



Area Planning Committee (Central and East)

Date Tuesday 8 November 2016
Time 1.00 pm
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the special meeting held on 26 September 2016 and the meeting held on 11 October 2016 (Pages 1 - 20)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/16/02285/FPA - Kepier House, The Sands (Pages 21 - 36)
Erection of 35 apartments and associated external works.
 - b) DM/16/01717/TPO - Land Opposite To 55 South Street, Durham (Pages 37 - 46)
Felling of one cypress lawson tree protected by a tree preservation order and replacement with indigenous deciduous variety.
 - c) DM/16/02695/FPA - 16 Nevilledale Terrace, Durham (Pages 47 - 58)
Erection of single-storey extension at rear of dwelling (retrospective application).
 - d) DM/16/03056/FPA - Seaham Grange Farm , Stockton Road, Seaham (Pages 59 - 66)
Detached new dwelling to replace previous existing barn.
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

Colette Longbottom
Head of Legal and Democratic Services

County Hall
Durham
31 October 2016

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

Councillor P Taylor (Chairman)
Councillor A Laing (Vice-Chairman)

Councillors A Bell, G Bleasdale, J Clark, P Conway, M Davinson,
K Dearden, D Freeman, S Iveson, C Kay, J Lethbridge, R Lumsdon,
B Moir, J Robinson and K Shaw

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Special Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Monday 26 September 2016** at **1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors G Bleasdale, P Conway, J Lethbridge, J Alvey (substitute for J Clark) and H Bennett (substitute for K Shaw)

Also Present:

Councillor G Holland

1 Apologies for Absence

Apologies for absence were received from Councillors M Davinson, D Freeman, C Kay and R Lumsdon.

2 Substitute Members

Councillor J Alvey substituted for Councillor J Clark and Councillor H Bennett substituted for Councillor K Shaw.

3 Declarations of Interest

There were no Declarations of Interest.

4 Applications to be determined by the Area Planning Committee (Central & East Durham)

a DM/16/02170/FPA - The White House, Newcastle Road, Crossgate Moor

The Planning Officer, Susan Hyde gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Officer advised that Members of the Committee had visited the site that day and were familiar with the location and setting. The application was for demolition of existing dormer bungalow and erection of one detached dwelling with ancillary works and was recommended for approval subject to conditions.

The Committee noted that there had been no objections from the statutory or internal consultees on the application, subject to conditions.

The Planning Officer noted there had been 13 letters of objection received from residents and the City of Durham Trust, with a summary of their concerns being set out within the report.

The Planning Officer noted that in terms of planning considerations, the development was felt to be sustainable and acceptable in terms of scale and while there would be some impact upon the neighbouring property, Braeside this was addressed within the conditions as set out in the report. Members were asked to note that while there was some potential overshadowing, it was not felt this was so substantial to warrant refusal. It was explained that as the site was within the Neville's Cross Battlefield Site there was an appropriate condition in terms of archaeological work to be undertaken. The Planning Officer asked Members to note that an additional standard condition was suggested in terms of restricting the use to Class C3 for a private dwelling for a single family.

The Chairman asked the Local Member for Neville's Cross, Councillor G Holland to speak in relation to the Application.

Councillor G Holland noted he had asked for the application to be brought to Committee because of the amount of criticism that it has raised in this part of Neville's Cross and added that while Councillor N Martin was unable to attend the Committee he supported the comments that Councillor G Holland would make. Councillor G Holland explained that he believed that when significant concerns are brought to his attention it was far better that such an application be determined by Committee and not under delegated powers, providing an opportunity for those who were vexed by a proposal to talk directly to the Committee and state their case.

Councillor G Holland noted that Members may ask "what was the problem?" and he explained that currently the site contained a modest but attractive, if now slightly bedraggled, dormer bungalow set in large grounds. Councillors noted that a property developer, who already lived in the vicinity, wished to develop the site, more or less to the maximum.

Councillor G Holland noted that the proposals were for a modest building that had long formed part of the landscape in that part of Neville's Cross to be replaced by a much larger building offset onto a different footprint. The question was put that does the proposal represent an over massing of the site to the detriment of the neighbours and the community and whether it would adversely affect their lives to an unacceptable level. Councillor G Holland suggested that 13 letters of objection from the surrounding properties suggests that there was a case to answer and the Committee would hear from one of those most concerned about this proposal shortly.

Councillor G Holland stated he felt the proposals were garden grab, back land development and windfall development, with there being policies in place that dealt with this type of application. He noted that the National Planning Policy Framework (NPPF) only briefly dealt with this problem in Section 6 Paragraph 53 which firmly discouraged what had become known as garden grab. Councillor G Holland continued by explaining that the main guidance was within the saved City of Durham Local Plan, with Policies H10 and H13 providing the key guidance. He noted both of those policies emphasised that permission would not be granted if the amenities of existing dwellings was adversely affected and that the policies were a clear statement of limitation and therefore if the Committee felt that the impact would be adverse then Councillor G Holland suggested that Members could use those two policies designed to protect the wellbeing of our residents.

Councillor G Holland explained that Policy Q8 required that existing features such as trees and hedgerows were retained and also required that the scale, form, density and materials conform to the character of the surroundings, including adjacent properties. Councillor G Holland put it to the Committee, did the proposed development pass the test of Q8, or did it fail that test.

The Committee were referred to Policy E14 which sought to protect hedgerows, especially those that are ancient and Councillor G Holland explained that one of the site boundaries had a hedgerow dating back to at least the beginning of the 19th century and noted that if that had not been genuinely protected then the proposed development failed the test of E14. Councillors were asked to note Policy E25 related directly to this locality and Councillor G Holland added that he agreed with the County Archaeologist that great care was needed on this sensitive site and any ground works should be carefully monitored.

Councillor G Holland explained that the letters of objection identified the sense of over massing of this site and also the overlooking character, with the privacy of the neighbours being lost unless all the overlooking windows were frosted. It was added that the over shadowing would also cut out sunlight and this adverse impact could not be minimised or set aside with the suggestion that maybe some sunlight could be found by the neighbours moving into another part of their garden. Councillor G Holland noted that these issues related to Policies H10, H13 and Q8 and questioned whether these policies had been met.

Councillor G Holland noted that within the Applicant's Statement there was reference to going to school in Durham, having a business in Durham and wanting a dream house to grow old in. Councillor G Holland suggested that one could wonder why a dream house for a single small family required at least 9 bedrooms, most of them en-suite, and, according to the plans, 300 square metres capable of parking at least 10 cars at the front, as well as a double garage.

Councillor G Holland asked the Committee to put themselves in the position of the neighbours and imagine how they would feel in their own house if a property developer suddenly arrived on their doorstep and sought permission to build a massive building in the adjacent back garden, effectively ruining all they had come to cherish over the years: the privacy, the sunlight which they and their children could enjoy, and the open aspect of their land. Councillor G Holland asked, in that case, would Members of the Committee accept that.

Councillor G Holland noted that the site certainly merited redevelopment, however not in the overbearing way proposed, and not in a manner that disregards the welfare of all those around it. Accordingly, Councillor G Holland asked the Committee to refuse planning permission for the proposed development using saved Local Plan Policies H10, H13 and Q8 and Paragraph 53 in NPPF section 6 as mentioned, noting that Local Plan policy E14 may also be relevant.

The Chairman thanked Councillor G Holland and asked Mrs H Clark, local resident to speak in relation to the Application, noting Members would see accompanying slides presented on the projector screens.

Mrs H Clark noted that she and her family lived at Langdale, next to the proposed development site and the vast scale that was out of character for the area would have a significant impact upon her property. Mrs H Clark noted the proposed footprint was such that the building would be in the centre of the site, and while the proposed building was stated as 2 storeys, the building visually would be 3 storeys at over 12 metres high and would present overshadowing to her garden, lawn, patio and the area in which her children played. Mrs H Clark noted some comments had been made in terms of what overshadowing there had been from trees and this was comparable to that which would come from the proposed development. Mrs H Clark stated that this was not comparable at all.

Mrs H Clark explained that currently her garden was private; however the proposed development would have "unnecessary" ground floor windows with clear glazing and at a raised height that would look out onto her garden destroying her privacy. Mrs H Clark noted reference to replacing dead trees for 5 years, however asked what would happen after those 5 years had elapsed.

Mrs H Clark noted Policy Q10 in terms of loss of privacy and Policy Q8 in relation to the ancient hedge, referring Members to the projector screen showing an ancient hedge boundary between The White House and Langdale properties, with the hedge clearly defined on both a records' office map from 1856 and Tithe Plan from 1838. Mrs H Clark noted the proposed fencing would sit on the roots of the hedge and therefore this was contrary to Local Plan Policy.

Mrs H Clark also noted Policy Q8 in terms of loss of amenity, citing that a 13 metre separation distance was recommended, and the proposals stated only a 12 metre separation distance. Mrs H Clark added that the proposals constituted back land development in defiance of Local Plan Policies and there was also need to take into consideration the importance in terms of the Neville's Cross Battlefield Site.

Mrs H Clark concluded by noting the applicant had noted he wished to "fulfil his aspirations" and "build his dream home"; however, those living in the vicinity were already living in their dream homes and therefore asked the Committee to refuse the application.

The Chairman asked Mr M Williams, local resident, to briefly speak in the remaining time allocated for Objectors.

Mr M Williams, resident of Braeside, asked the Committee to simply note he endorsed the comments of Mrs H Clark and that the pole used for scale within photographs and when Members visited the site, was only 11.5 metres, compared to a proposed 12 metre height for the building and that it was clearly visible when approaching the site from different directions.

The Chairman thanked Mrs H Clark and Mr M Williams and asked Mr F Stephenson, the Applicant to speak in relation to the application noting Members would see accompanying slides presented on the projector screens.

Mr F Stephenson thanked the Committee for the opportunity to speak and noted he had attended school in Durham and moved back to the area over 11 years ago and, in Eden Farm, had helped to create a fastest 50 North East company, safeguarding and creating scores of jobs, bringing in over a £¼ Billion of turnover to benefit County Durham. Mr F Stephenson added he continued to support many local businesses and trades people.

Mr F Stephenson explained that all he and his family wanted was to build a high quality, family home in Durham for them all to enjoy and grow old in. He added that the size of the site, around half an acre, and proximity to schools gave scope for his family to fulfil their aspirations. Mr F Stephenson stressed that plans had been developed over many months, with significant amounts of time in consultation with Planning Officers from Durham County Council, the application had the support of the Council's Planning Team and therefore asked that the Committee gave the application its approval.

Mr F Stephenson referred Members to many examples that highlighted that Durham City was distinguished by the quality of its buildings and design and noted that given that the present White House building was unsuitable, the logical course was to replace it with a well built, energy efficient, low carbon home, suitably sited on the plot to allow both parking and access. Mr F Stephenson showed the Committee pictures of the state of disrepair of the current property on the site.

The Committee were referred to an artist's impression of the replacement family home and Mr F Stephenson explained that when walking in the area you could see many examples of houses with loft conversions and a number of other properties with more storeys than the proposed development, both on and in close proximity to Newcastle Road. Mr F Stephenson noted that rather than build a loft conversion afterwards, and as discussed with Planning Officers, it was deemed more practical, less disruptive, and more cost effective to use the loft space from the outset. Mr F Stephenson added that as the basement was inconspicuous and underground, and with the top floor akin to a loft conversion, the proposal was ostensibly for a two storey house.

Mr F Stephenson reiterated his comments as set out within the Officer's report in that the proposal was for a single house for his family, that a family home was what was being applied for and it would be their lifetime home, with no other use being intended.

Mr F Stephenson noted that the proposal of siting the house in a more central position was sensible and made best use of the site and gave ample turning space which covered the concerns as raised by the Highways Section in the first instance, noting that the Highways Section were now satisfied with the proposed development.

Mr F Stephenson noted that any concerns that some secondary windows could give a view into a neighbour's garden may reflect a utopia where no houses in Durham City have any views into their neighbours' gardens; however he noted that this simply was not the case. It was added that in any city, with Durham being no exception, one property does overlook another to a greater or lesser extent. Members noted Mr F Stephenson referred to pictures and explained that you only needed to walk around the city and look at the houses to see that overlooking properties was the predominant situation in Durham.

Mr F Stephenson noted the neighbouring house in Langdale had large front and rear gardens, however, the rear garden about which there was concern was far from "private" in the sense it was not secluded from sight. Mr F Stephenson added that not only was the hedge at The White House often threadbare to the point you could see through it at multiple places into the adjacent garden, it was also possible to see right into the neighbour's garden from the current primary bedroom window, with Members being directed to a photograph showing this view from the second floor. Mr F Stephenson added that the proposed replacement dwelling's "views" from secondary windows would be obscured by both landscaping and obscure glazing and would in any case be a lot less than the current situation.

Mr F Stephenson reminded Members that the design had been subject to scrutiny by the Planning Department and their comments, aimed at the protection of neighbours' amenity had informed changes to the original design, in respect of the number and type of windows, siting, boundary treatments, and landscaping.

Mr F Stephenson noted specific examples being: in addition to a large hedge by Braeside, the east window for the children's playroom would be with obscure glazing to protect privacy; 3 windows on the north side had been removed from the plans and the 2 first floor windows would be of obscure glazing in response to concerns that had been raised.

Mr F Stephenson added that great care had been taken in terms of landscaping, with established hedges to remain and the additional close boarded fences, hedges and trees being such to enhance privacy for all. It was noted that the applicant agreed to plant mature trees of a species and height specified by Planners to fully cover ground floor windows on the north side.

Mr F Stephenson referred to floor plans of the proposed property and the Neighbouring property, Langdale, and also the proposed siting of the property in relation to the existing Langdale building. Mr F Stephenson noted that the only window within Langdale with a potential view was a landing, a non-habitable room, and was over 27 metres away.

Mr F Stephenson informed the Committee that until recently, mature trees at the northern boundary had imposed a more significant degree of shade than would arise from the result of the proposed dwelling. It was added that a 4 metre gap to the nearest boundary of neighbouring properties was considerable and must be far greater than the average in the city for side elevations.

