

# THE CITY OF DURHAM TRUST

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21 November 2022

Mr Colin Harding  
Planning Development Central/East  
Room 4/86-102  
County Hall  
Durham City DH1 5UL

Dear Mr Harding

**DM/21/01404/FPA: Engineering operations to create a football centre incorporating the creation of 20 No. grass pitches (Use Class F2), demolition of existing stable block, creation of new building to provide changing facilities, creation of car parking and widening of existing access track, Leamside Equestrian Limited Stud and Equestrian Centre, White House Farm, Pit House Lane, Leamside, Houghton-le-Spring DH4 6QJ**

Thank you for the notification that further amendments have been submitted by the applicant. The City of Durham Trust on 6 January 2022 submitted its objection to the application for development in the Durham Green Belt, and on 4 April provided comments on the further information that the applicant had sent in. For convenience and completeness, those objections are incorporated into the following objection to the amended scheme.

## **NPPF Chapter 13 and County Durham Plan Policy 20**

County Durham Plan Policy 20 is very straightforward: ***“Development proposals within the green belt will be determined in accordance with national planning policy.”***

National Green Belt policy is set out in Chapter 13 of the National Planning Policy Framework as revised in July 2021. With regard to proposals for development in the Green Belt it states:

***“147. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”***

***“148. 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.”***

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The applicant's submitted 'Planning Supporting Statement' dated April 2021 and subsequent 'Supporting Information' of March 2022 acknowledge that this proposal is to replace their existing youth football facilities at Newbottle in the City of Sunderland Council's area. The Trust is aware of a planning application (21/01409/FUL) by the same applicant and agent for what is described as a 'private garden' for that 8.4 hectare site containing 20 football pitches. That is an extraordinarily large garden. We understand that this planning application had not yet been determined; if it were to be approved, the site of the existing facilities would presumably be sold on, and could well attract residential development value. Whether this is one of the main drivers for a search for an alternative site for the football centre is not touched upon in the submitted documents. It would certainly not meet the terms of '**very special circumstances**'.

It is absolutely vital that Durham County Council has a very high bar for what it considers to be very special circumstances; each planning application tests that bar, and each is the time to reaffirm the bar, not to lower it. It is unfortunately inevitable that subsequent applications in the Durham Green Belt will seek to match the lowest level the bar has been set at, and case by case the green belt will be nibbled away.

The other arguments put forward by the applicant are that (a) alternative sites within Sunderland have been refused by the City of Sunderland Council; (b) moving to Leamside would enable enhanced facilities for the young footballers; and (c) that the social and community benefits far outweigh any negative aspects. Argument (a) does not constitute "very special circumstances; argument (b) is creditable, and the Trust agrees with other objectors that a site within the County but not in the Green Belt would be welcome; and argument (c) again does not constitute "very special circumstances" and is gainsaid by the very powerful objections submitted from local community residents.

The applicant submitted a 'Very Special Circumstances' document. This quoted the National Planning Policy Framework as revised in July 2021:

**"149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:**  
**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;"**

The Trust also invokes as relevant:

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

The Planning Supporting Statement records that the existing structures on the Leamside Equestrian Centre site were approved in 2002. This pre-dates the adoption of the relevant development plan for the area at that time, the City of Durham Local Plan 2004. In any case, that Plan has been superseded by the approval of the County Durham Plan in October 2020, and whatever justifications existed in 2002 no longer apply.

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On the matter of openness, the applicant's 'Very Special Circumstances' document notes that *"Durham County Council do not agree that the proposal would not be inappropriate and consider that the proposal would impact upon the openness of the green belt."* The City of Durham Trust agrees with the County Council and would add that the applicant concedes at paragraph 4.8 that *"the proposal is accepted to have, at most, a less than significant harm to the openness of the Green Belt."*

This is a crucial admission, as it means that the proposal amounts to "Inappropriate Development" under paragraph 147 of the NPPF and can only succeed if "very special circumstances" have been demonstrated under paragraph 148 of the NPPF which outweigh the potential harm to the Green Belt and any other potential harm resulting from the proposal.

