

# COMMITTEE REPORT

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## APPLICATION DETAILS

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

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. This application site is located to the North East of the city centre and is immediately adjacent to and overlooks the south bank of the River Wear. The site slopes toward the river from north to south and is separated from the river bank by the Providence Row and a substantial area of accessible green open space known as The Sands; which forms the South Bank. The site is located within the Durham City Conservation Area.
2. The site is currently vacant and surrounded by security fencing. A previously approved residential development has been progressed on the Northern part of the site. The progress of these works includes excavations for a basement car park and extensive piling to suit that scheme, various spoil heaps from those excavations remain on site. The southern elevated section of the site is more attractive and remains landscaped with a series of mature protected tree canopies. It is the intention to utilise some of these excavations and piling within the amended proposal.
3. The surrounding area is predominantly residential in character; and these properties are on the whole fairly modern; mostly dating from the 1950's onwards. The area has been developed in a piecemeal manner as a series of smaller estates. Further west along Providence Row the scale of buildings increases on the approach to Claypath and the city centre.
4. In 2004 the erection of 16 no. residential apartments and 4 no. townhouses and change of use and conversion of existing student hostel to 2 no. dwellings was approved and partly commenced. More recently, planning permission was granted in 2015 for a scheme for 35 apartments on this site. The difference between this application and the previous approval is that the car parking has been reduced to 34 spaces and is now located around the building rather than being located in an undercroft car park and there are minor elevational changes.

## **The Proposal**

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

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## **PLANNING HISTORY**

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9. On 5<sup>th</sup> February 2004 two applications were submitted; one for Full Planning Consent (04/00165/FPA); one for Conservation Area Consent (04/00142/CAC). Both seeking consent for; “The erection of 16 no. residential apartments and 4 no. townhouses and change of use and conversion of existing student hostel to 2 no. dwellings”. These applications were approved on 2<sup>nd</sup> June 2004 and subsequently commenced, although this development later ceased on site due to viability issues.
10. In 2014 the demolition of Kepier House and erection of 35 no. apartments including all associated external works was approved, but again this has never commenced due to viability and potential flooding issues to the undercroft car park. More recently, an application to vary the approved plans was made invalid due to discrepancies relating to the application site boundary.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

11. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependant.

12. 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'.
13. In accordance with paragraph 215 of the National Planning Policy Framework, the weight to be attached to relevant saved local plan policy will depend upon the degree of consistency with the NPPF. The greater the consistency, the greater the weight. The relevance of this issue is discussed, where appropriate, in the assessment section of the report below.

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

14. *NPPF Part 1 – Building a Strong and Competitive Economy.* The Government attaches significant weight on the need to support economic growth through the planning system. Local Planning Authorities should plan proactively to meet the development needs of business and support an economy fit for the 21<sup>st</sup> century.
15. *NPPF Part 4 – Promoting Sustainable Transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 6 – Delivering a Wide Choice of High Quality Homes.* Local Planning Authorities should use evidence bases to ensure that their Local Plan meets the needs for market and affordable housing in the area. Housing applications should be considered in the context of the presumption in favour of sustainable development. A wide choice of homes, widened opportunities for home ownership and the creation of sustainable, inclusive and mixed communities should be delivered. Where there is an identified need for affordable housing, policies should be met for meeting this need unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified and such policies should also be sufficiently flexible to take account of changing market conditions over time.
17. *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.
18. *NPPF Part 8 -* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
19. *NPPF Part 10 – Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
20. *NPPF Part 11 – Conserving and Enhancing the Natural Environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and

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

21. *NPPF Part 12 – Conserving and Enhancing the Historic Environment*. Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

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

22. 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.
23. Policy E14 - (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
24. Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
25. Policy E21 (Conservation and Enhancement of the Historic Environment) requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
26. Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
27. Policy H2 - (New Housing within Durham City) states that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.
28. Policy H12 - Affordable Housing seeks the provision of an element of affordable housing on schemes where over 25 units are provided or where the site area would exceed 1.0ha. Affordable housing should meet the needs of eligible households including availability at low cost and should include provision for the homes to remain affordable in perpetuity.
29. Policy H13 - Residential Areas – Impact upon Character and Amenity states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.

30. Policy T1 - Traffic – General states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
31. Policy T10 - Parking – General Provision states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
32. Policy R2 - Provision of Open Space – New Residential Development states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.
33. Policy Q8 - Layout and Design – Residential Development sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
34. Policy Q15 (Art in Design) states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area.
35. 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.
36. Policy U15 - Energy Conservation – Renewable Resources permits the generation of energy from renewable resources provided there is no adverse effect on the visual appearance of the landscape, nature conservation, amenity of residents or an archaeological or historic interest.

#### **RELEVANT EMERGING POLICY:**

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

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

### **INTERNAL CONSULTEE RESPONSES:**

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

### **PUBLIC RESPONSES:**

44. Northumbrian Water have no objections subject to conditions.
45. 8 letters of objection have been received from addresses in the vicinity of the site as a result of the consultation process. The main reasons for objection include an increase in traffic, lack of car parking spaces and the location of the car park which would result in noise and disturbance. Concerns also include the loss of trees, flood risk and the appearance of the development. These concerns will be discussed later in the report.
46. Cllr Ormerod has also previously raised concerns relating to the proposed car parking arrangements.

