not cause unacceptable harm to the amenity of those living in, working in or visiting the local area.

7.25 Paragraph 130 of the NPPF seeks to ensure that developments will create places with a high standard of amenity for existing and future users.

7.26 There would be no issues arising in terms of loss of privacy, overlooking, overbearing or loss of light arising from the proposed development. As such it is considered that the proposal is in accordance with the NPPF and the emerging NLP in this respect.

7.27 The proposed dwelling is to be built on land which was fire damaged, NCC Public Protection commented on the application initially objecting advising the

applicant to carry out a Phase 1 contaminated land assessment. The applicant subsequently carried out an assessment and the Public Protection team have no objections to the proposal subject to a condition relating to further site investigation and remediation if necessary. It is therefore considered that the development is in accordance with the NLP and NPPF.

Ecology

7.28 NLP policy ENV 2 seeks to ensure that proposals will not have an adverse impact on Biodiversity and Geodiversity. Policy ENV2 of the NLP states: Development proposals affecting biodiversity and geodiversity, including designated sites, protected species, and habitats and species of principal importance in England (also called priority habitats and species), will:

- a. Minimise their impact, avoiding significant harm through location and/or design. Where significant harm cannot be avoided, applicants will be required to demonstrate that adverse impacts will be adequately mitigated or, as a last resort compensated for;
- b. Secure a net gain for biodiversity as calculated, to reflect latest Government policy and advice, through planning conditions or planning obligations.

7.29 Paragraph 170 of the NPPF states that planning policies and decisions should contribute to and enhance the natural environment based on detailed principles.

7.30 The council's ecology team have no objections to the development subject to condition that no development will take place unless in accordance with the recommendations of the submitted ecology report. Furthermore, it is considered that a developer contribution of £615 towards the Coastal Mitigation Service will need to be secured by means of a Section 106 agreement. It is therefore considered that subject to the completion of a S106 and appropriate condition, the development would be in accordance with the NLP and NPPF. However, while the applicant has agreed to a developer contribution there is not currently a S106 in place and therefore the development does not accord with Policy ENV 2 of the NLP and the NPPF.

Highway Safety

7.31 Paragraph 111 of the NPPF states that development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.

7.32 Policy TRA2 of the NLP seeks to ensure that all development will minimise any adverse impacts upon the highways network.

7.33 The Local Highway Authority has responded to consultation noting that they have no in principle objection to the proposed development. The applicant's attention is also drawn to conditions involving car parking arrangements, site access and Construction Method Statement, which are recommended to be imposed on any consent granted. On this basis it is considered that the principle of the proposal is in accordance with highways policy and the NPPF.

Principal Occupancy

7.34 Policy 10 of the ENP advises that proposals for all new housing, excluding replacement dwellings, will only be supported where first and future occupation is restricted in perpetuity to ensure that each new dwelling is occupied only as a Principal Residence.

7.35 Principal Residence housing is that which is occupied as the sole or main home of the occupants and where the occupants spend the majority of their time when not working away from home.

7.36 These restrictions will be secured prior to the grant of planning permission through appropriate Planning Obligations created and enforceable under Section 106 of the Town & Country Planning Act 1990, or any subsequent successor legislation.

7.37 This Planning Obligation will require occupiers of homes to keep proof that they are meeting the obligation and they will be obliged to provide this proof if/when Northumberland County Council requests this information.

7.38 As highlighted in the proceeding paragraphs the proposal is not considered to be a replacement dwelling and therefore Policy 10 of the ENP is applicable to this proposal. It is therefore considered that subject to the completion of a S106, the development would be in accordance with the Policy 10 of the ENP. However, there is not currently a S106 in place although there is agreement with the applicant that the use of the property to be restricted to a Principal Residence dwelling.

Climate Change

7.39 The NPPF (paragraph 14) seeks to achieve sustainable development through overarching objectives including environmental objectives. The environmental objective - to contribute to protecting and enhancing our natural, built and historic environment; including making effective use of land, helping to improve biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.

