

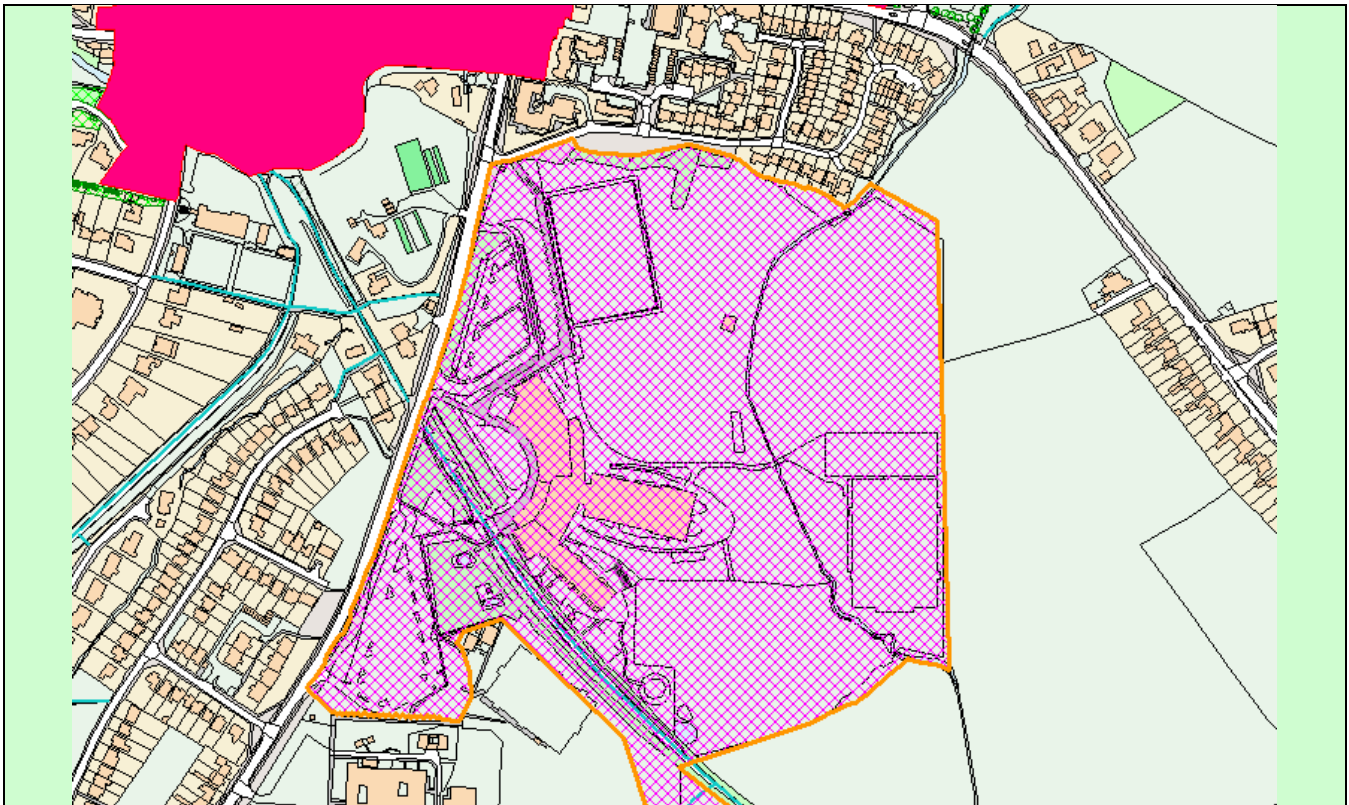
  
**Strategic Planning Committee, 7<sup>th</sup> February 2023**

# Northumberland

## County Council

<b>Application No:</b>	22/03402/VARCCD		
<b>Proposal:</b>	Variation of Condition 22 (Trees and Hedgerows) pursuant to planning permission 17/03729/CCD to allow removal of trees subject to ecological reports and arboricultural assessments		
<b>Site Address</b>	Ponteland Leisure Centre, Callerton Lane, Ponteland, Northumberland NE20 9EG		
<b>Applicant:</b>	Mr Richard McGlashan 7 Trevone Place, Seghill, NE23 7TY,	<b>Agent:</b>	Mr Paul Ely 11 Tudor Court, Darras Hall, Ponteland, NE20 9PJ
<b>Ward</b>	Ponteland East And Stannington	<b>Parish</b>	Ponteland
<b>Valid Date:</b>	30 September 2022	<b>Expiry Date:</b>	8 February 2023
<b>Case Officer Details:</b>	Name: Mr Ryan Soulsby Job Title: Planning Officer Email: Ryan.Soulsby@northumberland.gov.uk		

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



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## 1. Introduction

1.1 Following significant public interest during the consultation period of the application, the file was referred to the director of planning and the chairs of

the committee. It was confirmed within their response that the application shall be determined at strategic planning committee.

## 2. Description of the Proposals

- 2.1 An amendment is sought to planning application 17/03729/CCD at Ponteland Leisure Centre, Callerton Lane, Ponteland.
- 2.2 The submitted details indicate the removal of 12no trees from the application site. The trees are not protected by a Tree Preservation Order (TPO) or located within a Conservation Area (CA) but were afforded protection via a planning condition attached to the previous planning permission for the wider site, ref no. 17/03729/CCD
- 2.3 The 12no trees consist of 9no sycamore trees and 3no crack willow trees. The proposed removal is to facilitate a possible future clubhouse development upon the site by Ponteland Sporting Club. No extant consent exists for a clubhouse structure within this location nor has a planning application been submitted to the local planning authority for assessment.

