

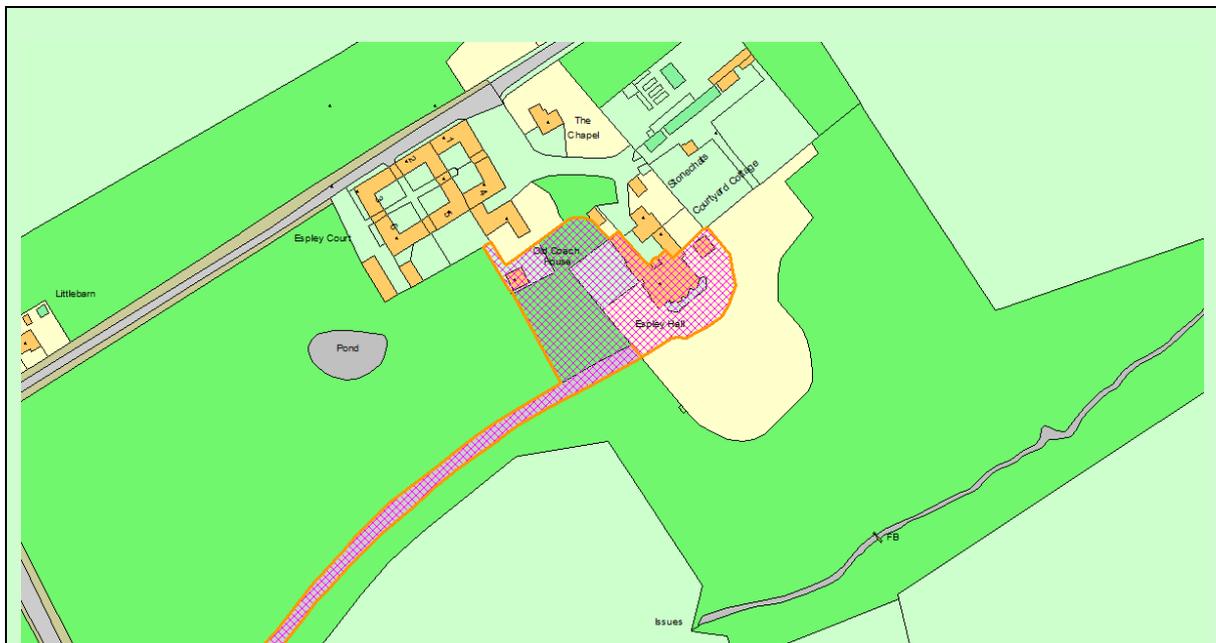


Northumberland County Council

Castle Morpeth Local Area Council 14th April 2021

Application No:	20/01333/FUL		
Proposal:	Proposal to demolish a later addition garage and build a greater quality replacement		
Site Address	Espley Hall, Espley, Morpeth, Northumberland, NE61 3DJ		
Applicant/ Agent	Mr. Adam Lee, POD Architects, Toffee Factory, Lower Steenberg's Yard, Newcastle Upon Tyne, NE1 2DF		
Ward	Pegswood	Parish	Hebron
Valid Date	01st May 2020	Expiry Date	13th November 2020
Case Officer Details	Name: Mr. James Blythe Job Title: Planning Officer Tel No: 01670 625551 Email: james.blythe@northumberland.gov.uk		

Recommendation: That this application be REFUSED permission.



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1. Introduction

- 1.1 Under the provisions of the Council's current Scheme of Delegation, it has been agreed that this application is reported to the Castle Morpeth Local Area Council for determination.