### **APPLICANTS STATEMENT:**

47. This development offers the opportunity to create a new sustainable residential development within Durham City. The proposal for 35 apartments provides an excellent range and choice of dwellings to satisfy current and future residential requirements for Durham City and also provides a type and size of dwelling which is currently under provided within the locality.
48. We have engaged with the Council throughout the planning process and are satisfied that the scale and form of development, as well the proposed housing mix is appropriate within this locality. The proposals shall develop an urban brownfield infill site within the development limits of Durham, creating a new, attractive residential development for the city.

49. The site's location within an existing residential area of Durham city and close to the city centre ensures that the site is highly sustainable in relation to local amenity with a wide variety of services, facilities, open space, recreational facilities, and local schools within close proximity to the development. Furthermore, the proximity to bus routes and the train station provide a high level of sustainable transport options for future residents.
50. Both public and statutory consultation has been carried out through which a number of concerns were raised. Through adaption of the proposal in responses to these concerns we are confident that there are no outstanding issue regarding the development.
51. Finally, the impacts of the development have been mitigated via a planning gain package which includes an offsite Play Space Contribution and a percentage for art contribution.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <http://82.113.161.89/WAM/showCaseFile.do?action=show&appType=planning&appNumber=10/00955/FPA>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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52. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development and accordance with the Governments recently published National Planning Policy Framework (NPPF), and the saved policies from the City of Durham Local Plan. Other material considerations are the scale, layout and design of the amended development, car parking issues, Section 106 issues and the concerns raised by local residents.

### **Principle of the development**

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

### **Scale, layout and design of the development**

54. The NPPF's twelve core planning principles states that the planning process should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Good design, the NPPF states, is "indivisible from good planning."
55. Policy H13 of the LP states that planning permission will not be granted for new development that would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them. Policies Q1, Q2 and Q8 list design features which will be encouraged within residential areas. In addition, saved Policy Q8 of this plan

sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised. These policies are reflected in part 7 of the NPPF which also requires good design and the protection of residential amenity.

56. In addition to the above, saved Local Plan Policies E6, E21 and E22 all require the character of conservation areas to be preserved or enhanced. Policy E6 is particularly relevant to this application as it relates to the Durham City Centre Conservation Area. It states that the special character, appearance and setting of the Durham City Centre Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990.
57. As previously noted, planning permission was approved in 2004 and implemented thereafter for a scheme which was of similar design to the one currently being proposed and is almost identical to that which was approved in 2015. It is considered that the proposal would result in a modern and attractive development that would be appropriate to its river side context. The brick and render elevations would give a contemporary appearance and would respect the scale and context of the locality. It is considered that the proposals would enhance this part of the Durham City Conservation Area which at present is in an untidy derelict state in accordance with saved policies E6, E21 and E22 of the Local Plan.
58. The main difference in this application is that the car parking will now be external and would not be located in an undercroft car park. Whilst the undercroft car park was desirable in visual terms, it was not required to make the development acceptable. It is not considered that the current proposal for external car parking and hedgerow screening would have any significant adverse impact on surrounding occupiers or the street scene which would warrant refusal of planning permission. In addition, a further condition is suggested which would ensure a scheme for additional landscaping around the car parking areas is provided.
59. Overall, the development in terms of scale, design and layout is considered to be appropriate for this particular location. It is considered that the scale and layout of the development is acceptable and the design is of a high standard, therefore the proposals are considered to be in accordance with saved City of Durham policies H13 and Q8 and NPPF part 7.

### **Car Parking Issues**

60. Highways officers have noted that this application compares to the original application which contained 46 spaces, 35 of which were undercroft parking. It should be noted that development within 400m of the city centre would not require any parking space to be allocated to residents. This development is approximately 500m from Claypath. This has been considered in highways deliberations regarding this application.
61. The Council's parking and accessibility guidelines states 1 space should be provided per 2 bed residential unit and further visitor space at 1 space per 3 units. However, within city and town centre accessible areas guidelines state this standard may be reduced and a maximum standard is applied. This is to take account of the requirement to promote sustainable transport options. The minimum standard would suggest 46 spaces would be required. However given the accessible location and the parking controls within the area, highways officers consider it is reasonable to relax the standard.
62. The development is located within the City's Controlled parking Zone. Ferens Close is controlled with permits and pay and display parking is available on The Sands. There would be no free areas for residents within the public highway. No parking permits



would be issued to residents or their visitors who would have to meet Pay and Display Charges if they choose to park on street. They would not be permitted to park on Ferens Close. Given that the development is within close proximity to the City Centre and its public transport, reliance on the car for travel will be less than a more remote development. It is therefore considered reasonable given the inconvenience of the parking restrictions that some residents and visitors will not travel by car but will instead choose sustainable travel modes. Whilst the parking provision for the development is less than 1 space per unit it is considered that 34 spaces for 35 units will be acceptable. Space would be available for visitors should they choose to travel by car through use of Pay and Display at The Sands. Highways Officers do not consider the demand for parking if it arose in the Pay and Display areas could be considered to have a severe impact.