The High Court ruling (*Boot, R (On the Application Of) v Elmbridge Borough Council [2017] EWHC 12 (Admin) (16 January 2017)*) by Justice Supperstone on the question of harm to the openness of the Green Belt provides absolute clarity on the matter; he held that:

*(paragraph 34): "limited adverse impact on openness of the Green Belt was not a finding that there had been compliance with the policy that required openness to be preserved. It was not acceptable for the purposes of paragraph 89 of the NPPF."*

*(paragraph 39): "West Lancashire Borough Council v SSCLG [2009] EWHC 3631 established that if a proposal has an adverse impact on openness, the inevitable conclusion is that it does not comply with a policy that requires openness to be maintained. A decision maker does not have any latitude to find otherwise."*

Accordingly, given that the applicant recognises that the proposal would harm the openness of the Green Belt, it must fail national and County Durham Plan Green Belt policy.

We can now turn to the other exception criterion in NPPF paragraph 149, namely (d) that allows *"the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces."* In the case of this application the existing building has a gross internal floorspace of 320 square metres and is being replaced by one with a gross internal floorspace of 495 square metres, a 55% increase. The proposed new building is materially larger than the building being replaced and is clearly not compliant with NPPF paragraph 149 (d) and thereby Policy 20 of the CDP.

Table 1 in the applicant's Very Special Circumstances report acknowledges that the proposed development would cause harm to the openness of the green belt, and that this is to be afforded substantial weight in the planning balance as against benefits of the proposal. The benefits are assessed in Table 1 in terms of the recently approved County Durham Playing Pitch Strategy (PPS), but many of the benefits will be to players from outside County Durham. This is not quantified and so is of little assistance to the decision-maker in assessing whether the acknowledged harm caused by the proposal can be outweighed by claimed benefits.

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## County Durham Plan Policy 10

County Durham Plan Policy 10 says that:

***“Development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to one or more of the following exceptions:....”***

The application makes no claims for any of the exceptions set out under CDP Policy 10 and the application should therefore be judged to be development that is not permitted in the countryside.

Policy 10 goes on to lay down general design principles for all development in the countryside, including ***“must not....(r) impact adversely upon residential or general amenity”***. The applicant’s Design and Access Statement acknowledges this and states at paragraph 4.20 that ***“the final scheme as submitted as part of this planning application has been designed so that the pitch location does not cause nuisance to the existing residents at one Carr Row.”***

Following objections from Highways England the further amendments now submitted (see below) replace sports pitches in the northwest corner of the site with a car park, in order to avoid the risk of mis-kicked footballs landing on the adjacent A1(M) motorway. No amendments have been made regarding the Trust’s concerns about the site plan submitted on 16 December 2021 - there continue to be at least 4 sports pitches adjacent or near to the residential properties comprising Carr Row. With the facility being for youth football teams and spectators, it is extremely difficult to believe that noisy adverse impact upon residential amenity has been addressed. The Trust continues to consider that the application fails CDP Policy 10.



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## County Durham Plan Policy 21 Delivering Sustainable Transport

County Durham Plan Policy 21 requires that “***The transport implications of development must be addressed as part of any planning application***”. It is evident from the many objections on the Planning Portal that the Highway Authority and the local community do not believe that the transport and traffic implications have been satisfactorily addressed. The County Council’s Sustainable Transport Team find many shortcomings in the applicant’s documentation. The Trust notes that the applicant is committed to a budget of £1,500 per annum to support a Travel Plan Co-ordinator and implement measures as necessary. This is a derisory amount.

The applicant’s Planning Supporting Statement quotes at paragraph 6.87 the NPPF as stating “*development should only be refused on highway grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.*” On that basis, the applicant claims that there would be no adverse impact to warrant refusal. Local objectors clearly feel that there would be significant unacceptable impacts on highway safety.

The Trust concludes that the recent additional information and amendments from the applicant provide no redress against the multiple failures of the scheme on national and local planning policies, and that the application should be refused on all of the grounds set out above.

Yours sincerely

**John Lowe**

John Lowe,  
Chair, City of Durham Trust