

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO: DM/15/01626/FPA

FULL APPLICATION DESCRIPTION: Redevelopment of The Gates shopping centre consisting of part retention of existing and part demolition and rebuild for a mix of retail, financial service, restaurant, bar and multiplex cinema uses (Use Classes A1, A2, A3, A4 and D2) and student residential units (total 253 beds) and associated works and landscaping

NAME OF APPLICANT: Milburngate (Durham) Ltd

ADDRESS: The Gates Framwellgate Bridge Durham DH1 4SJ

ELECTORAL DIVISION: Elvet and Gilesgate

CASE OFFICER: Henry Jones
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DESCRIPTION OF THE SITE AND PROPOSALS

The Site:

1. The Gates Shopping Centre, formerly known as Milburngate Shopping Centre, lies on the western bank of the River Wear to the northernmost end of North Road within Durham City Centre. Constructed in two phases between 1975 and 1987, the shopping centre features a range of retail and food/drink units, accessed from main entrances on Milburngate and Framwellgate Bridge.
2. The Gates Shopping Centre mainly comprises of a two and three storey build and sits atop of a 9m high podium which houses parking and servicing areas. The existing shopping centre is brick built with a slate roof.
3. The application site lies within the Durham City Centre Conservation Area. The Castle and Cathedral World Heritage Site (WHS) is located 100m from the site at the nearest point. Situated within the Durham City Centre the application site contains and is within very close proximity to a number of other designated and non-designated heritage assets. This includes within the application site the Grade II listed 129 Milburngate (also known as 5 Framwellgate Bridge) and 130-137 Milburngate (also known as 1-4 Framwellgate Bridge) which are Georgian period brick buildings of sufficient architectural and historical value to be considered non-designated heritage assets. Immediately abutting the site to the south-east is Framwellgate Bridge (Grade I listed and scheduled monument). Other particularly notable heritage assets in the vicinity of the site include Grade II* listed Castle Chare

community and arts centre and Grade II listed St Godrics Church located on the opposite side of Milburngate. Concentrations of listed buildings are also located on Silver Street and within the Market Place.

4. The application site covers an area of approximately 1.3 hectares. The site contains no statutory or locally designated landscapes or ecological sites. Lambton View a terrace of residentially occupied properties is located outwith, but immediately to the east of the application site and adjacent to the river.

The Proposal:

5. Planning permission is sought for the partial demolition and redevelopment of the existing shopping centre for a mixed use development. The existing development is retained up to podium level including the existing car park. Substantial demolition of the existing shopping centre is then proposed above the podium level. Buildings in the south of the application site adjacent to Framwellgate Bridge and North Road are to be retained but refurbished, north of this, the substantial demolition and remodelling of the shopping centre is proposed.
6. A mix of retail (A1), financial and professional services (A2), food and drink (A3) and units that could be used for retail, food and drink or drinking establishments (A4) are all proposed on the mall level. This mix of uses would complement the proposed anchor use of a multiplex cinema (D2). A total of 253 student beds are proposed located on the mall level, first floor, second floor and third floor together with accompanying communal living areas, and rooftop landscaped amenity space.
7. Removal of a section of roof over the current mall to create an 'open air' street within the centre is proposed with access taken from Milburngate. On the podium deck a feature promenade is proposed which would run the length of the development on a north-south axis. This promenade would provide a key pedestrian route within the development as well as creating space for outside dining space, landscaping and seasonal market stalls. The promenade is designed so as to capture views towards Durham Castle and Cathedral.
8. To enhance access to this promenade and the development the refurbishment and remodelling of nos. 1 and 2 Framwellgate Bridge is proposed. This would involve the puncturing of sections of the ground floor of these properties so as to create a wider and more inviting entrance to the development from Framwellgate Bridge. On the opposite, northern end of the development, a lift is proposed.
9. Externally the redeveloped site is to be constructed principally of brick with timber clad elements with grey standing seam roofing material. The front elevation of the cinema is proposed to be finished with feature timber louvre cladding. Black glass cladding is proposed to the remodelled buildings on Framwellgate Bridge. Stone feature heads to the new "open street" are proposed. Powder coated grey windows are proposed within the majority of the development with the use of black painted refurbished windows at 1-3 Framwellgate Bridge. Adjacent to the river the existing podium is proposed to be solidified with timber cladding and planted green screens. Enhanced soft landscaping is proposed on Millburngate and Leazes Road.
10. During the course of the application relatively minor amendments to the plans have been submitted relating to elements of the internal layout, parking proposals and design of an entrance feature adjacent to Milburngate Bridge.
11. The application is accompanied by an Environmental Statement (ES). This report has taken into account the information contained in the ES and subsequently

submitted details and that arising from statutory consultations and other responses. An addendum to the ES has been received during the course of the application providing updated assessments in regards to matters of air quality (in relation to the proposed use of a combined heat and power unit), townscape and visual impact, heritage and ecological impacts (due to the potential implications of lighting within the development.)

12. The application is reported to the County Planning Committee as it constitutes a major mixed use development of over 10,000m² floorspace.

PLANNING HISTORY

13. The existing Gates Shopping Centre (formerly known as Milburngate Shopping Centre) was constructed in two phases. The first phase was completed in 1975 and the second in 1987.
14. Since this time there have been a significant number of changes in the occupancy of the various units and this has included a number of “anchor” foodstores such as Presto, Safeway, Morrisons and Waitrose.
15. Extensive planning history relates to the site including external alterations to the building, changes of use and applications for advertisement consent.
16. Separate planning and listed building consent applications are currently pending consideration for a change of use to a mixed use of A1/A3 and associated external works at 5 Framwellgate Bridge.

PLANNING POLICY

NATIONAL POLICY

17. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF). 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. 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’.
18. 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. The following elements of the NPPF are considered relevant to this proposal.
19. *NPPF Part 1 – Building a Strong, Competitive Economy*. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

20. *NPPF Part 2 – Ensuring the Vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
21. *NPPF Part 4 – Promoting Sustainable Transport.* The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. It is recognised that different policies and measures will be required in different communities and opportunities to maximize sustainable transport solutions which will vary from urban to rural areas. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
22. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
23. *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. Planning decisions must aim to ensure developments; function well and add to the overall quality of an area over the lifetime of the development, establish a strong sense of place, create and sustain an appropriate mix of uses, respond to local character and history, create safe and accessible environments and be visually attractive.
24. *NPPF Part 8 – Promoting Healthy Communities.* Recognises the part the planning system can play in facilitating social interaction and creating healthy and inclusive communities. Access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities and planning policies and decisions should achieve places which promote safe and accessible environments. This includes the development and modernisation of facilities and services.
25. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy.
26. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The planning system should contribute to, and enhance the natural environment by; protecting and enhancing valued landscapes, recognizing the benefits of ecosystem services, minimising impacts on biodiversity and providing net gains in biodiversity where possible, preventing new and existing development being put at risk from unacceptable levels of soil, air, water or noise pollution or land instability, and remediating contaminated and unstable land.
27. *NPPF Part 12 – Conserving and Enhancing the Historic Environment.* Local planning authorities should set out in their Local Plan a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. In doing so, they should recognise that heritage assets are an irreplaceable resource and conserve them in a manner appropriate to their significance.

28. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; climate change; conserving and enhancing the historic environment; design; ensuring the vitality of town centres; environmental impact assessment; flood risk; health and well-being; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

The City of Durham Local Plan (2004)

29. *Policy E3 – World Heritage Site Protection.* Protection seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
30. *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.
31. *Policy E14 – Existing 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.
32. *Policy E15 – New Trees and Hedgerows.* States that the Council will encourage tree and hedgerow planting in major development sites.
33. *Policy E16 – Nature Conservation – The Natural Environment.* This policy 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.
34. *Policy E21 – The Historic Environment.* This 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.
35. *Policy E22 – Conservation Areas.* This policy 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.

36. *Policy E23 – Listed Buildings.* This policy seeks to safeguard Listed Buildings and their settings from unsympathetic development.
37. *Policy E24 – Ancient Monuments and Archaeological Remains.* This policy sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ.
38. *Policy H16 - Residential Institutions and Student Halls of Residence.* This policy provides for purpose-built accommodation provided that they are well related to local facilities and are not likely to impact adversely on adjacent development or lead to community imbalance.
39. *Policy T1 – Transport – General.* This policy 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.
40. *Policy T20 – Cycle Facilities.* Seeks to encourage appropriately located, secure parking provision for cyclists.
41. *Policy T21 – Walkers Needs.* States that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
42. *Policy S1a – Retail Hierarchy.* Seeks to protect and promote the vitality and viability of Durham City Centre
43. *Policy S1 – City Centre Shopping Area.* This policy seeks to sustain and enhance retail provision in Durham City Centre through redevelopment and changes of use provided that proposals meet the required standards of design, are accessible to all users and have satisfactory servicing arrangements. The importance of food retailing as an integral element of the City Centre’s vitality and viability is highlighted.
44. *Policy S2A – A2 and A3 Uses in the Primary Retail Area.* Seeks to limit the proportion of non-A1 Retail Uses to safeguard the retail character of the shopping street.
45. *Policy R11 – Public Rights of Way and Other Paths.* This policy states that public access to the countryside will be encouraged and safeguarded by protecting the existing network of public rights of way and other paths from development which would result in their destruction or diversion unless a suitable alternative is provided and the proposal accords with Policy T21.

46. *Policy CC1 – Vitality and Viability.* Seeks to protect and enhance the vitality and viability of the City Centre (reference is made to mixed uses, active street frontages, use of upper floors, residential occupation, environmental improvement and a safe, accessible and friendly public realm).
47. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility.* This policy states that the layout and design of all new development should take into account the requirements of all users.
48. *Policy Q4 - Pedestrian Areas.* Requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.
49. *Policy Q5 - Landscaping General Provision.* Sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
50. *Policy Q15 – Art in Design.* This policy 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.
51. *Policy U5 – Pollution Prevention – General.* Planning permission for development that may generate pollution will not be granted if it results in; an unacceptable adverse impact upon the quality of the local environment; the amenity of nearby and adjoining land and property or; will unnecessarily constrain the development of neighbouring land.
52. *Policy U7 – Pollution Prevention – Development Sensitive to Pollution.* Developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.
53. *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.
54. *Policy U9 – Watercourses.* States that development which may affect watercourses will only be permitted provided that they do not result in flooding or increase flood risk elsewhere; or they do not result in the pollution of the watercourse; or they do not adversely affect nature conservation interests; or they do not adversely affect the visual appearance of the landscape; and their environmental impact is properly assessed.
55. *Policy U10 - Development in Flood Risk Areas.* States that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless it can be demonstrated that alternative less vulnerable areas are unavailable, that no unacceptable risk would result, that no unacceptable risk would result elsewhere, or that appropriate mitigation measures can be secured.
56. *Policy U11 - Development on Contaminated Land.* Sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.

57. *Policy U13 - Development on Unstable Land.* This policy states that development will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
58. *Policy U14 - Energy Conservation – General.* States that the energy efficient materials and construction techniques will be encouraged.

