



## Special Area Planning Committee (Central and East)

**Date** Friday 17 May 2024  
**Time** 1.30 pm  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest, if any
4. Applications to be determined by the Area Planning Committee (Central and East)
  - a) DM/23/03325/FPA - Anvil, Abbey Road, Pity Me, Durham, DH1 5DQ (Pages 3 - 22)  
Change of use from dwelling (C3) to children's home (C2) for up to three children aged 8-17, the retention of a sensory room and an office within the rear garden (description amended).
  - b) DM/21/01141/FPA - Land to the Rear of Rock Terrace, New Brancepeth, DH7 7EP (Pages 23 - 48)  
Erection of 11 bungalows (amended plans and red line boundary received).
5. Appeal Update (Pages 49 - 56)
6. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

**Helen Bradley**  
Director of Legal and Democratic Services

County Hall  
Durham  
9 May 2024

To: **The Members of the Area Planning Committee (Central and East)**

Councillor D Freeman (Chair)  
Councillor D Oliver (Vice-Chair)

Councillors A Bell, L Brown, I Cochrane, J Cosslett, S Deinali,  
J Elmer, P Jopling, C Kay, D McKenna, R Manchester,  
K Robson, K Shaw and A Surtees

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**Contact: Martin Tindle**

**Tel: 03000 269 713**

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/23/03325/FPA
Full Application Description:	Change of use from dwelling (C3) to children's home (C2) for up to three children aged 8-17, the retention of a sensory room and an office within the rear garden (description amended)
Name of Applicant:	Miss Elfrida Coker
Address:	Anvil, Abbey Road, Pity Me, Durham, DH1 5DQ
Electoral Division:	Framwellgate and Newton Hall
Case Officer:	George Spurgeon (Senior Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site relates to a two-storey detached property which fronts onto Abbey Road and is located at the entrance to the Paxton Mews estate. Internally the dwelling has five bedrooms, with a bathroom, lounge, kitchen diner, utility and office. The property benefits from a grassed garden area to the rear, with a gravel driveway to the front capable of accommodating up to four cars.
2. Residential uses immediately surround the site to all sides, with commercial properties located on Front Street further to the west and a parcel of amenity green space with children's play equipment to the east. Beyond this lies Abbey Road Business Park, and to the north east the Arnison Centre.

## The Proposal

3. The application seeks full planning permission for the conversion of the dwelling to create a children's home for up to three children between the ages of 8 and 17 years old. The applicant has confirmed that the property is intended to be occupied by children with learning disabilities from within County Durham and has been engaged in discussions with the Council's Children and Young People's Services team.
4. The application also seeks the retention of two timber detached outbuildings that have been erected in the rear garden to be used as a sensory room and an office. The sensory room has already been sited to the east of the rear garden, measuring 3m by 3.76m with a height of 2.27m, and is intended to provide a therapeutic environment where individuals can explore, relax, and learn. The office has been sited to the south west corner and measures approximately 3.9m by 5.8m with a shallow sloping roof no higher than 2.6m. Permission for these outbuildings is sought on a retrospective basis.
5. A 1.5m high close boarded timber fence has been erected along the eastern side of the property, with 1.8m high fencing erected around the rear. Due to the height of the fencing in excess of 1m and position adjacent to a vehicular highway, these works require planning permission in their own right however consent for their retention is not sought as part of this application. The applicant intends to submit a separate application to gain consent for alterations to boundary treatments should the committee resolve to grant planning permission for the change of use to children's home.
6. The application is being reported to the Central and East Area Planning Committee at the request of Councillor Wilkes and Framwellgate Parish Council who have concerns relating to parking provision and highway safety.

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## **RELEVANT PLANNING HISTORY**

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7. The formation of the vehicular access to the host property from Abbey Road was approved under application 4/97/00185/FPA on the 27<sup>th</sup> of May 1997. There is no other planning history relating to this site.
8. The 17 dwellings that make up the Paxton Mews estate were approved under application 4/04/01250/FPA on the 15<sup>th</sup> of December 2004.

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## **PLANNING POLICY**

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### **National Policy**

9. A revised National Planning Policy Framework (NPPF) was published in December 2023. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching

objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.

10. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
11. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
12. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
13. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from

contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

### **National Planning Practice Guidance:**

17. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; noise; public rights of way and local green space; planning obligations; use of planning conditions; and; water supply, wastewater and water quality.

<https://www.gov.uk/government/collections/planning-practice-guidance>

### **Local Plan Policy:**

The County Durham Plan (CDP)

18. *Policy 18 (Children's Homes)* states that new children's homes will only be permitted where there is a gap in service provision; the site offers a positive, safe environment with access to services and community facilities; the scale will allow the occupants to be appropriately matched regarding welfare; the occupants will not be placed at risk, it is unlikely to result in unacceptable impact on residential amenity, fear of crime or community cohesion; and appropriate measures for emergency access, outside space, highways access, parking and servicing can be achieved. Applications must be supported by information regarding management and safeguarding.
19. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
20. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-

renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards.

21. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development.
22. Residential Amenity Standards SPD (2023 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
23. Parking and Accessibility SPD (2023 Adopted Version) – Provides guidance on parking requirements and standards,

<https://www.durham.gov.uk/cdp>

#### **Neighbourhood Plan:**

24. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **Statutory Consultee Responses:**

25. *Framwellgate Parish Council* – Object to the application on highway safety grounds due to insufficient in-curtilage car parking and the need for vehicles to reverse from the site onto Abbey Road. On further comments received following the submission of an amended plan demonstrating adequate provision to fully park four cars on the driveway serving the property.
26. *Highways Authority* – Raise no objection to the application noting that the Council's current Parking and Accessibility Standards require C2 Use Classes to provide 1 parking space per 3 rooms which would equate to 2 spaces for this proposal. The property provides adequate space for up to 4 vehicles and as such exceeds the requirements set out in the Parking Standards.

#### **Non-Statutory Responses:**

27. *Children and Young People's Services* – Advise that it is difficult to match children into a five bed home and that the property is suitable for a maximum

of three young people based on the internal layout, with demand for children's homes relating to a need for smaller homes. Confirm their support for the use of the property as a three bed children's home.

28. *Environmental Health Nuisance Action* – Recommend conditions to restrict the maximum numbers of children living at the property and to secure a management plan to include details of children to staff ratios, recruitment of staff, internal procedures and complaints procedure to ensure the home is well managed and does not cause concerns to amenity of sensitive receivers living close by.
29. *Durham Constabulary Crime Prevention Team* – Have undertaken a Locality Risk Assessment and advise that there are no external sources above the norm that they are aware of that would cause a threat to the children. Recommend a condition to secure a management plan, to include details on the level of staffing and adherence to the Philomena Protocol.

### **Public Responses:**

30. The application has been advertised by way of a site notice and individual notification letters sent to neighbouring properties. Seven letters of objection have been received raising the following concerns:

#### Highway Safety

- The property does not benefit from sufficient in-curtilage car parking provision. As there is no scope for additional on street parking on Paxton Mews the proposal will lead to cars parking on Abbey Road which would disrupt traffic flow, waste collection, emergency vehicles, driveways and pedestrians.
- Paxton Mews is a narrow road featuring allocated parking bays serving some dwellings and so additional on street parking would adversely affect residents.
- The driveway serving the property can only safely accommodate 3 or 4 cars rather than the 6 suggested within the submitted application form, and this is insufficient to serve 21 staff stated to be associated with the property.

#### Residential Amenity

- The property would operate for 24 hours a day resulting in an increase in noise and disturbances from occupants and visitors that would adversely affect residential amenity.
- The use of the outbuildings within the rear gardens would generate noise and disturbances.
- The security lights that have been installed are visually intrusive and cause light pollution.
- No details regarding waste storage and collection have been provided.
- The proposed use would lead to the nearby park being used for anti-social behaviour and drug and alcohol misuse.

#### Other Matters



- The submitted plans do not provide sufficient detail regarding the internal layout of the building and the parking arrangements.
  - The description of the proposal has been amended since the initial notification letters were sent to neighbouring residents.
  - Concerns over a smoking area to the front of the property which has since been removed.
  - A fence with a height of over 1m has been erected adjacent to the Paxton Mews estate road which adversely affects visibility.
31. One letter of representation expressed disappointment that the parts of the proposed development have already taken place.
32. Councillor Wilkes has objected raising concerns that there is insufficient in-curtilage car parking to accommodate the number of staff and other visitors to the property and that the outbuildings in the rear garden are already in situ.
33. Following the receipt of amended plans and additional information residents and contributors were again notified by way of a letter. Two further letters of objection were received acknowledging that the signage that had been installed to the front of the property has now been taken down but expressing disappointment that further fencing has been erected, and reiterating concerns over the location of the property close to a busy road, security, and noise. Councillor Wilkes confirmed his objections still stand.

**Applicants Statement:**

34. None received prior to publication.

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**PLANNING CONSIDERATION AND ASSESSMENT**

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35. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the Principle of Development; Impact upon Residential Amenity, Crime, Fear of Crime and Community Cohesion; Highway Safety and Parking; Impact on the Character and Appearance of the Area; and Other Matters.

Principle of Development

36. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.

37. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local Planning Authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
38. The application seeks full planning permission for the change of use of a dwellinghouse (C3) to a children's home for up to three young people aged 8 to 17 years of age. County Durham Plan (CDP) Policy 18 seeks to promote the creation of sustainable, inclusive and mixed communities and is permissible towards the creation of children's care homes subject to the following criteria being met:
- a. the applicant is able to demonstrate that the development will address any gaps in service provision to the satisfaction of the Local Planning Authority;
  - b. sites offer a positive and safe environment for the occupants of the premises ensuring that there is appropriate access to local services and community facilities;
  - c. the size/scale of the children's home will allow the occupants to be appropriately matched with regard for each child's welfare and taking into account their individual circumstances;
  - d. the occupants would not be placed at risk having regard to the latest crime and safety statistics in the area and that this has been agreed in advance with Durham Constabulary, the council's Children and Young People's Services and other appropriate agencies;
  - e. it is unlikely to cause unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion;
  - f. appropriate measures will be in place to ensure access for emergency vehicles and safety measures such as fire escapes; and
  - g. satisfactory outside space, highway access, parking and servicing can be achieved.
39. The policy further states that planning applications for children's homes must be accompanied by information regarding the management of the home, together with an assessment to ensure that necessary safeguards are put in place to ensure the welfare of the children. This will include consideration of any crime or safety concerns in the area, in consultation with Durham Constabulary, the Council's Children and Young People's Services team (CYPS) and any other appropriate agencies.