Mr F Stephenson noted that the requirements of the County Council's Archaeological Department would be fully complied with, as would those relating to protected species and any other technical conditions required by other Departments. It was added that structural integrity would be as per building regulations and any other relevant Acts.

Mr F Stephenson concluded by reiterating that: the proposal was for a single house for his family; there was no other intended use and it would be a lifetime home; the design had been subject to months of scrutiny and consultation with Durham County Council's Planning Department; Officers' recommended it for approval; and therefore Mr F Stephenson and his family asked for the Committee's support and approval at today's meeting.

The Chairman thanked Mr F Stephenson and asked Members of the Committee for their questions and comments on the application.

Councillor P Conway noted Members had visited the site prior to the meeting and noted that many were familiar with Newcastle Road and the volume of traffic coming from the existing premises along this road. Councillor P Conway added that in looking at the detailed plans for a 9 bedroom property, with the limited access was gained past a building that was hardly architecturally pleasing he had asked himself the question whether he would have wished to build upon this particular site.

Councillor P Conway added that he was taken by the comments of Councillor G Holland and the Objectors in terms of the scale and massing of the proposal and noted he felt if the development was for a family home of a more modest scale on a different footprint he would feel more comfortable. Councillor P Conway added that in reference to what had been said in terms of saved Local Plan Policies H10, H13 and Q8 he had some sympathy and also in terms of NPPF Paragraph 53, in resisting development of gardens, harming the local area.

Councillor P Conway noted that the piecemeal development over the last 50 years along Newcastle Road had resulted in an overall coherence in the streetscape and even the photomontages had a sense that the proposal would feel inappropriate and a more modest development would be more in keeping with the area, however he added that he wished to hear what other Members had to say before coming to a final view.

Councillor G Bleasdale asked if Langdale was a family home. Mrs H Clark confirmed that it was. Councillor G Bleasdale added that she agreed with Councillor P Conway in terms of privacy and overshadowing issues and that a more modest proposal in terms of height and scale would be more appropriate in that space.

Councillor J Lethbridge noted from the site visit that this area was one of the more interesting niches in the county and he had listened carefully to the comments from Councillor G Holland, the Objectors and the Applicant. Councillor J Lethbridge noted that on site he had felt sadness in terms of the old White House property, to see it in its current state, knowing it once must have been a thriving family home. Councillor J Lethbridge appreciated the Officers' comments that the site was within the residential enclave and therefore was for residential use, however, the mass of the proposed buildings and the large number of 9 bedrooms for a "family home" was of concern. He added that Members had been able to appreciate the streetscape from various views and that as someone who drove along Newcastle Road regularly he was aware of the highways issues along this area. Councillor J Lethbridge noted he too, like Councillors P Conway and G Bleasdale, would wish to hear more comments from the Committee, that he would have liked a more modest proposal in this beautiful position, the site of the 1346 Neville's Cross Battlefield.

The Chairman asked the Planning Officer to respond to the comments made. The Planning Officer noted for clarity that the proposal was for 6 bedrooms, 2 study rooms and 1 additional spare room.

The Chairman asked if there was a proposer and seconder for the recommendations as set out in the Officer's report.

Councillor G Bleasdale noted she proposed that the application be refused in terms of saved Local Plan Policies as mentioned, including Q8 and H10 amongst others. Councillor P Conway added he seconded the proposal and noted for clarity that the refusal was in terms of the application being contrary to saved Policies H13, which H10 supported, in respect of the impact of the development on the character and amenity of the residential area and on the amenity of existing residents.

Councillor P Conway added that the proposal was contrary to Policy Q8 in terms of inappropriate scale and massing and in terms of the need to minimise the impact upon neighbours.

Councillor P Conway also noted that it was felt that the development was contrary to NPPF Paragraph 53 in terms of the development of residential gardens to the detriment of the local area.

The Solicitor - Planning and Development, N Carter clarified in terms of Paragraph 53 of the NPPF, noting that his reading of it was that relates to the plan making process and for such development to be addressed within such Local Plans, meaning Paragraph 53 of the NPPF was not a policy in itself and therefore could not be reasonably used as a reason for refusal of this application. The Solicitor - Planning and Development noted the citing of saved Local Plan Policies Q8 and H13, and asked which areas within Q8 were being referred to, such as scale, form, density or materials and which it was in terms of H13 such as character, appearance or residential amenity.

Councillor G Bleasdale noted it was in terms of the scale, height and character, being so large and wondered if the Applicant could go back and look to something smaller. The Solicitor - Planning and Development reminded Members that the application as presented was the one for determination by the Committee today. Councillor G Bleasdale added that the application was contrary to saved Local Plan Policies as stated and in terms of scale, height, overbearing and in terms of privacy of neighbours being impacted.

Councillor G Bleasdale moved that the application be refused; she was seconded by Councillor P Conway.

RESOLVED

That the application be **REFUSED** as the proposed development would fail to respect the scale and character of surrounding development and the privacy and amenity of neighbouring residents, contrary to Saved Policies H10, H13 and Q8 of the City of Durham Local Plan.

b DM/16/02199/FPA - Framwellgate School, Finchale Road, Framwellgate Moor

The Principal Planning Officer, Alan Dobie gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the erection of sports hall including demolition of existing sports facility and was recommended for approval, subject to conditions.

The Committee noted that there had been no objections from the internal and statutory consultees, albeit a response had not been received from the Environment Agency although this was not seen as detrimental in terms of the recommendation for approval. Members noted comments from the County Ecologist in terms of no objections to the ecology survey submitted with the application, though a Natural England Licence would be required for the proposed development with an informative to be added in this respect.

Members noted that there would be a number of tests that Natural England would apply, and it was noted that the development was in the public interest. It was added that as the sports hall was part of the school facilities there was no alternative site and the development was to replace an existing sports hall.

The Principal Planning Officer explained that in terms of protected species and their habitat, there was a condition in terms of a mitigation strategy and a standard informative would also be included in terms of operation hours to deal with issues of noise.

The Chairman noted there were no registered Speakers and asked Members of the Committee for their questions and comments on the application.

Councillor J Lethbridge noted he was happy to support the Officer's recommendation and the conditions as described and set out within the report.

Councillor J Lethbridge moved that the application be approved; he was seconded by Councillor G Bleasdale.

RESOLVED

That the application be **APPROVED** subject to the conditions detailed in the Officer's report to the Committee.

c CE/14/00086/FPA - High Farm, High Hesleden

The Principal Planning Officer, Alan Dobie gave a detailed presentation on the report relating to the abovementioned planning application, copies of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Officer advised that Members of the Committee had visited the site that day and were familiar with the location and setting. The application was for the demolition of agricultural units, conversion of four agricultural buildings to dwellings and nine new dwellings and was recommended for approval, subject to conditions.

It was explained that the hamlet was approximately 1 km from the neighbouring settlements of Hesleden and Blackhall and it was also on a bus route. Members noted that the site currently had a mix of building types, with some older historic on the site frontage and it was thought that development would help to ensure these buildings were retained and conserved for the future.

The Principal Planning Officer added that the applicant had explained that in a change from livestock to arable farming, another site would be used for operations and effectively this site would no longer be used in terms of farming. It was added that there was a speed chicane close to the proposed site access and this would require to be moved or altered accordingly.

The Committee noted that there had been no objections from the internal and statutory consultees in relation to the application, subject to conditions and the redesigning of the traffic calming as described.

It was added that should the application be approved, those works to the chicane would need to be approved before any works on the application site could commence. It was noted that Highways Officers believed a suitable scheme would be feasible; however, should any issues come forward, determination could be made by the Highways Committee.

Members noted there were 4 letters of objection from Monk Heselden Parish Council and residents in terms of: a lack of regular public transport; lack of facilities; residents not wishing the size of the hamlet to increase affecting the character of the area; and in terms of additional traffic speeding through the village.

The Principal Planning Officer referred Members to Paragraph 61 of the report, specifically in reference to buildings outside of the settlement limits being removed and the land returned to agricultural fields and explained this would require an additional condition in terms of making this a requirement. Councillors noted a Section 106 Legal Agreement in terms of financial contributions towards play and recreational facilities and also, as usual for many developments near to the coast, a contribution towards the Durham Heritage Coast Management Plan. Contrary to the report, this needed to be specific to a named scheme, and it was intended that the financial contribution be made towards Activity No. 13 Beachcare Programme.

The Chairman noted there were no registered Speakers and asked Members of the Committee for their questions and comments on the application.

Councillor J Alvey noted from personal experience that the road past the site was a quiet road, however, some people did speed along this section and therefore the speed chicane should be reinstated in an appropriate alternative location if removed to enable a site access.

Councillor P Conway noted he was minded to move the recommendation for approval, however noted a slight concern in terms of comments from Design and Conservation in relation to amenity, and noted the proposed additional condition. The Principal Planning Officer noted the concerns from Design and Conservation had not been in terms of amenity, rather the layout of the development, however, these were not thought to outweigh the benefits of development.

Councillor J Lethbridge noted the information from Councillor J Alvey were useful in terms of understanding the highways issues and commented that when visiting the site there was little noise or activity, save a few sparrows, a cat and a horse.

Councillor J Lethbridge added that while at the site it was clear that should the farm buildings not be demolished and the site developed, those buildings would fall down of their own accord. Councillor J Lethbridge added he supported the Officer's recommendation, noting he would like to think the development would be sympathetic to the area, the magnesian limestone grassland, the nearby coast and to keep aspects such as the higgledy-piggledy bricks and use other appropriate sympathetic materials.

Councillor P Conway moved that the application with the additional condition be approved; he was seconded by Councillor J Lethbridge.

RESOLVED

That the application be **APPROVED** subject to the Section 106 Agreement, the conditions detailed in the Officer's report to the Committee and an additional condition, to be drafted by Officers, requiring removal and clearance of the existing buildings identified for demolition.

DURHAM COUNTY COUNCIL
AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in Council Chamber, County Hall, Durham on **Tuesday 11 October 2016 at 1.00 pm**

Present:

Councillor P Taylor (Chairman)

Members of the Committee:

Councillors G Bleasdale, J Clark, P Conway, M Davinson, D Freeman, C Kay, A Laing (Vice-Chairman), J Lethbridge and K Shaw

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell, S Iveson and B Moir.

2 Substitute Members

There were no substitute Members in attendance.

3 Minutes

The minutes of the meeting held on 13 September 2016 were confirmed as a correct record and signed by the Chairman.

4 Declarations of Interest

There were no declarations of interest.

5 Applications to be determined by the Area Planning Committee (Central & East Durham)

a DM/16/01957/FPA - Lloyds Bank Plc, 28 New Elvet, Durham, DH1 3AL

Prior to the commencement of consideration of the report the Chairman informed the Committee that paragraph 3 of the report should read 'David Freeman on behalf of Elvet Residents Association' rather than David Freeman who wishes to support Elvet Residents Association'.

The Committee considered a report of the Planning Officer regarding an application for the change of use of the ground floor only from A2 to A5 hot food takeaway and delivery unit, installation of extraction and odour control system and ground floor

extension to house external chiller and freezer rooms and new shop front at the former Lloyds Bank plc, 28 New Elvet, Durham (for copy see file of Minutes).

Susan Hyde, Planning Officer gave a detailed presentation on the application which included photographs of the site, location plan, elevations and floor plans of the proposed development. The Planning Officer informed the Committee that the second reason for refusal in the report should read 'to preserve or enhance the character' rather than 'to protect or enhance the character'.

Jonathan Lovell, Secretary of Elvet Residents' Association, addressed the Committee to object to the application. He informed the Committee that he endorsed the recommendation of the Planning Officer and views of the Environmental Health Officer on behalf of the Residents' Association that the application should be refused. Additionally, a takeaway pizza shop would not be appropriate at this location because the levels of traffic and parking in the area were already problematic.

Rob Booth, agent for the applicant, addressed the Committee. The application proposed to install a franchise business on a 20 year lease which would provide a long-term use for a retail unit which was currently empty and had been for some period of time. The applicant was willing to work with Planning Officers on the design of the shop front and the extraction system; the franchise had installed 30 units across the country where extraction systems and shop fronts had been approved by Council's. Although the business plan was for the unit to open until 11 p.m. daily, much of the business would be home delivery and collections, with very few customers eating within the proximity of the unit and there was no seating proposed at the unit, therefore the noise and litter problem would be minimal.

While the applicant was aware of local concerns regarding noise and parking issues Mr Booth reminded the Committee that there was already car parking in the area and no new parking provision was proposed. The applicant had proposed to conduct a noise survey to assess the background noise at the location but had been informed that this would not be suitable. The applicant was willing to work with both the Council and local residents to address issues of concern.

Councillor Conway informed the Committee that he supported refusal of the application for the reasons outlined in the report as well as parking in the area being challenging, with vehicles needing to reverse onto the main carriageway. He **moved** refusal of the application.

Councillor Freeman informed the Committee he supported the recommendation that the application be refused. The proposal was for a hot food takeaway which would operate for 7 days a week until 11 p.m. and which was near to Orchard House, a block of residential flats. Additionally, there was a flat above the proposed takeaway which was occupied. The proposed shop front would detract from the area and the police considered the hot food takeaway would result in more anti-social behaviour and be detrimental to residential amenity. Councillor Freeman **seconded** refusal of the application.

Councillor Lethbridge expressed concern at the level of traffic density already in this area and understood the expressions of concern regarding the possible deterioration of the living environment. He supported all that had been said by Members of the Committee.

Upon a vote being taken it was:

RESOLVED:

That the application be refused for the reasons, as amended, contained in the report.

b DM/16/02285/FPA - Land at Kepier House, The Sands, Durham

The Committee considered a report of the Senior Planning Office regarding an application for the erection of 35 apartments and associated external works on land at Kepier Heights, The Sands, Durham (for copy see file of minutes).

The Senior Planning Officer informed the Committee that planning permission was granted in 2015 for a scheme for 35 apartments on this site. The difference between this application and the previous approval was that the car parking had been reduced to 34 spaces and was now located around the building rather than being located in an undercroft car park and there were minor elevational changes.