2. Description of the Proposals

- 2.1 Planning permission is sought for works within the grounds of a residential property as described above and as set out in the plans submitted to the local planning authority.
- 2.2 The proposal indicates the demolition of an existing garage within the curtilage of the host property (measuring approximately 7.6 metres by approximately 7.6 metres) and replacement with a larger garage. The proposed garage would be set off the northern boundary of the site by approximately 4.5 metres and approximately 1.5 metres off the western boundary. The proposed garage measures approximately 30.0 metres by approximately 8.3 metres with a central porch section projecting approximately a further 1.5 metres (a total of approximately 9.8 metres). The roof design would be predominantly a dual pitched with a height of approximately 6.2 metres at the ridge reducing to approximately 2.7 metres at the eaves. The porch section of the garage would have a perpendicular dual pitched roof measuring a maximum height of approximately 7.2 metres reducing to approximately 3.1 metres at the eaves.
- 2.3 The proposed garage would be constructed using random coursed natural stone to match the host property and elements of Green Oak timber frames. The roof would be finished using reclaimed natural Welsh Slate and the windows and doors would be timber.

3. Planning History

Reference: CM/80/D/425

Description: Change of use from residential to health hydro

Status: Withdrawn

Reference: CM/81/D/88

Description: Change of use from residential to restaurant on ground floor with managers flat on first floor and alterations to west wing of building

Status: Permitted

Reference: CM/82/D/624

Description: Change of use of managers flat to rooms to be used in association with private restaurant on ground floor together with ancillary car parking details

Status: Withdrawn

Reference: CM/97/D/602

Description: Change of use from Restaurant/Flat to private dwellinghouse

Status: Permitted

Reference: 20/01334/FUL

Description: Proposal to demolish a later addition garage and build a greater quality replacement

Status: Pending Consideration

4. Consultee Responses

Morpeth Town Council	No response received.
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Hebron Parish Council	<p>The Parish Council has been advised by a resident that a revised application had been submitted. One resident from The Old Coach House has submitted objections based on the scale of the proposed garage and the negative impact on his property. It was also noted that there had been height restrictions imposed when neighbouring properties were being built and the proposed development exceeds these. In addition, planning permission has been refused over the past years for the erection of other properties. The Parish Council are not aware of any objections they can make on planning grounds but would ask that due consideration be given to the concerns of the resident of The Old Coach House when a decision is formulated, perhaps the re-siting of the proposed garage to lessen the visual obstruction to the Coach House could be favourable.</p>
NCC Ecology	<p>The ecological report states that no further tree felling works are to be undertaken and none are shown on the submitted drawings. No other protected, threatened or notable habitats and/or species are likely to be affected by the proposals.</p> <p>No objections to the proposals on ecological grounds are raised on condition that the avoidance, mitigation and enhancement measures detailed in the report are carried out in full.</p> <p>There are a number of trees present in the area and a general condition is included below in this regard though you may wish to consult the Tree and Woodland Officer for further advice in this regard. A method statement with regards to measures necessary to protect retained trees may be required.</p> <p>Whilst the risk of encountering bats or nesting birds in connection with this proposal is low the applicants should be made aware of the legal status of these species and that protected species legislation operates independently of the planning system. An informative advisory note for the attention of the applicants should be appended to the decision notice in this case, should permission be granted.</p>
NCC Trees and Woodland Officer	No response received.
Local Highway Authority	No objection subject to the imposition and implementation of informatives required to ensure acceptability. The requested informatives relate to alterations to the vehicle crossing point and no material, equipment, mud, debris or rubbish on the highway.

5. Public Responses

Neighbour Notification

Number of Neighbours Notified	11
Number of Objections	14
Number of Support	0
Number of General Comments	0

Notices

No Site Notice required.

No Press Notice required.

Summary of Responses:

In total of fourteen representations (from 6 individuals) have been received as a result of publicity carried out on this application. The representations raise objections on the following grounds:

- The impact upon the historic layout of the hamlet of Espley and Espley Hall itself;
- The scale and design of the proposed replacement garage;
- The use of materials with one representation stating *'Stone and oak is just the cliched and expensive answer.'*;
- The potential for a future change of use i.e. an independent dwelling, industrial use or car showroom;
- The impact of the proposed replacement garage upon the visual outlook, loss of light and overshadowing in regard to the nearest residential properties due to the scale of development and the close proximity to the site boundaries;
- The impact of the proposal upon the site boundary and walling with one representation stating *'these walls do not have substantial foundations and the proposed construction above and below ground may well have a detrimental effect on the structure of the wall.'*;
- The removal of 'very mature trees' prior to the application being submitted;
- The increased noise levels due to the proposed increase in parking provision and therefore an increased usage; and
- The increased usage of a dangerous junction (i.e. where the driveway joins the A697).