7.40 Local Plan Policy QOP1 sets out a number of design principles. Proposals will be supported where design makes a positive contribution to local character and distinctiveness, creates or contributes a strong sense of place, incorporates high quality materials, respects and enhances the natural and built environment, including heritage, ensures that buildings are functional for future uses, supports health and wellbeing and enhances quality of life, protect general amenity, supports positive social interaction, incorporates where possible green infrastructure, mitigates climate change and ensures the longevity of the buildings and spaces.

7.41 Local Plan Policy QOP 5 relates to sustainable design and construction. In order to minimise resource use, mitigate climate change, and ensure development proposals are adaptable to a changing climate, proposals will be supported where they incorporate passive design measures which respond to existing and anticipated climatic conditions and improve the efficiency of heating, cooling, ventilation and lighting amongst other matters.

7.42 The supporting documents which accompany the application do not provide any information with respect to sustainable design and construction. Would the application be granted approval it would be appropriate to attach a condition to the

permission in order to ensure that the proposal will be constructed in accordance the requirements of Local Plan Policies QOP1 and QOP5.

Broadband Connectivity

7.43 Policy ICT2 of the Northumberland Local Plan requires provision of full fibre broadband connections in new developments. Where this cannot be provided, alternative solutions may be appropriate where justified. The Policy states that where no broadband provision is included, developers will be required to demonstrate, including through consultation with broadband providers, that connections are not deliverable, and/or viable.

7.44 The current application does not state whether full-fibre broadband connections are proposed. If the application were to be granted approval it would be recommended that further details of the proposed broadband connectivity for the development be secured by condition, in accordance with Policy ICT2 of the Northumberland Local Plan and Paragraph 114 of the NPPF.

Equality Duty

7.45 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

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

Human Rights Act Implications

7.47 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.

7.48 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.

7.49 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 proposal represents an unacceptable form of development in the open countryside that conflicts with both local and national planning policy. The development would also result in harm upon the character of the open countryside. The application is therefore recommended for refusal.

9. Recommendation

That this application be REFUSED permission subject to the following:

Reasons

01. By virtue of its location in the open countryside, the proposal would result in the construction of a new isolated dwelling in an unsustainable location and outside of any settlement identified within the Embleton Neighbourhood Plan. There has been no demonstrated need, justification or other material consideration that would justify the construction of a new dwelling in this unsustainable location. The proposal would therefore be contrary to Policy STP 1 of the Northumberland Local Plan and Policies 1 and 5 of the Embleton Neighbourhood Plan.
02. The proposal forms an incursion into the open countryside and fails to recognise the intrinsic character and beauty of the countryside and is therefore contrary to paragraph 174 of the NPPF. By virtue of its design, scale, location and density, the proposed development would be out of character with and would have a detrimental visual impact upon the surrounding landscape. As such the proposal would not accord with the National Design Guide, Policy QOP1 and QOP2 of the Northumberland Local Plan and Paragraphs 126 and 127 of the NPPF.
03. This development falls within the 'zone of influence' for coastal sites designated at a national and international level as Sites of Special Scientific Interest and Special Protection Areas/ Special Areas of Conservation/ Ramsar sites and, as such, coastal mitigation measures are required. Under Reg 63 (5) of the Habitats Regs 2017 the proposed development has failed to incorporate coastal mitigation measures or secure a financial contribution towards such measures. The development would therefore have an adverse effect on the site integrity and to grant planning permission for the development would be unlawful and contrary to policy ENV2 and the NPPF.
04. A Section 106 Agreement has not been completed to secure principal occupancy which is considered necessary in order to ensure that new

dwellings are occupied only as a Principal Residence. This would be contrary to Policy 10 of the Embleton Neighbourhood Plan.

Background Papers: Planning application file(s) 21/04960/FUL