RELEVANT EMERGING POLICY:

The County Durham Plan

59. 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 was submitted for Examination in Public and a stage 1 Examination concluded. An Interim Report was issued by an Inspector dated 15 February 2015, however that report was Quashed by the High Court following a successful Judicial Review challenge by the Council. As part of the High Court Order, the Council is to withdraw the CDP from examination, forthwith. In the light of this, policies of the CDP can no longer carry any weight.
60. In addition at Cabinet in July 2015 an *Interim Policy on Student Accommodation to consider applications for both Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation (PBSA)* was approved.
61. It should be noted that the Interim Policy can only be afforded limited weight. The Interim Policy has not been subject to formal consultation and the Interim Policy has not been subject to a full plan making process (for example subject to an Examination in Public) and therefore holds less weight than Development Plan Policies.

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/ldf> (City of Durham Local Plan)
<http://durhamcc-consult.limehouse.co.uk/portal/planning/> (County Durham Plan)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

62. *Historic England – Raise no objections.* The site is considered one of the most sensitive redevelopment sites in Durham City. The existing shopping centre has a negative impact upon the character of the Durham City Conservation Area. The proposed development would largely enhance the significance of the Conservation Area. Some minor harm would occur to the historic buildings fronting onto Framwellgate Bridge but this would potentially be outweighed by the benefits of the wider scheme. No harm would occur to other key heritage assets namely the Castle and Cathedral World Heritage Site, Framwellgate Bridge and St Godrics Court. Benefits of the scheme include; the creation of streets and in turn opening up of views to the World Heritage Site and the wider City; the addition of accommodation above single storey retail units which would provide a more appropriate urban scale;

greater legibility from Framwellgate Bridge; and an enhanced riverside experience. The need for dialogue with the proposed developers of the adjacent Milburngate House site including in regards to providing pedestrian linkages is emphasised. On more detailed matters advice on the importance of appropriate final material choices, devising of an appropriate lighting and landscaping strategy is provided.

63. *The Highway Authority* – No objections are raised to the development on the grounds of the impact of vehicle trip generation and resultant impacts on junction operation. It is noted that the site is located within a highly accessible and sustainable transport location being close to the City's major transport hubs and within an acceptable walking and cycling distance of a large proportion of the City's populace. Student parking provision is not necessary and is not provided in accordance with the Council's standards having regards to the sustainable location of the site. Clarification is requested on how disabled parking spaces would be controlled for residents use only. The location of the proposed electric vehicle parking spaces is questioned and such spaces would need to be clearly signed and lined to ensure that they are reserved for the purpose. Segregated and redesigned cycle parking is requested. A management plan in relation to traffic management during the construction period is requested.
64. *Natural England* – Raise no objections with regards to the impacts of the development upon statutory designated sites. Standing and general best practice advice is provided with regards to protected species and green infrastructure and biodiversity enhancement.
65. *Environment Agency* – Raise no objections. The development must be implemented in accordance with the recommendations of the submitted flood risk assessment. Consultation should be held with the foul sewerage undertaker.
66. *Northumbrian Water* – Raise no objections. Details of final surface and foul water disposal should be agreed by condition.
67. *Drainage and Coastal Protection* – Raise no objections. However, it is noted that the proposal at lower level is at a high risk of flooding from the river, and also surface water surcharge from the sewerage infrastructure during storm conditions. Therefore the design should take this into account to mitigate the associated risks. The detailed drainage design to ensure a restriction to Brownfield discharge rate should be devised.
68. *Coal Authority* – No objections. A submitted desk top ground investigation study by is considered to demonstrate that the application site is safe and stable.

INTERNAL CONSULTEE RESPONSES:

69. *Spatial Planning* – Raise no objections. The mixture of retail and leisure uses proposed are legitimate town centre uses as defined by the NPPF and are acceptable in principle at the location. There is an element of conflict with existing City of Durham Local Plan (CDLP) Policy S2a which seeks to ensure that non A1 retail (shop) use on the shopping frontage is limited to 20%. Based upon the latest survey data, existing active shop frontage within this primary shopping area is already well below the 80% target of the CDLP. This would remain the case with the redevelopment proposals and mixture of uses therein. However, the 80% restriction to A1 use contained within the CDLP has been a difficult benchmark to attain and the emerging County Durham Plan proposes a lower threshold (60% in A1 shop usage) to reflect the current market and to enable a greater diversification of town centre uses across the whole city centre. Furthermore, vacancy rates within the existing

Gates shopping centre (37%) are well above the City Centre average (8.6%). The mixture of uses proposed within this development has the potential to positively regenerate and diversify the uses at the site, provide a consolidation of the retail offer and re-configuration of units more attractive to the market. Coupled with the visual and public realm benefits of the redevelopment, it is considered that the benefits of the redevelopment proposals would outweigh the conflict with CDLP Policy S2a.

70. With regards to the proposed purpose built student accommodation consideration of the merits of this is made having regards to the most relevant CDLP guidance (Policy H16), relevant emerging CDP guidance (Policy 32), the interim policy guidance on student accommodation and having regards to national guidance contained within the NPPF and Planning Practice Guidance (PPG) and with the need to attribute the proportionate amount of weight to each in the decision making process. The student accommodation would be located in a highly sustainable location. High levels of concentration of student occupation do exist in areas around the site and consideration must be given as to whether the development would adversely detract from the amenities of residents. Taking into account the management measures that could be undertaken within such purpose built accommodation it is not considered that such adverse impacts would occur. Reference is made to the potential for such schemes to release HMO housing stock from student occupation, though whether this is substantiated will only be known in the fullness of time. Regarding the matter of need for the student accommodation neither the NPPF nor CDLP address the matter of the need for purpose built student accommodation. It is considered inappropriate to provide a ceiling on the number of purpose built student bed spaces that should be approved. The NPPF does advice on the need to significantly boost the supply of housing and the PPG confirms that purpose built student accommodation forms part of the supply of housing. A quantitative limit on the provision of such accommodation is therefore considered contrary to the guidance contained within the NPPF. The student accommodation is therefore considered acceptable.
71. *Design and Conservation* – Raise no objections. The development proposals have progressed taking into account the potential impacts upon the range of designated and non-designated heritage assets in the City including the World Heritage Site (WHS) and Conservation Area. The resultant proposal provides an opportunity to remove negative aspects of existing cityscape and offers an opportunity to enhance the Conservation Area without harm to the WHS.
72. The proposal is considered to respect the outstanding universal values (OUVs) of the WHS and would not challenge its visual drama or dominance within the City. The existing development would be replaced with one of higher design quality and integration into its setting and overall a wholly positive impact upon heritage assets and the overall townscape of the City would result. Improved external public space, connectivity and the creation of new views would result with an improved aesthetic adjacent to the river at lower levels. During the course of the application additional information specifically seeking to demonstrate the night-time visual impact of the development has been submitted and it is considered that the impact would not be detrimental though it is recommended that flexibility into final lighting control is incorporated to further reduce night time impact. Future applications for any illuminated signage should have regard to the lighting strategy. Any minor harm to heritage assets that would result for the development would be outweighed by the wider public benefits that the scheme would deliver.
73. *Ecology* – Raise no objections. The proposed lighting concepts are considered acceptable having regards to impacts upon bats.

74. *Landscape* – Raise no objections. The landscape proposals within the submission are, in principle, appropriate though final details should be resolved via condition. Details to be resolved via condition should include the final detailing and management of the “green wall” features adjacent to the riverside.
75. *Durham Tourism Management Plan Committee Coordinator* – Raise no objections. The evening economy and distinctive shopping offer of Durham City are identified by visitors as being disappointing. Developments which have the potential to improve the City in this regard are welcomed. The ambition within the development to capitalise on views of the World Heritage Site is applauded. Shopping and eating out are key aspects of visitor motivation. The more that the visitor offer of the City can be improved the more visitors will stay longer and spend more. Reference is made to a paper issued on exploring the potential of the Durham City riverside and the developers could consider this and make a contribution to it.
76. *Environment, Health and Consumer Protection (Air Quality)* – The application site is adjacent to an air quality management area (AQMA). An addendum to the submitted Environmental Statement to consider further the impacts of the proposed Combined Heat and Power (CHP) plant has been submitted, as requested. An air quality assessment has been undertaken that determines the emissions of air quality pollutants from both existing traffic using the main A690 route through the city and from the operation of the CHP plant. The outcome of the assessment has determined the impact from the proposed redevelopment on air quality is insignificant and no mitigation measures will be necessary apart from mechanical ventilation to the student accommodation blocks that have windows on the façade facing Leazes Road. It is recommended that permanent occupation by, for instance, student wardens should not occur within these blocks. A dust management plan should be implemented to reduce the impacts of dust during the construction phase and further details of HGV routes and deliveries should be provided so that the impact of this upon air quality can be assessed.
77. *Environment, Health and Consumer Protection (Contamination)* – Raise no objections with no requirement for a contaminated land condition.
78. *Environment, Health and Consumer Protection (Noise, Dust, Light, Smoke and Odour)* – Raise no objections. The submitted Environmental Statement and supplementary documentation assesses the impact of noise emanating from the development on nearby sensitive receptors and impacts of existing noise sources upon the residential (student) element of the proposal. The methodologies used in the assessments are appropriate. Noise from the construction phase of the development could potentially affect noise sensitive receptors, however, a number of methods to reduce the impact of such noise can be adopted and conditions should be added to any planning permission in this regard. Noise from plant associated with the development is unlikely to affect any receptor save from the site occupiers, a scheme of noise mitigation to reduce plant noise can be devised in this regard. Prospective residential occupiers of the development could be affected by the noise emanating from the current transport network that surrounds the site and mitigation will be necessary as the submitted assessments present. The application is supported by a management plan and such a management plan should be conditioned on an approval. There is the potential for noise emanating from the cinema and restaurant uses to impact upon the prospective occupiers of the student accommodation. However, supplementary acoustic information supplied during the course of the application proposes mitigation in this regard. No objections are raised in regards to light. Dust has the potential to be an issue during the construction

phase, however, the adoption of best practices, which can be conditioned on any approval, can mitigate the impact.

79. *Environment, Health and Consumer Protection (Houses in Multiple Occupation)* – Raise no objections. Concerns were originally expressed in regards to the adequacy of room sizes within the student accommodation which were withdrawn following the receipt of further information.
80. *Archaeology* – Raise no objections. Conditions to ensure a programme of the recording and monitoring of work are recommended.
81. *Access and Public Rights of Way* – No objections. The development is considered an opportunity to resurface the Lambton Walk footpath. The proposals indicate the proposed widening of Lambton Walk and this area will need to be dedicated as public right of way in order to gain the same status and in turn maintenance as the existing width. The podium walkway is welcomed, the need to consider temporary closure of Lambton Walk during construction operations is referenced and the need for riverside safety is emphasised.
82. *Employability Team* – Raise no objections. Requests are made that targeted recruitment and training clauses are included within a S106 legal agreement.
83. *Sustainability* – A sustainability statement considering energy reducing technologies has been submitted. Additional data to demonstrate the energy savings are requested. The BREEAM “very good” target is welcomed but more information is necessary on how this would be achieved. A condition to ensure connection to a potential district heating system in the City is sought.
84. *Regeneration Projects Manager* – Raise no objections. The existing shopping centre is not performing economically and the proposal to rectify this and provide an attractive riverside frontage which will enhance visitor experience is welcomed. It is clear that appropriate consideration and consultation with regards to the design and massing of the proposals has occurred.
85. *Neighbourhood Services (Streetscene)* – Raise no objections advice is provided with regards to the need for commuted sums for any landscaping sought for adoption. Reference is made to the need to retain access during works for the maintenance and clearance of debris from weirs.
86. *Business Durham* – Support the proposal. The proposal would introduce beneficial leisure provision, increasing the variety and quality of restaurant provision for the County significantly enhancing the competitive positioning of Durham as a place to live, work and play.