The above is a summary of the public representations received. The full written text is available on our website at:

<https://publicaccess.northumberland.gov.uk/onlineapplications/applicationDetails.do?activeTab=documents&keyVal=Q9LWLKQSG4000>

6. Planning Policy

6.1 Development Plan Policy

Morpeth Neighbourhood Plan Made Version (2016) (MNP):

Sus1 - Sustainable Development Principles;

Des1 - Design Principles;
Set1 - Settlement Boundaries; and
Tra2 -Traffic Congestion.

Castle Morpeth District Local Plan (2003, saved policies 2007)(CMDLP):

C1- Settlement Boundaries;
C3 - Area of High Landscape Value;
C11 - Protected Species;
C16 - Green Belt;
C17 - Green Belt;
H22 - Alteration and Extension of Dwellings in the Open Countryside; and
HBC1 - Hebron Settlement Boundary.

Northumberland County and National Park Joint Structure Plan (February 2005):

S5 – Extension to the Green Belt.

6.2 National Planning Policy

National Planning Policy Framework (2019) (NPPF); and
National Planning Practice Guidance (2019, as amended) (NPPG).

6.3 Other Documents/Strategies

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

STP 1 - Spatial strategy (Strategic Policy);
STP 2 - Presumption in favour of sustainable development;
STP 3 - Sustainable development;
STP 7 - Strategic approach to the Green Belt;
STP 8 - Development in the Green Belt;
HOU 9 - Residential development management;
QOP 1 - Design principles (Strategic Policy); and
QOP 2 - Good design and amenity;
TRA 2 - The effects of development on the transport network;
TRA 4 - Parking provision in new development;
ENV 1 - Approaches to assessing the impact of development on the natural, historic and built environment;
ENV 2 - Biodiversity and geodiversity; and
POL 2 - Pollution and air, soil and water quality.

7. Appraisal

7.1 The main issues for consideration in the determination of this application are:

- Principle of the development (including the impact upon the open countryside and the Green Belt);
- Design and visual impact;
- Impact on residential amenity;
- Impact upon the nature environment and biodiversity;
- Impact on highway safety and parking provision; and

- Other matters.

7.2 In accordance with paragraph 48 of the NPPF, local planning authorities (LPA's) may also give weight to relevant policies within emerging plans depending on the stage of preparation, extent of unresolved objections and the degree of consistency with the NPPF. The emerging Northumberland Local Plan was submitted to the Planning Inspectorate for examination in May 2019, along with a schedule of Minor Modifications (May 2019) following public consultation and is currently being Examined. The Authority is therefore affording appropriate weight to policies contained within the emerging plan which form a material consideration in determining planning applications alongside Development Plan Policies.

Principle of the Development (the Impact upon the Open Countryside)

7.3 The application site lies within the residential curtilage of Espley Hall but falls outside any identified settlement boundary. As such the site is considered to fall within the open countryside. Policy Set1 of the MNP advises that development will only be supported outside of the settlement boundary when it can be demonstrated that a number of criteria are met. Those criteria are:

- A. farming and other land based rural businesses, or the sustainable diversification of these activities; or*
- B. existing businesses and enterprises; or*
- C. a sustainable visitor attraction that is related to the experience or interpretation of the countryside or a sustainable leisure development which respects the character of the countryside where needs are not met by existing facilities within settlement boundaries; or*
- D. the development of local services and community facilities to support a rural community; or*
- E. housing that meets the criteria in paragraph 55 of the NPPF; or*
- F. appropriately designed extensions to existing buildings, including extensions to dwellings, which are subservient to and respect the scale and appearance of the existing building.*

7.4 The policy does not account for stand-alone large additions such as the large detached garage that is the subject of this proposal. The intention behind Policy Set1 is that any additional development is kept modest in scale and massing. As a stand-alone building, the proposal does not fall within any of the criteria listed within Policy Set1 and therefore falls to be considered under paragraph 145 of the NPPF, which is addressed later in the report.