Mr P Smith addressed the Committee to object to the application. Mr Smith informed the Committee that a recent application to vary the approved plans had been made invalid due to discrepancies relating to the site boundary. The elevation plans submitted by the developer and the plan of the site did not match, with there being a difference of some 600 mm. Mr Smith had been advised by an architect that because of this discrepancy no element of the proposed building could actually be built.

The Senior Planning Officer replied that this was de minimis and not a significant planning issue. N Carter, Planning and Development Solicitor sought a recess in the meeting to allow time for consultation with the Senior Planning Officer around the issue of the allegation that the elevation drawings submitted did not match the site plan, following which he would provide the Committee with advice. Mr Smith provided the Planning and Development Solicitor with his drawings and plans prior to vacating the Chamber.

All those present except the Chairman vacated the Chamber to allow discussions between officers to take place.

Upon resuming the meeting Councillor Taylor thanks Mr Smith for bringing the issue to the attention of the Committee. The Planning and Development Solicitor advised the Committee that the issue raised by Mr Smith was that the elevational drawing did not marry up 100% with the footprint drawings. While it appeared to the lay person that there was indeed a discrepancy the Planning and Development Solicitor invited the applicants architect to comment.

The applicants architect advised the Committee that the elevational drawings and footprint drawings were produced on a 1:1 scale on an autocad file, then transferred to pdf. While he was unsure where Mr Smith had sourced his plans, slight distortions did occur when plans were transferred to pdf and were re-sized. He concluded by informing the Committee that all floorplans had dimensions written on them.

The Planning and Development Solicitor advised the Committee that because the possible discrepancy in plans had been drawn to its attention he recommended that Committee debate the application and decide the application in principle only, should they be minded to approve it, with the final decision being delegated to the Planning Team Leader. That would allow time for Officers to resolve the apparent plans discrepancy with the Applicant.

Councillor Laing **moved** and the Committee agreed that this would be the way it would consider the application.

Kathryn Banks, resident of Ferens Close, addressed the Committee to object to the application. She did not consider this application to be similar to that previously approved because it proposed a reduced number of parking spaces for the development to one per flat and also proposed access to a car park off Ferens Close. This proposed access would lead to parking chaos and tension between residents in the area. Although the streets around the development were currently subject to a parking permit scheme, restrictions did not apply on evenings, Sundays or Bank Holidays, and Ms Banks considered that the owners of the proposed properties would own 1 or 2 cars. The fallback position would be the previously agreed application, which had been subject to a full flood risk assessment. This included the development having an underground car park which would flood in the event of a flooding incident and therefore prevent flooding to properties at the development. However, the applicant now wished to provide only surface car parks which were a cheaper option.

The Senior Planning Officer informed the Committee that the level of the proposed parking provision had been agreed by the Council's highways officers. Although undercroft parking provision would be preferred, the proposed landscaping works would ensure residential amenity was not unduly harmed.

J McGargill, Highway Development Manager informed the Committee that the previous application provided 46 parking spaces whereby this amended application provided 34 spaces for 35 units. When considering the application officers had considered parking standards and had taken a pragmatic view for a development that was considered to be in a reasonably accessible location. The parking standards allowed for parking provision to be reduced to 1 space per unit if a development was within 400m of Durham Market Place in an attempt to promote sustainable travel. He advised that there were parking controls in the area which allowed for two permits per house. However, no permits would be issued to residents in the new development. If parking took place without a permit outside of the evening, Bank Holidays or Sundays then fixed penalty notices would be issued. There was a pay and display parking at The Sands which was considered to be an acceptable provision between the hours of 8 a.m. and 6 p.m. Monday to Saturday.

He advised that the 2011 Census showed that 72% of households within County Durham had car ownership and the Highway Development Manager would be surprised if every unit at the development would have one car, let alone two cars given the accessible and sustainable location. From a highways point of view the proposed scheme would work and therefore should not be refused on highways grounds.

Paul Hunt of Persimmon Homes addressed the Committee in support of the application. The application was an amendment to a previously approved scheme and therefore the principle of the scheme on this site had been approved. The scheme met all the requirements of the NPPF and was sustainable and this slight amendment to the previously agreed permission should be supported. Any disputes regarding boundaries on site were civil matters and were not a material planning consideration.

Councillor Freeman, local Member, addressed the Committee. Last year he had not supported approval of the application but when it had been approved he had accepted that the applicant could build the development. However, this application was for a different level of parking provision to that previously agreed and this was a worse scheme. The previous application provided 46 parking space and County Council guidelines were for the provision of 1 parking space per unit plus 1 visitor space for every 3 units. The Committee was now being asked to ignore these guidelines and approve a scheme which would only provide 34 parking spaces for 35 units. Councillor Freeman reminded the Committee that the proposed development was for residential rather than student accommodation and therefore it was more likely that each unit would have at least one car. The reduced car parking provision would lead to parking in surrounding streets after 6 p.m. when parking restrictions were not in force, and on Sundays and Bank Holidays. While he acknowledged that the development was near to the City centre, and there was a need to promote sustainable travel, not all residents at the development would work in Durham nor would there necessarily be buses available to take them to their place of work. The revised parking provision proposed at the development would now have three access points, one of which would be off Ferens Close which currently a quiet cul-de-sac road. Councillor Freeman **moved** that the application be refused on the grounds that it did not accord with Policies H13 and T1 of the City of Durham Local Plan. Councillor Freeman added that he considered it was a disgrace that the developers had left the site in such a dilapidated condition for 10 years.

Councillor Kay informed the Committee that the principle of the development had been established and that this application was to vary parking at the development to remove one undercroft car park and replace it with surface car parks, with a reduced parking capacity from 46 spaces to 34 spaces. He did not accept that the loss of 12 parking spaces was not significant and asked why the developers were happy to provide an undercroft car park one year ago yet were not happy to do so now. He concurred with the points raised by Councillor Freeman and saw this application as a chipping away at the original consent. Councillor Kay **seconded** refusal of the application.

Councillor Conway informed the Committee that he shared the views of Councillors Freeman and Kay. When the development was first granted planning permission a key selling point of it was the provision of an undercroft car park, with restricted access. This application was now proposing 3 access points to access the car parking.

Councillor Davinson informed the Committee that he agreed with the issues raised by Members of the Committee. He referenced the Highway Development Manager referring to parking standards being reduced to 1 space per unit if a development was within 400m of Durham Market Place and asked how far this development was from the Market Place. The Highway Development Manager replied that the development was 500m from Claypath and it was reasonable to expect pedestrians to walk to Claypath and then onto the Market Place, which was within a reasonable distance. He advised that the Institute of Highways and Transportation recommended a preferred maximum walking distance to Town Centres of 800m and the development was within this distance.

Councillor Freeman reiterated that the proposal did not accord with Policies H13 and T1 of the City of Durham Local Plan.

Policy H13 stated that permission would not be granted for new development or changes of use which had significant adverse effect on the character or appearance of residential areas, or the amenity of residents within them. The new access from Ferens Close would have an adverse effect on the area and on the character of the area by the conversion of an area of green land into a car park.

Policy T1 stated that planning permission would not be granted for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property. The amended access points for this development would have an adverse effect on the amenity of local residents and of residents in Ferens Close, particularly after 6 p.m.

Upon a vote being taken it was

Resolved:

That the application be refused on the grounds that it did not accord with Policies H13 and T1 of the City of Durham Local Plan for the reasons set out above.

c DM/16/00152/OUT - Easington Village Workingmens Club, Seaside Lane, Easington Village

The Committee considered a report of the Senior Planning Officer regarding an outline application for approximately 43 dwellings with all matters reserved at the former Easington Workingmen's Club, Seaside Lane, Easington Village (for copy see file of minutes).

Barry Gavillet, Senior Planning Officer gave a detailed presentation on the application which included photographs of the site, location plan and indicative layout. The Senior Planning Officer informed the Committee that an additional condition was proposed that a scheme showing the mini roundabout at the access

point to the development be submitted and agreed prior any dwelling being occupied.

Councillor Laing **moved** approval of the application. She informed the Committee she was delighted that the scheme was going forward on what was currently a derelict site.

Councillor Clark agreed with the comments of Councillor Laing and **seconded** approval of the application.

Councillor Bleasdale agreed with the comments made. Councillor Lethbridge also agreed but asked whether any density details for the development were known.

The Senior Planning Officer replied that because all matters were reserved for future determination, the layout density was to be resolved at a future date.

Upon a vote being taken it was

Resolved:

That the application be approved, subject to the conditions contained in the report with an additional condition that a scheme showing the mini roundabout at the access point to the development be submitted and agreed prior any dwelling being occupied, and entering into of a Section 106 legal agreement to secure the provision of:

- 10% affordable housing on site
- A contribution of £24,225 towards the provision and upgrading of footpaths at the former Easington Colliery site
- A contribution of £500 per dwelling toward enhancement or provision of play facilities in the Easington Electoral Division.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/02285/FPA
FULL APPLICATION DESCRIPTION:	Erection of 35 apartments and associated external works
NAME OF APPLICANT:	Persimmon Homes
ADDRESS:	Land at Kepier House, The Sands, Durham Elvet & Gilesgate
ELECTORAL DIVISION:	
CASE OFFICER:	Barry Gavillet Senior Planning Officer 03000 261958 barry.gavillet@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

Introduction

1. Members will recall an application was presented to committee on the 11th October which proposed 35 apartments at Kepier House, The Sands, Durham. Members resolved to refuse the application due to the impact on residential amenity and adverse impact on the character of the area, caused by the location of car parks off Ferens Close.
2. Unfortunately there was an error in that report as well as highways comments based upon it which is considered material to the decision reached on 11 October. Accordingly, this report is brought back to Planning Committee for a new decision to be made, based on the correct information.
3. It was highlighted in the report that the existing consent and 'fall back' position was an approved scheme which included 46 undercroft car parking spaces, this was incorrect. The existing consent actually includes only 36 car parking spaces, 25 of which were in an undercroft car park off Providence Row and 11 of which were off Ferens Close and therefore the current application only reduces car parking numbers by 2 and not 12 as previously indicated. As the existing consent included 11 surface parking spaces, the proposed scheme now represents an increase in surface spaces of 23, making a total of 34 spaces, all to be provided above ground.

The Site

4. This application site is located to the North East of the city centre and is immediately adjacent to and overlooks the south bank of the River Wear. The site slopes toward the river from north to south and is separated from the river bank by the Providence Row and a substantial area of accessible green open space known as The Sands; which forms the South Bank. The site is located within the Durham City Conservation Area.

5. The site is currently vacant and has recently been enclosed with wooden hoarding in order to approve the appearance of the site. A previously approved residential development has been progressed on the Northern part of the site. The progress of these works includes excavations for a basement car park and extensive piling to suit that scheme, various spoil heaps from those excavations remain on site. The southern elevated section of the site is more attractive and remains landscaped with a series of mature protected tree canopies. It is the intention to utilise some of these excavations and piling within the amended proposal.
6. The surrounding area is predominantly residential in character; and these properties are on the whole fairly modern; mostly dating from the 1950's onwards. The area has been developed in a piecemeal manner as a series of smaller estates. Further west along Providence Row the scale of buildings increases on the approach to Claypath and the city centre.
7. In 2004 the erection of 16 no. residential apartments and 4 no. townhouses and change of use and conversion of existing student hostel to 2 no. dwellings was approved and partly commenced. More recently, planning permission was granted in 2015 for a scheme for 35 apartments on this site. The difference between this application and the previous approval as noted above is that the car parking has been reduced from 36 spaces to 34 and all of these spaces are now to be provided above ground rather than 25 below ground and 11 above ground. There are also minor elevational changes.

The Proposal

8. This application proposes the erection of 35 apartments. The proposal in scale and design terms is almost identical to the previously approved application, the building would be split level mainly three storeys in height rising to four storeys as the site rises to the south. The apartments would be located in two blocks and would consist of a main apartment block which is three storeys in height which would step down through the site to reflect the natural change in the site topography. There is a small section at four storeys where the change in level occurs.
9. The proposals now include 8 surface level car park spaces accessed off Providence Row and a further 16 accessed off Ferens Close. A further 10 spaces are accessed at the south end of Ferens Close with a footpath link to the development (34 spaces in total). This differs from the previously approved car parking arrangement which included 25 undercroft spaces and 11 spaces off Ferens Close.
10. The presence of mature trees on the site means that a large part of the site is undevelopable; although this has provided an opportunity to develop a scheme incorporating a considerable area of landscaping. The existing tree canopy and proposed additional landscaping would also provide context and soften the appearance of the proposed building which would be constructed from brick and render with grey anthracite windows as per the previous approval.
11. This application is being referred to Committee as it is classed as a major application.

PLANNING HISTORY

12. On 5th February 2004 two applications were submitted; one for Full Planning Consent (04/00165/FPA); one for Conservation Area Consent (04/00142/CAC). Both seeking consent for; "The erection of 16 no. residential apartments and 4 no. townhouses and change of use and conversion of existing student hostel to 2 no. dwellings". These applications were approved on 2nd June 2004 and subsequently commenced, although this development later ceased on site due to viability issues.

13. In 2014 the demolition of Kepier House and erection of 35 no. apartments including all associated external works was approved, but again this has never commenced due to viability and potential flooding issues to the undercroft car park. More recently, an application to vary the approved plans was made invalid due to discrepancies relating to the application site boundary.

PLANNING POLICY

NATIONAL POLICY

14. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
15. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’.
16. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

The following elements of the NPPF are considered relevant to this proposal;

17. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
18. *NPPF Part 4 – 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.
19. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
20. *NPPF Part 7 – Requiring Good Design.* 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.

21. *NPPF Part 8* - 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.
22. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change*. Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
23. *NPPF Part 11 – 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.
24. *NPPF Part 12 – Conserving and Enhancing the Historic Environment*. Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

LOCAL PLAN POLICY:

25. Policy E6 (Durham City Centre Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
26. Policy E14 - (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
27. Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.