40. In relation to criterion a) of the policy, the Council has produced the following report: Council's Sufficiency and Commissioning Strategy for Children Looked After and Care Leavers 2022-2024. Objective 3 of this document is to "*Continue to develop and broaden our residential homes offer and maximise opportunities with external providers when there is a case to do so.*" One of the ways in which this is to be achieved is by continuing "*to work closely with providers that wish to develop new Durham First services in County Durham, to shape services and to positively challenge development when this does not meet our needs.*" In order for the Council to use the applicant as a children's home provider they require them to register their services with Ofsted and meet all regulatory requirements. The applicant has confirmed their intention to hire a registered manager, to submit an application to Ofsted to operate a three bed Learning Development Children's Home for children with learning disabilities, and has indicated that they are agreeable to the Durham First Approach. Registration with Ofsted is a separate process to the planning system and so cannot be controlled or secured as part of this planning application, but the Council's CYPS team have indicated their satisfaction with the details submitted with this planning application.
41. The report identifies that whilst the number of children in need of residential care was relatively stable from 2017 – 2020, the number of children looked after by the Local Authority rose by 62% from the end of March 2015 to March 2022, with this forecast to continue due to delays at court resulting from the pandemic, which prevented children and young people who had plans to return home to parents or family from returning home, thereby resulting in fewer children leaving the care of the Local Authority. The Local Authority has a statutory duty, as stated within Section 22G of the Children Act 1989, to take steps to secure sufficient accommodation for looked after children within their Local Authority area.
42. The report goes on to explain the future demand for residential provision is dependent on the number of children that are becoming looked after and the complexity of their needs. It identifies that that there has been an increase in the number of young people who have entered care and been accommodated in a children's home, rather than a foster carer household, due to their level of needs and complexity, with the biggest increase in need being in relation to teenagers aged 14–15 at a 31% increase since 2020/21. As the Local Authority's children looked after numbers continue to increase, children continue to present with a range of complex behaviours where their needs cannot be met in fostering provision and so are increasingly being placed out of area, with demand for local residential provision continuing to be high.
43. The Council's Sufficiency Strategy Action Plan focuses on the development of new smaller, local children's homes to meet this increasing need. The application initially proposed to house up to five children but following advice from the Council's CYPS team, have subsequently reduced this to three in order to help meet this need whilst also providing a bedroom for a member of staff staying at the property overnight and converting the smallest bedroom into an office. A revised set of floor plans has been submitted to this effect. The applicant has confirmed that they have been engaged in discussions with the

Council's CYPS team for some time and intend for the home to be occupied by children from within County Durham. The application in its amended form would be considered to address this service gap and criterion a) of this policy is therefore considered to be met.

44. The application is also considered to accord with criterion b) of the policy. The application site is an established residential dwelling located within Pity Me. The immediate vicinity is residential in character, but the wider area has a broad mix of uses, including a range of shops and facilities at the Arnison Centre, which is defined as a District Centre by CDP Policy 9, as well as an area of public open space with children's play equipment to the east beyond the estate road serving the residential properties at Paxton Mews. The site is also close to bus stops allowing easy connection to Durham City. The dwelling itself is large in size with ample internal space for day to day living for the number of looked after children proposed, along with a private garden space to the rear. In this regard the dwelling would be considered to suitably provide a safe and positive environment for these children in line with criterion b) of CDP Policy 18.
45. The proposed home is intended to accommodate no more than three children and this could be secured through planning condition. This reflects a best practice care model that is designed to ensure that the home provides a nurturing environment that is described as welcoming, supportive, safe, inclusive, valued, delivers consistent routines and boundaries, meets young people's basic and complex needs in a person centred approach. This is in line with what is typically recommended to best replicate a family home and make it easier to match young children who will be living together. As referenced already, the provision of small-scale homes has been identified as a service requirement to ensure an appropriate level of care can be provided which can suitably match the particular child's needs. The submitted 'Statement of Purpose' document that accompanies the application sets out a clear mission and standard of care that is centred on providing a nurturing environment that is welcoming, safe and supportive of each child's needs. The document sets out how the spaces within the house can be used to help deliver on the level and range of care required for each child. The Council's CYPS team have indicated their satisfaction with the proposals, which are therefore considered to suitably comply with criterion c) of CDP Policy 18.
46. Criterion d) of Policy 18 states that new children's home should ensure that the occupants would not be placed at risk having regard to the latest crime and safety statistics in the area and that this has been agreed in advance with Durham Constabulary, the Council's CYPS team and other appropriate agencies. A locality risk assessment has been submitted in support of the application. This assessment identified that there are no external sources above the norm that they are aware of that would cause a threat to the children and as such Durham Constabulary's Crime Prevention Team have raised no objections to the application, subject to a condition to secure a detailed management plan for the home. Therefore, a refusal could not be sustained on these grounds and the proposal accords with criterion d) in this regard.

47. The property benefits from a sizable rear garden that would provide a good level of external amenity space for the children. It is anticipated that fire escapes will be provided in line with Building Regulations.
48. In principle, the change of use of this dwelling to a small care home for no more than three children is deemed acceptable and in line with criteria a-d of Policy 18. This is subject to further consideration of the matters under the relevant headings below.

#### Impact upon Residential Amenity, Crime, Fear of Crime and Community Cohesion

49. Section 17 of the Crime and Disorder Act 1998 places a duty on the Local Authority in the exercise of its functions to have due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent crime and disorder in its area and the misuse of drugs, alcohol and other substances. Whilst this is a qualified duty, crime and the fear of crime is capable of being as a material planning consideration.
50. In line with this, CDP Policy 18 e) is permissible towards children's homes provided they would be unlikely to cause unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion. This is similar to the requirements of NPPF Paragraph 135 f), which seeks to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
51. CDP Policy 31 is also relevant which states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living and/or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated.
52. In addition, criterion e) of CDP Policy 29 states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
53. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
54. The applicant has submitted documents confirming that the home would be managed by appropriately qualified members of staff. The application sets out

in principle how the care home would function, including staffing levels and qualification levels for the staff employed.

55. The accommodation is proposed to take care of a maximum of three young people aged between 8 and 17 in the house. All referrals and admissions would be risk assessed beforehand to ensure the accommodation is suitable for the child, and plans are then put in place to ensure the home remains as stable as possible for the young people accommodated. The home would have three members of staff present at all times during the day (8am-8pm) and two different members of staff during the night (8pm-8am) for each day of the year, with a registered manager on call at all times available to deal with any issues should they arise. The intention is that the environment would be akin as much as possible to a family / single household home, with children having their own bedroom, with shared communal spaces as in any dwelling house. All staff would have relevant qualifications and be subject to further training to continually develop their skills, knowledge and professional development. Members of staff would need to be agreed as part of the Ofsted registration process but in this regard it is not within the remit of the planning system to seek to control the day to day functioning of the care home.
56. The children who would reside at the property would have emotional behavioural problems and learning disabilities that may result in more noise being generated than a typical family home. However, there would be at least two members of staff present at the property at all times to provide care for the children and so there is no reason to consider that any behavioural issues would adversely affect neighbouring residents or their property. In line with advice from the Council's CYPS and Durham Constabulary, it is considered appropriate to secure a management plan for the property through a suitably worded condition.
57. It is also considered appropriate to include a planning condition which restricts the use of the property to a children's care home for no more than 3 young persons between the ages of 8 and 17, and for no other purpose falling within Class C2 of the Town and Country Use Classes Order 1987. This is considered necessary as occupation of the property for other uses falling within Class C2 (for example a nursing home or hostel) would likely create significantly greater residential amenity impacts than that currently proposed. A condition is also recommended to restrict staff changeovers to within the hours of 7am to 11pm to minimise noise and disruption generated by the coming and going of staff including from vehicular movements to and from the property. These conditions are considered to be sufficient to minimise noise and disruption caused by the proposed use to acceptable levels.
58. Durham Constabulary encourage the use of CCTV for both the communal internal areas and externals of the home and dusk until dawn lighting to each elevation that contains a door. The applicant has confirmed that CCTV has been installed to the front and rear of the property, with a spotlight installed to the rear and side of the property and a manually operated light to the front. The staff sleeping bedroom is located in a position within the house above the ground floor bedroom and within close proximity to the two first floor bedrooms

and the staircase to maximise the chance of hearing any movement from residents during the night. Alterations to boundary treatments are to be applied for under a separate planning application with it anticipated that an appropriate solution to secure the rear garden can come forward to secure the site whilst being sympathetic to the surrounding residential area.

59. Residents have raised concerns that the security lights that have been installed are visually intrusive and cause light pollution. The applicant has confirmed that the light to the front of the property is manually operated, with the two spotlights to the side and the rear activated when sensing motion. This level of lighting is not considered to adversely affect neighbouring residents in terms of light pollution.
60. In terms of fear of crime, in this instance there is no evidence to underpin this, with Durham Constabulary having undertaken a Locality Risk Assessment and raised no objections to this application. As the courts have held that the fear of crime is only a material consideration where the use, by its very nature, would provide a reasonable basis for concern, it is considered that a refusal reason framed around this issue would not be capable of being sustained. In the absence of firm evidence that the proposals would materially increase the risk of, or fear of, crime, it is considered that the proposed development would not have a detrimental impact on the living conditions of local residents.
61. Residents have raised concerns that the proposed use of the property as a children's home would lead to the nearby park being used for anti-social behaviour and drug and alcohol misuse. However, there is no reason to assume the home would not be appropriately managed and the children would be looked after by appropriately qualified members of staff who would be present at the property 24/7, 365 days in the year. Whilst beyond the scope of the planning process, the property would be Ofsted registered with all staff having relevant qualifications and being subject to further training to continually develop their skills, knowledge and professional development. Therefore, there is no evidence that the proposed use of the property would lead to anti-social behaviour, or drug or alcohol misuse.
62. Residents have also raised concerns that the property would operate for 24 hours a day which would result in an increase in noise and disturbances from occupants and visitors that would adversely affect their amenity. However, whilst the likely level of noise generated by the proposal is difficult to quantify due to the varying needs of individual users, it is nevertheless noted that the number of proposed children that the facility would accommodate is to be limited to no more than three, to be secured through planning condition, with sufficient trained staff/carers on hand at all times to manage any negative behaviour generated by individuals. The property previously comprised five bedrooms and so could have accommodated a greater number of occupants in association with its permitted use as a dwellinghouse which in itself could have a level of adverse impact to residential amenity. This would indicate that the development would not lead to any greater adverse impact than a situation where a family with a similar or greater number of children with specific needs

could reside at the address, likely on a 24/7 basis, without the support suggested within the information provided with this application.