7.5 Policy C1 of the CMDLP equally does not permit development beyond defined settlement boundaries. It states that development in the open countryside beyond settlement boundaries will not be permitted unless the proposals can be justified as essential to the needs of agriculture or forestry or other specific policies within the CMDLP. As this proposal cannot be justified under any of these criteria, alongside Policy Set1 of MNP, the proposal does not comply with Policy C1 of the CMDLP.

Principle of the development (the impact upon the Green Belt)

7.6 The site falls within the designated green belt under Policy S5 of the Northumberland County and National Park Joint Structure Plan. Local Plan. Policies C16 and C17 and the NPPF also refer to the Green Belt and permit the construction of new buildings in the Green Belt only for specific uses, as follows:

a) *Agriculture and Forestry:*

- b) Essential facilities for outdoor sports and recreation;*
- c) Cemeteries and other uses of land which preserve the openness of the Green Belt and do not conflict with the purposes of including land in it;*
- d) Limited extension, alteration or replacement of existing dwellings subject to policies C18, H22, H23 and H24 being satisfied;*
- e) Limited infilling in existing villages inset within the Green Belt,*
- f) Limited affordable housing for local community needs within existing settlements, subject to Policy H8 being satisfied.*

Those uses are echoed in the NPPF at paragraph 145, which states that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt, unless any of the following exceptions apply:

- a) buildings for agriculture and forestry;*
- b) the provision of appropriate facilities for outdoor sport, outdoor recreation and for cemeteries, as long as it preserves the openness of the Green Belt and does 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, and limited affordable housing for local community needs*
- f) limited infilling or the partial or complete redevelopment of previously developed sites (brownfield land), whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt and the purpose of including land within it than the existing development.*

7.7 The relevant bullet point to this proposal is 'd'. The proposal includes the demolition of an existing garage within the curtilage of the host property (measuring approximately 7.6 metres by approximately 7.6 metres) and replacement with a larger garage measuring approximately 30.0 metres by approximately 8.3 metres with a central porch section projecting approximately a further 1.5 metres (a total of approximately 9.8 metres). Under Criterion d of paragraph 145 of the NPPF, the replacement garage would be considerably larger in scale and massing than that which it would replace. As such, it would not comply with the objective of bullet point d.

7.8 Paragraph 143 of the NPPF states that inappropriate development (anything that does not fall with the bullet points of paragraph 145) is, by definition, harmful to the Green Belt and should not be approved except in very special

circumstances (VSCs). Paragraph 144 goes on to say that VSCs 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. The proposed garage does not fall into any the exceptions listed under para 145 of the NPPF therefore the assessment falls to the consideration of any VSCs that the proposal might present. This is discussed further in the following Design and Visual Impact section below. Notwithstanding this, it is considered that no VSCs are evident, and the proposal is not acceptable under the Green Belt policy of paragraph 145 of the NPPF.

Design and Visual Impact

- 7.9 The NPPF outlines its approach for good design within paragraph 124, recognising it as a key aspect of sustainable development.
- 7.10 Policies QOP 1 and HOU 9 of the NLPPD can also be given consideration in the assessment of this proposal. Policy QOP 1 stipulates proposals must contribute or enhance positive aspects of local character whilst incorporating high quality aesthetics, materials and detailing. Policy HOU 9 also states that development is constructed to a high quality of design and comply with design guidance for housing extensions set out within the Northumberland Design Guide.
- 7.11 It is acknowledged that the proposed garage, in isolation (i.e. excluding the constraints of the green belt and open countryside), is of good design and makes use of appropriate materials in context with the historic environment of Espley. The applicant argues that those attributes of the proposal outweigh the harm that the garage would present to the Green Belt and could be argued as very special circumstances.
- 7.12 In discussions with the applicant during the course of the assessment of the application, they were advised that a garage, still of considerable proportions, could be constructed under permitted development rights. The last presentation slide demonstrates the proposal under consideration here, and the design of the proposal that could be constructed under permitted development. To keep within those permitted development dimensions, the roof of the submitted design would need to be replaced with a reduced roof height. The applicant is of the view that this would make the garage have a 'squat' and a far less attractive appearance and sought to reinforce the aesthetic benefits of their preferred design with the pitched roof.
- 7.13 The size at which the garage could be constructed under permitted development rights is also considerable. The overall scale and massing is slightly less due to the lowered roof, however, the garage would remain of significant proportions which would impact on the Green Belt. It is accepted that any planning concerns around that are futile given the permitted development position. Nevertheless, it remains a valid concern that anything greater in scale and massing would, beyond doubt, create a greater impact on the Green Belt which would be harmful and without reasonable justification. On that basis, it remains the professional planning view that the proposed design of the garage is unacceptable due to the additional, over-bearing and unjustified harm it would bring to the Green Belt.