28. Policy E21 (Conservation and Enhancement of the Historic Environment) requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
29. Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
30. Policy H2 - (New Housing within Durham City) states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.
31. Policy H12 - Affordable Housing seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
32. Policy H13 - Residential Areas – Impact upon Character and Amenity states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
33. Policy T1 - Traffic – General states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
34. Policy T10 - Parking – General Provision states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
35. Policy R2 - Provision of Open Space – New Residential Development states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
36. Policy Q8 - Layout and Design – Residential Development sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
37. Policy Q15 (Art in Design) states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area.

38. Policy U8a - Disposal of Foul and Surface Water requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
39. Policy U15 - Energy Conservation – Renewable Resources permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

RELEVANT EMERGING POLICY:

40. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.cartoplus.co.uk/durham/text/00cont.htm>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

41. The Environment Agency has no objections subject to the mitigation in the submitted Flood Risk Assessment being conditioned.

INTERNAL CONSULTEE RESPONSES:

42. Design and Conservation officers initially did not support the amended application given the changes to the car park arrangements. However, conditions are suggested which would require additional landscaping around the car parking area.
43. Highways officers have no objections to the location of the car park or level of car parking provision.
44. Ecology officers have no objection subject to the mitigation outlined in the submitted ecology report being conditioned.
45. Education officers have no objections.
46. Tree officers have no objections to the proposals given that the proposals do not involve more tree loss than that of the previously approved application.

PUBLIC RESPONSES:

47. Northumbrian Water have no objections subject to conditions.
48. 11 letters of objection have been received from addresses in the vicinity of the site as a result of the consultation process. The main reasons for objection include an increase in traffic, lack of car parking spaces and the location of the car park which would result in noise and disturbance. Concerns also include the loss of trees, flood risk and the appearance of the development. These concerns will be discussed later in the report.
49. Cllrs Ormerod and Freeman have also previously raised concerns relating to the proposed car parking arrangements.

APPLICANTS STATEMENT:

50. This development offers the opportunity to create a new sustainable residential development within Durham City. The proposal for 35 apartments provides an excellent range and choice of dwellings to satisfy current and future residential requirements for Durham City and also provides a type and size of dwelling which is currently under provided within the locality.
51. We have engaged with the Council throughout the planning process and are satisfied that the scale and form of development, as well the proposed housing mix is appropriate within this locality. The proposals shall develop an urban brownfield infill site within the development limits of Durham, creating a new, attractive residential development for the city.
52. The site's location within an existing residential area of Durham city and close to the city centre ensures that the site is highly sustainable in relation to local amenity with a wide variety of services, facilities, open space, recreational facilities, and local schools within close proximity to the development. Furthermore, the proximity to bus routes and the train station provide a high level of sustainable transport options for future residents.
53. Both public and statutory consultation has been carried out through which a number of concerns were raised. Through adaption of the proposal in responses to these concerns we are confident that there are no outstanding issue regarding the development.
54. Finally, the impacts of the development have been mitigated via a planning gain package which includes an offsite Play Space Contribution and a percentage for art contribution.

The above 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 <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>

PLANNING CONSIDERATIONS AND ASSESSMENT

55. 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 in this instance relate to the principle of the development and accordance with the Governments recently published National Planning Policy Framework (NPPF), and the saved policies from the City of Durham Local Plan. Other material considerations are the scale, layout and design of the amended development, car parking issues, Section 106 issues and the concerns raised by local residents.

Principle of the development

56. Firstly, it should be noted that the planning permission which was approved in 2004 has been partly implemented through the erection of four townhouses, creation of hardstandings, pile foundations and other associated groundworks. In addition a development of 35 apartments was approved in 2015. Therefore a fall-back position exists which would enable the previously approved scheme to be implemented. This scheme was of similar design to the one currently being proposed and was also three storeys in height. Therefore the principle of the development has already been established.

Scale, layout and design of the development

57. The NPPF's twelve core planning principles states that the planning process should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Good design, the NPPF states, is "indivisible from good planning."

58. Policy H13 of the LP states that planning permission will not be granted for new development that would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. Policies Q1, Q2 and Q8 list design features which will be encouraged within residential areas. In addition, saved Policy Q8 of this plan sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised. These policies are reflected in part 7 of the NPPF which also requires good design and the protection of residential amenity.

59. In addition to the above, saved Local Plan Policies E6, E21 and E22 all require the character of conservation areas to be preserved or enhanced. Policy E6 is particularly relevant to this application as it relates to the Durham City Centre Conservation Area. It states that the special character, appearance and setting of the Durham City Centre Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.

60. As previously noted, planning permission was approved in 2004 and implemented thereafter for a scheme which was of similar design to the one currently being proposed and is almost identical to that which was approved in 2015. It is considered that the proposal would result in a modern and attractive development that would be appropriate to its river side context. The brick and render elevations would give a contemporary appearance and would respect the scale and context of the locality. It is considered that the proposals would enhance this part of the Durham City Conservation Area which at present is in an untidy derelict state in accordance with saved policies E6, E21 and E22 of the Local Plan.
61. The main difference in this application is that all of the car parking will now be external and there would not be any located in an undercroft car park. Whilst the undercroft car park was desirable in visual terms, it was not required to make the development acceptable. Subject to a condition which would ensure a scheme for additional landscaping around the car parking areas is provided, it is not considered that the current proposal for external car parking and hedgerow screening would have any significant adverse impact on surrounding occupiers or the street scene which would warrant refusal of planning permission. .
62. Overall, the development in terms of scale, design and layout is considered to be appropriate for this particular location. It is considered that the scale and layout of the development is acceptable and the design is of a high standard, therefore the proposals are considered to be in accordance with saved City of Durham policies H13 and Q8 and NPPF part 7.

Car Parking Issues

63. Highways officers have noted that this application differs to the extant permission which contained 36 spaces, 25 of which were undercroft parking and 11 were off Ferens Close. This application proposes 34 spaces, 8 off Providence Row, 16 off the middle of Ferens Close and a further 10 spaces off the southern end of Ferens Close. It is noted that the Council's parking standards state development within 400m of the city centre would not require any parking space to be allocated to residents. This is to encourage sustainable travel in town centres with access to main travel hubs. This development is approximately 500m from Claypath, and whilst in excess of the stated distance is considered within reasonable walking distance with access to the Centre and public transport. The Institute of Highways and Transportation recommends a maximum of 800m from a town centre for acceptable walking distances. This has been considered in highways deliberations regarding this application.
64. The Council's parking and accessibility guidelines states 1 space should be provided per 2 bed residential unit and further visitor space at 1 space per 3 units. However, within city and town centre accessible areas guidelines state this standard may be reduced and a maximum standard is applied. This is to take account of the requirement to promote sustainable transport options. The minimum standard would suggest 46 spaces would be required. However given the accessible location and the parking controls within the area, highways officers consider it is reasonable to relax the standard.

65. The development is located within the City Controlled parking Zone. Ferens Close is controlled with permits and pay and display parking is available on The Sands. There would be no free areas for residents within the public highway. No parking permits would be issued to residents or their visitors who would have to meet Pay and Display Charges if they choose to park on street. They would not be permitted to park on Ferens Close. Given that the development is within close proximity to the City Centre and its public transport, reliance on the car for travel will be less than a more remote development. It is therefore considered reasonable given the inconvenience of the parking restrictions that some residents and visitors will not travel by car but will instead choose sustainable travel modes. Whilst the parking provision for the development is less than 1 space per unit it is considered that 34 spaces for 35 units will be acceptable. Space would be available for visitors should they choose to travel by car through use of Pay and Display at The Sands. Highways Officers do not consider the demand for parking if it arose in the Pay and Display areas could be considered to have a severe impact.

66. In light of the above it is considered that the proposals are in accordance with saved policies T1 and T10 of the City of Durham Local Plan and part 4 of the NPPF.

Section 106 Agreement

67. The application approved in 2015 included a Section 106 legal agreement which secured £35,000 towards the provision or improvement of recreational facilities in the Electoral Division and a public art contribution of £30,000 for a public art installation in the Electoral Division. These contributions are still necessary and therefore will need to be secured by a further Section 106 agreement before this permission can be granted. It should be noted that previously approved applications have not included affordable housing on the site. The applicant has provided a development appraisal which officers have assessed and it has been previously agreed that given the site conditions and other constraints that the scheme would not be viable with affordable housing.

Letters of concern from nearby residents

68. As previously mentioned, 11 letters have been received in response to the consultation exercise. The main reasons for objection include an increase in traffic, lack of car parking spaces and the location of the car park which would result in noise and disturbance. Concerns also include the loss of trees, the appearance of the development and flood risk.

69. In terms of traffic congestion, parking and access, these issues have been assessed by the council's Highways Officers and have found to be acceptable; officers also consider that the level of car and cycle provision is acceptable. In addition, it is not considered that the location of the car parking along with the proposed hedgerow screening would cause any significant harm to residential amenity that would warrant refusal of planning permission. With regard to the scale and design of the building, it is noted that the building is of the same scale and design as the two developments' previously approved and officers still consider this to be acceptable. The building would replace a previously derelict building on an untidy site and would enhance the Durham City Conservation Area. In terms of loss of trees, the level of tree removal is the same as the previously approved application and is acceptable. Finally, in terms of flood risk, the applicant has submitted a flood risk assessment in accordance with the requirements of the NPPF, both the Environment Agency and Northumbrian Water have confirmed that the assessment is acceptable and should be conditioned.

70. In light of the above, all of the issues raised by residents have been fully assessed either within this report or during consideration of the two previous planning approvals and their impacts are not considered to warrant refusal of planning permission.

CONCLUSION

71. Overall it is considered that the proposals are in accordance with the development plan and the National Planning Policy Framework. The proposed residential development is in a highly sustainable location near the city centre with good access to public transport, local shops, healthcare providers, schools and other community facilities.

72. The scale, layout and design of the amended development are considered to be appropriate for this location and would visually enhance the Durham City Conservation Area. The proposals would deliver a high quality development whilst vastly improving what is an untidy and derelict site. In addition, the developer has previously agreed to contribute £35,000 toward recreational facilities in the Electoral Division along with a £30,000 contribution toward public art which has already been secured through a Section 106 legal agreement in connection with the previous planning permission. A new S106 Agreement will be entered into to secure these in connection with this application. All other issues such as ecology, flood risk, landscaping etc are acceptable subject to appropriate conditions.

73. On the basis of the above, officers recommended that the amendments to the previously approved application be approved and the removal of conditions agreed.

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions and subject to entering into a Section 106 legal agreement to secure the provision of:

- £35,000 towards the provision or improvement of recreational facilities in the Electoral Division
- £30,000 towards public art in the Electoral Division

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 following approved plans. Plan References;

Location Plan TSD-000
Elevations Sheet 1 DSE-001 received 12/10/2016
Elevations Sheet 2 DSE-002 received 12/10/2016
Elevations Sheet 3 DSE-003 received 12/10/2016
Plan-Elevations Sheet 1 DSE-011
Bat Bricks Location DSE-001 received 19/10/2016

Bat Bricks Location DSE-002 received 19/10/2016
Bat Bricks Location DSE-003 received 19/10/2016
Proposed Site Layout DSL-001
Ground Floor Plan DSP-001
First Floor Plan DSP-002
Second Floor Plan DSP-003
Third Floor Plan DSP-004
Roof Plan DSP-005
Proposed drainage 12042 C-GA-05 Rev T14 received on 29/9/2016.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with saved policy Q8 of the City of Durham Local Plan.

3. In relation to the development hereby permitted, no machinery shall be operated, no development shall be carried out and no construction traffic shall enter or leave the site outside the hours of 0800 hours and 1800 hours Mondays to Friday, 0800 hours and 1300 on Saturdays and not at all on Sundays and Bank Holidays.

Reason: In the interests of residential amenity and to comply saved policy H13 of the City of Durham Local Plan.

4. Prior to the commencement of any part of the development hereby permitted, a Construction Management Plan shall be 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:

- Overall strategy for managing environmental impacts which arise during construction;
- Measures to control the emission of dust and dirt during construction;
- Contractors' compounds, materials storage and other storage arrangements, cranes and plant, equipment and related temporary infrastructure;
- Designation, layout and design of construction access and egress points;
- Provision for emergency vehicles;
- Provision for all site operatives, visitors and construction vehicles loading and unloading plant and materials
- Provision for all site operatives, visitors and construction vehicles for parking and turning within the site during the construction period;
- Details of measures to prevent mud and other such material migrating onto the highway from construction vehicles;
- Storage of plant and materials used in constructing the development;
- Enclosure of phase or development parcel development sites or development parcels and the erection and maintenance of security hoarding including decorative displays where appropriate;

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

Reason: In the interests of residential amenity and to comply saved policy H13 of the City of Durham Local Plan.

5. No development shall take place unless in accordance with the mitigation detailed within the contents of Section D4 (Mitigation Requirements) of the 'Ecological Surveys of The Sands, Durham' written by E3 Ecology Ltd and received Revision 4 dated 19.6.14

Reason: In the interests of protected species and to comply with the National Planning Policy Framework part 11.

6. No development shall commence until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The works agreed to shall be carried out within the first planting season following completion of development of the site and shall thereafter be maintained for a period of 5 years following planting. 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.

Reason: In the interests of the amenity of the area in accordance with saved policy Q8 of the City of Durham Local Plan.

7. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment & Surface Water Drainage Strategy for Detailed Planning by CK21 of September 2016.

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme.

Reason: To ensure appropriate drainage is maintained in accordance with saved policy U8a of the City of Durham Local Plan.

8. The development hereby approved shall be carried out in accordance with tree protection measures in accordance with BS 5837 2012 and which are contained within the submitted Tree Protection Plan SSD-005 Rev C.

Reason: In the interests of the appearance of the area and to comply with part 7 of the National Planning Policy Framework.

9. The development hereby approved shall be carried out in accordance with the measures contained within the submitted Sustainability Statement received on 14.07.2016.

Reason: In the interests of sustainable construction and energy generation in accordance with the aims of Part 10 of the National Planning Policy Framework.

