



## **Area Planning Committee (Central and East)**

**Date** **Tuesday 11 December 2018**

**Time** **1.00 pm**

**Venue** **Council Chamber - County Hall, Durham**

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### **Business**

#### **Part A**

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held 13 November 2018 (Pages 3 - 14)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) DM/17/03548/LB & DM/17/03547/FPA - Three Tuns, New Elvet, Durham (Pages 15 - 28)  
Demolition and alteration of listed building at former Three Tuns Hotel (existing student accommodation) to create additional student accommodation (Full Planning and Listed Building Consent).
  - b) DM/18/03115/FPA - 36 The Hallgarth, Durham, DH1 3BJ (Pages 29 - 48)  
4 No. two bedroom flats (consisting of conversion of existing dwelling at No. 36 into 2 dwellings and approved dwelling in garden altered to form 2 flats).
6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Helen Lynch**  
Head of Legal and Democratic Services

County Hall  
Durham  
3 December 2018

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

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

Councillors G Bleasdale, D Brown, J Clark, I Cochrane, K Corrigan, M Davinson, D Freeman, A Gardner, K Hawley, S Iveson, P Jopling, R Manchester, J Robinson and O Temple

**DURHAM COUNTY COUNCIL**  
**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber - County Hall, Durham** on **Tuesday 13 November 2018 at 1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors G Bleasdale, D Brown, J Clark, K Corrigan, M Davinson, D Freeman, A Gardner, I Jewell (substitute for S Iveson), P Jopling, R Manchester, L Pounder (substitute for A Laing), J Robinson and O Temple

**Also Present:**

Councillor A Hopgood

**1 Apologies for Absence**

Apologies for absence were received from Councillors I Cochrane and K Hawley, S Iveson and A Laing.

**2 Substitute Members**

Councillor I Jewell substituted for Councillor S Iveson and Councillor L Pounder substituted for Councillor A Laing.

**3 Minutes**

The minutes of the meeting held on 9 October 2018 were confirmed as a correct record by the Committee and signed by the Chairman.

**4 Declarations of Interest**

There were no Declarations of Interest submitted.

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

**a DM/18/01943/FPA - New College Durham, New College Road, Framwellgate Moor, Durham, DH1 5ES**

The Senior Planning Officer, Paul Hopper, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for a three storey extension to existing building and associated landscaping works and was recommended for approval, subject to conditions as set out within the report.

The Senior Planning Officer, PH reminded Members that the application had been deferred at the October meeting of the Committee, to allow for further information in terms of parking and a transport statement to be presented. He explained that upon receipt of the information Local Members, who had requested the information, noted their concerns had been addressed and objections withdrawn.

Councillors noted the setting of the existing college and the proposed extension. He explained that it was proposed in order to provide specialist IT classrooms, workshops, conference rooms and also include an external storage hardstanding area.

It was added there had been no objections from statutory consultees and no objections from internal consultees, subject to conditions, including those relating to landscaping.

Members noted the key consideration and the Senior Planning Officer, PH noted National Planning Policy Framework (NPPF) paragraph 11 and Part 8 in terms of the application and noted the previous redevelopment of the college in 2005. He noted that the design and scale were well considered and deemed acceptable subject to conditions. The Senior Planning Officer, PH noted that access would be unaltered, however, there would be a loss of 21 parking spaces, though no objections had been raised in relation to this by Officers. He concluded that the recommendation was for approval.

The Chairman noted that Councillor A Hopgood, Local Member for the area was in attendance to speak in relation to the application.

Councillor A Hopgood thanked the Committee for the opportunity to speak in relation to the application. She thanked New College Durham and Council Officers for their work in providing the additional information and revised travel plan. Councillor A Hopgood noted that the application should be considered in conjunction with other activity and proposed developments within the area, including: the strategic site at Aykley Heads, including the current County Hall site; extensions to Accident and Emergency at the University Hospital of North Durham; the Arnison Centre; and Northumbrian Water.

She added that it was acknowledge that such documents were “working documents” and that would be reviewed on a regular basis. Councillor A Hopgood concluded by noting that she and her fellow Divisional Members welcomed the facilities as described, considered New College Durham to be an excellent asset and supported the application.

The Chairman thanked Councillor A Hopgood and asked Mr J Widdowson, Principal and Chief Executive of New College Durham to speak in support of the application.