## 3. Planning History

**Reference Number:** 16/04576/CCD

**Description:** Outline planning application with all matters reserved for the demolition of the existing leisure centre and replacement with a new leisure centre, library, Primary school and Secondary school

**Status:** Withdrawn

**Reference Number:** 17/03154/SCREEN

**Description:** Request for a screening opinion in respect of a detailed planning application for a new leisure centre, library, primary school and secondary school at the South East Ponteland Community Campus site.

**Status:** EIA not required

**Reference Number:** 17/03729/CCD

**Description:** Proposal for the demolition of the existing leisure centre and construction of new build primary school, secondary school and leisure centre with associated parking, infrastructure and playing fields

**Status:** Permitted

**Reference Number:** 19/00888/NONMAT

**Description:** Non-Material Amendment in relation to 17/03729/CCD - amendments to condition 3 (construction method statement commentary)

**Status:** Permitted

**Reference Number:** 19/03654/NONMAT

**Description:** Non-material amendments to ground floor elevations related to planning approval 17/03729/CCD

**Status:** Permitted

**Reference Number:** 19/04130/DISCON

**Description:** Discharge of conditions : 47 (Burn easement) related to planning approval 17/03729/CCD

**Status:** Withdrawn

**Reference Number:** 20/00611/CCD

**Description:** Erection of Bridge spanning the Fairney Burn to access southern sports field approved under application 17/03729/CCD

**Status:** Permitted

**Reference Number:** 20/02889/ADE

**Description:** Advertisement Consent: Permanent placement of two flagpoles

**Status:** Permitted

**Reference Number:** 22/01000/VARYCO

**Description:** Variation of condition 22 (Trees) on approved application 17/03729/CCD in order to enable the removal of trees

**Status:** Refused

#### 4. Consultee Responses

Ponteland Town Council	<p>The planning committee support this application. The result will provide an excellent amenity for the Rugby and Football teams in Ponteland. It will enable the teams to qualify for higher leagues, therefore attracting residents to remain with their local teams rather than travel to teams with better facilities and prospects. It will ensure the continuity of our sporting provisions in Ponteland.</p> <p>However, Ponteland Town Council Planning Committee are concerned about the loss of the 16 trees in this area and would like a condition in place that all 16 trees be replaced one for one within the site area</p>
Open Spaces South East Area	No response received.
County Ecologist	Objection – The development is contrary to the Northumberland Local Plan policy QOP 4, ENV 2 and the NPPF and the mitigation strategy and condition 22 of the development 17/03729/CCD
Building Conservation	No comment.