10. The development hereby permitted shall not commence until a scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The scheme shall include the following, unless the Local Planning Authority is satisfied that the site is suitable for the proposed use and dispenses of any such requirements, in writing:

Pre-Commencement

(a) A further Phase 2 Site Investigation and Risk Assessment is required and shall be carried out by competent person(s) to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

(b) If the Phase 2 identifies any unacceptable risks, remediation is required and a Phase 3 Remediation Strategy detailing the proposed remediation and verification works shall be carried out by competent person(s). No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority. If during the remediation or development works any contamination is identified that has not been considered in the Phase 3, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.

Completion

(c) Upon completion of the remedial works (if required), a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 11.

11. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled "*Flood Risk and Surface Water Drainage Strategy*", plan reference - proposed drainage 12042 C-GA-05 Rev T14 received on 29/9/2016. The drainage scheme shall ensure that foul water will discharge to manhole 7003 or 7001. Surface water will discharge at a restricted rate of 8 Litres per second to manhole 7003 or restricted to 5 Litres per second downstream of manhole 8004.

Reason: To prevent the increased risk of flooding from any sources in accordance with part 11 of the NPPF.

12. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the external walling, roofing materials and retaining wall materials have been submitted to and approved in writing by the Local planning authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with saved policy Q8 of the City of Durham Local Plan.

13. No development shall take place until the applicant, or their agents or successors in title, has secured the implementation of a programme of archaeological work in accordance with a mitigation strategy document, including a timetable for the investigation, which has been submitted by the applicant and approved in writing by the Local Planning Authority. The Scheme shall provide for:

- i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area in accordance with the approved strategy,
- ii) an assessment of the impact of the proposed development on any archaeological remains identified in the trial trench evaluation phase;
- iii) Measures to ensure the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;

- iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
- v) notification in writing to the County Durham Archaeology Section of the commencement of archaeological works and the opportunity to monitor such works.
- vi) Post-fieldwork methodologies for assessment and analyses.
- vii) Report content and arrangements for dissemination, and publication proposals.
- viii) Archive preparation and deposition with recognised repositories.
- ix) A list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications

The development shall then be carried out in full accordance with the approved details.

Reason: To comply with Policy E25 of the former City of Durham District Plan as the site has archaeological potential.

14. Prior to the development being occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the County Durham Historic Environment Record. This may include full analysis and final publication.

Reason: To comply with Para. 141 of the NPPF, making the information generated publicly accessible.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application 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. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

BACKGROUND PAPERS

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

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Statutory, internal and public consultation responses



Planning Services

Proposed Erection of 35 apartments

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Comments

Date November 2016

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/01717/TPO
FULL APPLICATION DESCRIPTION:	Felling of one cypress lawson tree protected by a tree preservation order and replacement with indigenous deciduous variety.
NAME OF APPLICANT:	Mr Ronan Freeley
ADDRESS:	Land Opposite To 55 South Street Durham DH1 4QP
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Michelle Hurton Assistant Planning Officer 03000 261398 michelle.hurton@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

SITE:

1. South Street lies within the centre of Durham (City Centre) Conservation Area fronting directly onto the River Wear and extending up to the ridge line of the steep slope of the river gorge. The street runs in a north / south direction dropping steeply down the gradient to its north end at its junction with Crossgate. Due to this land form and street pattern there are spectacular views out across the gorge and river to Durham Cathedral and Castle World Heritage Site and the Peninsula. The architectural character is both rich and varied with dwellings ranging from large three storey villas and town houses, to two storey brick/rendered cottages. The application site is located within the middle of the street on the east side opposite no. 55 South Street.

PROPOSAL:

2. Tree Preservation Order consent is sought to fell one Cypress Lawson Tree and to replace it with an indigenous deciduous species. The Cypress Lawson Tree is currently protected by a tree preservation order.
3. The application has been reported to committee by the request of Cllr Ormerod. The reasons for reporting the application to committee are loss of visual amenity for residents and detrimental effect on the conservation area.

PLANNING HISTORY

4. DM/15/02603/TCA - Felling of one conifer tree protected by a conservation area (section 211 notice) – Refused

PLANNING POLICY

LOCAL PLAN POLICY:

City of Durham Local Plan 2004

5. Policy E22 (*Conservation Area*) The Council will seek to preserve or enhance the character or appearance of the conservation areas by protecting trees, hedgerows, landscape features, views and undeveloped areas which contribute to the character or appearance of the area and its setting.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/media/9160/Durham-City-local-plan/pdf/DurhamCityLocalPlan.pdf>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

6. Parish Council: No Response
7. Cllr Ormerod requested that the application be reported to committee

INTERNAL CONSULTEE RESPONSES:

8. Landscape (Trees): Objects to the felling of the tree - The 'amenity' test extends in so far that the removal of the tree would have a significant detrimental impact on the local environment and the enjoyment by the public. The tree has been assessed as a healthy specimen and is a notable and attractive feature in the visual environment of lower South Street which makes a positive contribution to the character of this part of the conservation area.

PUBLIC RESPONSES:

9. The application has been advertised with a press notice and on site by way of a site notice and neighbouring residents were also notified individually of the proposed development. At the time of report preparation, 14 letters of representation have been received from neighbouring residents.
12 are letters of support for the felling of the tree, referring to: Loss of view, non-native species, visual intrusion, detrimental impact upon the area, damage to church buildings, out of character, height, loss of natural light, overbearing eyesore.
2 are objection letters, in favour of keeping the tree: The tree enhances the area, more to do with house prices, lack of notification/public consultation.

APPLICANTS STATEMENT:

10. The original application to have this conifer removed was made in August 2015 and was supported by the majority of the affected residents of South Street as well as the tree owner, Durham Cathedral. Under the National Planning Policy Framework – Planning Practice Guidance Notes (Revision date 06 03 2014) the guidelines state that authorities need to exercise judgement when deciding whether it is within their powers to make a Tree Preservation Order.
11. Orders should be used to protect selected trees and woodlands “if their removal would have a significant negative impact on the local environment and its enjoyment by the public”. As we are proposing to replace this conifer (whose foliage is visible all year round) with a deciduous variety of tree, it surely is not credible to suggest that its replacement would have a significant negative impact on the local environment.

12. In the Durham County Council Tree Management Policy Document (Dec 2013) section 9 covers Dealing With Tree Care and point 9.2 on page 8 states “It is important that individual issues are dealt with **consistently** and that decisions are balanced against the positive contribution that trees make to the environment and enjoyment of the County by local residents and visitors”. The key word here is **consistently** as the following information and two examples will illustrate:
- Planning Application no. DM/15/01437/TCA – Felling of 1 No conifer tree at 32 South Street, Durham, DH1 4QP. (The Tree Evaluation Scoring System TEMPO appears not to have been used).
13. The Council gave the go ahead (as confirmed and signed off by Mr S Timmiss, Head of Planning) for this similar sized conifer to be felled (and not replaced) in May 2015. The Delegated Report states “The Senior Tree Officer has been consulted and considers the tree does not warrant an individual tree preservation order, as such has offered no objection to the works. Officers consider that the works proposed would not be detrimental to the character or appearance of the conservation area in accordance with policy E22 of the City of Durham Local Plan 2004”.
14. This conifer at no. 32 South Street was felled (and not replaced) in July this year. It did not block or restrict any views whatsoever either to or from the World Heritage Site unlike the tree opposite no. 55 South Street.
- Planning application no. DM/16/02320/TCA – Felling and Removal of 1 No. Conifer Tree and 1 No Laburnum Tree at 8 Quarryheads Lane, Durham, DH1 3DY. (Again the TEMPO scoring system appears not to have been used).
15. The Council gave permission (as confirmed and signed off by Mr S Timmiss, Head of Planning) for this similar sized conifer and a laburnum to be felled (and not replaced) on 22nd of August this year and these trees were subsequently felled almost immediately. These trees likewise, did not block or restrict any views either to or from the World Heritage Site. The Tree Officer’s comments were identical to the case above i.e. there was no merit in retaining these conifers for the benefit of both residents and visitors.
16. It is inconceivable that the conifer we wish to fell (and are proposing to replace with a deciduous species) in the words of the tree officers “is of high amenity and aesthetic value and makes a positive contribution to the character of the area” whereas, with regard to the above other two conifers, they state that felling (and not replacing them) “would not be detrimental to the character or appearance of the conservation area”. There is no logic to these two conifers (one on the same street) being viewed in such a different light – it is totally **inconsistent** and contrary to the Council’s own guidelines as outlined above.
17. The LPA state that “although permission has been granted to fell other trees in the conservation area, each case is dealt with on its own merits“. It surely cannot be argued with any conviction that one particular conifer should be granted such elevated status, while other almost identical specimens can be felled with impunity. Despite clearly and regularly stating our commitment to replace this conifer with a deciduous variety (at our own expense) and of the Council’s choice, the LPA have consistently failed to respond to this offer or make any comment whatsoever. Other trees recently felled on South Street include a beautiful Chestnut tree, a wonderful Lime tree (which had a Tree Preservation Order in place) and an Apple tree, none of which have been replaced.

18. Finally, I refer to Statutory Instruments 2012 No. 605 – The Town and Country Planning (Tree Preservation) (England) Regulations 2012. Part 2 on the bottom of page 3, point numbers 2, 3 and 4 state that a Tree Preservation Order must include a map attachment giving a clear indication of the position of the tree to which the order relates. It also states that in the case of any discrepancy between the map and the Schedule to that Order, then the map shall prevail.
19. Given that the official TPO shows T1 as being sited next to a single garage adjacent to some other conifer trees, whereas it is in fact sited further south, approximately 5 metres away. It is actually next to one of a pair of adjoining garages, therefore it is clear that the map included in the original Order is unreliable and inaccurate. By bringing this error in the Order's map to your attention, we request that the TPO is varied/revoked to allow the tree to be replaced by a deciduous species as proposed.
20. The tenants who leased the land on which the conifer is situated (but did not own) have now sold their property no. 21 South Street and relocated to Scotland and on this basis, are no longer affected by the tree, unlike remaining residents. As the chief instigator behind the mission to save the tree has now departed from Durham, we request that the wishes of the remaining residents are granted. The tenants instigated an online petition to save the tree sometime early in September 2015. It would appear that following some discussion/consultation with the Tree Officer in an online update on 21st September 2015 the tenant stated that "the Tree Officer said he needed 100 signatures to "stand up and take notice" and thanks to you all we got there."
21. There were some 109 signatories to the petition of which the majority were from people residing outside County Durham, spread throughout the UK and a significant number from overseas including many from the United States.
22. As Lisa Morina and Simon Chivers appear to have been recipients of information in relation to this petition, did it influence their deliberations in relation to the tree? If this is the case should it have been disclosed as a material fact and included on the Council's website? It is unacceptable if this petition was given any credence whatsoever as the views of local residents (and tax payers) do not seem to count at all. As Lisa Morina stated in an earlier email on 12th October 2015 that tree works applications in Conservation Areas differ from others "as the views of local residents are not needed to be sought and are not needed to form part of the material considerations for the determination of the application".
23. Unauthorised Tree Work – In January this year some lopping work was undertaken to the tree re Order no. TPO/00013/2015. This was reported to the LPA who agreed to investigate the matter. The Council's response is that the Senior Arboricultural Officer (Simon Chivers), in an admirable spirit of cooperation with the tenants, "managed to gain access onto the subject site to assess the work". The report continues "the owner advised that they were under the impression that they had consent for the tree works as they enlisted the services of a reputable qualified arboriculturalist to deal with the whole process". This does not stand up to scrutiny at all, as the LPA know perfectly well that the tree owners are the Cathedral (who were not informed) and not the tenants.
24. In the absence of any hidden agenda, the LPA appear to have gone to extraordinary lengths to preserve this conifer, encouraged with considerable zeal by the petition organiser who appears to have been the driving force and instigator of the campaign. We are aware that this is consuming considerable amounts of time and effort on behalf of all concerned. However, if no satisfactory resolution is reached at this juncture we are prepared to take the matter further.

25. It is time that the LPA drop the pretence that this conifer has significant merit and adds enormous benefit and amenity to the environment when no such merit is attached to other almost identical trees in the immediate vicinity. Given the strength of feeling and support from South Street residents, we request that permission is granted to fell the tree and replace with a deciduous variety at our own expense and a line drawn under this matter.

The above 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=O7QMB1GD0BK00>

PLANNING CONSIDERATIONS AND ASSESSMENT

26. The relevant considerations for an application for works to a tree covered by a tree preservation order are explained in planning practice guidance. These are principally as follows: assess the amenity value of the tree, whether or not the proposal is justified, whether any loss or damage is likely to arise if consent is refused.
27. The Cypress Lawson tree at South Street is a notable and attractive feature in the visual environment of Lower South Street and is considered to make a positive contribution to the character and appearance of this part of the Durham (City Centre) Conservation Area.
28. The tree which is the subject of this application is of high amenity value and due to its prominent position within South Street, it is highly visible from surrounding viewpoints up and down South Street. The tree contributes a large degree of character to the area and its loss would inevitably be of detriment to the appearance of the street scene.
29. At present the tree is not considered dead, dying or dangerous and officers feel that the tree is of high amenity and aesthetic value and makes a positive contribution to the character and appearance of the conservation area. This is of benefit to both residents and visitors of the area alike. The tree is a cultivar of Lawson's Cypress, a tree with a large number of cultivars from forest trees to dwarf trees which vary in their life expectancy. This tree in particular is estimated to be around 90 – 100 years old with a substantial remaining safe useful life expectancy.
30. Planning Authorities and the surrounding populace must acknowledge that whilst trees have a role in the community, they can also be a physical and maintenance liability to the individuals responsible for them. In this case, however, officers are concerned with the works proposed here, and it is considered that the removal of the tree would have a significant impact upon the area visually. The justification given for the removal of the tree is that it obscures the views both to and from the World Heritage Site for most of South Street's residents.
31. When assessed against the Council's scoring system for deciding whether to exercise control through a Tree Preservation Order, known as the TEMPO system, the tree was scored 20 which is in excess of the score of 16 where a Tree Preservation Order is clearly justified. This takes account of factors such as condition, remaining longevity, public visibility and threats. The tree is also considered to be growing in a sustainable location in relation to nearby buildings.