63. The application also seeks consent to retain the two outbuildings that have been erected within the rear garden, to be used as an office and a sensory room for the children. The applicant has indicated that the office would be used for staff training, with the sensory room available for children living in the home to book between the hours of 9am to 6:30pm with supervision from a member of staff.
64. Given this and the relatively small size of the sensory room and its position adjacent to the eastern boundary where there is no direct neighbouring property, the use of this room is not considered to adversely affect the amenity of neighbouring residents in terms of noise. A condition is recommended to secure these hours of use to prevent any noise and disturbances from the use of the sensory room arising during the evenings and overnight. A door and small window have been installed within its west facing elevation, however given its position away from the western boundary with Kir Pak this is not considered to allow views into the rear garden of this neighbouring property. Overall, the sensory room is not considered to adversely affect its residents in terms of noise arising from its use, visual dominance, overshadowing, or loss of privacy.
65. The office is sited approximately 800mm away from the shared boundary with neighbouring property Kir Pak, with a blank elevation spanning 5.8m at height of 2.2m adjacent to this boundary. Given the scale of the building and its position relative to the property and garden of Kir Pak it is not considered to adversely affect its residents in terms of visual dominance, overshadowing, or loss of privacy. The office building is located approximately 20m away from the front elevation of the dwellings to the south at Paxton Mews, which is in excess of the typically recommended 13m. A door and three windows have been installed within its east facing elevation, however there is no direct neighbour to the east of the site. The use of the building for the training of staff is not considered to generate noise levels that would adversely affect neighbouring residents.
66. Overall, the proposed development would not adversely affect the amenity of neighbouring residents, according with, CDP Policies 18 e) and 31, as well as Parts 12 and 15 of the NPPF.

#### Highway Safety and Parking

67. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. In addition, CDP Policy 18 g) requires a satisfactory highway access, parking and servicing to be achieved.
68. The NPPF sets out at Paragraph 114 that safe and suitable access should be achieved for all users. In addition, NPPF Paragraph 115 states that



development should only be refused on transport grounds where the residual cumulative impacts on development are severe.

69. Several objections have been received from residents regarding parking and highway safety, particularly in relation to an increase in vehicle movements to and from the development and an associated increase in on parking which would have a negative impact on highway safety in the area. This concern is also raised by the Local Councillor and the Parish Council.
70. The site is served by an existing vehicular access from Abbey Road which would remain unaltered following the development. To the front of the property is a hard surfaced area capable of accommodating four parked cars. The Council's Parking and Accessibility Standards 2023 requires residential homes falling under Use Class C2 to be served by one car parking space per three bedrooms. The property is proposed to have four bedroom, so this would equate to a requirement for a minimum of two in-curtilage car parking spaces. As the driveway serving the property is capable of accommodating four cars, the parking standards would be exceeded in this instance. The amount of car parking provision would enable all three staff members to park at the property, along with a visitor. Therefore, it is considered that there is sufficient car parking space within the curtilage of the property to meet the need arising as a result of its proposed use.
71. Objections have been raised about the existing access and vehicles reversing out onto Abbey Road. However, the access is existing with no alterations to this proposed and there is nothing to prevent vehicles from the existing residential property reversing out onto Abbey Road currently. The Local Highways Authority have advised that there are no recorded accidents in the vicinity of the access to suggest that the existing access poses a road safety issue, and that the spaces to be provided within the site are such that a vehicle could manoeuvre out of the space and leave the site in a forward gear so that they would not need to reverse out onto Abbey Road. The proposed use of the property is not expected to create a significant uplift in traffic to any great degree over and above a residential dwelling. Overall, the Local Highways Authority raises no objections to the application.
72. It is considered that emergency access vehicles would continue to be able to access the property safely as they would any other existing property within the street or as its current use as a C3 residential property.
73. Overall, the proposed development would be served by a sufficient amount of in-curtilage car parking space and would not adversely affect highway safety, according with CDP Policies 18 g) and 21, as well as Part 9 of the NPPF.

#### Impact on the Character and Appearance of the Area

74. CDP Policy 29 outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.

75. Part 12 of the NPPF also seeks to promote good design. Specifically, NPPF Paragraph 135 states that planning decisions should aim to ensure developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and the surrounding built environment and landscape setting, and establish or maintain a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
76. The site lies within an established residential area with various commercial uses present nearby. The timber outbuilding comprising the sensory room has been sited adjacent to the eastern boundary of the rear garden with its east elevation measuring 2.1m tall. As such, the top of the building would be visible above the boundary fencing upon entering the Paxton Mews estate, however this appears as a typical outbuilding similar to those found in other residential gardens and is not considered to appear out of place or to adversely affect the street scene. It is noted that an outbuilding of this size would usually be considered to fall under permitted development. The timber outbuilding comprising the office can be glimpsed from the rear of the site but is mostly screened by existing vegetation along the rear boundary and is not considered to have an adverse visual impact.
77. It is acknowledged that additional fencing has been erected, however consent for the retention of this is not sought as part of this application. The applicant intends to apply for alterations to boundary fencing as part of a separate application should planning permission be granted for the change of use of the property to a Children's Home. It is anticipated that an appropriate proposal could come forward, although 1.8m high fencing around the front garden is unlikely to be supported.
78. Overall, the physical development proposed in the form of the two outbuildings that have been erected on site is considered to be appropriate for the character of the area, according with CDP Policy 29 and Part 12 of the NPPF.

#### Other Matters

79. Residents have raised concerns that no details regarding waste storage and collection have been provided. There is space to store bins within the curtilage of the property and the applicant has confirmed that they will be collected by the Council's refuse team.

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## **CONCLUSION**

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80. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date

development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

81. The application seeks full planning permission for the conversion of a residential dwelling to a children's care home for up to three young people between the ages of 8 to 17. The retention of two outbuildings within the rear garden to be used as a staff training office and sensory room for the children with staff supervision. The Local Authority has a statutory duty, as stated within Section 22G of the Children Act 1989, to take steps to secure sufficient accommodation for looked after children within their Local Authority area.
82. The Council's Children and Young People's Services team have advised that there is a need for homes of this size within the County and that the property is of a size suitable for the number of children proposed whilst also being of a scale allowing them to be matched appropriately. Therefore, the proposal would help to meet an identified need. Durham Constabulary have undertaken a Locality Risk Assessment and following this have advised that the occupants would not be placed at risk. Therefore, they raise no objections to the proposal. Conditions are recommended to restrict the occupation of the home to no more than three children and to secure details of a management plan to minimise any impacts arising from noise and disturbances on the amenity of neighbouring residents.
83. In consideration of the details submitted in support of the application and the representations received from interested parties, it is considered that the principle of the development is acceptable and the development suitably meets the criteria set out in CDP Policy 18. A detailed assessment has been undertaken of the potential impacts on residential amenity, fear of crime and disorder, social cohesion and highway safety, and it is concluded that the use can be satisfactorily accommodated in this location without any unacceptable detrimental impacts.
84. Whilst the concerns raised by neighbours, the local councillor and parish council are noted and have been considered as part of this assessment, they are not considered sufficient to warrant a refusal of the planning application in this instance. Therefore, the application is recommended for approval subject to conditions.

#### Public Sector Equality Duty

85. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
86. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

*Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.*

2. The development hereby approved shall be carried out in accordance with the following approved plans:

Location Plan AG-00-01  
Proposed Site Plan AG-03-03 D  
Proposed Floor Plans AG-02-06 B  
Proposed Office Building AG-03-04  
Proposed Sensory Room AG-03-05

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 18, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 5, 8, 9 and 12 of the National Planning Policy Framework.*

3. Prior to the first occupation of the property as a children's home, a management plan shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the property shall be operated in accordance with the approved details.

*Reason: To protect the amenity of neighbouring residents and the future occupants to ensure that a satisfactory form of development is obtained, in accordance with Policy 18 of the County Durham Plan.*

4. The property shall be used only as a children's care home to accommodate 3 young persons between the ages of 8 and 17 with 24 hour support from carers, including a full-time manager. The property shall not be used for any other purpose falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987, or any order revoking or re-enacting that order.

*Reason: In the interests of residential amenity in accordance with Policy 18 of the County Durham Plan.*

5. Staff changeovers shall not take place outside the hours of 7am to 11pm.

*Reason: To minimise noise and disturbances in the interest of safeguarding the amenity of neighbouring residents in accordance with Policies 18, 29 e) and 31 of the County Durham Plan.*

6. The outbuilding within the rear garden indicated as a sensory room on Proposed Site Plan AG-03-03 D shall not be used outside the hours of 9am to 6:30pm on any day of the week.

*Reason: To protect the amenity of neighbouring residents in accordance with Policies 18, 29 e) and 31 of the County Durham Plan.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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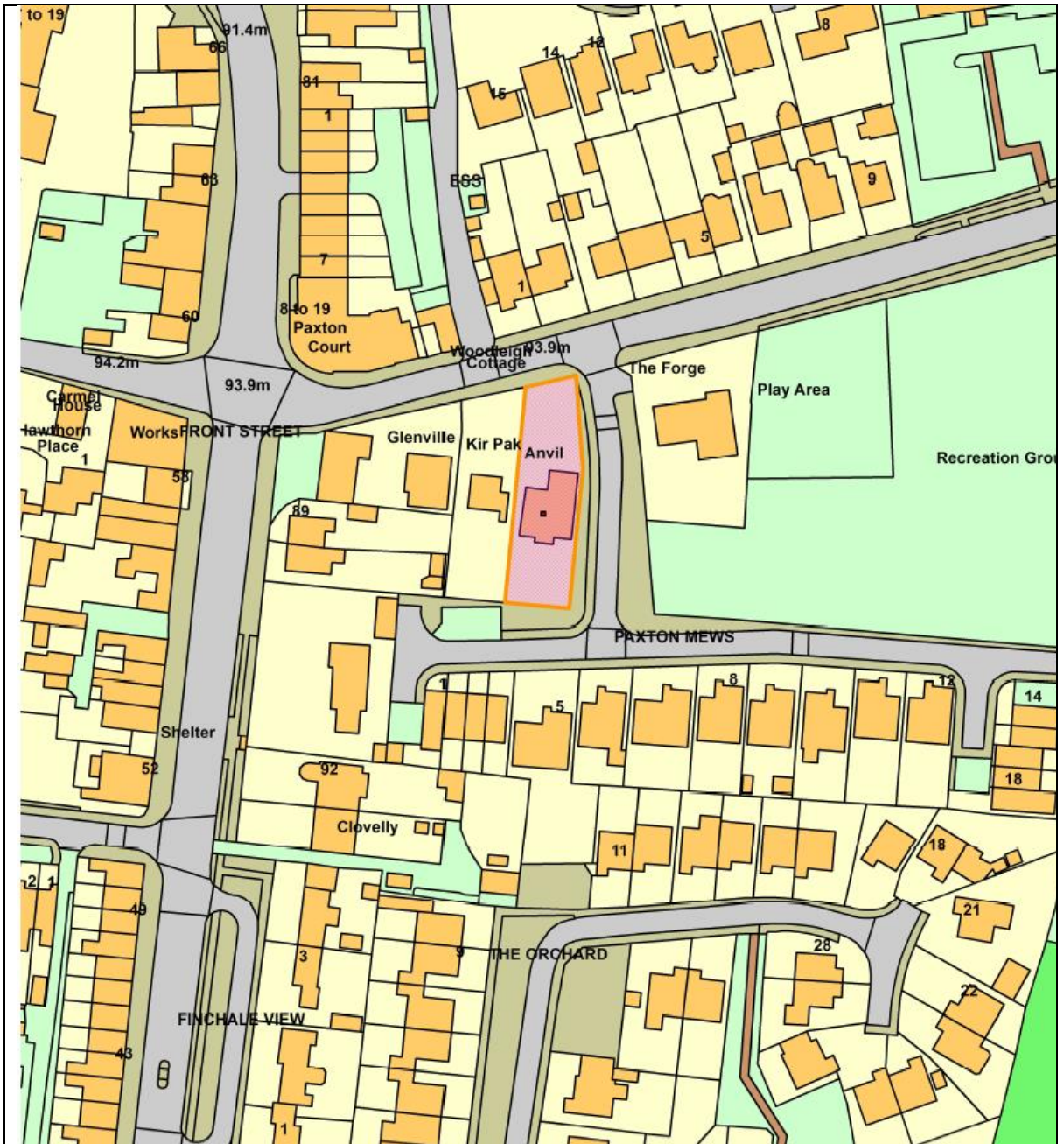
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP)  
County Durham Parking Standards 2023  
Residential Amenity Standards Supplementary Planning Document 2023  
Statutory consultation responses  
Internal consultation responses  
External consultation responses