Impact on Residential Amenity

- 7.14 Policy Des1 on the MNP lists a number of criteria required of a proposal to be acceptable. Point A requires development to enhance the quality, distinctiveness and character of settlements; Point B seeks to respect or enhance the character of the site and its surroundings in terms of its proportion, form, massing, density, height, size, scale, materials and details design features. Both of these points have been addressed earlier in the report. One other point to note under Des1 is Point H, which seeks to ensure that development does not cause an unacceptable adverse impact on the amenities of occupiers of existing or proposed nearby properties, which will be addressed below.
- 7.15 Policies QOP 2 and HOU 9 of the NLPPD can also be given consideration in the assessment of this proposal. Policy QOP 2 indicates that development which would result in unacceptable adverse impacts on the amenity of neighbouring uses, in terms of both individual and cumulative impacts, will not be supported. Policy HOU 9 states that development will only be supported when proposals do not have a significant adverse impact on the amenity of adjoining properties in terms of structural proximity and unacceptable loss of daylight/sunlight, privacy and visual outlook.
- 7.16 The representations received raise objection to the proposal due to the impact of the proposed replacement garage upon the visual outlook, loss of light and overshadowing in regard to the nearest residential properties as a result of to the scale of the development and the proximity to the site boundaries.
- 7.17 A site visit was carried out by the case officer to assess the proposal and any potential impact upon the amenity of neighbouring occupiers. It is accepted that the significantly larger dimensions of the proposed garage when taken in comparison with the garage it would replace will invariably impact in visual terms on the neighbouring residents. The material planning consideration is the degree of that impact and whether any unreasonable harm would occur to the amenity of those neighbours.
- 7.18 It was noted that the nearest residential property and most affected by this proposal is the Old Coach House to the north with the woodland garden of the Old Coach House running along the western boundary of the site. The proposed garage would be set off the northern boundary of the site by approximately 4.5 metres and approximately 1.5 metres off the western boundary. It was also noted there is a topography difference with the Old Coach House being at a higher level than Espley Hall. Existing partial screening to the boundary would remain, and a reasonable degree of separation between the gable of the garage and the neighbouring residential properties would be retained. There is no doubt that the proposed garage would be more visible than the existing from within the grounds of the Old Coach House, however, existing screening would obscure views of the garage to some degree. The grounds of the Old Coach House allow for other views that the residents can continue to enjoy from various points within the garden particularly. In terms of any loss of natural light or sunlight, there is no evidence to suggest any part of this would be lost as a direct consequence of the development, nor would any privacy be lost or over-looking occur. It is

accepted that the residents' current southerly view from their own property and grounds would be impacted by the presence of the 6.2m high gable wall. However, given the difference in topography, the obscured view from existing plantation and the distance between the gable wall of the garage and the Old Coach House, it is considered that, on balance, there would be sufficient grounds to refuse the application on the impact to the residents of the Old Coach House alone.