32. It is considered that the tree is a notable feature of the visual environment of lower South Street and that it only obstructs views to the ash tree behind and a small number of views of the World Heritage Site. It is not unusual for trees within the city to obstruct views of the World Heritage Site when standing directly behind them. They nevertheless make an important contribution to its setting. It is acknowledged that the tree is visible in views back from the World Heritage Site to South Street, however it does not obscure the greater part of the street scene in those views.
33. The tree is a non-native species, but many tree preservation orders relate to non-native ornamental species and the tree is viewed in the context of a domestic garden where non-native trees are a typical feature. Several support letters have been received in relation to the tree being of a non-native species and that it should be felled and replaced with a native deciduous tree as it is out of character with the area and is an overbearing eyesore which has been left to grow to a height which is out of proportion with the area. Officers feel that given the location of the tree being within a domestic garden with other non-native trees present that the tree is not out of character with the area and actually enhances the area and brings character and aesthetic value to the street scene. In relation to the height of the tree, as there are other tree species within the vicinity of the tree in question of a similar height, it is not considered that the tree is of a height that is out of character with the area.
34. Two objection letters have been received stating that the tree enhances the area and should not be felled as the reasons for its removal is to increase house prices within the area. It is considered that the tree does enhance the visual amenity of the area, however increasing house prices is not a material planning consideration and cannot be taken into account.
35. In relation to the points raised within the applicant's statement, all applications to fell trees within conservation areas are assessed on their own merits. In relation to the two trees mentioned, firstly DM/15/01437/TCA was considered not to have made an important contribution to the visual amenity of the area due to its limited visibility with the tree being located to the far rear boundary of the property. Secondly DM/16/02320/TCA was of the leylandii species, and the tree officer's judgement was that this particular species was not suited to its location and was not considered to be physically sustainable and therefore did not warrant a Tree Preservation Order being placed upon it.
36. With regard to the other trees mentioned, the felling of the lime tree was agreed after two internal tests were undertaken by two different types of decay equipment, one of which was undertaken by Durham County Council tree officers. It was found that the percentage of decay within the lime tree was deemed to be too high to retain such a large specimen. In relation to the chestnut tree, also located at the same property, this tree contained a lean towards the neighbouring properties within South Street and the tree was losing leaves early due to a strain of Phytophthora, a pathogen that causes the tree to shed limbs and branches early eventually causing severe decline. The apple tree didn't warrant an individual order. There was a landscape plan submitted for this property and replacement trees are to be planted within the rear.
37. It is acknowledged that the location of the cypress tree on the tree preservation order map is shown to be in the incorrect location, which is an anomaly and will be rectified through the appropriate formal procedure to show the correct location on the order. However it is not considered that the document is unreadable as the order only refers to one tree within the schedule and one T1 located on the map. Furthermore, this does not provide grounds for revoking the Tree Preservation Order.

38. In relation to the petition which was received for the cypress Lawson tree, this did not influence the decision to place a tree preservation order upon the tree. Petitions are not taken into account when making decisions on placing tree preservation orders upon trees, the assessment is done using the TEMPO system, as described earlier in this report.

39. Finally in regards to the unauthorised works carried out, some pruning works had taken place without the appropriate formal consent, however, this was inspected by a tree officer who referred the unauthorised works to the Planning Enforcement Team. As a result, a retrospective application was requested and received. The pruning works had removed branches which were overhanging the garages underneath the canopy. It was considered that the works carried out were done in a satisfactory manner and would have been approved had an application been submitted prior to any works being carried out. With this in mind, it was not considered expedient to take any further action.

CONCLUSION

40. The tree in question is not dead, dying or dangerous and officers consider that it contributes to the character and appearance of the conservation area and is of high amenity and aesthetic value which makes a positive contribution to the character and appearance of the street scene. The removal of the tree would be contrary to Policy E22 of the City of Durham Local Plan 2004.

41. Under the constitution, a decision on this application cannot be made by the planning committee. Instead the power is delegated to the head of planning and therefore a decision must be made in accordance with this procedure.

RECOMMENDATION

That the committee be **MINDED TO REFUSE** for the following reasons, with the final decision to be made and issued by the Head of Planning under delegated powers, in accordance with the Committee's wishes:

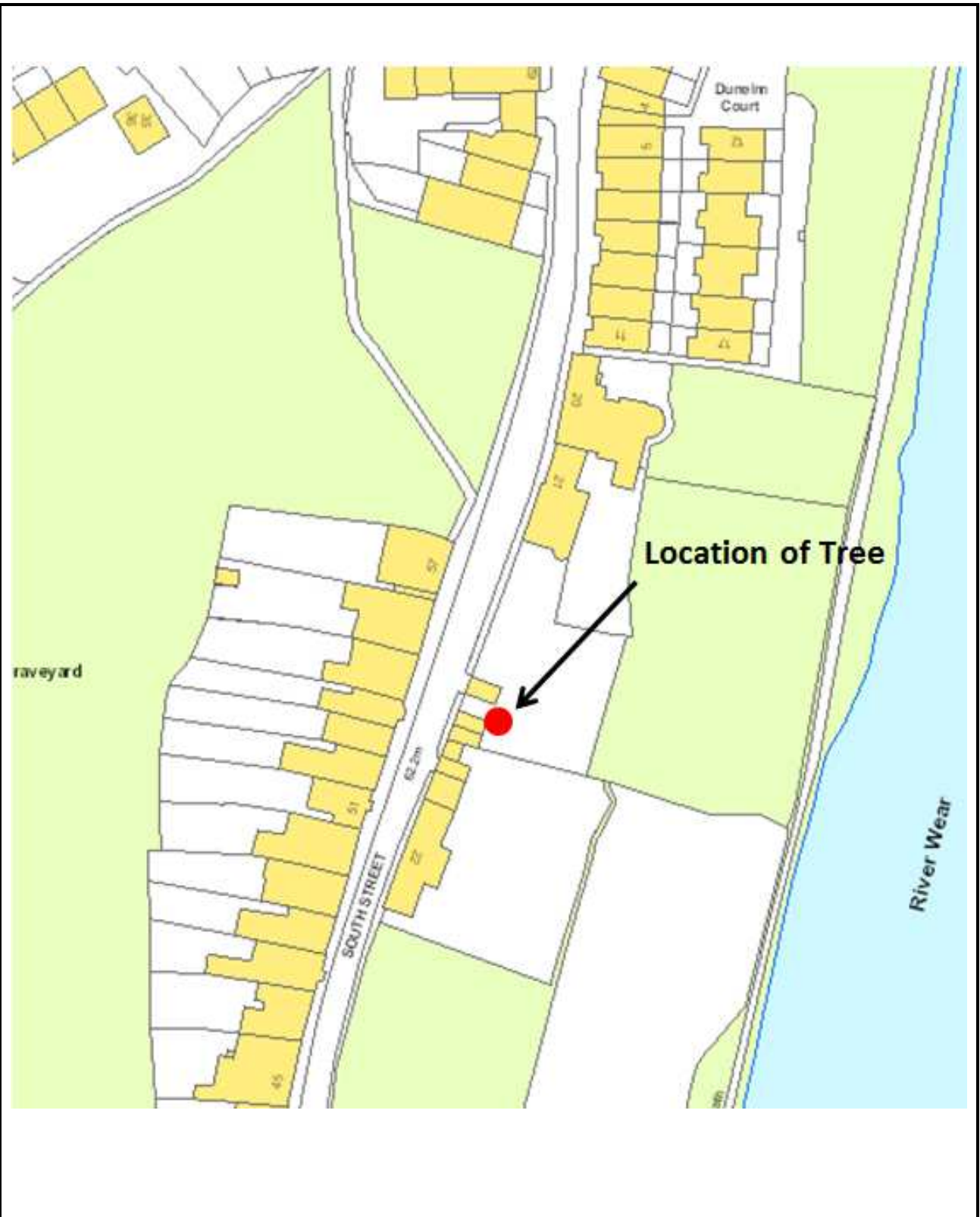
1. The proposed tree felling, submitted with insufficient justification, would be detrimental to the character and appearance of the Durham (City Centre) Conservation Area and the local street scene in terms of visual amenity, and would be contrary to Policy E22 of the City of Durham Local Plan, and the Tree Preservation Order that protects it.


STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at the recommendation to refuse the application has been consistent in advice with regards the application and has considered the possibility of a positive outcome in accordance with the NPPF but it has not been possible in this instance

BACKGROUND PAPERS

- Submitted application forms, plans and supporting documents provided by the applicant.
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance Notes
- City of Durham Local Plan 2004
- Statutory, internal and public consultation responses



 <p>Planning Services</p>	<p>Felling of one cypress lawson tree and replacement with indigenous deciduous variety protected by a tree preservation order at Land Opposite To 55 South Street, Durham, DH1 4QP</p>	
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	<p>Date 26 September 2016</p>	<p>Scale 1:1250</p>

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/02695/FPA
FULL APPLICATION DESCRIPTION:	Erection of single-storey extension at rear of dwelling (retrospective application).
NAME OF APPLICANT:	Mr Simon Atkinson
ADDRESS:	16 Nevilledale Terrace, Durham, DH1 4QG
ELECTORAL DIVISION:	Neville's Cross
	Lisa Morina
	Planning Officer
CASE OFFICER:	03000 264877
	lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a two-storey mid terraced property situated within Nevilledale Terrace which is a stepped gently curving Edwardian terrace located within the western part of Durham (City Centre) Conservation Area. The rising terrace consists of 37 properties divided into 3 blocks occupying an elevated position overlooking Crossgate Peth, a historic route way into the city, with further residential dwellings to the north, south and east.

The Proposal

2. This application seeks retrospective consent for the erection of a single-storey extension at the rear of the dwelling. A previous consent was granted for a single-storey extension however, during construction works, it was found that the approved scheme could not be implemented due to land levels, and therefore the proposal was not constructed in accordance with the approved plans with regards to the height of the extension.
3. The original scheme approved a single-storey flat roofed proposal with a height of 3.5m. This application shows an overall height of 4m at its highest point taking into consideration the change in the land levels on the site.
4. Amendments have been received which remove the lantern and replace this with two conservation style roof lights and a reduction in height to 3.7m. Re-notification was carried out to neighbours. A further amendment which replaces the two flat roof lights with a single larger roof light was also received along with specification details of both the roof light and the aluminium trim. Given the minor changes involved, it was not felt that further re-consultation was required in this instance.

5. The application is being referred to the planning committee at the request of Cllr Holland supported by Cllr Martin due to its location within the Conservation Area and the work that has already been carried out.

PLANNING HISTORY

6. As stated above, a single-storey extension was approved in 2015 under reference DM/15/02807/FPA.

PLANNING POLICY

NATIONAL POLICY:

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
9. The following elements are considered relevant to this proposal;
10. NPPF Part 4 – 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.
11. NPPF Part 7 – Requiring Good Design. 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.
12. NPPF Part 12 - Conserving and Enhancing the Historic Environment. Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. Development which will lead to substantial harm or loss of significance of a designated heritage asset, permission should be refused, unless the harm or loss is necessary to achieve substantial public benefits.

The above represents a summary of the NPPF considered most relevant the full text may be accessed at: <http://www.communities.gov.uk/publications/planningandbuilding/nppf>

LOCAL PLAN POLICY:

City of Durham Local Plan

13. Policy E6 (Durham City Conservation Area) sets out the Council's aim to preserve the character, appearance and setting of the Durham City Conservation Area by ensuring high quality design.
14. Policy E22 (conservation Areas) sets out that the authority seeks to preserve and enhance the character and appearance of the conservation area by ensuring that development proposal should be sensitive in terms of siting, scale, design and materials where appropriate reflecting existing architectural features
15. Policy Q1 (Design) sets out that the layout and design of all new development should take into account the requirements of users including personal safety and crime prevention and the access needs of everybody including people with needs of disabilities.
16. Policy T1 (General transport Policy) requires all development to protect highway safety and/or have no significant effect on the amenity of occupiers of neighbouring properties.
17. Policy T10 (Parking – General Provision) states that vehicles parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
18. Policy Q9 (Alterations and Extensions to Residential Properties) state that extensions will only be approved when they met a set of specific criteria for example, including impact on residential amenity of neighbours and impact on streetscene.

RELEVANT EMERGING POLICY

The County Durham Plan

19. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. None

INTERNAL CONSULTEE RESPONSES:

21. Design and Conservation have offered no objections on heritage or design grounds providing some amendments are received.
22. In response to the amendments, the Design team commented that the amendments received were positive. This redesign of the existing structure would serve to address the main issues contributing to its dominance and impact in the rear streetscape by removing arguably the most intrusive and noticeable feature i.e. the roof lantern, and reducing the height from 3.9metres to 3.7metres. The extension would still be greater in height than that previously approved but the difference is relatively marginal which would not be considered excessive or result in an extension significantly harmful within the context. The new height as proposed would also be very similar to the outbuildings that formerly occupied the site at their highest point.

PUBLIC RESPONSES:

23. The application has been advertised with a press notice and on site by way of a site notice and neighbouring residents were also notified individually of the proposed development. At the time of report preparation, 33 letters of objection have been received including objections from the MP for the area, as well as the City of Durham Trust and Crossgate Community Partnership. 30 letters of support have also been received.