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

### **Section 106 Agreement**

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

### **Letters of concern from nearby residents**

65. As previously mentioned, 8 letters have been received in response to the consultation exercise. The main reasons for objection include an increase in traffic, lack of car parking spaces and the location of the car park which would result in noise and disturbance. Concerns also include the loss of trees, the appearance of the development and flood risk.
66. In terms of traffic congestion, parking and access, these issues have been assessed by the council's Highways Officers and have found to be acceptable; officers also consider that the level of car and cycle provision is acceptable. In addition, it is not considered that the location of the car parking along with the proposed hedgerow screening would cause any significant harm to residential amenity that would warrant refusal of planning permission. With regard to the scale and design of the building, it is noted that the building is of the same scale and design as the two developments' previously approved and officers still consider this to be acceptable. The building would replace a previously derelict building on an untidy site and would enhance the Durham City Conservation Area. The concerns relating to loss of trees is not relevant as the level of tree removal is the same as the previously approved application. Finally, in terms of flood risk, the applicant has submitted a flood risk assessment in accordance with the requirements of the NPPF, at the time of writing the report no response has been received from the Environment Agency and therefore an update will be given at committee.
67. In light of the above, all of the issues raised by residents have been fully assessed either within this report or during consideration of the two previous planning approvals and their impacts are not considered to warrant refusal of planning permission.

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## CONCLUSION

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68. Overall it is considered that the proposals are in accordance with the development plan and the National Planning Policy Framework. The proposed residential development is in a highly sustainable location near the city centre with good access to public transport, local shops, healthcare providers, schools and other community facilities.
69. The scale, layout and design of the amended development are considered to be appropriate for this location and would visually enhance the Durham City Conservation Area. The proposals would deliver a high quality development whilst vastly improving what is an untidy and derelict site. In addition, the developer has previously agreed to contribute £35,000 toward recreational facilities in the Electoral Division along with a £30,000 contribution toward public art which has already been secured through a Section 106 legal agreement. All other issues such as ecology, flood risk, landscaping etc are acceptable subject to appropriate conditions.
70. On the basis of the above, officers recommended that the amendments to the previously approved application be approved and the removal of conditions agreed.

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## RECOMMENDATION

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

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

### Conditions:

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans. Plan References;

Location Plan TSD-000  
Elevations Sheet 1 DSE-001  
Elevations Sheet 2 DSE-002  
Elevations Sheet 3 DSE-003  
Proposed Site Layout DSL-001  
Ground Floor Plan DSP-001  
First Floor Plan DSP-002  
Second Floor Plan DSP-003  
Third Floor Plan DSP-004  
Roof Plan DSP-005

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

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

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

4. Prior to the commencement of any part of the development hereby permitted, a Construction Management Plan shall be submitted to and approved in writing by the local planning authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

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

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

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

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

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

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

thereafter be maintained for a period of 5 yrs following planting. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

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

7. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) by CK21 of February 2016.

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

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

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

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

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

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

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

#### Pre-Commencement

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

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

#### Completion

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

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

11. Development shall be implemented in line with the drainage scheme contained within the submitted document entitled "*Flood Risk and Surface Water Drainage Strategy*". The drainage scheme shall ensure that foul water will discharge to manhole 7003 or 7001. Surface water will discharge at a restricted rate of 8 Litres per second to manhole 7003 or restricted to 5 Litres per second downstream of manhole 8004.

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

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

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

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

- i) the proper identification and evaluation of the extent, character and significance of archaeological remains within the application area in accordance with the approved strategy,
- ii) an assessment of the impact of the proposed development on any archaeological remains identified in the trial trench evaluation phase;
- iii) Measures to ensure the preservation in situ, or for the investigation, recording and recovery of archaeological remains and the publishing of the findings, it being understood that there shall be a presumption in favour of their preservation in situ wherever feasible;
- iv) sufficient notification and allowance of time to archaeological contractors nominated by the developer to ensure that archaeological fieldwork as proposed in pursuance of (i) and (iii) above is completed prior to the commencement of permitted development in the area of archaeological interest; and
- v) notification in writing to the County Durham Archaeology Section of the commencement of archaeological works and the opportunity to monitor such works.
- vi) Post-fieldwork methodologies for assessment and analyses.
- vii) Report content and arrangements for dissemination, and publication proposals.
- viii) Archive preparation and deposition with recognised repositories.
- ix) A list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications

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

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

14. Prior to the development being beneficially occupied, a copy of any analysis, reporting, publication or archiving required as part of the mitigation strategy shall be deposited at the

County Durham Historic Environment Record. This may include full analysis and final publication.

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

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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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

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## **BACKGROUND PAPERS**

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

The National Planning Policy Framework (2012)

National Planning Practice Guidance Notes

Statutory, internal and public consultation responses





**Planning Services**

Erection of 35 apartments and associated external works Ref: DM/16/02285/FPA

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**Comments**

**Date** September 2016