Mr J Widdowson thanked the Chairman and Councillor A Hopgood and noted he would echo and reiterate the comments made by colleagues at the last Committee in terms of the importance in terms of Science, Technology, Engineering and Mathematics (STEM) and the proposed development to enable an enhanced offer in relation to these areas. He stressed that a timely start to the development would be important in order to minimise disruption to existing students and also to be able to apply for Government funding. It was explained that New College Durham had been shortlisted to become an Institute of Technology and that this, and the development proposed, would help employers in our County get a head start in terms of developing the skills they needed.

The Chairman thanked Mr J Widdowson and asked the Committee for their comments and questions.

Councillor M Davinson noted he had proposed deferral at the last meeting, and now with the additional information, updated travel plan and Local Members supporting the application, he moved that the application be approved as per the Officer’s report. Councillor I Jewell noted the application was a positive addition to a high class education facility and the attached conditions mitigate the issues that had been raised. He seconded the approval of the application.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as detailed in the Officer’s report.

### **b DM/18/02665/FPA - Miners Meadow, Wheatley Hill, Durham, DH6 3AW**

The Planning Officer, Jennifer Jennings gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was reinstatement and repair of former cricket club building and extension to convert to 2 bed disabled self-catering holiday accommodation with vehicular access and was recommended for refusal.

The Planning Officer noted access was gained from Patterson Walk, along a 330 metre track, noting this did not appear to be in place from 2015 aerial photography, and that there was a former allotment site to the north east of the site. It was added that the proposed holiday accommodation would include a new glass link and extension to the existing footprint and there was also proposed to be 2 parking spaces and hardstanding for outdoor seating. Members noted the elevations and materials proposed, render and brick with reconstituted slate roof and timber doors and windows. The Planning Officer noted that supporting information supplied by the Applicant referred to generic Visit County Durham website and not any specific information relating to this application site. She added that Landscape Officers had noted there would be harm to visual amenity and that Environmental Health had asked for a condition that stipulated pre-commencement scheme to deal with contamination and a noise assessment.

The Planning Officer explained that in terms of the principle of development, the local plan policies were considered out-of-date and therefore the application would be considered in terms of NPPF Paragraph 11. It was explained that Officers felt that positive aspects included: tourism benefits; providing accommodation specifically intended for disabled access; and brought a derelict site back into use with little impact on residential amenity and with no highways issues. It was added that adverse impacts included: separation from the nearby village centre of Wheatley Hill; intrusion into the countryside; unremarkable design; impact of hardstanding in terms of the openness of the countryside; a lack of marketing strategy in relation to the letting of the holiday property which had a risk of a permanent build development remaining should the business not prove to be successful. The Planning Officer noted therefore that with the negative impacts outweighing the positive aspects of the proposed development the application was recommended for refusal.

The Chairman thanked the Planning Officer and asked Mr L Thompson, the Applicant to speak in support of his application.

Mr L Thompson thanked the Committee for the opportunity to speak and explained that 10 years ago he had an accident and that upon leaving hospital he had sought a place to recuperate and rejuvenate on a family holiday in this country. He added that he had been unable to find a suitable place with full facilities, only those offering access ramps and wider doors rather than all the necessary adaptations and facilities. He noted that with assistance from a spinal injury charity he located a suitable location in Tenerife with adaptations and equipment such as hoists, wet rooms, and pressure relief mattresses.

Mr L Thompson noted upon his return to the this country he thought that it would be a good idea to have similar facilities available in our country and having the former cricket club site there was an opportunity to preserve some of the heritage of the village and also to provide a high quality facility for those with disabilities, providing the specialist needs in our local area. He added that the countryside location and easy reach of both Durham City and the coast provided a good base, as well as having himself on site to give first hand advice and support in terms of the facilities and the local area. He concluded by noting he wished to be able to provide a place for people to visit and help them to rebuild and rehabilitate.

The Chairman thanked Mr L Thompson and asked the Committee for their comments and questions.

Councillor J Clark made reference to paragraph 47 of the report which referred to paragraph 83 of the NPPF and “promoting the rural economy” and noted that in being familiar with the area it was not so remote and detached from the village, and found the rationale of the Applicant in terms of providing such a specialist facility compelling. She added that paragraph 65 of the report noted detriment to the countryside, with the proposals not enhancing the character of the area, she noted the nearby Heritage Centre would likely have photographs of the previous cricket pavilion to see how restoring the site would actually enhance the area. Councillor J Clark added that paragraph 54 of the report set out the benefits in terms of the proposal, however, she noted in terms of access and bus stops, that this seemed irrelevant as those that would use the proposed accommodation would likely have specialised vehicles and access the site accordingly. She concluded by noting that there were a great many attractions and amenities within a short drive of the location and that she would welcome such a proposal if it were put forward in her Electoral Division.