<p><b>Planning Services</b></p>	<p>Change of use from dwelling (C3) to children's home (C2) for up to three children aged 8-17, the retention of a sensory room and an office within the rear garden (description amended)</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2024</p>	<p>Comments</p>	
	<p>Date: 8<sup>th</sup> May 2024</p>	

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/21/01141/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of 11 bungalows (amended plans and red line boundary received).
<b>NAME OF APPLICANT:</b>	DP Contractors
<b>ADDRESS:</b>	Land To The Rear Of Rock Terrace New Brancepeth DH7 7EP
<b>ELECTORAL DIVISION:</b>	Deerness
<b>CASE OFFICER:</b>	Lisa Morina Senior Planning Officer Telephone: 03000 264877 <a href="mailto:Lisa.morina@durham.gov.uk">Lisa.morina@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site comprises roughly a rectangular area of open undeveloped land positioned in a predominantly residential area between two linear terraces at Rock Terrace and Edward Terrace, New Brancepeth, Durham.
2. The site is framed by dwellings to all sides and occupies an inverted 'L' in terms of its layout with the smaller 'leg' extending to the south. In addition, it is noted that there is a significant change in levels across the site which falls from north to south.
3. Whilst not allocated for any use in the County Durham Plan it is understood that in the past the site has been used sporadically as private garden in association with some of the neighbouring terraces, and as such several buildings of varying construction style and quality have been erected across the site during this time. More recently the visual amenity of the site has deteriorated and the Council has served a number of Section 215 notices relating to untidy land.
4. In terms of planning history, it is of note that there have been a number of previous planning permissions relating to the redevelopment of the site with the most recent in 2019 granting outline planning permission for a mixed use development comprising retail and residential. Members may recall that this application was previously presented to committee on 12 July 2022 where it was resolved to grant permission subject to the entering into of a Section 106 for open space, and affordable housing provision. However, the S106 was never signed as after the resolution it became apparent that there were areas of the site which were required to be included in the S106 Agreement which were not within the control of the applicant and they have been unable to acquire these.



5. As a consequence, the scheme has been amended to remove built development from those areas thereby removing these from the S106 Agreement.
6. In addition, the applicant has engaged with a registered provider (Places for People) who have confirmed interest in developing the site and this has also resulted in some additional amendments to the previously approved scheme. Full details of those amendments are summarised below.

Proposal:

7. Planning permission was originally sought for the erection of 11 bungalows at the site comprising 9 No. two bed units and 2 No. one bed units. The dwellings are proposed to be semi-detached properties set out in 5 pairs with a single detached bungalow located to the south-east of the site.
8. In this instance the extent of the application site has been reduced via amendment to the red line plan and this is a result of the need to exclude an area to the west of the site which could not be acquired by the applicant. A smaller area beyond this is still under the control of the applicant and whilst it does not form part of the application site, they nevertheless have confirmed intention to deliver some soft landscaping across this area as part of the proposals.
9. Nevertheless, the application still proposes the erection of 11 bungalows however these are now all proposed to be 2 bedroomed. They are proposed in the most, as semi-detached arranged in 4 pairs with the remaining 3 units forming a short terrace along the eastern boundary of the site. All proposed dwellings have been relocated further to the east to accommodate the reduced site area.
10. The dwellings would comprise of red brick-built dwellings with tiled roofs. Front and rear gardens would be provided. Eight of the units would be accessed from Edward Terrace to the south and be served by 2 short cul-de-sacs with associated parking.
11. The remaining 3 units would be accessed from 'The Bungalows' to the east and be served by a total of 6 parking spaces. In total the development would include 22 parking spaces.
12. The scheme previously also involved the termination of an unadopted roadway that runs adjacent to 4 Model Cottages. However, the applicant has since submitted amendment to reinstate, resurface and maintain this area. It was not considered that further re-consultation was required to be carried out in this instance.
13. The application is reported to planning committee as it is considered major development.

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## **PLANNING HISTORY**

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14. 4/13/00351/OUT 18 Dwellings (Outline) Application Withdrawn 27th August 2013
15. DM/14/03245/OUT 18 Dwellings (Outline) - Resubmission 4/13/00351/OUT
16. DM/19/00607/OUT Mixed use development for C3 (dwellings) and A1 (retail). Approved 9th August 2019



## NATIONAL POLICY

17. A revised National Planning Policy Framework (NPPF) was published in July 2023. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
18. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
19. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
20. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
21. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
22. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
23. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
24. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living

conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.

25. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
26. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
27. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

<https://www.gov.uk/guidance/national-planning-policy-framework>

#### **NATIONAL PLANNING PRACTICE GUIDANCE:**

28. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters.

<https://www.gov.uk/government/collections/planning-practice-guidance>

#### **LOCAL PLAN POLICY:**

##### County Durham Plan

29. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
30. Policy 6 (Development on unallocated sites) states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
31. Policy 15 (Addressing housing need) establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.

32. Policy 19 (Type and mix of housing) advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes.
33. Policy 21 (Delivering sustainable transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
34. Policy 25 (Developer contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
35. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
36. Policy 29 Sustainable Design details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
37. Policy 31 (Amenity and pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
38. Policy 32 (Despoiled, degraded, derelict, contaminated and unstable land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
39. Policy 35 (Water management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new

development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SUDS and aims to protect the quality of water.

40. Policy 36 (Water infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
41. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
42. Policy 40 (Trees, woodlands and hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
43. Policy 41 (Biodiversity and Geodiversity) states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
44. Policy 43 (Protected Species and Nationally and Locally Protected Sites) development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided, or the proposal meets licensing criteria in relation to European protected species.
45. Residential Amenity Standards SPD – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
46. Parking and Accessibility SPD – provides guidance on road widths and parking standards for new developments.

#### Neighbourhood Plan

47. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY/EXTERNAL RESPONSES:**

48. Highway Authority – raises no objection to the application after the proposals were amended to include a footway around the periphery of the site connecting to existing provision. In addition, they also note that whilst plot 11 would occupy the position of an existing vehicular link between Edward Terrace and The Bungalows this does not appear to form part of the adopted highway. However, they do note that in the event this has been subject to the passing and repassing of vehicles and pedestrians for 20 years or more it could be considered Highway by use and require formally Stopping Up under Section 247 of the Planning Act.
49. Notwithstanding the above, it is nevertheless noted that this does not have any material impact upon the acceptability or otherwise of the proposals in terms of highway safety and the Highway Authority raises no objection in this regard.
50. Following re-consultation in response to the amendments they continue to raise no objection and note the existing unadopted vehicular link is proposed to be re-instated. The need for a stopping up therefore, is no longer required.
51. Northumbrian Water Limited (NWL) – No objection subject to the inclusion of a planning condition requiring the submission and agreement of precise means of foul and surface water drainage. It was considered that no further re-consultation was required as a result of the amendments submitted.
52. Lead Local Flood Authority (LLFA) – Offers no objection to the application subject to the inclusion of a planning condition requiring the submission, agreement and implementation of a drainage strategy. It was considered that no further re-consultation was required as a result of the amendments submitted.
53. Coal Authority – No objection subject to conditions requiring intrusive site investigative works. Following re-consultation the Coal Authority have confirmed the submitted reports are acceptable and no further conditions are therefore required.
54. Durham Constabulary Police Architectural Liaison Officer (PALO) – Has not commented. It was considered that no further re-consultation was required as a result of the amendments submitted.
55. NHS – No objection and no contribution required. It was considered that no further re-consultation was required as a result of the amendments submitted.

### **INTERNAL CONSULTEE RESPONSES:**

56. Environmental Health Section (Contamination) – No objection subject to conditions requiring the submission and agreement of a Phase 1 Contaminated Land Risk Assessment and intrusive investigation, remediation and verification where need is identified. Following re-consultation, a Phase 3 remediation strategy is still required which is required to be pre-commencement.

57. Environmental Health Section (Noise) – No objection subject to conditions to control environmental impacts during the construction phase. It was considered that no further re-consultation was required as a result of the amendments submitted.
58. Environmental Health Section (Air Quality) – No objection in principle however dust management plan still required. It was considered that no further re-consultation was required as a result of the amendments submitted.
59. Ecologist – No objection subject to the inclusion of a bat roost which could be secured through planning condition. As a result of the re-consultation, details of Ecological enhancements have been submitted and agreed with the Ecologist. These details will therefore form part of the approved plans as opposed to a condition.
60. Affordable Housing Team – Confirms the requirement for affordable housing to be provided in accordance with Policy 15 of the CDP. As a result of the re-consultation, they are happy to accept the 100% affordable rent route which is proposed.
61. Landscape Section – Raised some concern originally noting that there would be no allocated public space as new bungalow frontages would be dominated by hard parking areas and access roads and footpaths. Following re-consultation, they raise no objection subject to the amended plan which has been received.
62. Spatial Policy Section – Confirms the development should principally be considered against the requirements of Policy 6 of the CDP, M(4)2 properties should be provided and confirm that a financial contribution of £19,130.10 is required to be spent on open space within the locality in lieu of onsite provision, in accordance with Policy 26 of the CDP.
63. The above has not changed as a result of re-consultation however they have also confirmed they are happy with the affordable housing approach on this application subject to being secured as part of the S106.
64. Local Education Authority – Confirm there is sufficient primary and secondary school places available within the locality and as such there is no requirement for any financial contribution in this regard. It was considered that no further re-consultation was required as a result of the amendments submitted.
65. Public Rights of Way Section – No objection. It was considered that no further re-consultation was required as a result of the amendments submitted.