24. The objections include:

- The footprint of the proposal leaves no amenity space (i.e. for storage of rubbish or recycle bins or bicycles)
- The higher flat roof as built is inappropriate for a house listed as a "non-designated heritage asset" within Character Area 3 of the Conservation Area.
- The bulk/size of the extension and the large upvc conservatory type roof light is a visual intrusion especially when viewed by pedestrians walking down the hill.
- There was a logic in reusing the existing coping tiles as part of the previous design. Now they have been built into a much higher wall they look completely out of context. It was stated that the height would be 2.9m and 2.5m however, 3.2m and 2.965m has been used.
- The type of brick used is out of keeping with the contemporary brick used along the terrace.
- The rear of the terrace is very visible, comprising of notable unlisted buildings with yards and small gardens enclosed by brick built walls.
- The development does not adhere to policies E6 and E22 in the Saved City of Durham Local Plan.
- The flat roof is topped by a reflective, high, prominent, UPVC conservatory style roof lantern and cannot be considered as simply styled which was one of the original reasons for approval of the previous consent.
- The new rear wall is approximately one metre higher than the original wall and there is no stepping down to match the existing rear street scene.
- The extension is immediately noticeable from anywhere in the rear street, due to the scale and design, which do not conform to the existing form of the terrace.
- This development detracts from the Conservation Area.
- The shape of the extension is unlike anything else in the area (a pitched roof is typical)

- The size of the extension seems disproportionate and not in keeping with others in the street - It is extremely high (much higher than originally) It is very wide.
- The proposal is closer to two-storey than one storey
- Any build should be sensitively built to an area such as this and for it to remain in keeping and be architecturally appropriate to these Edwardian properties and this proposal does not do this.
- The applicant has flouted the conditions of the previous application and without reason built a larger extension.
- The approval of retrospective consent will not rectify the fact that the proposal is out of keeping with the character of the area.
- The revised application does not comply with the terms of the original permission.
- The revised plans are incorrect.
- The proposal should be reverted back to what was previously approved.
- The slices of original coping stones are not acceptable
- The proposal is not sensitive to the area
- The proposal is visually intrusive and an eyesore which dominates and detracts from the traditional nature of the area
- The proposal, if approved will set a very unfortunate precedent
- No 15 has provided an extension which is considered appropriate and this extension should be refused.
- The extension is not a positive addition to the area or the rear lane of Nevilledale Terrace
- The proposal goes against the article 4 direction imposed in 2007
- The satellite dish is above the skyline
- The back gate is wider than the original
- The extension is of poor workmanship
- The window materials are not acceptable.
- The conclusion of the conservation officer does not meet with the Conservation appraisal
- The application should be refused and enforcement proceedings started
- The changes from the previous are unacceptable and goes against the previous report which approved an extension

25. The letters of support include:

- The extension has improved the house and provided better accommodation for tenants.
- Landlords often face venom for attempting to improve their property.
- The changes are minor/minimal
- Students deserve to have improving living conditions
- The proposal does not stick out like a sore thumb and gives a new lease of life to a tired house
- Students should not be left without accommodation and landlords should not be afraid of starting developments
- The proposal has not inflicted significant harm to the heritage asset
- There is a demand for high quality student accommodation
- The benefits outweigh the negatives
- The bricks used are a lot more in keeping than many other bricks used up and down the street
- The modern houses to the rear of Nevilledale Terrace (Summerville) are the real monstrosities in the street
- The proposal has been completed to a very high standard

- The original re-instated coal chute is considered appropriate
- The proposal meets policy E6 of the Local Plan
- The proposal is simple and robust
- The proposal has rebuilt a previous bowing and dangerous wall
- The concerns are attempting to strangle the supply of student accommodation at a time of serious shortage.
- This application is a serious waste of council officials time and taxpayers money

26. Following re-consultation of the amended plans received, the City of Durham Trust and Roberta Blackman Woods MP have clarified they still object to the proposal and 7 letters of objection have been received with the following additional concerns not raised during the earlier consultation:

- Why has the height of the wall not come down to what was previously agreed
- The planning department must make a stand and not allow a very bad precedent to be set for the area which is deteriorating.
- The proposal should be re-built to correct standards
- A fine should be issued for the damage to the original coping stones as they are of historical and architectural significance.
- The proposed modifications offer only slight improvements and do little to amend the harm done to the conservation area. The aluminium edge causes further alarm.
- The proposal should not be allowed to be negotiated after completion after policies are ignored.
- The previous approval should not be used and this application should be considered as a standalone application.
- The roof lights are an improvement
- The plans don't show a fall on the flat roof.
- The windows used are unattractive and poorly proportioned
- Information provided regarding a famous person who has been instructed to remove an extension to her Georgian property because of the wrong materials.
- The UPVC windows should be removed and an opportunity has been missed to enhance the conservation area.
- The proposal contravenes the Durham City Centre Conservaiton Area Character Appraisal and the City of Durham Local Plan Policies.
- Significant changes are needed

APPLICANTS/AGENTS STATEMENT:

27. Pre planning and design advice was given to the applicant and the pitched roof originally envisaged was considered unacceptable.

28. As a result, the preferred option approved by officers was a flat roof – the addition of a lantern and parapet wall was incorporated to give a contemporary alternative. No objections to the application on heritage or design grounds were made.

29. Retrospective planning is now sort for the following proposed amendments

- 20cms additional height
- Change bi fold door to two windows
- Remove lantern and replace with roof light.

30. Due to a miscalculation from street level to actual floor height and the requirement of a parapet, the extension is some 45cms over the approved height. The approved lantern also adds to the height. A set of folding doors has been changed to two windows to create a better-equipped kitchen.
31. Following consultations with planning, design and heritage officers, a revision to the roof arrangement has been recommended by officers. The effect of this recommended revision will result in a difference of 20cms in height between the previously approved plans and what is now proposed.
32. Officers also consider that substituting the approved lantern with a roof light will be less of an impact. The applicant is fully supportive of these officers' recommendations.

PLANNING CONSIDERATIONS AND ASSESSMENT

33. 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 in this instance relate to the impact on the residential amenity of the neighbouring properties and the impact on the visual amenity of the area including the conservation area in which the property is sited.

Impact on residential amenity

34. It is considered that the proposal would not result in a significant detrimental impact on the residential amenity of the surrounding residents.
35. The original extension which was in place along the common boundary with no.17 had a height of 3.5m and the changes proposed to the current scheme would result in an overall height of 3.7m. Given this, it is not considered that the additional increase in height of 0.2m, about eight inches in Imperial measurement, would have a significant negative impact on this neighbour that would warrant a refusal of this application.
36. The neighbour at no. 15, given the layout, is not considered to be significantly negatively impacted upon as the extension is positioned away from the shared boundary.
37. There are no other neighbours which would be affected by this proposal in respect of impact on the amenity of the residents.
38. The application is therefore considered an appropriate addition in relation to policy Q9 of the Local Plan with regards to impact upon amenity of adjoining neighbours.

Impact on the visual amenity of the area

39. As the property is located within the Durham (City Centre) Conservation Area the application should be assessed against Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which requires the proposal to either preserve or enhance the character and appearance of the Conservation Area.

40. Concern has been raised that the proposal is not sympathetic to the surrounding area given its location within the conservation area, and does not represent an appropriate form of development within the existing streetscene due to its design, size, materials and construction.
41. Approval of the proposal is being sought on a partially retrospective basis as it has not been constructed in accordance with the approved plans of the previous consent and further amendments are proposed to what is currently on site. It has been built higher, window openings have been altered and the roof lantern is different. In respect of the materials, these were not submitted for approval by officers in accordance with the relevant planning condition that formed part of the previous consent.
42. In respect of concern over the shape and footprint of the proposal, the footprint and shape were approved under the previous consent as being considered appropriate. In respect of the shape, it was felt that a flat roofed proposal with detailing was visually less intrusive than a shallow pitched roof which was not considered to provide the steep traditional roof pitch that is usually associated with these types of dwellings. Therefore, the shape of the extension has previously been approved.
43. Following submission of the retrospective application, negotiations have been taking place between the applicant and officers to establish whether revisions to the scheme could reduce its impact to a degree that would overcome the concerns raised. As a result, and although not yet carried out, changes have now been proposed which include the removal of the lantern and the reduction in the height to 3.7m. Therefore, essentially that which is to be assessed is an additional height of 20cm, or 8 inches.
44. Concern has been raised that the proposal has not been amended back to the height that was previously approved however, this would result in the development not requiring any further planning approval given this consent is still valid and a fall-back position is available in this instance. The applicants however, have asked officers to consider an additional 20cm which would avoid significant construction changes being required to the proposal. Concern was also raised over the fact that the proposal is being considered in conjunction with the previous consent however, as stated above the previous consent is still valid and therefore, is material in the determination of this amended application.
45. Given the above, a difference of 20cm is considered minimal and results in a proposal which cannot be considered to have a significantly greater impact than that already approved. The proposal as amended, therefore, is not considered to have a significant detrimental impact that would warrant a refusal of this application given the increase in height would be limited.
46. It is acknowledged that the brick was not approved as part of the previous consent, however, the brick used is not considered to have a detrimental impact on the streetscene and is of an appropriate quality. While there may be other options that would have been more appropriate, the brick used is considered a warm red with some colour variation and texture which is not considered to unreasonably stand out given the mixture of brick types in close proximity to the site. The brick colour and quality, therefore, is not considered a sufficient reason for refusal.

47. The addition of the coping stones to the rear elevation is considered to be acceptable in an attempt to visually mimic the original configuration of the boundary wall as well as the coal chute and gated rear entrance. These are all considered to help in the design of the proposal and are not considered to have a detrimental impact on the streetscene or the conservation area. They were also included in the approved scheme. Concern is raised over the way that this has been attached to the proposal and that a fine should be given due to the way in which the coping stones have been affected given their historical and architectural appearance. However, no action is considered necessary in respect of this issue, given the limited nature of the works. Furthermore, as the building is not listed, no offence has been committed that could require payment of a fine.
48. Objections have been raised that the proposal is not in keeping with the rear streetscene of the proposal and not in accordance with the Durham City Conservation Area Character Appraisal and City of Durham Local Plan Policies and that the Council has missed the opportunity to enhance the conservation area.
49. It is acknowledged that all heritage policies apply to all façades of heritage assets, particularly when in the public domain, but the heritage values of the host building primarily relate to its original constructional form as part of the terracing, which is still clearly legible and physically unaffected, and the architectural and aesthetic qualities of the frontage which is unchanged.
50. The back lanes of the Victorian and Edwardian terraces are of value to the conservation area, but like many other similar streets, the heritage qualities of the rear street environment have been eroded by alterations and expansion over time for example the neighbouring property has a 2-storey flat roofed extension, further down the street there is a PVCu infill addition, and there are numerous examples where large sections of original rear boundary walls have been lost. Given this, the significance of the rear is considered to be less than the front of the dwellings in this instance and UPVC is considered a common feature. Given this, it is not felt that the use of UPVC can reasonably be restricted in this instance and therefore, the request to remove all UPVC from the property is not considered reasonable. This is due to the extent of the use of UPVC within the rear lane already. In addition to this, the appraisal states “officers will discourage the use of UPVC” but does not go as far as to state that it is not allowed.
51. Within conservation areas, Local Planning Authorities have a legal duty to preserve or enhance such areas; however in determining this application officers are required to balance the harm of the extension on the conservation area / rear street scene and it is considered that with the changes now proposed to this extension and the minimal change in height which would be created from the previously approved scheme, the additional impact would not be significant enough to warrant a refusal of the application as it would have a neutral effect on the character and appearance of the conservation area and would cause no significant harm. The applicants have agreed to remove the most intrusive component which can be dealt with via condition.
52. Concern has also been raised regarding the proposed aluminium trim. Further details have been received and the use of the trim is considered acceptable. The aluminium trim would be in dark grey so is not reflective and is designed to provide a neat and unobtrusive finishing detail as there is no longer a parapet.

53. Taken all the above into account, it is considered that the proposal would not result in a significant negative impact on the visual amenity of the streetscene or in turn the significance and setting of the Conservation Area in which it is sited as the impact of the changes over and above that what was previously approved is considered minimal. As such, the impact of the development when further altered as proposed would not be considered significantly detrimental to the character and appearance of the Conservation Area which would be preserved; this is the minimum requirement of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 when dealing with development in a conservation area.

Other Issues

54. Concern was also raised with regards to the amount of amenity space which remains. In respect of terraced properties, it is common for limited space to remain if rear extensions are added to properties. However, the space which remains is not considered to be detrimental to the occupants of the dwelling and it is considered acceptable.

55. The fact that the proposal is retrospective does not constitute a valid reason for refusal. Unless it is causing unacceptable harm, unauthorised development is normally dealt with through the submission of a retrospective application to enable the relevant planning considerations to be assessed. This is in accordance with the Government's approach to planning enforcement, and still provides an opportunity for refusal of permission if circumstances warrant this.

56. Concern was also raised that an unacceptable precedent would be set should this application be approved. However, it is felt that with the changes proposed, this would not occur, and regardless of this, all applications are assessed on their own merits and individual circumstances.

57. Concern over workmanship of the extension is not a material planning consideration.

58. Other schemes/applications have been cited in objections however, each application is dealt with on its own merits.

CONCLUSION

59. The development including the changes proposed, which include the removal of the lantern, the reduction in overall height to 3.7m and the addition of a roof light, are considered acceptable in principle, being considered to be in keeping within the existing property and the area more generally. The development as proposed to be amended is not considered to have a significant detrimental impact on the surrounding residents or the character and appearance of the conservation area in which it is sited, in accordance with the requirements of local policies and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 that development should preserve or enhance the Conservation Area. In this instance, it is considered that the proposal would preserve the character and appearance of the Conservation Area.

60. As such, it is considered that the proposed development would be in accordance with saved policies E6, E22, Q1 and Q9 of the City of Durham Local Plan and parts 1, 4 and 12 of the NPPF.

RECOMMENDATION

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

1. Within 3 months of the date of the approval, the alteration works required as detailed on the amended plans drawing received 26 October 2016 shall be carried out in strict accordance with these plans and the accompanying specification details of the roof lights and aluminium trim.