Councillor P Jopling noted she read the report and had been surprised when she reached the recommendation for refusal. She added that the county needed this type of business and she felt it would be viable. Councillor P Jopling noted that the proposed building was far better than the derelict buildings current on site and that the access track likely existed in some form for a longer time.

Councillor O Temple noted he had been struck by the attractiveness of the location when attending the site earlier in the day. He added he felt the design picked up on the old buildings and purpose and that this was good. He explained that he could not see how the proposals would damage visual amenity and that NPPF paragraph 13, part 11 in terms of previous used land would help support any proposals in terms of the approval of the application. Councillor O Temple noted the reference to the saved Local Plan Policies being out-of-date, though he felt they would have helped support the application and he felt in terms of the spirit of the application he would be minded to support the application.

Councillor J Robinson noted in his local area there was a proliferation of hairdressing salons and when he asked at the planning stage in terms of whether so many could be supported and remain viable the advice given was that the viability was not a planning concern it was for the individual business to consider. He noted that paragraph 65 of the report referred to viability and asked why this was a consideration contrary to previous advice given to him. He concluded noting he had visited the site previously and felt that such a specialist provision would be unique and valuable.

The Principal Planning Officer, Alan Dobie noted it was felt the planning report was fair and balanced, highlighting both benefits and negative impacts of the proposals within the application. He noted that in terms of the specific business, it had been noted that while the VCD Tourism Plan highlighted a lack of disabled facilities, there was no specific evidence as regards this application site.

He added the report had highlighted that the site was relatively isolated and, in the event of the proposed business use not being successful, any fall back to residential development would have been resisted in terms of visual intrusion and detriment to the openness of the countryside. He noted that the previous development in terms of colliery housing in the nearby area had long since disappeared. He added that on balance Officers felt the benefits of the scheme were outweighed by the dis-benefits and therefore the recommendation was for refusal. He concluded by noting that in terms of a new business a better case for the development in the countryside should have been made.

Councillor P Jopling noted she was bemused in terms of viability and business plans, noting in many cases such business plans were highly commercially sensitive. She moved that the application be approved.

Councillor I Jewell asked for clarification on the distance to the main road from the application site. The Chairman noted the site was approximately 300 metres from the main road and asked if the Applicant would speak in terms of the viability aspect.

Mr L Thompson noted a business proposal had been developed and that a customer base did exist, with information having been supplied and that also the local Parish Council supported the scheme. The Principal Planning Officer noted that the letters in support were generic letters in terms of the principle, rather than being specific to the application site or specific to the proposals as set out.

The Solicitor - Planning And Development, Neil Carter reminded Members of the NPPF paragraph 11 balance test, with the specifics in relation to this application being set out at paragraph 46 of the report. He added that should Members of the Committee feel that the benefits of the development significantly and demonstrably outweighed the dis-benefits, they would need to provide further information on how they came to this conclusion.

Councillor P Jopling noted that the proposals represented a niche product and that the proposals represented a vast improvement on the current state of the site.

Councillor J Clark noted she seconded the proposal for approval of the application, and while acknowledging the report was very balanced, she felt it was the duty of the Committee to look at each application and that in this case it provided a new and unique offer for disabled people and that it could also be supported in terms of paragraph 83 of the NPPF in terms of adding to the prosperity of rural economy.

The Solicitor - Planning And Development noted that should Members be minded to approve the application, it would be necessary for delegated authority to be given to the relevant Officers, in consultation with the Chairman, to formulate the necessary suite of conditions to be imposed. Members agreed in terms of the suggested delegation, and upon a vote being taken it was:

## **RESOLVED**

That the application be **APPROVED** subject to a suite of conditions delegated to the Head of Planning and Assets in consultation with the Chairman of the Committee.

### **c DM/18/02161/FPA - Land To The North Of Hackworth Road, North West Industrial Estate, Peterlee, SR8 2JQ**

The Senior Planning Officer, Chris Shields gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer, CS advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a gas fuelled capacity mechanism embedded generation plant to support the National Grid - resubmission and was recommended for approval, subject to conditions. Members were reminded that a previous application in this regard had been refused by the Committee at its meeting in May 2018.

The Senior Planning Officer, CS referred to a site plan on the projector screen, highlighting a nearby solar farm, the B1283, the A19 and the North West Industrial Estate. He also noted the nearby agricultural land and the high voltage electrical lines in the area serving the industrial estate.