PUBLIC RESPONSES:

87. The application was advertised within the press, on site and letters were sent to neighbouring properties. A total of 8 letters of objection, 2 letters of support and 1 letter raising points of both support and objection to the development have been received. The matters raised are summarised below.

Objection

- Over-provision of student accommodation and harmful effect on permanent residents
- The height of the proposal will block views and overshadow property at St Annes, Castle Chare

- Concern expressed over the potential for the construction operations to harm the structural integrity of St Annes, Castle Chare and request that appropriate consideration and monitoring is ensured
- Impact upon the World Heritage Site due to the scale of the development
- The proposed cinema is in direct competition with the existing Gala Theatre
- Concerns regarding whether adequate parking and appropriate parking charges will be provided to avoid inappropriate and inconsiderate parking in the area
- Concerns regarding noise from the development particularly later into the evening/night
- If the cinema fails it would be difficult to convert into another appropriate use
- Disturbances from construction and demolition activities including in regards to cumulative impacts with other developments and queries regarding working hours
- Concerns raised over the future of the existing businesses within the shopping centre
- Traffic implications during the construction period
- Objection to the rooftop amenity space proposed
- There is a need for a joined up approach on uses within this site and the adjacent Milburngate House site
- It is considered that greater consultation with the public should have occurred

Support

- Redevelopment of the site in general is welcomed
- The Gates and the North Road are looking neglected and in need of development
- Whilst other student accommodation schemes across the City are considered inappropriate the Gates site is different as its location is such that the impacts of the late night activities and absence of occupation outwith of term time will not be felt by residents.
- Influx of students in this location will help the vitality of the City

88. *City of Durham Trust* – Object to the application. The Trust considers that the development would result in a quantitative decrease in retail uses of the site and reference is made to Policy 25 of the County Durham Plan in this regard. In order to strengthen the retail economy in the area a supermarket should be included within the development for which there is an identified need.
89. Objection is raised to the student accommodation within the scheme which is considered an inappropriate use for a prime city centre site. The student accommodation is also considered unnecessary having regard need and extant planning permissions for such development and reference is made to Planning Practice Guidance in this regard. No evidence has been submitted to support the claim further purpose built student accommodation will reduce pressure on the private rental market.
90. Opposition is not raised to the principle of some form of redevelopment to breathe new life into the site, however, a masterplan approach is required for this part of the City including the adjacent Milburngate House site. Cycle parking provision is inadequate and inappropriately located. Objection is raised to the scale, design and massing of the development with detailed concerns on elements of the design presented. A design code is necessary to control final design details. Harmful impacts would occur in longer distance views of the development including to the World Heritage Site, historic buildings and their setting within the “green bowl” of the City. Further visualisations within the application to more accurately depict impact are also requested.
91. *Nevilles Cross Community Association* – Object to the application. The benefits of the leisure and retail proposals are acknowledged however objection is raised to the

provision of further student accommodation. There is an over-provision of student accommodation and this is unsustainable and will harm the City. A better balance of development is needed in the City such as affordable housing and not just student accommodation. The University does not require the number of beds coming forward in planning applications and reference is made to the objections of the University to such applications. Further concerns are raised regarding the impacts of an increase in a late-night culture such as drinking and noisy behaviour.

92. *Sidegate Residents Association* – Object to the application. It is considered that the Council's notification of the application should have extended to include Sidegate Residents Association. Strong opposition to the inclusion of student accommodation within the development is raised and permanent residents are needed to support the City and create balanced communities. The need for this redevelopment site and the adjacent Milburngate House site to complement each other in terms of design, uses and connectivity is emphasised. An integrated plan to cover this site, Milburngate House and the regeneration aspirations for North Road is needed. Further shopping and restaurant facilities are not needed. Careful planning and consideration of construction traffic during any build is necessary.
93. *World Heritage Site Coordinator* – Support the proposals though areas of concern are highlighted. The retail and cinema elements of the development are welcomed but concern is raised with further student accommodation in the City and the impact of this upon the success and usage of the World Heritage Site. A detailed consideration of the impacts of the development upon the values of the World Heritage Site is provided. The areas of concern relate to; a potential negative impact caused by the riverside lift; treatment of the riverside retail frontage; the reduction of visibility of the green edge to the inner setting from Framwellgate Bridge; and treatment of the buildings on Framwellgate Bridge. Other elements of the scheme are praised including the great potential of the proposed promenade. Suggestions are made to modify the riverside elevation. The need to carefully control signage and lighting proposals, ensure roof differentiation through material choices, connectivity to Milburngate House is emphasised.
94. *Durham Constabulary Architectural Liaison Officer* – Advises that careful consideration should be given to the physical security aspects of the student accommodation. A robust management plan for the student accommodation should form part of the planning consent. Riverside safety must be considered and reference is made to appropriate lighting and CCTV strategies. As the redevelopment has the potential to be a Crowded Place counter terrorist security measures should be considered.
95. *Durham University* – Object to the application on the grounds that the scale and form of the development will substantially harm the World Heritage Site and it has not been demonstrated that there is a need for the student accommodation proposed with reference made to the University's growth projections. Permitting the student accommodation within the development would perpetuate an unbalanced residential population where students dominate to the exclusion of other residents.
96. *Durham Bicycle Users Group (DBUG)* – Raise objections to the number, design and dispersal of proposed cycle parking spaces proposes with specific concern raised to the use of double-tier racks. Instances where cycle accessibility and cycle infrastructure connections to the University and future customers of the development are limited are raised. A number of upgrades and improvements to cycling infrastructure within the City are raised, monies for which could be obtained via S106 legal agreement.

97. *Carillion (Maple Oak) Ltd* – Provide comments in respect to the scheme in their capacity as the developers of the adjacent Milburngate House site. Generally support is offered to the redevelopment. However, a number of queries and concerns are raised regarding the submission. Clarity is sought on elements of the submitted documentation including access and the specific use that the living accommodation would provide. The need for appropriate connectivity with the Milburngate House site and surrounding area is highlighted as is the need for appropriate public realm improvements. More specifically, public realm enhancement at the vehicular arrival point to the site on Milburngate is raised and the need to ensure that the road beneath the development is not too dark and uninviting. Concerns are expressed with the design solution to a bridgehead connection adjacent to Milburngate Bridge and the proposed lift from both an engineering and flood risk perspective.
98. With regards to the wider visual impact of the development, queries are raised with regards to the number of photorealistic rendered, verified visualisations within the submission. With respects to the assessment of cumulative impacts with the Milburngate House site it is considered that additional verified visualisations from key views be prepared. There is also a considered absence of night-time townscape and visual impact.

APPLICANTS STATEMENT:

99. The subject application proposes the redevelopment of The Gates Shopping Centre for a range of new retail and leisure uses and student accommodation.
100. Whilst popular when first opened, The Gates has subsequently seen three decades of decline since with a high churn of retailers, a move towards a budget offer and a vacancy rate consistently around 20% significantly higher than the national average. Despite various attempts at re-invention throughout the years, the centre has continued to decline and this culminated in the centre falling into administration and its subsequent purchase by Clearbell as a redevelopment opportunity.
101. The location of the centre presents a huge opportunity given its riverside location and stunning views across the river towards the City and World Heritage Site - assets that the existing inward looking design failed to recognise. The Gates, or Milburngate Shopping Centre as it was first known, was originally intended to extend the City Centre retail offer north of the river. However, it hasn't been successful as a retail location, and has failed to compete with other parts of the Primary Retail Area, particularly the Land of the Prince Bishops Centre. Against this background it is unsurprising that feedback from our recent public consultation exercise suggests that there is strong support for the redevelopment of the centre.
102. The proposed scheme seeks to externalise the shopping environment, enabling it to both 'knit' into the fabric of the wider city centre environment, and incorporates a new promenade at waterside which takes advantage of a truly exceptional river frontage setting. It also seeks to broaden the appeal of the centre by integrating new cinema and restaurant uses which will increase dwell time within the centre, and the city as a whole, and add dynamic new uses and fascias into Durham City which will significantly enhance Durham's attractiveness as a weekend and evening leisure destination.
103. The re-development of The Gates, as proposed, will make a huge contribution to the future vitality and viability of Durham City Centre, by attracting new operators and visitors to the city who would otherwise typically invest in other, higher order centres or even out of centre locations. In turn, this will generate greater activity and more

linked trips to other parts of the City Centre, including adjoining sites and North Road, bringing additional spin-off economic benefits. Against this background, the retail and leisure elements of the proposed scheme are fully compliant with, and indeed supportive of, the broad objectives of planning policy.

104. The student accommodation proposed within the scheme is also fully compliant with planning policy and is important in other respects too as it is an essential element of the scheme in viability terms and, very importantly, provides the opportunity to animate building elevations which might otherwise be blank, as is the case with the existing scheme, and animate the development as a whole by driving activity throughout the day. While there are mixed views from the local community in relation to the student accommodation, it is clear that more purpose-built student accommodation is needed in Durham in order to accommodate the continued growth of Durham University, and the site is exceptionally well located to accommodate a growing student population.
105. Against this background it is clear that the scheme is in accordance with the broad thrust of national and local planning policy and represents a very important opportunity to secure the much-needed redevelopment of a highly prominent central site within Durham City

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://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

PLANNING CONSIDERATIONS AND ASSESSMENT

106. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to; the principle of the development; visual, townscape and heritage impact; residential amenity; highway safety/issues; ecology and matters of flood risk and drainage.

Principle of Development

The A1, A2, A3, A4 and D2 Uses

107. The application site is located within the primary retail area of Durham City Centre as defined by CDLP Policies S2a and S1. The mixture of retail, leisure and entertainment facilities proposed all constitute main town (city) centre uses as defined within the NPPF. Mixed use developments are promoted within core planning principle 9 of the NPPF.
108. CDLP Policy S2a seeks to limit (at ground floor only) non-A1(shop) street frontage to no more 20% within the primary retail area. This is in order to preserve shopping as the dominant use and in turn to support the vitality of the shopping offer within Durham City Centre having regards to the objectives of CDLP Policies S1 and S1a.
109. The most recent formal survey carried out by the Council (November/December 2014) found that the level of active A1 frontage use within the primary retail area stood at 62%. This is a considerable drop in terms of the requirements of CDLP

Policy S2a (80%). In terms of A1 frontage occupation, the development, taking into account the reconfiguration of the units proposed and reduction in the overall number of units, would result in a similar percentage figure and therefore there would be conflict with the content of CDLP Policy S2a in this regard.