#### 5. Public Responses

##### Neighbour Notification

Number of Neighbours Notified	734
Number of Objections	23
Number of Support	399
Number of General Comments	1

##### Notices

Departure & PROW, 14th October 2022

Northumberland Gazette, 13th October 2022

##### Summary of Responses:

399no support comments were received, outlining their support for the application proposals. Comments noted –

- Benefits to local sporting clubs;
- Biodiversity net gain;
- Compliance with local and national planning policy;
- Replacement of trees.

23no objections were received against the application from neighbouring and local residents. Concerns were raised regarding –

- Loss of trees;
- Biodiversity implications;
- Residential amenity concerns.

1no representation was received which raised significant concerns regarding the removal of trees. It placed the onus on the County Council to come up with an appropriate solution for the site.

Material planning considerations will be assessed within the below appraisal.

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=RIAPAVQSJOY00>

## **6. Planning Policy**

### 6.1 Development Plan Policy

Northumberland Local Plan 2016 - 2036 (Adopted March 2022) (NLP)

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 STP 4 – Climate change mitigation and adaption (Strategic Policy)

Policy STP 5 - Health and wellbeing (Strategic Policy)

Policy QOP 1 - Design principles (Strategic Policy)

Policy QOP 2 - Good design and amenity

Policy QOP 4 - Landscaping and trees

Policy QOP 6 - Delivering well-designed places

Policy ENV 2 - Biodiversity and geodiversity

Policy ENV 3 - Landscape

### 4.2 National Planning Policy

National Planning Policy Framework (2021) (NPPF)

National Planning Practice Guidance (2022) (NPPG)

### 6.3 Neighbourhood Planning Policy

Ponteland Neighbourhood Plan Made Version (2017) (PNP)

Ponteland NP Policy PNP 1: Sustainable development principles

## 7. Appraisal

7.1 As the principle of development upon this site has already been established through the granting of the previous planning permission, the main considerations within this application assessment relate to:

- Landscaping and ecological impacts.

### Preamble

7.2 Planning application reference no. 17/03729/CCD was granted by the LPA in April 2018 for the demolition of the existing leisure centre and construction of a new build primary school, secondary school and leisure centre with associated parking, infrastructure and playing fields. As part of the approval, a significant number of trees were identified for removal and have since been removed from site following the undertaking and completion of works. A condition was recommended by the local authority's ecologist that all trees marked for retention were retained on site and appropriately protected during the construction phase. The tree protection plan was "*fundamental to conserving the biodiversity of the site*" and the reason for the condition was to "*maintain and protect the existing landscaping and biodiversity value of the site*".

7.3 In November 2021, the applicant submitted a pre-application enquiry to the LPA for the removal of trees on site and the siting of a clubhouse to serve existing sporting clubs. A face to face meeting was held at the site in December 2021 which consisted of a discussion between the parties and a site walkaround. The LPA advised the applicant at the time that a variation application would need to be submitted to address this condition but consultation with the local authority's ecologist would be critical in determining whether the application could be supported.

7.4 An application to vary this condition was initially submitted in March 2022 and was refused by the LPA in September 2022 for the following reason "*The proposed development fails to address potential impacts upon protected species and their habitats, as well as the biodiversity value of the application site. Furthermore, no biodiversity enhancements have been provided as part of the submission thus conflicting with policies QOP 4 and ENV 2 of the Northumberland Local Plan and the National Planning Policy Framework*".

7.5 Following refusal of this planning application, the applicant resubmitted the proposal with additional information. The LPA have therefore assessed this additional information within the below appraisal.