#### **PUBLIC RESPONSES:**

66. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. Originally, four letters of objections have been received with the following comments:
  - Concerns regarding access problems and existing problems accessing and departing properties with vehicles and will obstruct garage and access to front and side of dwellings
  - The potential rise in traffic and parked cars and the issues above are now becoming dangerous
  - The land should be converted to parking
  - There is no other place for kids to play and the grass should remain
  - Is one of the roads not a public right of way as it has been used by pedestrians and vehicles.

- The site should be cleared and made into some sort of play area.
67. One letter of support has also been received stating the bungalows are welcomed for the ageing community and the proposal will remove an area of untidy land.
68. Following re-consultation a further letter has been received with the following comments:
- Availability to comment on the proposal
  - There is already a lack of parking in the area, erecting 11 additional homes will only worsen this issue.
  - Concern regarding the stability of the land and the potential for subsidence which could cause structural damage.
  - Other uses for the land.
  - Legal action would be taken if structural issues occurred.

**APPLICANT'S STATEMENT:**

69. The application site currently comprises of an area of derelict land which unfortunately has become a dumping ground creating an eyesore for surrounding residents. The application submitted will redevelop the area to provide 11no. two bed bungalows with associated landscaping and parking.
70. The development will be undertaken in conjunction with the Registered Provider, Places for People. Places for People are the leading Social Enterprise, we engage and utilise all parts of our group to create and support thriving Communities across the UK. Our Developments arm delivers a wide range of housing across the country with a large focus on all types of affordable tenures.
71. As a Strategic Partner of Homes England, delivering over 7,000 homes through the 2016-21 and 2021-26 Affordable Homes Programmes, we have already seen the positive impact of a strategic approach to facilitate our ambitions to grow our overall development and affordable Communities. Our expertise in regeneration and placemaking, supported by Homes England, has enabled us to deliver homes in a range of large and small projects, building the right homes in the right places, and creating Communities that support education, health, wellbeing, employment, and inclusion.
72. Places for People currently manage more than 240,000 homes across the UK and have a wealth of housing and estate management experience which they bring with them to this development. The applicant believes that the proposals will enhance the overall area and provide much needed affordable bungalows to the area.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>*

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**PLANNING CONSIDERATIONS AND ASSESSMENT**

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73. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.

74. The NPPF is a material planning consideration in this regard. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
75. The County Durham Plan is now adopted and is considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.
76. In this context, it is considered that the main planning issues in this instance are as detailed below:

#### Principle of the Development

77. This site is considered to be within the built-up area of New Brancepeth and is not allocated for housing within the County Durham Plan (CDP). Given this, Policy 6 of the CDP would be of relevance in this instance.
78. Policy 6 of the County Durham Plan supports development on sites which are not allocated in the Plan, but which are either within the built-up area or outside the built up area but well related to a settlement, stating that such development will be permitted provided it is compatible with the following:
  - a) Development should be compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land;
79. The site is surrounded for the most part by residential properties, as such the residential use of this site would therefore be compatible with surrounding uses.
  - b) Development does not contribute to coalescence with neighbouring settlement, would not result in ribbon development, or inappropriate backland development;
80. There is no concern that the site would lead to coalescence with neighbouring settlements. In addition, given its location and relationship to the existing built form along with the proposed layout of dwellings on site, the development would not be considered ribbon or backland development.
  - c) Development does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigate or compensated for.
81. The application site does not fall within any designations for landscape or ecology value and is not within a conservation area of heritage value. The land is considered to be untidy at present and regularly suffers from fly tipping, as such the redevelopment of this site is welcomed.
  - d) Development is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement
82. The development is considered to be acceptable in this regard with more detailed consideration contained elsewhere in this report.
  - e) Development will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;



83. The development is considered to be acceptable in this regard with more detailed consideration contained elsewhere in this report.

f) Development has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement.

84. New Brancepeth is considered to be within a sustainable location with good access to shops, services, employment opportunities and public transport links. It is therefore considered to be capable of accommodating residential development of the scale proposed. The nearest bus stop is located to the north of Rock Terrace. In this regard, the proposed development would be well related to necessary facilities and sustainable modes of transport, and it is therefore not considered that future occupiers at the dwellings would be solely reliant on private vehicles as a consequence.

85. g) Development does not result in the loss of a settlements or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;

The development would not result in the loss of any facilities or services. As such there is no conflict with this criteria of the policy.

86. h) Development minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;

87. The site is not contained within Flood Zones 2 or 3 of the Environment Agency mapping system. From assessing the Strategic Flood Risk Assessment mapping layers associated with the Local Lead Flood Authority, there are no noted flood risk areas within the application site area. There is no conflict with this part of the policy, but further consideration is provided below.

88. i) where relevant, development makes as much use as possible of previously developed (brownfield) land;

The site has previously been considered acceptable for a mixed use development including residential development. The proposal is therefore considered to accord with this aspect of the policy as can be considered as a brownfield site.

89. j) where appropriate, it reflects priorities for urban regeneration.

It is not considered that criteria j is relevant in this instance.

90. On the basis of the above assessment, it is considered that the proposal would accord with the criteria set out in CDP Policy 6 and is therefore deemed acceptable in principle, subject to further considerations below.

#### Developer Contributions

91. CDP Policy 25 (Developer contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.

## Affordable Housing / Mix of Dwellings

92. CDP Policy 15 establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
93. On sites of 10 or more units, for 25% of units in the highest value areas to 10% in the lowest. On sites of 10 or more units, 10% of the homes provided should be for affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership). Any contribution above 10% should be provided as affordable housing for rent.
94. As this site is within a low value area, this development would require 10% affordable housing, which would result in 1 Affordable home ownership properties being provided.
95. Policy 15 however also states that where it can be evidenced by the applicant to the council's satisfaction that this tenure mix would make the required affordable housing contribution unviable or that alternative affordable housing products are required to meet local needs, then proposals for an alternative tenure mix as proposed by the applicant will be considered.
96. NPPF Paragraph 66 also states where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups.
97. It goes on to state that exemptions to this 10% requirement should also be made where the site or proposed development is at section a) to provide solely for Build to Rent homes.
98. This application is understood to be supported by a Registered Provider who have confirmed that under their Strategic Programme they are signed up to deliver affordable rent and shared ownership properties. They are proposing to deliver this scheme all for rent and are not looking to offer just one single shared ownership unit as it is not viable for them due to the sales/marketing costs this would incur.
99. They go on to state that they consider that the delivery of 11no affordable bungalows is of far greater benefit to the local area than to deliver further market housing with only 1no shared ownership / discounted market sale property.
100. This is agreed by the affordable housing officers, Spatial Policy Officers and the Planning Officer who all consider that there is demand for these products in the area and subject to all properties being secured as part of the Section 106, it is considered that the proposal would be acceptable in this instance.
101. CDP Policy 15 also aims to meet the needs of older people and people with disabilities. On sites of 5 units or more, 66% of dwellings must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard.

102. On sites of 10 units or more, a minimum of 10% of the total number of dwellings on the site are required to be of a design and type that will increase the housing options of older people. These properties should be built to M4(2) standard and would contribute to meeting the 66% requirement set out above. They should be situated in the most appropriate location within the site for older people. Appropriate house types considered to meet this requirement include:
- level access flats;
  - level access bungalows; or
  - housing products that can be shown to meet the specific needs of a multi-generational family.
103. All dwellings are proposed as bungalows and this would exceed the minimum requirements of Policy 15 as stated above.
104. CDP Policy 19 states that on all new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations. The scheme proposes all bungalows however as there is considered to be need for this type of dwelling which has been confirmed by the Council's Affordable Housing this is considered acceptable. Therefore, Policy 19 of the County Durham Plan is considered to be met.

#### Open space / Green Infrastructure

105. CDP Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
106. CDP Policy 26 and the Council's Open Space Needs Assessment (OSNA), calculate that on an average occupancy levels are 2.2 people per dwelling (Co. Durham average household size, 2011 Census). As such a scheme of 11 units would generate at least 24.4 people (11 x 2.2).
107. This scheme falls into the 1st category of Table 19 where a contribution should be sought for all typologies of open space in lieu of onsite provision. A contribution to improving existing facilities within New Brancepeth (bearing in mind the layout shows no on-site open space provision) would amount to £19,130.10 (24.2 x £790.50) to be secured by S106 legal agreement which the applicant has agreed to enter into.
108. Given this, and subject to a Section 106 Agreement being entered into to secure the required financial payment, the proposal is considered acceptable in respect of Policy 26 of the County Durham Plan.

#### Education Provision

109. Paragraph 95 of the NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to proactively meet the requirement.
110. The Council's Education Team have confirmed that in relation to both primary and secondary school pupils and based on the projected rolls of the schools, taking into account the likely implementation timeframe of the development, build rates and

other committed development there would be sufficient space and therefore, a contribution for additional secondary and primary school teaching accommodation is not required.

#### Health Contributions

111. Paragraph 34 of the NPPF required Local Authorities to have regard to setting where contributions are necessary within the Local Plan. In this regard CDP Policy 29(f) requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users.
112. The NHS has confirmed that no payment is required in this instance.

#### Developer contribution conclusion

113. The applicant has agreed to enter into the required Section 106 to secure the payments requested by relevant consultees and as such the proposal is considered to be in accordance with Policies 25 and 26 of the County Durham Plan identified to mitigate the impact on the development.

#### Impact on Residential Amenity

114. CDP Policies 6 and 31 seeks to prevent development that would have an unacceptable impact upon the amenity of existing neighbouring residents and only allow development where adequate amenity for future occupiers is provided. Part 11 of the NPPF requires planning decisions to ensure healthy living conditions and emphasises the importance of securing healthy places. Part 15 requires decisions to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution such as noise pollution.
115. Paragraph 191 seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions. In terms of noise, Paragraph 191 advises that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life.
116. CDP Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.
117. CDP Policy 29 also require that new major residential development is assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. It also states that all new residential development should meet Nationally Described Space Standards (NDSS).