110. Policy S2a is considered only partially compliant with the provisions of the NPPF and PPG. NPPF and PPG advice is considered less prescriptive in relation to uses within primary retail areas and as a result Policy S2a is considered too restrictive to be afforded full weight in the planning assessment.
111. Clearly the 80% A1 frontage target has been a difficult threshold to maintain since adoption of Policy S2a. This is perhaps indicative of the market which has seen a greater diversification of town centre uses across the whole of the centre.
112. Policy 26 of the CDP proposes a lower A1 frontage target at 60% and this is more reflective of the current situation and one which the development would be in line with. It must be noted, however, that given the current status of the CDP no weight can be attributed to Policy 26.
113. The Gates shopping centre is considered to be in poor economic health. November/December 2014 survey figures demonstrate that vacancy rates were 37%. This is significantly above the 8.6% average within the City Centre. The existing shopping centre has a lengthy history of frequent turn-over of units and has struggled to maintain a key anchor tenant with Waitrose being an example. The submitted planning statement in support of the application highlights that the present day state of The Gates is one of increasing vacancy rates, low rental returns and a budget retail offer. Ultimately, this led to the centre going into administration and then the acquisition by the applicant as a redevelopment opportunity. The design, layout and connectivity of the shopping centre is considered a contributing factor to its plight and the application is accompanied by a retail viability report which highlights that some potential tenants cited the design and lack of frontage of the present development as reasoning for the shopping centre being unattractive to them.
114. It is considered that the proposals present an opportunity to provide a redesigned and more successful centre with a complimentary mixture of uses. The proposal includes a cinema which often provides the anchor tenant in new mixed use developments, helping to generate footfall for other uses, such as food and drink outlets. Whilst more specific consideration to the inclusion of student accommodation within the development is provided below, student occupants can provide multiple comings and goings throughout the day and therefore could valuably contribute to the vitality and viability of the other uses and wider area.
115. The Council has aspirations to regenerate the North Road area within the City Centre as reflected within emerging CDP Policy 25. The proposed development, located on the edge of this regeneration area, could provide a new development to compliment and aid neighbouring aspirations (whilst acknowledging no weight can be attributed to Policy 25).
116. Public concerns are raised in regards to the competition that the proposed cinema would provide to existing Gala Theatre. However, as stated a cinema is an acceptable use in principle within a town centre location and it is considered objection cannot be raised on the grounds of competition. Furthermore, the Gala Theatre has a range functions and is not a dedicated cinema. Public concerns are raised with regards to the future of the cinema unit if it were to fail. To an extent any development has the potential to come into economic difficulties. Given the

acceptability of the land use, officers consider no objections to the development can be raised on these grounds.

117. Public concerns are raised over the future of the existing businesses within the shopping centre. The developer separately will be negotiating the tenancy agreements of the existing centre and which existing occupiers will locate in the proposed units.
118. Therefore despite the degree of conflict with CDLP Policy S2a it is considered that the proposal would deliver a rationalised and enhanced retail offer, utilising the creation of a riverside walkway and a mixture of uses that would help generate footfall, increase dwell time in the City and stimulate the vitality of this part of the City Centre.
119. Spatial Planning, Durham Tourism, Regeneration Officers and Business Durham all highlight within consultation responses the potential contribution that the development could make to the City Centre.
120. The mixture of A1, A2, A3, A4 and D2 uses proposed are considered acceptable with clear potential to benefit the vitality of the City Centre in compliance with CDLP Policies S1, S1a and CC1. These policies are considered either partially (Policy CC1) or fully (Policy S1 and S1a) NPPF compliant and therefore can be afforded weight in the decision making process. The development is considered compliant with Parts 1 and 2 of the NPPF and having regards to advice within the PPG on ensuring the vitality of town centres. Due to the proportion of non-A1 uses proposed there is some conflict with CDLP Policy S2a (partially NPPF compliant), however, this conflict is outweighed by the potential benefits to the City Centre overall.

The Student Accommodation

121. Much public opposition to the development focuses upon the student accommodation element of the development with this use considered an unacceptable form of development for a prime city centre location, that the further student accommodation is not needed and that there exists an overprovision of student accommodation to the detriment of the balance of the community.
122. CDLP Policy H16 sets out four main criteria that proposals for student halls of residence should meet. They relate to the need for locational sustainability; that appropriate standards of amenity and open space are provided; that the development does not detract from the character or appearance of the surroundings; and that the development would not detrimentally affect existing residents amenity including through leading to a concentration of student accommodation such that it would adversely detract from the amenities of existing residents. This policy is considered compliant with guidance within the NPPF and PPG. The policy does not require a demonstration of need for student accommodation.
123. The need for purpose built student accommodation (PBSA) is not addressed within the NPPF though the NPPF does more broadly within Part 6 emphasise the need to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community. The PPG in relation to housing and economic needs assessments does state that local planning authorities should plan for sufficient student accommodation and encourages engagement with higher educational establishments to better understand their student accommodation requirements. This PPG advice relates to plan-making rather than decision-taking.

124. Durham University object to the application and within their comments state that the proposed accommodation is not necessary having regards to their growth projections. The University set out in the Residential Accommodation Strategy (2012), its ambition to increase student numbers in the City from 13,500 to 15,300 by 2020 (a 13% increase over 6 years) but it also intends to increase the percentage residing in purpose built student accommodation (controlled by the University) from 43% to 50% and has an aspiration eventually to achieve 70%. These figures were revised in early 2015 as part of an annual planning process.
125. Durham City has experienced, and continues to experience, an increase in the number of proposals for PBSA. This is a new phenomenon in the City as traditionally University Halls of Residence and houses in multiple occupation (HMOs) have been the source of accommodation. As a result of this recent trend there are a number of implemented schemes, extant planning permissions and further development being considered in relation to PBSA. Permissions and implemented schemes include, though are not restricted to, the 1,000 bed University scheme at Mount Oswald and a number of private sector schemes including 18-29 Claypath (445 beds), Berendsen Laundry site (277 beds), Kepier Court (214 beds), Rennys Lane (350 beds), Sheraton Park (418 beds), Ainsley Street (223 beds) and Magdalene Heights (198 beds).
126. On submission for Examination in Public (EiP) the CDP contained Policy 32 referring to Houses in Multiple Occupation and Student Accommodation. The Policy was subject to objection and subsequent debate at the EiP and as a result the Council proposed a "Main Examination Hearing Change" and this introduced specific criteria for the assessment of PBSA schemes into Policy 32. The Inspector's Interim Report found Policy 32 (including the proposed changes) unsound. Instead the Inspector suggested an alternative policy wording. The Inspector's Interim Report has now been quashed. No weight can be ascribed to Policy 32, in any of its proposed forms.
127. Given the present situation with the emerging CDP and recognition of the need to consider the implications of further PBSA having regards to public concerns over the scale of student numbers within the City the Council has produced an interim policy (which also covers HMOs) which was approved at Cabinet in July 2015, and which is currently the subject of public consultation. This policy does introduce criteria that PBSA proposals will be required to demonstrate that; there is a need for additional accommodation; that the accommodation is deliverable; that the development would not have a negative impact on retail, employment, leisure, tourism or housing; and partnership working with the relevant education provider has taken place.
128. However, the Council recognises that PBSA can increase choice for the student population. On this basis, the level of need identified within Durham University's Residential Accommodation Strategy is not considered to be a 'ceiling' to development. The interim policy can at this stage be afforded only very limited weight, as it has not been subject to a completed public consultation or any EiP which is the case for adopted Development Plan policies.
129. As stated previously within this report, the provision of student accommodation within the development would generate multiple trips a day and provide an excellent source of footfall to the benefit of the other uses within the development and nearby. Potentially PBSA will provide competition for and ease pressure upon existing housing stock which has been required for HMO provision. The location of the site is considered sustainable for student access to University facilities and public transport facilities. Due to its City Centre location and access to services and facilities it is considered that the student accommodation will be attractive to the market. The

application submits that alternative uses to student accommodation would not be appropriate or feasible. Student accommodation would maximise the viability of the development to enable delivery. Residential use is also considered less marketable due to factors such as low demand for apartment accommodation and the impact of the traffic adjacent to Milburngate Bridge.

130. The Council recognises the scale of the student numbers in the City creates tensions with the local community. There are high concentrations of students living within the City Centre and an analysis of concentrations in the postcode areas neighbouring the application show a range of between 20% to 100% of properties as being in student occupation. Care must be taken in the use of these figures, however, as being within a city centre location, within some of these postcode areas relatively few residential properties are located and therefore whilst the concentration of student occupation may be high it can reflect a high percentage of a lower number of properties. It is considered that the impacts of large number of students living in an area can be more easily mitigated when they are living in PBSA as proposed rather than in a number of HMOs and a management plan which can be further refined under condition accompanies the application. The site is located within the City Centre where a mixture of uses and a more transient population can be more expected than, for instance, in a more peripheral and predominantly residential location.
131. Further consideration to the range of potential impacts upon residential amenity is provided elsewhere within this report. However, CDLP Policy H16 does not state that concentration, or indeed, lack of concentration of student accommodation would, in itself, render a proposal either acceptable or unacceptable. Instead, Policy H16 qualifies the issue of concentration in terms of the impact that the resultant concentration would have upon the residential amenity of existing residents.
132. As a result officers raise no objections to the principle of the student accommodation at the site having regards to NPPF compliant CDLP Policy H16, advice contained within the PPG and having regards to the objectives set out in Parts 6 and 8 of the NPPF in terms of the creation of safe, mixed and balanced communities.

Visual, Townscape and Heritage Impact

133. The application site is located within a very sensitive and prominent location. The potential impact upon the townscape and a range of heritage assets is a critical consideration within the application. Reflective of this, the application is accompanied by a number of documents to inform on the nature and magnitude of the impacts. Central to this are the ES chapters on Townscape and Visual Impact and Heritage (and associated appendices), a Heritage Statement, Historic Building Assessment and Design and Access Statement.
134. The ES considers the impact of the development having regards to both the operational scheme itself and the temporary effects arising from the construction process. In addition consideration is given to cumulative impacts of the development with the ongoing Freemans Reach development and potential redevelopment at Milburngate House, for which, at this stage, only demolition is consented.
135. The application site is located within the Durham City Centre Conservation Area. The application site contains one Grade II listed building (5 Framwellgate Bridge) and four non-designated heritage assets 1-4 Framwellgate Bridge.
136. Beyond the application site and in addition to the designated Conservation Area within which the site is located, a range of designated and non-designated heritage

assets are within close proximity. This includes, but is not restricted to, Durham Cathedral and Castle WHS, (approximately 100m to the east), Framwellgate Bridge to the immediate south of the site (Grade I listed and a scheduled monument), Church of St Godric (Grade II listed and approximately 80m to the west), Castle Chare Community Arts Centre (Grade II* listed and approximately 35m to the west) Church of St Nicholas (Grade II listed and approximately 140m to the east) and Church of St Margaret of Antioch (Grade I listed and approximately 55m to the south). Concentrations of listed buildings are also located on Silver Street and within the Market Place.

137. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.
138. The existing shopping centre was developed in two main phases. Phase I, completed in 1976 was, at that time, an award winning scheme. Phase II, completed in 1987, was less successful with less appropriate interpretation of the brickwork towers, flank walls and gables of the earlier design. The result is that whilst the existing development does integrate quietly into its setting, the overall aesthetic has little sympathy with its surroundings and includes large expanses of inactivity which ultimately results in the existing building making no positive contribution to the character and appearance of the Conservation Area or setting of the WHS.
139. The proposed development is considered to be one of high quality design. It would comprise of well-articulated buildings with active facades. It would employ a subdued and simple palette of materials with contemporary detailing. The use of brick and timber is drawn from the existing material palette within the City. The redevelopment of the Phase I of the existing shopping centre would include the removal of covered walkways and creation of open streets/spaces. This would open up views of the WHS and wider City which would be welcomed. The addition of accommodation above existing single storey retail units would provide an urban scale and improved sense of enclosure to the new streets. The redevelopment of the Phase II of the shopping centre would provide an enhanced riverside experience with a varied roofscape. Projecting and gable features are a contemporary response to the character of Durham buildings and streetscapes. The lower level frontage would be significantly enhanced by the use of modular panel system of green screens generating a much softer and natural aesthetic. These lower level alterations have the benefit of solidifying the development below podium level which helps to reduce the visual impact of the height of the development.
140. With regards to matters of scale, the redevelopment proposal would create a development greater than that which currently exists on the site. The existing shopping centre essentially has two floors above the podium/car park level whilst the proposed development would have elements of up to four floors of accommodation. This increase in scale of the development on the site has been a crucial consideration in the development of the proposals and determination of the application.

141. There is inter-visibility between the WHS and the application site. Key examples include the views over the application site when travelling down Framwellgate Peth, views in a southerly direction from Milburngate Bridge where the site and WHS are located either side of the river and views from Framwellgate Bridge. Although the height of the overall development is greater than at present, this increase in height is not at a level that would result in a harmful impact. In views travelling down Framwellgate Peth for example, the wooded setting to the peninsular of the WHS would still be apparent. In views from Milburngate Bridge the development would not be of a scale that would challenge the dominance of the Cathedral and Castle.
142. The submitted Townscape and Visual Impact ES Chapter does highlight that once the development was completed a minor adverse effect in views from St Godric's Road would result due to the reduction in the views of the Castle from this vantage point. However, ultimately views within the City are dynamic and are part of the experience of moving around the City. The greater scale of the development is balanced by the more appropriate design and aesthetic that the redevelopment proposes. The redevelopment proposals would better reveal views and the significance of the WHS, particularly as a result of the proposed promenade. Historic England concludes that, overall, there would be no detrimental impact upon the WHS. Crucially, in key views the proposal would not challenge the visual drama or dominance of Durham Cathedral and Castle.
143. Views from the WHS towards the application site are more limited due to topography, alignment and landscape coverage (particularly in winter). The key view from the WHS is therefore restricted to that from the Cathedral Tower. In this view the scale and massing of the development would not be dissimilar to the existing situation though with a slight increase in height. Variation and breaking up of massing on the roofscape would be apparent and the change would not be harmful.
144. The design and scale of the development is considered appropriate within the Conservation Area. The development is well fragmented and would read as a series of cascading buildings. This is reflective of the Conservation Area which is partly characterised by the varied roofscape and generally small scale of the buildings within it. The proposal would result in the replacement of a visually prominent, large scale development of limited interest within a dense urban fabric with an albeit larger but higher quality development that would better integrate into its setting. Historic England considers that the development would not only preserve but largely enhance the Conservation Area, a view with which officers concur.
145. The submitted Heritage Chapter within the ES considers in detail the potential impact of the development upon the individual heritage assets within the locality of the site including those detailed at paragraph 119 above. The application documentation concludes that no detrimental impacts would occur as a result of the development with impacts upon individual heritage assets resulting in either no impact or beneficial impacts upon the setting and significance of the asset.
146. There would be instances where the increase in the scale of the development would reduce the visibility of assets in some views. Examples include views of St Nicholas Church from St Godrics Road and views of Church of St Godric from Leazes Road. However, as previously stated, views within the City are dynamic and the visibility and appreciation of the variety of heritage assets within the City do change when moving around the City. Overall, the landmark qualities of these heritage assets and in turn their significance and settings would not be harmed by some modest reductions in visibility in some particular views.

147. Neither Historic England nor Design and Conservation Officers highlight specific designated heritage assets which would be detrimentally impacted upon by the redevelopment proposals.
148. With regard to the heritage assets located within the application site, a separate planning application and listed building consent application are currently being considered in relation to the listed building (units 30-33) though no physical impact upon the fabric of the building is proposed within this application. Effects upon its setting would occur, however, and these would principally relate to the remodelled roofscape of Phase I of the shopping centre. The proposals would alter the immediate surrounds from one of a more enclosed nature to one that is more open and this is considered to result in a slight beneficial impact upon the setting of the listed building.
149. Alterations are proposed to the exterior of the non-designated heritage assets Nos. 1 to 3 Framwellgate Bridge which includes the puncturing of sections of the ground floor and fenestration works to these properties so as to create a wider and more inviting entrance to the development from Framwellgate Bridge. There is some conflict between the conclusions within the applicant's submission and that of Historic England in regards to the impact of these changes. Historic England consider minor harm would occur due to the loss of fabric, while the applicant's consider a slight beneficial impact would result as the loss of fabric would relate to unsympathetic 1970s alterations and create an improved frontage onto Framwellgate Bridge. Given that the submitted Historic Buildings Assessment considers that the areas of frontage to be affected by the formation of new openings do not include building fabric of an historic nature but only more modern interventions into the buildings, officers consider no detrimental impact upon the non-designated heritage assets would occur.
150. During the course of the application an Addendum ES has been submitted in order to present and assess a concept lighting scheme for the development. This is in part in order to demonstrate the specific impacts of the development at night upon heritage assets and ensure that the development responds to Durham's light and dark hierarchy, maintaining the Castle and Cathedral as the most dominant features. Key views are assessed within the ES addendum. The concept lighting scheme seeks to establish parameters that when implemented would ensure that light emissions from the development would be acceptable in townscape and heritage terms. Officers raise no objections to the proposed night-time impacts having regards to the concept proposals submitted. However, it is considered necessary that a final lighting scheme is devised for the development based upon the concept principles submitted and this would be a condition of any planning permission.
151. The ES highlight that some adverse impacts upon the townscape and heritage assets during the construction period would occur. These adverse impacts include those as a result of cumulative impacts with the redevelopment of the Milburngate House and Freemans Reach sites. However, these impacts would be temporary in nature and are an inevitable consequence of the visibility of the hoardings, machinery and the like as a result of such a large site being redeveloped.
152. Planning permission has been granted for the demolition of Milburngate House and associated works in July 2015. At this stage no application has been submitted for the redevelopment proposals, however, it is acknowledged that in both design and connectivity terms consideration at this stage should be made so as to ensure that as far as is practicable the proposals at this site and those emerging at Milburngate House do dovetail. The developers of Milburngate House have submitted comments on the application and raise a number of detailed points principally relating to the

connectivity of the two development sites and so as to ensure that the design of The Gates redevelopment proposals would not hinder the use or attractiveness of the Milburngate House site. A key element of the connectivity between the two sites relates to the means in which connection at Milburngate Bridge would occur. A potential solution accompanies the application documents and comprises of a staircase beneath the bridge meeting the Milburngate House site at river level. However, potentially, dependent upon the development of proposals at Milburngate House, a connection at a higher level than the riverside may be more appropriate having regards to likely pedestrian desire lines. At this stage as the proposals at Milburngate House are only emerging it is considered that it be necessary for the applicant to provide a financial contribution towards the delivery of a final connection solution. The applicant has proposed a financial contribution of £125,000 towards a final connection solution to be ensured via a S106 legal agreement.

153. In addition, the applicant has submitted further details in relation to the design of the connection feature adjacent to Milburngate Bridge whilst a condition of any planning permission would be to agree final details with regards to public realm at the vehicular access off Milburngate. The applicant is also proposing a financial contribution of £20,000 towards upgrading street lighting beneath the development this is considered necessary to improve public realm in this regard and offset the impacts of the infilling of sections of the existing structure adjacent to the highway. As described above the design of the development proposals is considered to be one of a high standard that would enhance the character and appearance of the Conservation Area. No objections are therefore raised to the development on design grounds and it is considered that aided with the financial contributions made by the applicant acceptable connection with any future redevelopment proposals at Milburngate House could be achieved.
154. As the development proposes redevelopment above podium level the potential impact upon beneath ground archaeological deposits is limited. As a result archaeological impact was scoped out of the Heritage Chapter within the submitted ES. Some detailed archaeological assessment of the surviving historic buildings within the site (129 Milburngate and 1-4 Framwellgate Bridge) was considered necessary and this is contained within the Historic Buildings Assessment.
155. Archaeology Officers state that as there remains some potential for archaeology to survive in particular locations such as the junction of the site with North Road and Framwellgate Bridge. No specific concerns that the development could result in harm to these potential assets are raised by Archaeology Officers, however, a condition for the recording and monitoring of work should be imposed on any approval.
156. A condition is proposed on any approval to require the submission of an advertisement strategy. This would not negate the need for separate advertisement consent but would establish design code principles to ensure cohesion to the future signage at the site.
157. Landscape Officers have raised no objections to the principles of the soft and hard landscaping proposals within the application which include; new planting adjacent to Milburngate and Milburngate Bridge; tree planting and planters within the promenade; "green/living walls" adjacent to the river; and rooftop amenity areas. Conditions to agree final proposals and management measures are recommended.
158. As a result, no objections to the impacts of the development in visual, townscape and heritage impact terms are raised. The application is considered compliant with CDLP Policies E3, E6, E14, E15, E21, E22, E23, E24, H16, Q1, Q2 and Q5. All

these policies are considered to be either partially (Policy E6) or fully (remaining policies) NPPF compliant and therefore all can be afforded weight in the decision making process. The development is also considered compliant with Parts 7 and 12 of the NPPF and relevant guidance within the PPG in this regard.