### Landscaping and ecological impacts

7.6 Policy QOP 4 of the NLP states that "*Development proposals should ensure that existing features which contribute towards the character of the area, or amenity, are retained wherever possible and sympathetically incorporated into*

*the overall design of the scheme*". The policy also outlines that *"Trees, and other spaces and features that provide green and blue infrastructure, are preserved, enhanced and introduced into the landscaping scheme wherever possible"*. Development proposals should also ensure *"There is no loss of existing trees which are valuable in terms of amenity, biodiversity or the landscape, except where this would be unavoidable and:*

- i. considerations in favour of the development would outweigh any harm resulting from the loss of trees; and*
- ii. the loss can be adequately mitigated through measures such as replacement planting where possible"*.

7.7 Policy ENV 2 of the NLP is also relevant within this assessment outlining that *"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"*.

7.8 Policies within the Ponteland Neighbourhood Plan (PNP) are also given full weight within this assessment, with policy PNP 11 detailing that *"Development proposals should maintain and where appropriate enhance landscape character. In meeting this requirement, applicants should demonstrate how they have addressed and sought to maintain or enhance the condition and strengths of the Neighbourhood Plan Area's landscape as defined in the Ponteland Parish Landscape Character Assessment"*.

7.9 Policy PNP 13 of the PNP notes *"All development proposals should conserve the biodiversity value of land, species, buildings and habitats, and maximise opportunities for creation, restoration, enhancement and management of biodiversity"*. These provisions set out within the NLP and PNP are mirrored within the National Planning Policy Framework (NPPF).

7.10 As part of the application submission, an ecological impact assessment (EIA) and bat survey was provided. The EIA sets out mitigation methods that can be incorporated upon site as well as enhancement measures to ensure accordance with both local and national planning policy. Various site photographs have been included within the report, recognising the condition of the 12no trees proposed for removal.

7.11 Consultation was undertaken with the local authority's ecologist as part of the application assessment who raised an objection to the proposals, citing concerns regarding the mitigation on site and the impact upon existing landscaping secured via previous planning conditions. Whilst some mitigation is proposed within the submitted EIA, the trees were retained as part of the agreed landscape strategy for the wider site. Incremental reduction of existing landscaping will further undermine the ecology and landscape of the site. It is

noted that as part of the ecologist's comments for the original development, major concerns were raised regarding the loss of trees and habitats upon the site. Whilst further tree planting has been proposed within the submission, there will be a extensive period before this can be considered to provide effective mitigation.

- 7.12 As there is no extant planning permission for a clubhouse facility on the land, nor has an application been submitted to the local planning authority for assessment, the removal of 12no trees is not linked to any development within this area. If the LPA were to permit removal of the trees, the tree work could be undertaken without a future application being successful or coming to fruition. Furthermore, the LPA could not include an additional condition upon this permission that would restrict the removal of the trees as it would be dependent on a wholly separate application from a different applicant.
- 7.13 Removal of the trees, including mature trees, will result in a loss of biodiversity on site for an extended period whilst also reducing the previously agreed soft landscaping strategy for the wider site. The proposed development is therefore considered to conflict with policies QOP 4 and ENV 2 of the Northumberland Local Plan, policies PNP 11 and PNP 13 of the Ponteland Neighbourhood Plan and the National Planning Policy Framework.

### **Equality Duty**

- 7.14 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**

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

### **Human Rights Act Implications**

- 7.16 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.
- 7.17 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.

- 7.18 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 For the reasons set out within the above appraisal, the LPA cannot support the removal of 12no trees from the application site as part of this application submission. The application is therefore recommended for refusal.

## **9. Recommendation**

That this application be REFUSED permission subject to the following:

### Conditions/Reason

- 1) The proposals would result in the loss of 12no trees from the application site that provide biodiversity and landscape value. No mitigation or enhancement measures have been identified that would outweigh the level of harm, therefore the development conflicts with policies QOP 4 and ENV 2 of the Northumberland Local Plan, policies PNP 11 and PNP 13 of the Ponteland Neighbourhood Plan and the National Planning Policy Framework.