118. The dwellings are proposed to be located within a residential area with residential properties on all sides with the exception of a commercial premises (takeaway) located at the end of Edward Terrace, however this business is already situated within close proximity to sensitive receptors, and it is not considered that this proposed development would interfere with the operation of that business.
119. It is noted that during the construction phase the development could lead to negative impact upon existing residential receptors due to their close proximity. However, it is considered that this could be mitigated by the submission of a Construction Management Plan secured by pre-commencement planning condition and also a condition regarding the hours of construction.
120. Subject to the inclusion of planning conditions in this regard the Council's EHO raises no objection to the application.
121. With regard to space standards and the requirement of Policy 29 of the County Durham Plan that all new development accord with the Nationally Described Space Standards, it is noted that the scheme has been designed to be fully NDSS compliant and the application provides sufficient information to demonstrate that this is the case.
122. The amended scheme essentially relocates the development further to the east, retaining the two cul-de-sac arrangements as previously proposed and changes the house type of the dwellings proposed to the registered providers standard house types.
123. In addition to the above policies of the CDP, the Council has adopted a Residential Amenity SPD which sets out minimum requirements in relation to privacy distances and private outdoor amenity space (Gardens).
124. Given the nature of the proposal being bungalows, a minimum of 18m should remain between facing elevations containing windows to habitable rooms and garden depths of 9m should be provided. These are considered to be met both internally within the site and those neighbours located to the east and west of the site.
125. The SPD also goes on to state that where a main facing elevation containing a habitable room window is adjacent to a gable wall which does not contain a habitable room window, a minimum distance of 13.0m shall be provided where either dwelling exceeds single storey, or 10.0m where both dwellings are single storey.
126. The proposed dwellings would present blank gable elevations to both Rock Terrace and Edward Terrace which themselves are both terraces of two-storey dwellings. Therefore, a minimum separation distance of 13m is advised by the SPD. However, it is considered that a 10m distance can be applied in this instance given the proposed dwellings would be subject to any impact rather than the existing dwellings given they are single storey bungalows, any impact would be considered limited and weighed against the positive impacts of redeveloping what is currently unmanaged and subject to previous untidy land complaints.
127. In respect of adjacent properties at Edward Terrace to the south, all properties meet the 10m requirement including those with single-storey projections. In respect of the neighbouring properties at Rock Terrace, it is noted that there is a change in levels across the site which falls away to the north.
128. The Council's SPD states at section 3.4 that where there is a significant change in levels, the minimum separation distance will increase by 1 metre for every 1 metre

that the floor level of the development would be above the affected floor or ground level of the neighbouring property.

129. A plan showing the site topography has been submitted in support of the application which identifies a 2-3 metre change in levels in this regard and as such a separation distance of 12-13 metres is therefore required in accordance with the SPD.
130. Submitted plans show that this distance can be achieved between the northern gable of the proposed dwellings and the rear facing elevations of those properties at Rock Terrace. As such the development is considered acceptable in this regard.
131. Between Plot 11 and Edward Terrace the end terrace being no. 31, separation distances of around 14 metres can be achieved. A ground floor window is in existence on this gable elevation however it is obscurely glazed therefore, the proposal is considered acceptable in this respect. No impact is considered to occur on no. 4 Model Gardens which is located to the south of Plot 11.
132. Objections have been raised regarding access to an existing neighbour's garage at no. 4 Model Cottages and access to the front of their property. However, the application has since been amended to retain access to this property.
133. An air quality report was submitted and the findings of this is considered acceptable however a Dust management Plan is still required which is considered to be incorporated within the Construction Management Plan which is added as a pre-commencement condition as part of this application.
134. In light of the above it is considered that the residential amenity of the neighbouring properties would not be compromised by the development although, given the constrained nature of the site and the proximity of existing residential properties it is considered prudent to remove permitted development rights relating to future extensions.
135. The proposal is therefore considered acceptable in respect of Policies 29 and 31 of the CDP in respect of residential amenity subject to the conditions stated.

#### Scale/Design

136. Part d of Policy 6 of the CDP states that a proposal should be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement. CDP Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
137. The site occupies a linear parcel of land set between 2 rows of terraced properties to the north and south and comprises a proposed layout consisting of 4 pairs of semi-detached bungalows that would present gable elevations to the facing elevation of Rock Terrace and Edward Terrace.
138. The dwellings have been designed as bungalows which is considered acceptable given the change in land levels and would appear as a logical step up from Rock Terrace to the proposal and then again up to Edward Terrace.

139. Whilst the character of the surrounding area is one principally comprising long linear rows of terraces housing, it is nevertheless considered that the introduction of semi-detached bungalows in this location would provide some variety to visual amenity of the locale.
140. In terms of design the proposed arrangement would be in keeping with surrounding properties despite being of a lesser scale. In terms of materials, it is proposed that the dwellings are constructed from Forterra Edwardian Dragface Facing Brickwork with Dark Grey Sandtoft Calderdale Edge Concrete tiles. A black composite front doors and white UPVC rear door is also proposed to each dwelling along with which upvc fascias and soffits and black rainwater good. These are considered acceptable and can be secured through inclusion via the standard condition which requires the development to be carried out in accordance with the approved plans.
141. In light of the above it is considered that the proposal would be an appropriate development for the area and would deliver some considerable benefits given the site is currently untidy to the extent it detracts from the visual amenity of the surrounding area.
142. Subject to the above, the proposal is considered acceptable in respect of Policy 29 of the County Durham Plan and Part 12 of the NPPF.

#### Sustainability

143. CPD Policy 29 states that all new development should minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation, and include connections to an existing or approved district energy scheme where viable opportunities exist.
144. The applicant has provided a sustainability statement which confirms that materials will be sourced locally, and it has also been confirmed that solar panels and an electric vehicle charging point will be added to each property.
145. As such, Part 29(c) of the CDP is considered to be met.

#### Broadband

146. CDP Policy 27 states new residential and commercial development should be served by a highspeed broadband connection. This will need to be directly accessed from the nearest exchange and threaded through resistant tubing to enable easy access to the cable for future repair, replacement and upgrading. Where it can be demonstrated that this is not appropriate, practical or economically viable, developers will be encouraged to provide appropriate infrastructure to enable future installation.
147. Subject to a condition requiring this information to be submitted, policy 27 of the CDP is considered to be met.

#### Landscaping

148. CDP Policy 6 sets out developments should not contribute to coalescence with neighbouring settlement, would not result in ribbon or inappropriate backland development. The Policy also requires that development should be appropriate in scale, location and form and setting of a settlement.

149. CDP Policy 39 states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects.
150. Concern was originally raised by the Council Landscape Section that the development failed to include any allocated public space as new bungalow frontages would be dominated by hard parking areas, access roads and footpaths. They consider that the proposed bungalows would not front onto any green space and that the development would be stark in character, dominated by car parking and hard landscape elements.
151. As part of the original scheme amendments were received that introduced some landscaping which whilst minimal was considered to ensure that conflict with policy would not occur.
152. However, this provision was removed as part of the first amended submission. Upon advice from the Council's Landscape Section further amendments have been submitted which show native trees at the entrance to each parking court would likely require a protective root barrier given their proximity to the proposed buildings. The remaining beds would then be populated with ornamental or native shrubs and ground cover species which would add colour and interest. The rear gardens remain not planted and would be managed by the occupants.
153. This landscape approach is considered appropriate in terms of future maintenance and the creation of a safe and secure environment with visibility splays and reasonable levels of surveillance.
154. In terms of character the landscape approach would not be out of keeping with the surrounding adjacent predominantly hard terraces and backyards. As such no concern is raised from landscape and visual perspective and the proposal would be considered acceptable in accordance with policy 39 of the County Durham Plan and part 15 of the NPPF. It is considered however that the exact species etc are required to be provided which can be controlled via condition.

#### Highway and Pedestrian Safety/Impact on Public Rights of Ways (PROW)

155. Policy 21 of the CDP requires all development to ensure that vehicular traffic generated can be safely accommodated and to have regard to the Council's Parking and Accessibility Standards Supplementary Planning Document. In addition, policy 6 of the CDP requires new development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. This approach displays broad accordance with the aims of paragraph 115 of the NPPF.
156. Notwithstanding the above, the residents of neighbouring properties have raised concern at the limited availability of parking both within the development itself and the wider locality, which they consider to be an existing issue that would be compounded by the proposal. In addition, residents consider that the access into and out of the proposed dwellings would be limited and dangerous.
157. Notwithstanding the above, it is noted that the development would be served by 2 short cul-de-sac style streets providing access to the parking provision with the remaining being accessed from The Bungalows at the Eastern part of the site. As part of the previous application, 15 parking spaces were proposed which was considered acceptable, and as part of this application 22 spaces are proposed. The Councils Parking Standards state at least 2 parking spaces per 2 bedroom dwelling



should be provided which the proposal meets. The proposal however does not provide any visitor parking which in this instance would be 2 spaces based on the SPD. An electric charging point per dwelling has also been provided as identified and annotated as 'e' on the proposed site layout plan.

158. In light of the above, the proposal fails to fully accord with the Council's current parking standards in that it requires 2 visitor parking spaces in addition to those identified on the submitted plans. However, it is noted that when the application was originally considered by the committee the overall parking provision was considered adequate, and that there would be no adverse impact in terms of highway safety, as confirmed by the Highway Authority.
159. Nevertheless, the application must now be considered against the requirements of the Council's new Parking Standards which require a further 2 No. visitor parking spaces. There is therefore some level of conflict with the current standards in this regard. However, paragraph 115 states that development should only be refused on highway safety grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. In addition, the Council's SPD states "In certain circumstances which can be evidenced, for example, for reasons of sustainability, design or viability, a deviation from these guidelines may be considered."
160. In this case The Highway Authority has confirmed that the level of traffic generated by the proposals would be limited and could be safely accommodated on the surrounding road network despite the marginal shortfall in visitor parking. In addition, it is noted that the site is considered a blight site which currently has a detrimental impact upon the character and appearance of the surrounding locality and as such its re-development would present notable benefits in this regard sufficient to outweigh the limited conflict with the current parking standards.
161. In light of the above no highway objection is raised and the proposal is considered acceptable in respect of policy 21 of the County Durham Plan and part 9 of the NPPF.

#### Land Contamination and Stability

162. Paragraph 189 of the NPPF advises that planning decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. In line with this, CDP Policy 32 states that development will not be permitted unless the developer can demonstrate that:
  - a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;
  - b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities; and
  - c. all investigations and risk assessments have been undertaken by an appropriately qualified person.
163. A Phase 2 Geo-Environmental Site Assessment (2024) has been submitted and assessed by Land Contamination Officers. They have confirmed that the report has identified the need for remedial works and as such a Phase 3 remediation strategy which where necessary should include gas protection measures and method of verification is required to be submitted.

164. As noted, part of the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining features and hazards which need to be considered in relation to the determination of this planning application. Concern has also been raised regarding the stability of the land and the potential for subsidence to occur and damage to the properties being built or existing properties surrounding the site.
165. The Coal Authority records indicate the western part of the site is in the likely zone of influence from workings in 6 seams of coal at shallow to 167m depth, last worked in 1934 and within 20m of an off-site mine entry (CA shaft ref: 422541-006). The Coal Authority hold no treatment details for this mine entry and due to the historic source plans used to plots its current position, this could vary by several metres.
166. Site Investigation works were therefore required to be carried out and these have been carried out and the reports submitted. The Coal Authority considers that the content and conclusions of the report are sufficient in demonstrating that the application site is safe and stable for the proposed development. An informative however is required to ensure that if any coal mining features are unexpectedly encountered during development the Coal Authority is informed immediately.
167. Subject to the inclusion of a planning condition and informatives identified, the proposal is considered to accord with policy 32 of the CDP and paragraph 189 of the NPPF.