Residential Amenity

159. Consideration of the impacts of a concentration of students at the site is provided within the principle of the development section of this report. Consideration must be given to the remaining aspects of the development that have the potential to impact upon amenity for both existing nearby occupiers and the prospective occupiers of the development.
160. Adjacent to the application site lie residential properties at Lambton Walk which face the river. Other residential properties within close proximity of the site include, but are not restricted, to those in the vicinity of Castle Chare, properties on Back Silver Street, Tenter Terrace and the apartments on the opposite side of the River Wear at Clements Wharfe.
161. The submitted ES includes a chapter dedicated to the noise implications of the development. The assessment methodology considers the impact of noise from the construction and operational phases of the development on existing noise sensitive receptors and assesses the site's suitability for residential occupation by students. Cumulative impacts with neighbouring development sites at Freeman Reach and Milburngate House are also considered.
162. The ES Chapter considers that activities associated with the construction phase of the development do have the potential to generate noise impacts. Suggested mitigation measures are detailed and these relate to best working practices and include, for example, the use of temporary screens and regular maintenance of plant and machinery. A final scheme to reduce the potential impacts of the demolition/construction activities can be agreed under condition. Working hours at the site can be controlled by condition.
163. In terms of existing noise sources affecting the development, the principal source is road traffic from the A690 and A691 which run adjacent to the northern and western boundaries of the site. The occupiers of the student accommodation proposed could be affected by these background noise levels and the submitted ES considers this impact and necessary mitigation measures. The ES considers that, in general, standard double glazing would be sufficient to ensure that acceptable internal noise levels are met. However, higher standards of glazing and ventilation would be necessary for some accommodation closest to the A690. Environment, Health and Consumer Protection Officers raise no objections to the submitted assessment. Conditions on any planning permission can ensure that such mitigation is implemented.
164. The ES considers the potential for noise arising from fixed plant associated with the uses proposed and considers that such plant can be designed/enclosed in such a manner so as to reduce the potential for noise disturbance. Environment, Health and Consumer Protection Officers agree that final design solutions can mitigate the potential impacts.
165. Environment, Health and Consumer Protection Officers raised a specific query in relation to the potential for noise from the cinema screen, restaurant and drinking establishments uses affecting the future student occupiers. The applicant has submitted a building acoustic assessment in response to these queries. This

assessment presents construction principles in order to ensure that noise levels within the student bedrooms as a result of noise emanating from the cinema auditoria and restaurant uses are at an acceptable level. Such construction methods could include the layering of dense plasterboard and the creation of void space. Environment, Health and Consumer Protection Officers raise no objections to the principles submitted within the building acoustic assessment, though advise that a condition to agree a final scheme is added on any approval.

166. Public concerns with regards to the development include that in regards to the potential increase in a late-night culture such as drinking and noisy behaviour. The proposal is seeking A3 (restaurant and café) and A4 (drinking establishment) uses. It is also acknowledged that frequent nights out can be part and parcel of the culture which students engage in. However, A3 and A4 uses are established main town centre uses which are acceptable in principle in a City Centre location and it is considered that there are no site specific issues that would render such uses unacceptable at this City Centre site. The Durham Constabulary Architectural Liaison Officer raises no in principle concerns to the mixture of uses proposed within the development or objection to further drinking establishments within the City Centre. A condition can agree final opening hours of the operators within the development.
167. The ES includes a specific chapter in relation to matters of air quality. This chapter considers the potential effects of dust and fine particulate emissions from the construction phase of works and the potential air quality effects of existing road traffic upon the proposed sensitive uses within the site (the student accommodation). In addition, the potential effects of emissions from the proposed cinema plant and odour from the proposed restaurants are considered.
168. The application site lies adjacent to a declared Air Quality Management Area (AQMA) and therefore the application site is located within an area that is sensitive to changes to air quality. The ES chapter on air quality includes an air quality assessment. Consideration is given to the potential for cumulative impacts with the Freemans Reach and Milburngate House sites.
169. Mitigation of nuisance dust and particulate emissions during the construction phase of the development through the implementation of a Dust Management Plan (DMP) is proposed within the submitted ES. Mitigation measures to protect student accommodation units at mall and 01 levels from the impacts of the air quality adjacent to road traffic emissions are proposed in the form of passive or mechanical ventilation systems. A condition can ensure this mitigation is implemented. With regards to potential emissions and odours from the plant and ventilation extracts associated with the cinema and restaurant/drinking establishment uses the ES recommends that a carbon filtration system can be utilised to mitigate the impact. A condition can ensure this.
170. Environment, Health and Consumer Protection Officers have raised no objections to these assessments and conclusions. It is advised that the mall and 01 level accommodation are most sensitive to the air quality impacts should not be occupied by non-student permanent residents. The applicant proposes student occupation.
171. Environment, Health and Consumer Protection Officers stated that further consideration of the impacts of a proposed CHP plant was necessary and the applicant has submitted an addendum to the ES in this regard. The ES concludes that the impacts of the CHP plant upon air quality are the nearest sensitive receptors range from between a neutral to a minor adverse effect and it is considered that specific mitigation measures pursuant to the air quality effects of the CHP plant are

not necessary. Environment, Health and Consumer Protection Officers have raised no objections to these conclusions.

172. Public responses to the development raise concerns over the impact of the height and proximity of the development to St Annes Court, Castle Chare and resultant potential for blocking of views and overshadowing. CDLP Policy H16 seeks to ensure that development proposals do not detract from the amenities of existing residents though the policy provides no specific guidance, for instance separation distances, that should be adhered to so as to ensure such amenity. Policy Q8 does provide such detailed guidance and this recommends that 21m should be provided between habitable windows, 13m between windows and blank two storey gables, and 6m between windows and single storey gables. However, Policy Q8 is applicable to housing layouts and is considered less relevant to this particular proposal which involves PBSA contained within a large mixed use proposal.
173. St Annes Court is located approximately 32m from the proposed development on the western side of Milburngate. The proposal would result in the heightening of the development adjacent to Milburngate. The degree to which the development is higher than existing varies at different points along this section of Milburngate. The highest element of the proposed development that flanks Milburngate would be only approximately 1m higher than the highest point of the existing development. In one location the existing development is approximately 10m lower than that proposed, however, this is in one short section of the development where the existing building is single storey. Generally along the section of Milburngate opposite St Annes Court the development would be vary from being between 1m-3m higher than at present. St Annes Court is located on higher land than the application site and is partially screened by existing landscaping on its eastern boundary. Officers consider that taking into account the degree at which the height of the development is changing, level changes, screening and distances involved between the properties that the impact of the heightening of the development would not be so significant to result in a harmful loss of outlook or light for the existing occupiers. Student accommodation and windows therein would also be located within this elevation on Milburngate, however, again taking into account the separation distances and site specifics it is consider that no harmful intrusion of privacy would result for existing occupiers.
174. Similarly having regards to the impact the scale of the development, location of windows within the units to be occupied by students no objections are raised to the impact upon the privacy and amenity of other residential occupiers within the immediate vicinity of the site such as Lambton Walk, Back Silver Street, Clements Wharfe, and Tenter Terrace.
175. The proposed development proposes rooftop amenity space for the use of the student occupiers of the development. Officers consider this would provide valuable "break-out" space for the future occupiers of the development represents an efficient use of land to which officers raise no objections.
176. Environment, Health and Consumer Protection Officers originally raised some concern in regards to the room sizes proposed for the student accommodation. Following clarification from the applicant in this regard these queries were resolved and concerns addressed. Officers raise no objection to the standard of the student accommodation proposed.
177. As a result officers raise no objections with regards to the impact of the development upon the residential amenity of existing occupiers in the vicinity of the development and future occupiers of the development. The proposal is considered compliant with CDLP Policies H16, U5 and U7. These policies are considered fully (Policy H16) or

partially (Policies U5 and U7) NPPF compliant and can be attributed weight in the decision making process. The development is considered compliant with Parts 8 and 11 of the NPPF and relevant advice contained within the PPG.

Highway Safety/Issues

178. In terms of locational sustainability the Highway Authority state that the site is located within a highly accessible location being close to the City's major transport hubs including Durham bus station and train station. The site is also within an acceptable walking and cycling distance of a large proportion of the City's populace. It is noted that public objection to the development includes comments that a number of upgrades and improvements to cycling infrastructure within the City should be undertaken and that the development can provide financial contributions towards these. However, the locational sustainability of the site is such that officers raise no objections in accessibility terms and consider that the request of planning obligation pursuant to infrastructure improvements in this regard would not be necessary to make the development acceptable in planning terms.
179. The development seeks to retain and reuse the existing car park on the lower levels of the site and the associated vehicular accesses for both customers and servicing. A supplementary transport note in support of the application provides vehicle trip comparison between the existing and proposed development. The Highway Authority raise no objections to the submission and no detrimental impacts upon existing junction operation would result.
180. With regards to vehicular and cycle parking rationalisation within the development the Highway Authority do raise some issues and queries relating to the control of disabled student parking provision, siting and design of electric vehicle point provision and cycle parking provision. Public responses to the application raise issues with the specifics of cycle parking provision.
181. It should be noted that existing cycle parking provision at The Gates is limited and there is no provision for electric vehicle parking. The development would provide a significant uplift on current provision. However, in order seek to resolve final details in relation to disabled parking provision, cycling provision and electric vehicle parking conditions can be added to any approval.
182. A management plan in relation to traffic management during the construction period is requested by the Highway Authority and a condition can be added to any approval in this regard. The application is accompanied by a travel plan containing initiatives and targets in the interests of promoting sustainable transport choices and this can be conditioned on any approval.
183. Lambton Walk (footpath no. 52 Durham City) lies within the site and provides a riverside walk. Access and Rights of Way Officers raise no objections to the development though understand that a widening of the route is proposed. The applicant has confirmed that this is not the case and Lambton Walk is retain at the present width and unaffected. Temporary closure of Lambton Walk may be necessary during the construction phase of the development. Access and Public Rights of Way Officers welcome the podium walkway proposed.
184. As a result, officers raise no objections to the development in regards to highway safety and highway related issues with the development compliant with CDLP Policies T1, T20, T21 and R11. These policies are considered either partially (Policy T1) or fully (Policies T20, T21 and R11) NPPF compliant and can be afforded weight

in the decision making process. Part 4 of the NPPF and relevant guidance contained within the PPG.

Ecology

185. The application is accompanied by an ecology report which includes a phase 1 habitat survey and protected species risk assessment.
186. With regards to designated sites of nature conservation interest local wildlife and nature reserve sites within 1km of the application comprise of Flass Vale, Hopper's Wood, Frankland Pond, Pelaw Wood, Houghall, Maiden Castle and Little Woods. No statutory designated sites are located within 1km of the site.
187. Otters and water voles are recorded on the River Wear within Durham and potentially both will be present close to the site. However, the section of riverbank alongside the site comprises of a vertical stone face and would not provide sheltering opportunities for the species. The submitted ecology report considers that no direct impacts upon otters, otter holts or water voles would result. The ecology report considers that the no impacts of the development upon Great Crested Newts, badgers, red squirrels or reptiles are likely to occur.
188. Bat surveys of the buildings on site have been undertaken and these found no evidence of use by bats. The bat survey and ecology report therefore consider that the proposed development including demolition presents a very low direct risk to bats and bat roosts.
189. The River Wear does provide a feeding and commuting corridor, however and indirect effects of lighting from the development could impact upon the use of this corridor by bats and potentially otters. To fully assess the potential impacts of lighting within the development in ecological terms an addendum ES chapter has been submitted during the course of the application. Baseline recording of bat activity and light levels was undertaken. The surveys undertaken found that the main impact upon bat activity along the river corridor in the vicinity of the site came from an existing flood light to the north of Framwellgate Bridge.
190. The ES chapter proposes that at river level the proposed maximum illuminance from the development be 0.14lux (a bright moonlit night may be 0.27 to 1 lux), and at 5m above river level the maximum be 0.5lux. Any light spillage resultant from the construction phase of the development should be less than 1 lux at river level. Such light spillage would prevent impacts upon bat activities. A condition can ensure that a final lighting scheme adheres to the principles established within the ES chapter.
191. Ecological mitigation and enhancement measures are contained within the ecology documentation in support of the application and this includes the provision of built-in roosting facilities to the new development and a condition can ensure these measures. In addition, nesting birds could potentially utilise the site and therefore the ecology report recommends that any building, tree or scrub clearance work is undertaken outwith of the bird breeding season, unless ecological inspection of the site is undertaken first.
192. Ecology officers have raised no objections to the development or content of the supporting documentation including the submitted ES addendum. Natural England also raise no objections to the application.
193. No adverse impact upon protected species is considered to occur as a result of the development. No European Protected Species Licence is therefore considered to be

required as a result of the development having regards to the requirements of the Habitats Directive brought into effect by the Conservation of Habitats and Species Regulations 2010 (and as amended in 2012).