- 7.19 Other objections raised refer to the proposed use of the garage and the noise from 'supercar like' vehicles would be unwelcome. The scale and massing of the proposed garage has been discussed within the report, however, the type of car to be stored in the garage is not a material consideration. Notwithstanding this, if a noise nuisance did arise, this would be investigated by the Council's noise team.
- 7.20 In terms of future use of the proposed garage, a point which has also been raised by objectors, this is not something that can be considered at this point, as any future changes would be likely to be the subject of a further planning application. Furthermore, it is not a material consideration to factor any potential future uses of the garage into the assessment of this proposal. However, the applicant is keen to make Members aware that it is the intention to retain the garage long-term for the storage of vehicles and there is no intention to convert the building to residential accommodation. The applicant has also welcomed a planning condition to be attached to any approval granted to that effect.
- 7.21 For the reasons outlined above, it is considered that whilst some harm to the amenities of neighbours would arise the degree of harm arising would not be sufficient to justify a refusal of permission on the grounds of residential amenity impact.

Impact upon the Nature Environment and Biodiversity

- 7.22 It is acknowledged that the representation received raise objection to the application due to the removal of trees prior to the application being submitted. It is noted that the application site is not subject to any Tree Preservation Orders (TPOs) and that the application site is not within a Conservation Area however, it acknowledged that the application site is within a designated 'Area of High Landscape Value'. The County Ecologist and Tree and Woodland Officer have been consulted on the proposal. The response from the Ecologist indicates no objection to the proposal subject conditions relating to ecological avoidance, mitigation and enhancement measures, the submission of tree protection measures and plan and an informative relating to the risk of encountering bats, nesting birds or other protected species. As such subject to the suggested conditions and informative the proposal would be acceptable and in accordance with Policies C3 and C11 of the CMDLP and the principles of the NPPF. Furthermore, it is considered the proposal would accord to the principles of Policies ENV 1 and ENV 2 of the emerging NLPPD in terms of impact upon the natural environment and biodiversity.

Highway Safety and Parking Provision

- 7.23 It is acknowledged that the representations received raise concerns and objections to the proposal due to the increase usage of the existing driveway and the junction with the A697. The application was subject to consultation with the Local Highways Authority. The response received raises no objection to the proposal subject to informatives relating to no material, equipment, mud, debris or rubbish on the highway. It is considered that the application is accessed via a private driveway and that the proposal would provide additional parking provision within the site. Therefore, subject to the recommended informatives, the proposal would be acceptable and in accordance with the principles of the NPPF. Furthermore, it is considered the proposal would accord to the principles of Policies TRA 2 and TRA 4 of the emerging NLPPD in regard to highway safety and parking provision.

Other Matters

- 7.24 One representation raises concerns in relation to the impact of the proposal upon the site boundary and walling with one representation stating *'these walls do not have substantial foundations and the proposed construction above and below ground may well have a detrimental effect on the structure of the wall.'* These matters relate to the shared boundaries of the site and would therefore be governed by separate legislation (i.e. the Party Wall Act 1996). Therefore the matters would be civil matters and are not a material planning ground for the consideration of this application.

Equality Duty

- 7.25 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

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

Human Rights Act Implications

- 7.27 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.
- 7.28 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.

- 7.29 Officers are also aware of Article 6, the focus of which (for the purpose of this decision) is the determination of an individual's civil rights and obligations. Article 6 provides that in the determination of these rights, an individual is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal. Article 6 has been subject to a great deal of case law. It has been decided that for planning matters the decision making process as a whole, which includes the right of review by the High Court, complied with Article 6.

8. Conclusion

- 8.1 The main planning considerations in determining this application have been set out and considered above stating accordance with the relevant Development Plan Policy. The application has also been considered against the relevant sections within the NPPF and given the conflict between the local policies and the NPPF on the matters of relevance in this case, the proposal cannot be supported.

9. Recommendation

- 9.1 That this application be REFUSED permission for the following reason:
1. The proposed garage by virtue of its scale and massing is considered to be inappropriate development within the Green Belt and the open countryside. The proposal fails to meet any of the exceptions within paragraph 145 of the NPPF and no very special circumstances have been demonstrated. As such, the proposal does not comply with policies C1, C16 and C17 of the Castle Morpeth District Local Plan, Policies Set1 and DES1 of the Morpeth Neighbourhood Plan and paragraph 145 of the National Planning Policy Framework.

Date of Report: 17th March 2021

Background Papers: Planning application file(s) 20/01333/FUL