#### Drainage

168. CDP Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SUDS and aims to protect the quality of water.
169. Whilst CDP Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
170. The Drainage team acknowledged that there is no surface water outlet and therefore the connections will be to the combined system. They have also advised that the surface water need not be treated but it should be attenuated to a discharge rate equivalent to QBAR Rural rate.
171. A drainage strategy is therefore, required and normally this would be required prior to a decision being issued however in this instance the drainage team are satisfied that an appropriate scheme could be achieved, it is felt that this can be dealt with via a pre-commencement condition.
172. It is considered therefore, that subject to conditions the scheme is acceptable in relation to Policies 35 and 36 of the CDP.

## Ecology

173. Part 15 of the NPPF seeks to ensure that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. CDP Policy 41 seeks to resist proposals for new development which would otherwise result in significant harm to biodiversity or geodiversity, which cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. Proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks.
174. The Ecology report submitted by OS Ecology is considered acceptable and no further surveys are required. Details of the bat and bird boxes have been provided which are required to be installed to provide an ecological enhancement. This has been assessed by Ecology Officer and no objection is raised. The proposal is therefore, is considered acceptable in accordance with Policy 41 of the CDP and part 15 of the NPPF.

## Other Issues

175. A number of residents have raised concerns that alternative uses for the site have not been explored and that these should be considered before the site is redevelopment for housing. In response it is noted that historically the site has been used informally as open space and for private amenity purposes but that in some cases these uses were unauthorised and have resulted in an untidy site. In any event the Local Planning Authority must determine the current planning application based on its planning merits and against relevant local and national planning policy. In this respect there is no requirement to consider alternative uses before residential redevelopment.

## Public Sector Equality Duty

176. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
177. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **CONCLUSION**

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178. The proposals have been assessed against relevant policies and are considered to accord with appropriate criteria and requirements and is acceptable in principle subject to conditions, in that it would not have an unacceptable impact upon the character and appearance of the surrounding area, residential amenity, ecology, flooding and surface water, landscape and contaminated land in accordance with Policies 6, 29, 31, 32, 35, 36, 39, 41 and 44 of the County Durham Plan and Parts 5, 6, 12, 14, 15 and 16 of the NPPF.
179. Despite some limited conflict with the Council's current Parking and Accessibility SPD there would be no adverse impact to highway safety sufficient to sustain refusal

of the application and as such the development would accord with Policy 21 of the CDP and Part 9 of the NPPF.

180. Some public interest has been generated by this proposal with concerns raised regarding highway safety/parking as well as alternative uses should be considered. however, on balance the concerns raised were not felt to be of sufficient to justify refusal of this application.
181. The application is therefore, recommended for approval subject to entering into a Section 106 Agreement.

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## **RECOMMENDATION**

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That the application be **APPROVED**, subject to a s106 agreement to provide:

- Open Space Contributions of £64,538.10
- Affordable Housing Provision in the form of 11 onsite affordable dwellings to rent

and subject to the following conditions:

1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

Reason: Required to be imposed pursuant to Section 91 of the Town and Country Planning Act 1990 as amended by the Planning and Compulsory Purchase Act 2004.

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 21, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

3. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
2. Details of methods and means of noise reduction/suppression.
3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
5. Designation, layout and design of construction access and egress points.
6. Details for the provision of directional signage (on and off site).
7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.

9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
10. Routing agreements for construction traffic.
11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

The management strategy shall have regard to BS 5228 "Noise and Vibration Control on Construction and Open Sites" during the planning and implementation of site activities and operations.

The approved Construction Management Plan shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

4. No development shall commence until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of policy 27 of the County Durham Plan.

5. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority which shall include a Phase 3 remediation strategy and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

6. No development other than ground clearance or remediation works shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016. The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

7. Prior to first occupation of any dwelling hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

8. The proposal shall be carried out in strict accordance with section 6 Recommendations of the Preliminary Ecological Appraisal prepared by OS Consulting dated December 2021.

Reason: In the interests of protected species in accordance with policy 43 of the County Durham Plan and part 15 of the NPPF.

9. In undertaking the development that is hereby approved: No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1700 on Saturday.

No construction works or works of demolition whatsoever, including deliveries, external running of plant and equipment, internal works whether audible or not outside the site boundary, shall take place on Sundays, Public or Bank Holidays.

For the purposes of this condition, construction works are defined as: The carrying out of any building, civil engineering or engineering construction work involving the use of plant and machinery including hand tools.

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

10. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), no development under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) shall take place without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of the amenity of the surrounding area in accordance of Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

11. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

12. Remediation works shall be carried out in accordance with the approved remediation strategy. The development shall not be brought into use until such time a Phase 4 Verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

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## **BACKGROUND PAPERS**

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Submitted application form, plans, supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2023)

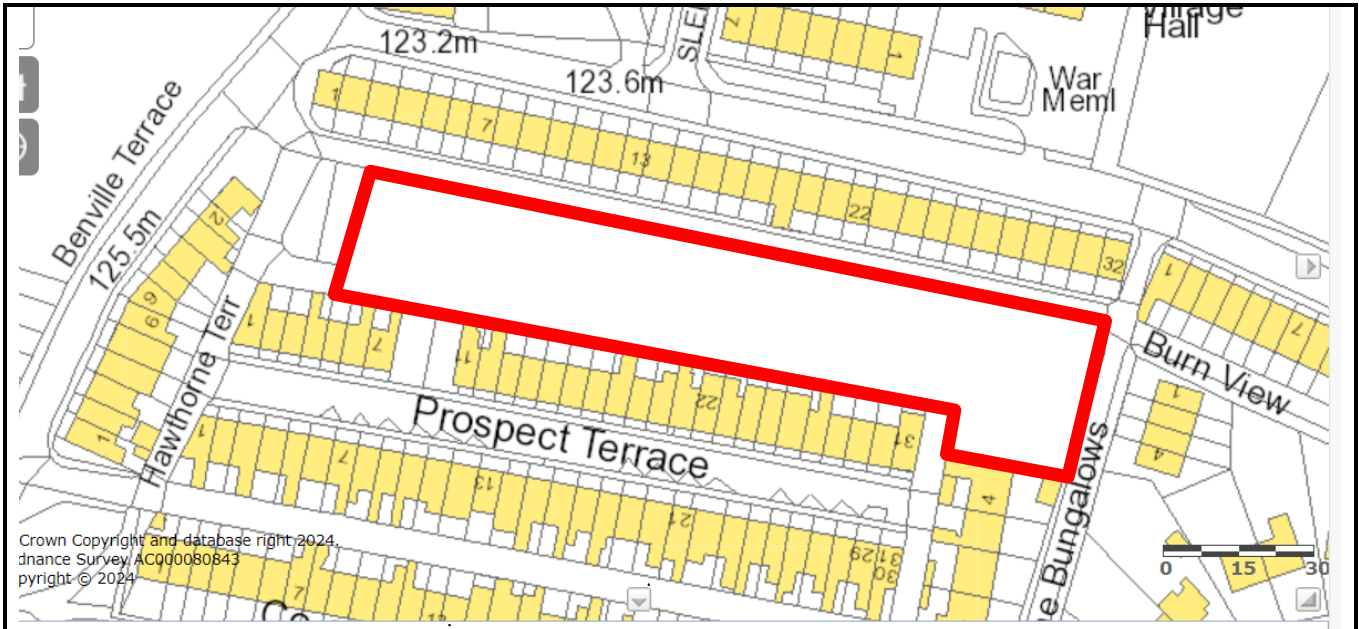
National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses

Residential Amenity Standards Supplementary Planning Document January 2023

DCC Parking and Accessibility SPD Adoption Version 2023



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<p><b>Planning Services</b></p>	<p>Erection of 11 bungalows at Land To The Rear Of          Rock Terrace, New Brancepeth, DH7 7EP</p> <p>Application Reference: DM/21/01141/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2024</p>		
	<p><b>Date:</b> May 2024</p>	<p><b>Scale</b> NTS</p>



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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APPLICATION NO:

APPEAL DECISIONS UPDATE

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### APPEAL UPDATE REPORT

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**Appeal by Mrs Gabrielle Moore**  
**Site at 1 Larches Road, Durham DH1 4NL**  
**Planning Reference DM/22/01650/FPA**

1. An appeal was lodged against the Council's refusal of planning permission for change of use from 6 bed small HMO (Use Class C4) to 10 bed Large HMO (Use Class Sui Generis).
2. The application was refused by the Council's Central and East Area Planning Committee for the following reason:

*The change in use of the property to a larger house in multiple occupation (Use Class Sui Generis) and the associated increase in occupants would have an adverse impact on the amenity of existing residents through increased noise, disturbance and antisocial behaviour, contrary to the aims of policies 6, 29 and 31 of the County Durham Plan and Part 15 of the NPPF.*

3. The appeal was considered via written representations and following their submission and consideration the Planning Inspector concluded that 3 more occupants would result in unacceptable additional noise, disturbance and antisocial behaviour, detrimental to the living conditions of neighbours. In dismissing the appeal, the Inspector had regard to policies 6, 29 and 31 of the County Durham Plan and the NPPF noting that the latter requires development to create places with a high standard of amenity for existing users.
4. The appeal was therefore dismissed.
5. Recommendation:
6. That the decision be noted.

**Appeal by Dr D Garg of Kabiyan Limited**  
**Site at Magdalene Heights, Gilesgate, Durham, DH1 1SY**  
**Planning Reference DM/23/01031/FPA**

1. An appeal was lodged against the Council's refusal of planning permission for change of use from dwellinghouse (Use Class C3) to use as a small HMO (Use Class C4) with minor external alterations.

2. The application was refused through powers delegated to the Head of Planning for the following reason:
3. *The proposed change of use from Class C3 dwellinghouse to a C4 house in multiple occupation would result in 61.8% of all properties within 100 metres of the application site being Class N exempt from Council Tax as being wholly occupied by students, thereby exceeding the 10% threshold set out Policy 16 Part 3 of the County Durham Plan. The proposals would therefore result in the further imbalance of the community leading to the detrimental impact on quality of life from increased noise and disturbance, and community cohesion for surrounding residents contrary to Policies 16, 29 and 31 of the County Durham Plan and Parts 8 and 15 of the National Planning Policy Framework.*
4. The appeal was considered by way of written representations. In dismissing the appeal, the Inspector noted that the purpose of Policy 16 of the CDP is to create and preserve inclusive, mixed and balanced communities within Durham. They note that Council Tax data confirms that 61.8% of properties within 100 metres of the appeal property are exempt from Council Tax as being wholly occupied by students. They conclude that *'Taking into account the current high proportion of students, I conclude that the proposed change of use to C4 HMO would lead to the loss of a further Class C3 dwelling, worsening the mix and leading further imbalance within the community contrary to policy 16 of the CDP'.*
5. The appeal was dismissed.
6. Recommendation:
7. That the decision be noted.