194. As a result officers raise no objections to the application on ecological or nature conservation grounds, with the development considered compliant with NPPF compliant CDLP Policy E16, Part 11 of the NPPF and having regards to relevant advice within the PPG.

Flood Risk and Drainage

195. National advice within the NPPF and PPG with regards to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment, following the Sequential Test and, if required, the Exception Test.
196. The application is accompanied by a flood risk assessment (FRA). The FRA highlights that the application site is in part within flood zone 1 (low flood risk probability), part within zone 2 (medium flood risk probability) with eastern sections of the site within floodzones 3a (high flood risk probability) and 3b (the functional flood plain).
197. The PPG defines the vulnerability (to flooding) of differing types of development. Student accommodation is defined as being within the more vulnerable classification. The student accommodation is located within flood risk zone 1. The remaining uses within the development are classified as being less vulnerable uses and are, in the main, also located within flood zone 1. This is as a result of the redevelopment proposals generally relating to the site above podium level, well above the river. The areas of the development that are located within flood risk zones 2 and 3 are to be utilised for access, loading bays, parking areas, open space and plant and a floor of a restaurant use. Within the redevelopment proposals these uses remain as per existing. The only new addition of the development located within these areas at higher risk of flooding is a lift which would ground within flood zone 3b. The proposed lift structure in the north-east corner of the site would ground within the functional floodplain and would result in a small loss of flood storage volume. In order to ensure the safe operation of the lift the FRA proposes that the operating equipment of the lift be located above flood water levels and a sensor incorporated into the lift that would return the lift to the upper floors should flood waters reach the base of the lift shaft.
198. The submitted FRA includes reference to the sequential and exception tests as referred to in NPPF and PPG advice. Officers consider it highly unlikely that any alternative sites exist that would; be available to deliver the development; would deliver the regeneration benefits this development could deliver; and present any lesser risk to flooding than the application site. Mitigation measures in regards to the design of the lift should ensure no increase in the risk of flooding as a result of the new development.
199. The Environment Agency have raised no objections to the application on flood risk grounds. The Environment Agency consider that the development is NPPF compliant in regards to matters of flood risk.

200. With regards to the disposal of surface waters from the site a final detailed design is not included within the FRA. Reference to the need to adhere to the hierarchy of surface water disposal is made within the FRA and the use of soakaways is stated as being unsuitable. It is proposed that existing outfalls into the River Wear be utilised with the incorporation of on-site attenuation techniques (such as oversized pipes and/or storage tanks) with flow resection devices. Foul water flows are proposed to be discharged into the main sewer. No objections are raised in an in-principle nature from Drainage and Coastal Protection Officers or Northumbrian Water, conditions should be added to resolve final surface and foul water disposal on any approval, however.
201. As a result no objections are raised to the development on flood risk and drainage grounds having regards to CDLP Policies U8a, U9 and U10, Part 10 of the NPPF and relevant guidance within the PPG.

Other Issues

202. Public objection to the application includes the considered need for a joined-up or masterplan approach to the redevelopment of the site together with other areas of the City Centre including the adjacent Milburngate House site. As discussed elsewhere in the report, in design terms consideration has been given to the dovetailing of this development with the Milburngate House site. Specific existing or emerging Development Plan Policies, or design or masterplanning briefs for the redevelopment of the site have not been devised. The applicant's acquisition of the site and proposal to redevelop the site has emerged as a recent opportunity. Furthermore the LPA must consider on its own merits the application submitted.
203. Public concerns are expressed over the potential for the construction operations to harm the structural integrity of St Annes, Castle Chare. The principle responsibility for ensuring that one development does not affect the structural integrity of another lies principally with the developer. There are no specific issues to suggest that works at the site will have damaging implications for neighbouring properties. With regards to matters of coal mining legacy, the Coal Authority have raised no objections and officers raise no issues having regards to CDLP Policy U13.
204. Public comments on the application consider that greater consultation with the public should have occurred. The applicant has undertaken pre-application consultation exercises which has included a public exhibition and meetings with community groups. The LPA has undertaken a consultation exercise in accordance with legislative requirements of the planning application.
205. Having regards to CDLP Policy U14 a condition to ensure that energy reduction measures are incorporated into the building can be added to any approval. The connection to a potential district heating system in the City as referred to by Sustainability Officers is considered unnecessary.
206. The application documentation seeks to present the economic benefits of the development and mixture of uses and this includes a specific economic benefits statement and detail contained within a socio-economic chapter to the submitted ES. Amongst the considered benefits this documentation presents that once operational the development would provide a significant increase in employment at the site. It is estimated that 190 additional full time equivalent jobs would be provided in comparison to the current shopping centre with further employment in the construction phases of the development and supply chains of the development. Employability Officers identify the scheme as an opportunity to include targeted

recruitment and training clauses and these can be included with the S106 legal agreement.

CONCLUSION

207. The existing Gates shopping centre is an economically underperforming development situated within a prominent City Centre location with much potential. The proposals present an opportunity to provide a redesigned and more successful development of town centre uses and complimentary student accommodation. The redevelopment proposal is considered to be one of high quality design which respects the very sensitive townscape that it is situated within and seeks to take advantage of the views available from the site towards to the WHS. The development has the potential to provide Durham with a new shopping and tourism destination to the benefit of the vitality and viability of the City.
208. Other key material planning considerations including; residential amenity; highway safety/issues; ecology and matters of flood risk and drainage have been considered and impacts of the development are acceptable.
209. Public Concerns expressed regarding the proposal have been taken fully into account, and carefully balanced against the scheme's wider social, economic and community benefits. However, they are not considered to raise issues that justify planning permission being withheld.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a legal agreement pursuant to Section 106 of the Town and County Planning Act 1990 to secure the following:

- i) A financial contribution of £125,000 towards connectivity solutions with the adjacent Milburngate House site
- ii) A financial contribution of £20,000 towards an improved lighting scheme adjacent to Framwelgate Waterside
- iii) The inclusion of targeted recruitment and training clauses

And subject to the following conditions:

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

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

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

Plans:

Site Location Plan 100_002_REVA

Site Plan 050-310 Rev B

Demolition Car Park Level 1 050_D100

Demolition Car Park Level 2 050_D101

Demolition Car Park Level 3 050_D102
Demolition Mall Level 050_D103
Demolition Upper Level 050_D104
Demolition Roof Plan 050_D105
Demolition Elevations 050_D130
Demolition Sections 050_D140
Demolition Sections 050_D141
Proposed Level AOD 30 - Service/Parking 050_010 Rev D
Proposed Level AOD 32-35 – Parking Ancillary 050_011 Rev B
Proposed Level AOD 36 - Parking 050_012 Rev D
Proposed Level AOD 39 - Mall Level 050_013 Rev D
Proposed Level AOD 43 - First Floor Level 050_014 Rev D
Proposed Level AOD 46 - Second Floor Level 050_015 Rev D
Proposed Level AOD 49 - Deck/Third Floor Level 050_016 Rev C
Proposed Level AOD 52 - Roof Level 050_017 Rev B
Milburngate Road and River Frontage 050_301 Rev B
Sectional - East and West 050_302 Rev B
Sectional - Cinema/Amenity + North/Leazes 050_0303 Rev B
Sectional - Student Entrance/Courtyard 050_304 Rev B
Sectional - Underpass North/South 050_305 Rev B
Sectional - Shopping Street North/South 050_306 Rev B
Sectional - Framwellgate Bridge to Square East/West 050_307 Rev B
Proposed Ortho NE-SE 050_308 Rev B
Proposed Ortho NW-SW 050_309 Rev B
Proposed Elevations - Milburngate Road 050_310 Rev A
Detail Bay 1 051-701
Detail Bay 2 051-702
Detail Bay 3 051-703
Detail Bay 4 051-704
Detail Bay 5 051-705
Detail Bay 6 051-706
Proposed Level AOD 43 Colour Use Class 050_014 Rev D
Proposed Level AOD 39 Colour Use Class 050_013 Rev D
Proposed Level AOD 36 Colour Use Class 050_012 Rev D
View from Cathedral Tower 050_CGI_002
View from Framwelgate Bridge 050_CGI_004
View from Milburngate Bridge 050_CGI_006
View from Milburngate Roundabout 050_CGI_008
View from North Road 050_CGI_010
View from Framwelgate Bridge 050_CGI_012
Sectional Detail View Riverside Façade 050_CGI_013
View of Cinema Entrance 050_CGI_014
Sectional View of New Street 050_CGI_015
Detail View of Leazes Road Façade 050_CGI_016
Milburngate Bridge Entranceway “Bookend” Design Amendments 15.09.2015

Documents:

Arboricultural Impact Assessment NLP_TheGates_AIA1.1
Bat Survey NLP_TheGates_Bat1.2
Ecology Report NLP_TheGates_Eco1.2
Flood Risk Assessment by Patrick Parsons

Reason: To define the consent and ensure that a satisfactory form of development is obtained having regards to Policies E3, E6, E14, E15, E16, E21, E22, E23, E24,

3. No development shall take place until a construction/demolition management strategy has been submitted to and approved in writing by the Local Planning Authority. Said management strategy shall include but not necessarily be restricted to the following;
- i) Methods of suppressing dust (including a Dust Management Plan if necessary);
 - ii) Details of methods and means of noise reduction
 - iii) Confirmation that the burning of combustible material on site shall be prohibited unless it has been first demonstrated that the material cannot be disposed of in any other suitable manner.
 - iv) Details of wheel washing facilities and means of reducing the potential for mud on the roads in the vicinity of the site.
 - v) Details of a demolition and construction vehicle traffic management strategy

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

The development shall be undertaken in accordance with the agreed management strategy.

Reason: In the interests of residential amenity and traffic management having regards to Policies U5 and T1 of the City of Durham Local Plan and Parts 4 and 11 of the NPPF. Required to be pre-commencement as demolition/construction activity mitigation must be agreed before works commence.