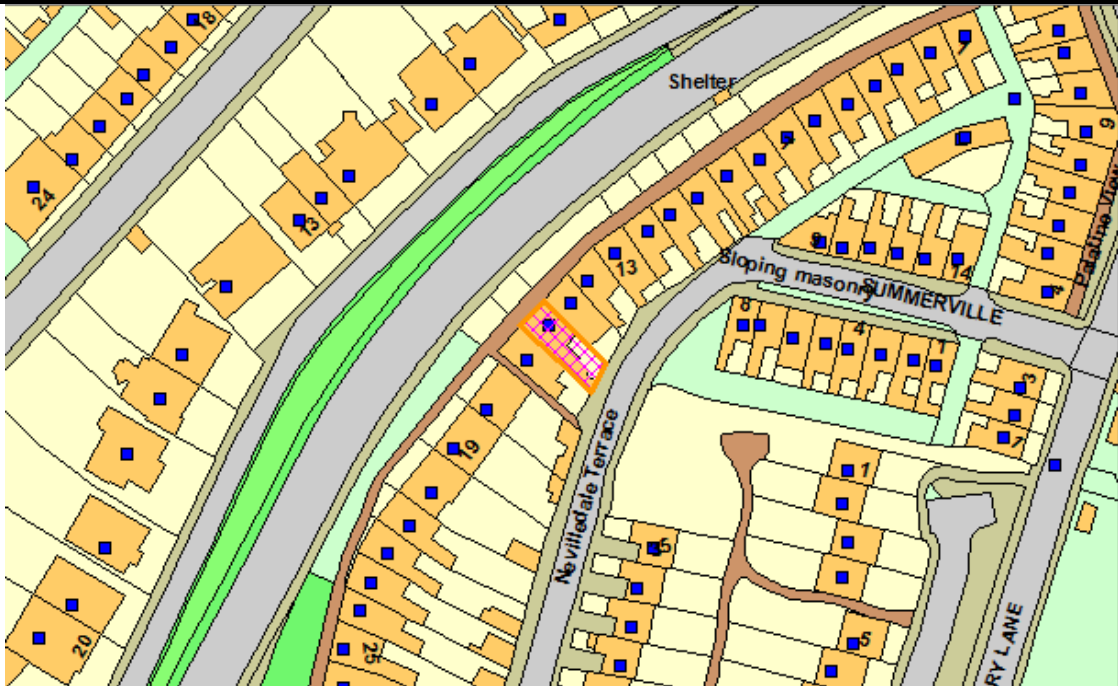
Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with policies E6, E22, Q1 and Q9 of the City of Durham District Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising during the application process.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation
City of Durham Local Plan 2004
National Planning Policy Framework
Internal consultee responses
Public responses
Responses from statutory and other consultees
National Planning Policy Guidance



Planning Services

Erection of single-storey extension at rear of dwelling (retrospective application) at 16 Nevilledale Terrace, Durham, DH1 4QG

Application Reference: DM/16/02695/FPA

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Date
November 2016

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/16/03056/FPA
FULL APPLICATION DESCRIPTION:	Detached new dwelling to replace previous existing barn
NAME OF APPLICANT:	Mr & Mrs M Proctor
ADDRESS:	Seaham Grange Farm , Stockton Road, Seaham, SR7 0PB
ELECTORAL DIVISION:	Seaham
CASE OFFICER:	Chris Baxter Senior Planning Officer 03000 263944 chris.baxter@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of a vacant parcel of land at Seaham Grange Farm on Stockton Road in Seaham. The site had, up until earlier this year, been occupied by an agricultural building which has an overall footprint of 364sqm and the remains of this can still be seen in the concrete pad. There are residential properties to the north, south and west of the site with open agricultural fields to the east. The site is located within the Green Belt.

The Proposal

2. Planning permission is sought for the erection of a detached new dwelling to replace the previous agricultural barn. The proposed new dwelling would be for a four bedroom property which would match the exact same sizes of the previous agricultural building. The property would be constructed from a mixture of brick and black metal profiled cladding.
3. The application is reported to the Planning Committee at the request of Councillor Edward Bell.

PLANNING HISTORY

4. A prior approval application was submitted in 2014 which allowed the conversion of the agricultural barn into 2no. dwellinghouses.
5. Another prior approval application was submitted in April 2016 for the conversion of the agricultural barn into one dwelling. This application was refused because the barn had been demolished.

PLANNING POLICY

NATIONAL POLICY:

6. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.
7. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'.
8. The following elements are considered relevant to this proposal;
9. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21st century.
10. *NPPF Part 4 – 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.
11. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing application should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
12. *NPPF Part 7 – Requiring Good Design.* 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.
13. *NPPF Part 9 – Protecting Green Belt Land.* The Government attaches great importance to Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
14. *NPPF Part 11 – 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.

LOCAL PLAN POLICY:

District of Easington Local Plan

15. Policy 1 (General Principles of Development) states consideration should be considered of whether a proposal would accord with the principles of sustainable development together with many benefits to the community and the local economy.
16. Policy 35 (Design and Layout of Development) requires the design and development to conserve energy where possible, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious impact on the people living and working in the vicinity.
17. Policy 36 (Design for Access and the Means of Travel) states that new development shall ensure good access and encourage alternative means of travel.
18. Policy 37 (Design for Parking) states that the design and layout of new development should seek to minimise the level of parking provision.

RELEVANT EMERGING POLICY

The County Durham Plan

19. Paragraph 216 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. The County Durham Plan (CDP) was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 18 February 2015, however that Report was quashed by the High Court following a successful Judicial Review challenge by the Council. In accordance with the High Court Order, the Council has withdrawn the CDP and a new plan being prepared. In the light of this, policies of the CDP can no longer carry any weight. As the new plan progresses through the stages of preparation it will begin to accrue weight.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

20. *County Highways Authority* has not raised any objections to the proposed scheme.
21. *Drainage Officer* has not raised any objections to the scheme.

INTERNAL CONSULTEE RESPONSES:

22. *Environmental Management (Contamination)* has not raised any objections.

PUBLIC RESPONSES:

23. A press notice was issued. Site notices were also posted. Neighbouring residents were notified individually of the proposed development. No objections have been received. Two letters of support have been received indicating that they would like to see the site developed for a family house as intended by the applicant. The letters of support have also indicated that there will be minimal additional impact on the landscape and green belt as the site originally had a large agricultural barn located on the site.

APPLICANTS STATEMENT:

24. As you may be aware we are in the unfortunate position of having to resubmit the plans after already having approved permitted development plans in place for the property. During our initial essential works removing some cladding and asbestos sheet roofing the wooden frame of the barn partially collapsed, unbeknown to ourselves the roof was in fact bracing the barn together and upon its removal the barn simply folded and collapsed, leaving all but the two outside walls of the structure, One leaning heavily over onto the footpath and road alongside the barn and the other onto our neighboring property. We quickly erected some scaffolding for safety purposes and had no other option than to remove the remaining parts of the structure. We immediately contacted Durham County Council planning department to inform them of the collapse. In due course we learned that because of the unfortunate and completely unavoidable collapse of the structure our permitted development rights were now void. As you can no doubt understand we were devastated to learn this having invested our life savings into the project.
25. It is our dream to build a family home for ourselves and our two young children to enjoy in the long term. We aren't developers looking to make money we are a local family who want to build a forever home in our local town. Due to this piece of incredible bad luck we now find ourselves in the position of having to apply for planning permission to rebuild the barn and our future family home. It is our intention to build the barn back on its exact footprint and to reinstate the same dimensions and elevations as the barn stood previously. We are absolutely heartbroken that we find ourselves in this position and we sincerely hope that you are able to view our application positively and we are able to create the family home we have dreamt of.

PLANNING CONSIDERATIONS AND ASSESSMENT

26. 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 in this instance relate to principle of development and impact upon Green Belt; residential amenity; and highway considerations.

Principle of development and impact on Green Belt

27. The agricultural barn previously situated on the site did have consent to be converted to residential through the permitted development rights regulations, however once the building was removed then this consent was no longer valid. It has been explained that the barn collapsed during construction when asbestos cladding was removed to assess the main structure. The applicant is only proposing to erect a building which is identical in size, shape and design to the original agricultural barn.
28. However, the application site is located within the Green Belt and must therefore be assessed against relevant green belt policies. The fundamental aim of the Green Belt is to prevent urban sprawl by keeping land permanently open. Although it is acknowledged an agricultural barn has been present on this site up until May this year, the site is currently open so therefore the application would have an adverse effect on openness.

29. The proposal is for a new building which is not for any of the purposes set out in paragraph 89 of the NPPF and must therefore be considered to be inappropriate development. Paragraph 87 of the NPPF further states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. Paragraph 88 states that very special circumstances will not exist unless the potential harm to the green belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations. The Applicant has not put forward any justification as to why very special circumstances for the development exist such as would outweigh the harm to the Green Belt by reason of inappropriateness, and any other harm

Residential amenity

30. The application site is surrounded by neighbouring residential properties. The surrounding properties are located sufficient distance away from the proposed property which will ensure that adequate levels of privacy will be maintained and no overbearing or overshadowing impact would be created. The scheme also proposes some amenity area for future occupiers of the proposed property. This amenity area is of a size which would comfortably accommodate the future users of the property. The proposal would be in accordance with policy 35 of the local plan.

Highway considerations

31. The property would be accessed via the existing access from the west. A garage with two parking spaces are proposed as well as other areas which could accommodate parking in the amenity area. No objections have been raised by the Council's highways Officer. It is considered that access to the property is acceptable and sufficient parking is provided, therefore highway safety would not be compromised. The proposal would be in accordance with policies 36 and 37 of the local plan.

CONCLUSION

32. It is accepted that the site did have an agricultural barn situated as recent as May 2016, however this building has collapsed and is now an open site. The NPPF is clear on development in the Green Belt and states urban sprawl should be prevented and open land should be kept permanently open. Given the site is open and is located within the Green Belt, the proposed development would introduce a building which would result in the loss openness. It also represents inappropriate development without there being any very special circumstances which would clearly outweigh the harm by reason of inappropriateness and any other harm. Accordingly, the proposal is considered to be in conflict with Part 9 of the NPPF.

33. The proposed development would not have any adverse impacts in terms of residential amenity and the proposals would not compromise highway safety.

RECOMMENDATION

That the application be **REFUSED** for the following reason;

1. The proposed development is contrary to Part 9 of the National Planning Policy Framework as the proposed development represents inappropriate development in the green belt without any very special circumstances which would clearly outweigh the harm by reason of inappropriateness and any other harm namely the adverse impact on the openness of the Green Belt.

STATEMENT OF PROACTIVE ENGAGEMENT

In dealing with the application, the Local Planning Authority has worked in a positive and proactive manner to ensure that the Green Belt is not compromised.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documentation

District Of Easington Local Plan

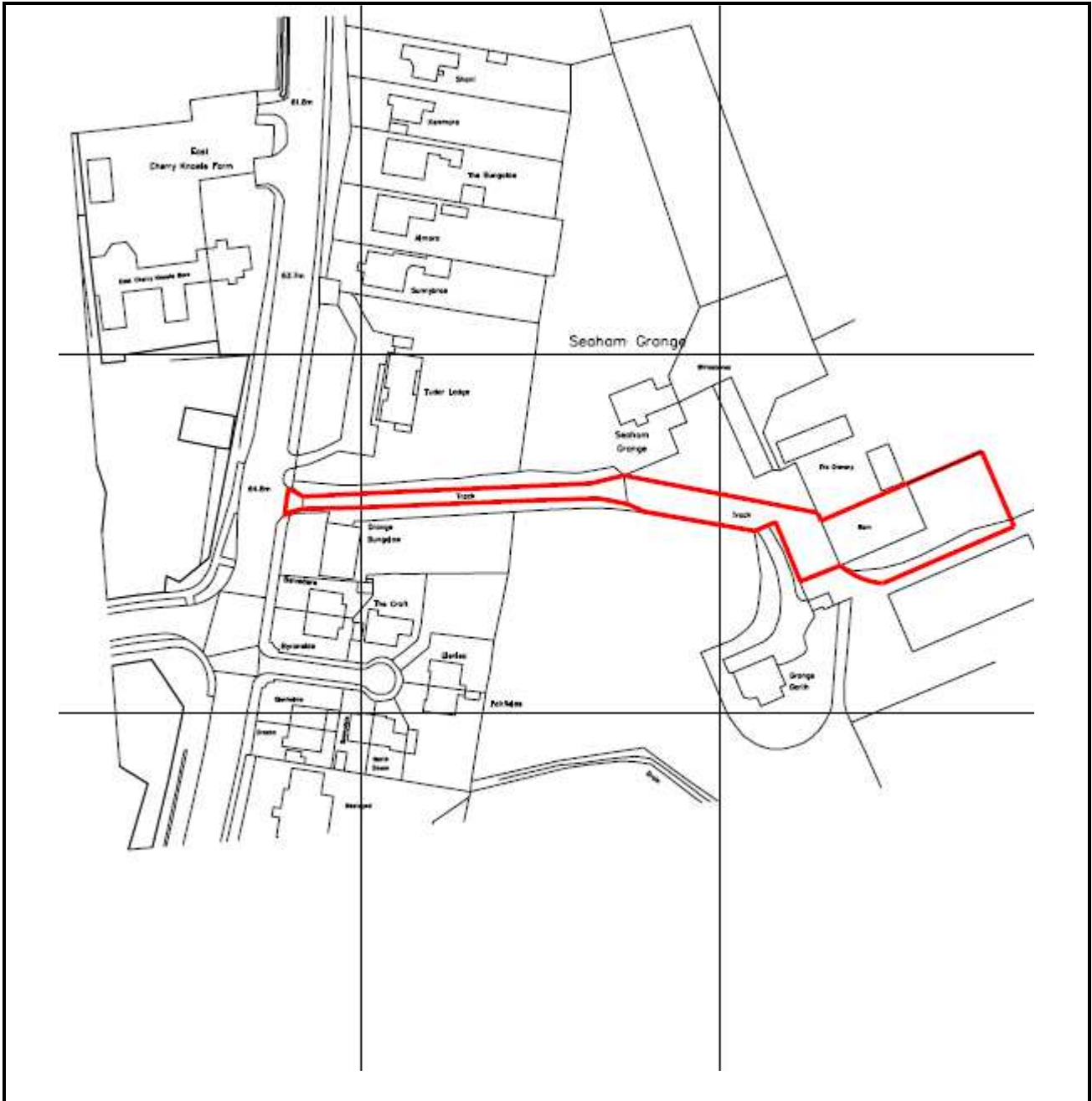
National Planning Policy Framework


Internal consultee responses

Public responses

Responses from statutory and other consultees

National Planning Policy Guidance



 <p>Planning Services</p>	<p>Detached new dwelling to replace previous existing barn at Seaham Grange Farm , Stockton Road, Seaham, SR7 0PB Ref: DM/16/03056/FPA</p>	
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