**Appeal by Ms Anika Sarania**

**Site at 5 Lyndhurst Drive, Crossgate Moor, Durham DH1 4AE**

**Planning Reference DM/23/01167/FPA**

1. An appeal was lodged against the Council's refusal of planning permission for change of use from dwellinghouse (Use Class C3) to a small HMO (Use Class C4).
2. The application was refused by the Council's Central and East Area Planning Committee for the following reason:
3. *The change of use of the property to a house in multiple occupation (Use Class C4) within this locale (which includes several properties occupied as HMOs but unregistered as being Class N exempt from Council Tax), would unbalance the community and have a detrimental impact upon community cohesion and adversely affect the amenity of non-student residents within the local area from increase noise and disturbance. Therefore, the proposal is contrary to Policies 6, 29 and 31 of the County Durham Plan.*
4. The appeal was considered via written representations and following their submission and consideration the Planning Inspector concluded that the proposal would not be prejudicial to any existing, allocated or permitted use of adjacent land; would satisfactorily minimise the impact of the development upon the occupants of existing adjacent and nearby properties; and will not have any unacceptable impact including through noise. Specifically, the Inspector considered the experiences and perception of HMOs are largely anecdotal and the poor experiences arising from other HMOs does not indicate that this will be exacerbated if the appeal is allowed. They also noted that the issues raised [noise, disturbance and antisocial behaviour]

are not a predictable consequence of HMOs as opposed to single occupation dwellings, but rather a matter of individual behaviour and suitable management.

5. In allowing the appeal the Inspector considered Policy 16 of the County Durham Plan and evidence submitted by interested parties relating to other properties within the wider street which related to other properties that were occupied as HMOs. On this issue the Inspector concluded that the evidence provided did not demonstrably indicate that the 10% threshold within the CDP Policy 16 had, in this case, been breached or that there would be a harmful impact in terms of the balance and cohesion of the community if the appeal were allowed.
6. With regards to need, the Inspector noted that this was raised in third party representations but concluded that *'whether or not there is a need for further student accommodation will be dictated by market forces. If the HMO is not ultimately used as such, it does not preclude it being occupied again in the future as a family home'*.
7. The appeal was therefore allowed, and planning permission granted subject to planning conditions.
8. An application for costs was made in association with this case with the appellant claiming that the Council acted unreasonably in making vague, generalised and inaccurate assertions not supported by objective analysis, thus preventing development which should have been permitted and which has resulted in the applicant incurring unnecessary or wasted expense at appeal.
9. In dismissing the costs appeal the Planning Inspector noted that in respect of policy 16 of the CDP, this was not a policy cited in the Council's reason for refusal, yet the Council's Statement of Case went on to consider the proposals impact upon community cohesion. However, they went on to state that they found the Council's approach to the matter of this policy to be vague in so far as the harm being identified in respect of community cohesion was not reflected in any of the policies on the decision notice. However, they nevertheless concluded that *'even if the Council had failed to substantiate its position in respect of policy 16 of the CDP and community cohesion, this was a matter raised by a substantial number of interested parties. It follows that the issue warranted consideration by the applicant and therefore no unnecessary or wasted expense occurred'*.
10. The application for costs was refused.
11. Recommendation:
12. That the decision be noted.

**Appeal by Mrs Gabrielle Moore  
Site at No. 24 Nevilledale Terrace, Durham DH1 4QG  
Planning Reference DM/23/00241/FPA**

1. An appeal was lodged against the Council's refusal of planning permission for the change of use from a 6 Bed dwellinghouse to 2 No. flats.
2. The application was refused by the Council's Central and East Area Planning Committee for the following reason:
3. *The change of use of the property to 2no. 2bed flats would be attractive for student occupation and would therefore have an adverse impact upon the amenity of existing residents through increased noise, disturbance, anti-social behaviour and pollution,*

*due to the property being located in an area with a high concentration of student occupied HMOs, contrary to the aims of policy 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.*

4. The appeal was considered by written representations and following submission and consideration the Planning Inspector concluded that the proposal would not have an adverse effect on the living conditions of the occupiers of neighbouring properties through increased noise, disturbance, antisocial behaviour or pollution.
5. In allowing the appeal and granting planning permission the Inspector had regard to policy 31 of the County Durham Plan.
6. An application for costs was made by the appeal in association with this case with the appellant claiming that the planning committee behaved unreasonably in not supporting the recommendation of planning officers.
7. In dismissing the costs appeal the Planning Inspector noted that the determination of planning applications by a planning committee is no established democratic process, and the committee reaching a different conclusion to that recommended by officers does not necessarily amount to unreasonable behaviour. The Inspector was satisfied that although in allowing the appeal (and arriving to at a different conclusion to the committee) the LPA arrived at their decision to refuse the application following proper process and in a reasonable manner.
8. The appeal was allowed. The application for an award of costs was refused.
9. Recommendation:
10. That the decision be noted.

**Appeal by Mrs Gabrielle Moore**  
**Site at No. 41 Fieldhouse Lane, Durham, DH1 4LT**  
**Planning Reference DM/23/01237/FPA**

1. An appeal was lodged against the Council's refusal of planning permission for the conversion and change of use from a 5 bed dwellinghouse (Use Class C3) to 7 bed large HMO (Use Class Sui Generis).
2. The application was refused by the Council's Central and East Area Planning Committee for the following reason:
3. *The change in use of the property to a larger house in multiple occupation (Use Class Sui Generis) would have an adverse impact upon the amenity of existing residents and the character of the area through increased noise, disturbance and anti-social behaviour, contrary to the aims of policies 6, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.*
4. The appeal was dealt with by written representations and following submission and consideration the Planning Inspector concluded that the proposed use would not harm the living conditions of nearby residents with particular regards to noise and disturbance. Specifically, the Inspector noted that *'As a five bedroom house, No.41 would suit a family of 6-7 people. A family of this size would generate comings and goings on a daily basis, although this would probably vary, depending on the ages of any adults and children living there'*. In addition, the Inspector noted that *'an effective management plan and other conditions, would satisfactorily mitigate any potential unacceptable impacts associated with noise and disturbance'*.

5. In addition, the Inspector considered the experiences and perception of HMOs are largely anecdotal and the poor experiences arising from other HMOs does not indicate that this will be exacerbated if the appeal is allowed. They also noted that the issues raised [noise, disturbance and antisocial behaviour] are not a predictable consequence of HMOs as opposed to single occupation dwellings, but rather a matter of individual behaviour and suitable management.
6. In allowing the appeal and granting planning permission the Inspector had regard to policies 6, 29 and 31 of the CDP.
7. The appeal was allowed.
8. Recommendation:
9. That the decision be noted.

#### **Appeal by Dr Nan Hu**

**Site at No. 33 St Bedes Close, Crossgate Moor, Durham DH1 4AA  
Planning Reference DM/23/01442/FPA**

1. An appeal was lodged against the Council's refusal of planning permission for the change of use from a dwellinghouse (Use Class C3) to a small HMO (Use Class C4).
2. The application was refused by the Council's Central and East Area Planning Committee for the following reason:
3. *The change of use of the property to a house in multiple occupation (Use Class C4) within this locale (which includes several properties occupied as HMOs but unregistered as being Class N exempt from Council Tax), would unbalance the community and have a detrimental impact upon community cohesion and adversely affect the amenity of residents within the local area from increased noise and disturbance. Therefore, the proposal is contrary to Policies 29 and 31 of the County Durham Plan.*
4. The appeal was considered via written representations and following their submission and consideration the Planning Inspector concluded that the proposed use would not harm the living conditions of nearby residents with regards to noise and disturbance. Specifically, the Inspector noted that, "As a four bedroom house, No.33 would suit a family of 4 - 6 people. A family of this size would generate comings and goings on a daily basis, although this would probably vary, depending on the ages of any adults and children living there'.
5. In allowing the appeal and granting planning permission the Inspector had regard to policies 6, 29 and 31 of the CDP.
6. The appeal was allowed.
7. Recommendation:
8. That the decision be noted.

**Appeal by Sugar Tree Limited**  
**Site at No 58 Bradford Crescent, Gilesgate, Durham DH1 1HL**  
**Planning Reference DM/23/02700/FPA**

1. An appeal was lodged against the Council's failure to determine Planning Application Reference DM/23/02700/FPA within the statutory timescale which sought permission for the change of use a dwellinghouse (Use Class C3) to use as a Small HMO (Use Class C4) including erection of a single storey rear extension, cycle parking and bin storage.
2. The appeal was considered by way of written representations and after submission and consideration the Planning Inspector resolved to dismiss the appeal. In doing so they concluded that the proposal would be acceptable in terms of its effect on housing mix, parking and highway safety, the character and appearance of the area and the living conditions of nearby occupiers. Nevertheless, it would fail to provide suitable living conditions for future occupiers, and accordingly it would fail to accord with the development plan as a whole. In addition, they considered that there are no other considerations, including those of the Framework to lead them to a decision other than in accordance with the development plan.
3. The appeal was allowed, and planning permission granted.
4. Recommendation:
5. That the decision be noted.

**Appeal by Catherine McKenna**  
**Site at No29-33 Neville Street, Durham DH1 4AP**  
**Planning Reference DM/23/01777/FPA**

1. An appeal was lodged against the Council's decision to refusal of planning permission for the change of use from hot food takeaway and bar to the ground and first floors to a large House in Multiple Occupation (Sui Generis), including alterations to the west elevation and removal of two flues on the east elevation.
2. The application was refused by powers delegated to the Head of Planning for the following reason:
3. *The proposed change of use of the property to create a large 9-bedroom HMO would be unacceptable, due to 71.0% of existing properties within 100m of 29 Neville Street and 70.1% of existing properties within 100m of 30-33 Neville Street being Class N exempt student properties as defined by Council Tax, and therefore exceeding the 10% threshold set out within Policy 16 Part 3 of the County Durham Plan. The development would therefore further unbalance the existing community and have a detrimental impact upon community cohesion and adversely affect the amenity of existing residents from increased noise and disturbance. On that basis, the proposal is considered to be contrary to Policies 6, 29 and 31 of the County Durham Plan.*
4. The appeal was considered via written representations and following their submission and consideration the Planning Inspector concluded that the 'proposal fails to comply with CDP policies 6, 16 and 29 which together seek to promote inclusive, mixed and balanced communities and protect residential living [sic] conditions. Accordingly, I conclude that the scheme conflicts with the development plan read as a whole, I have had regard to the minor localised improvements to the DCA and WHS setting arising from the physical alterations to the building, and the

*other arguments put forward in support of the scheme by the appellant, but these do not indicate a decision otherwise than in accordance with the development plan'.*

5. The appeal was dismissed.
6. Recommendation:
7. That the decision be noted.

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