4. No development shall take place until a scheme of archaeological work in accordance with a mitigation strategy document has been submitted to and approved in writing by the Local Planning Authority. The strategy shall include the following;
- i) Measures to ensure the preservation in situ, or the preservation by record, of archaeological features of identified importance
 - ii) Methodologies for the recording and recovery of archaeological remains including artefacts and ecofacts
 - iii) Post-fieldwork methodologies for assessment and analyses
 - iv) Methodologies for a programme of building record, to be compliant with EH standards to be carried out prior to any demolition or conversion works, or any stripping out of fixtures and fittings
 - v) Report content and arrangements for dissemination, and publication proposals
 - vi) Archive preparation and deposition with recognised repositories
 - vii) A timetable of works in relation to the proposed development, including sufficient notification and allowance of time to ensure that the site work is undertaken and completed in accordance with the strategy
 - viii) Monitoring arrangements, including the notification in writing to the County Durham Principal Archaeologist of the commencement of archaeological works and the opportunity to monitor such works

- ix) A list of all staff involved in the implementation of the strategy, including sub-contractors and specialists, their responsibilities and qualifications

Thereafter, the development shall be implemented in accordance with the agreed details and timescales.

Upon completion of the development 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.

Reason: In the interests of preserving archaeological assets having regards to Policy 24 of the City of Durham Local Plan and Part 12 of the NPPF. Required to be pre-commencement in order to assess the potential for archaeological assets at the site prior to any works which could have a detrimental impact upon them.

5. No development other than demolition shall take place until a final lighting scheme for the development adhering to the principles/parameters contained within Chapters 3, 4 and 5 of the Addendum Environmental Statement Volume II has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of ensuring that light spillage from the development is acceptable having regards to potential impacts upon the townscape, heritage assets and protected species having regards to Policies E3, E6, E16, E22 and E23 of the City of Durham Local Plan and Parts 11 and 12 of the NPPF.

6. No development other than demolition shall take place until a detailed landscaping scheme for the development has been submitted to and approved in writing by the Local Planning Authority.

The landscape scheme shall include the following:

Any trees, hedges and shrubs scheduled for retention

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

Details of planting procedures or specification

Finished topsoil levels and depths

Details of temporary topsoil and subsoil storage provision

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

Details of hard landscaping

Final construction details, planting details and any specific maintenance regimes of the "Green/Living Walls"

Trees, hedges and shrubs shall not be removed within five years. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

The approved landscaping scheme shall be carried out in the first available planting season following the completion of the development or in accordance with any specific timescales detailed within the approved scheme.

Reason: In the interests of the visual amenity of the area having regards to Policies E6, E22 and Q5 of the City of Durham Local Plan and Parts 7, 11 and 12 of the NPPF.

7. No development other than demolition shall take place until final details of the location and design of any plant, ventilation and extraction equipment required within the development has been submitted to and approved in writing by the Local Planning Authority. The submitted details must include the noise attenuation measures and carbon filtration measures as established within Chapters H and I of the Environmental Statement Volume II. The development shall thereafter be implemented in accordance with the approved details.

Reason: In the interests of defining the consent, visual amenity, noise and odour issues having regards to Policies E6, E22, U5 and U7 of the City of Durham Local Plan and Parts 7, 11 and 12 of the NPPF.

8. No development other than demolition shall take place until final construction measures to reduce the potential for the proposed student accommodation units to be affected by noise emanating from the A3, A4 and D2 uses and based upon the principles contained within the RBA acoustics document 6535/PT has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of ensuring adequate amenity for the proposed occupiers of the development having regards to Policy U7 of the City of Durham Local Plan.

9. No development other than demolition shall take place until final details of the location, design and management strategy of disabled parking, cycle parking and electric vehicle parking has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of ensuring adequate parking arrangements for both vehicles and cycles having regards to Policies T1 and T20 of the City of Durham Local Plan and Part 4 of the NPPF.

10. No development other than demolition shall take place until a scheme for the management and disposal of surface and foul waters from the development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of managing surface and foul water disposal and reducing flood risk having regards to Policies U8a and U10 of the City of Durham Local Plan and Part 10 of the NPPF.

11. No development other than demolition shall take place until a scheme to minimise energy consumption has been submitted and approved in writing by the Local Planning Authority. The scheme shall consist of energy from renewable or low carbon sources provided on-site or an equivalent scheme that minimises carbon emissions to an equal level through energy efficient measures. Thereafter the development shall be carried out in accordance with the approved scheme and retained so in perpetuity.

Reason: In the interests of sustainable construction and energy generation in accordance having regard to Policy U14 of the City of Durham Local Plan and Part 10 of the NPPF.

12. No development other than demolition shall take place until full details of external materials to be utilised in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. Where the Local Planning Authority consider necessary this may include the submission of samples or construction of sample panels. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity having regards to Policies E3, E6, E22 and E23 of the City of Durham Local Plan and Parts 7 and 12 of the NPPF.

13. No development other than demolition shall take place until a scheme for the introduction of artistic elements/features into the development has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of the provision of art in development having regard to Policy Q15 of the City of Durham Local Plan.

14. No development other than demolition shall take place until a scheme of public realm works on or adjacent to the highway where access is taken to the site from Milburngate and the route to Framwelgate Waterside has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity having regards to Policies E6, E22 and Q5 of the City of Durham Local Plan and Parts 7, 11 and 12 of the NPPF.

15. The temporary retail kiosks as detailed on drawing Proposed Level AOD 39 050_013 Rev D shall not be erected until details of their design and appearance has been submitted to and approved in writing by the Local Planning Authority. Thereafter the kiosks shall be implemented in accordance with the approved details.

Reason: In the interests of visual amenity having regards to Policies E6 and E22 of the City of Durham Local Plan and Parts 7 and 12 of the NPPF.

16. Prior to the first occupation of the development an advertisement and signage strategy for the development shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall provide the design parameters for future advertisements to be erected within the development.

Reason: In the interests of visual amenity having regards to Policies E6 and E22 of the City of Durham Local Plan and Parts 7 and 12 of the NPPF.

17. No student accommodation unit hereby approved shall be occupied until a final management scheme for the management of the student accommodation hereby approved has been submitted to and approved in writing by the Local Planning Authority. The strategy may include physical measures and management practices. Details of any accreditation of the management company should be provided. The development shall thereafter be implemented and managed in perpetuity in accordance with the approved details.

Reason: In the interests of the appropriate management of the student occupants of the development in the interests of residential amenity having regards to Policy H16 of the City of Durham Local Plan and Parts 8 and 11 of the NPPF.

18. Prior to the occupation of the A3, A4 and D2 uses hereby approved details of the proposing opening/operating hours of the units shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the units shall operate in accordance with the approved details.

Reason: In the interests of defining the consent and residential amenity having regards to Policies U5 and U7 of the City of Durham Local Plan and Part 11 of the NPPF.

19. Prior to the first occupation of the development a final travel plan shall be submitted and approved in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with the approved details.

Reason: In the interests of promoting sustainable transport options having regards to Part 4 of the NPPF.

20. No construction/demolition works shall take place outside the hours of 8am and 6pm Monday to Friday and 8am to 1pm on a Saturday. No works shall occur on any Sunday or Bank Holiday.

Reason: In the interests of residential amenity having regards to Policy U5 of the City of Durham Local Plan and Part 11 of the NPPF.

21. No development shall take place unless in full accordance with the noise mitigation measures details within section H6 (Chapter H) of the submitted Environmental Statement Volume II.

Reason: In the interests of ensuring adequate levels of amenity for the future occupiers of the development having regards to Policy U7 of the City of Durham Local Plan and Part 11 of the NPPF.

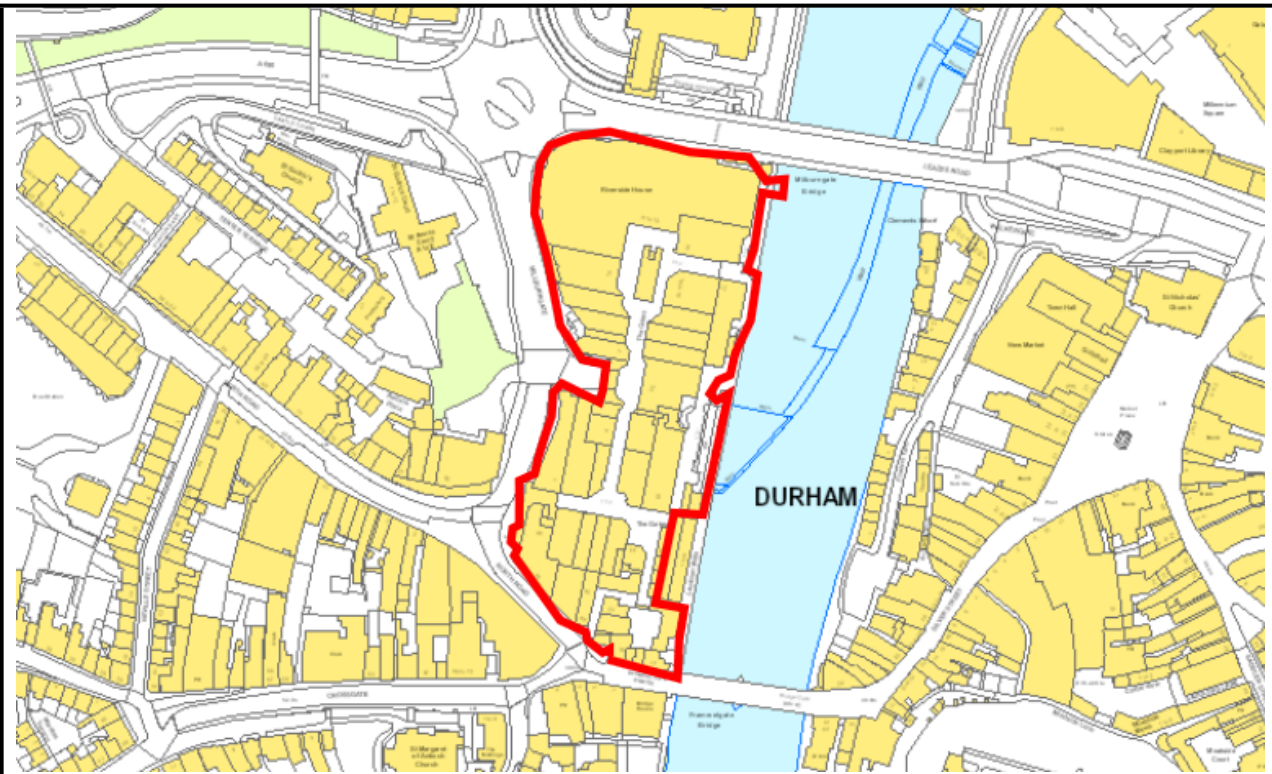
STATEMENT OF PROACTIVE ENGAGEMENT

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 forms, plans supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2012)
- National Planning Practice Guidance
- City of Durham Local Plan
- The County Durham Plan (Submission Draft)

- Interim Policy on Student Accommodation to consider applications for both Houses in Multiple Occupation (HMOs) and Purpose Built Student Accommodation (PBSA)
- Statutory, internal and public consultation responses



Planning Services

DM/15/01626/FPA

Redevelopment of The Gates shopping centre consisting of part retention of existing and part demolition and rebuild for a mix of retail, financial service, restaurant, bar and multiplex cinema uses (Use Classes A1, A2, A3, A4 and D2) and student residential units (total 253 beds) and associated works and landscaping

Milburngate (Durham) Ltd

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Comments

Date
6th October 2015

Scale
Not to scale