Members were referred to a new access running north to south, and connections to the gas pipeline and the electricity grid. Photographs were displayed showing the existing access, and views of the site. The Senior Planning Officer, CS explained the new proposed site layout, consisting of 34 gas generator sets, reduced from 40 and transformer equipment, sub-station, switch gear and welfare area. He added that the loss of agricultural land had been reduced from 1.15 hectares to 0.64 hectares. The Committee noted that a landscaping scheme had been provided with the resubmitted application and there were proposals for a four metre high acoustic fence to baffle noise from the site. It was noted that there would be planting at the edges of the site with field margin seed mix, a full perimeter native mixed hedgerow and trees to the northern side of the site. The Senior Planning Officer, CS noted that the chimneys associated with each pair of gas generator sets would be seven metres high.

The Committee were informed that there had been no objections from statutory or internal consultees, subject to the conditions as set out within the report. The Senior Planning Officer, CS explained that there had been 9 letters of objection, and 8 letters of support with the main points summarised within the report. It was added Peterlee Town Council and Easington Town Council had objected to the application, with their comments also summarised within the report.

The Senior Planning Officer, CS noted that Officers felt that the landscape harm and small loss of agricultural land did not outweigh the benefits of the development and the application was recommended for approval, subject to the conditions as set out within the report.

The Chairman thanked the Senior Planning Officer and asked Town Councillor A Watson, representing Peterlee Town Council to speak in objection to the application.

Town Councillor A Watson noted that the Town Council's objections had been summarised within the Officer's report and that these included loss of visual amenity and loss of agricultural land. He added that air quality report referred to NO<sub>x</sub> levels being "less than 100% of critical levels" and noted he did not understand what was meant by this.

The Chairman thanked the Town Councillor A Watson and asked Mrs N Wilson to speak in objection to the application.

Mrs N Wilson noted she was once again addressing the Committee and noted she was representing herself and Ms J Wood who had also spoke in May, who could not attend due to work commitments. She appealed to the Committee to have careful consideration of the impact of the application on the agricultural businesses and noted the proposed access was not suitable and would encroach on residential use, business use and in terms of access to the solar farm. Mrs N Wilson noted that there was a need for 24 hour access in terms of welfare of livestock and noted that Members would have taken the opportunity to have read the letters of objection and the information provided. She added that there would be negative impact in terms of noise, exhaust pollution, visual impact and impact upon livestock.

Mrs N Wilson referred to her previous comments at the May Committee and reiterated that the application was not comparable to the nearby solar farm, that development not creating noise. Mrs N Wilson noted there was the solar farm, the nearby industrial estate and electricity pylons, however, she suggested that this was more than enough intrusion and asked why should there be further intrusion in terms of the application, adding that she did not feel the proposals were suitable in this location.

Mrs N Wilson noted that the UK electricity consumption had decreased on average 15%, with the largest decrease 2005-2016 being 20.3%, and the lowest being 7.9%. She noted that it was therefore reasonable to say that the local area or the North East did not require more supply and that it would be more appropriate to tackle issues in terms of energy conservation and through the Council's Climate Change Policy and national policies and not through short term generators.

Mrs N Wilson noted the application was not clear in terms of jobs, or opportunities for local suppliers and the proposals were not an attractive prospect.

The Chairman thanked Mrs N Wilson and asked the Senior Planning Officer, CS to respond to the points raised.

The Senior Planning Officer, CS noted that in reference to air quality, the reference within that report submitted reference to levels being significantly less than the 100% critical level and it was concluded that levels would be well below thresholds. He reiterated that there had been no objections from the Environment Agency or the Council's Environmental Health Section in relation to air quality issues.

The Chairman thanked the Senior Planning Officer, CS and asked Mr S Wheeler and Mr M Pearson to speak in support of the application.

Mr S Wheeler thanked the Committee for the opportunity to speak on behalf of Enso Energy Limited, a highly experienced developer providing energy using a range of techniques to supply to the grid and businesses. He added the business was an advocate of sustainable energy and also supported Government policies with the application being, whilst relatively small, a way to help balance demand at peak times. Mr S Wheeler noted that energy provision was moving away from carbon heavy generation and there were more frequent events of supply and demand and the type of additional energy security the application proposed was being adopted more. He noted that the site was chosen as it met all the critical parameters, with good access to the electricity grid and gas pipeline and provided minimum environmental impact and was sufficiently removed from residential receptors.

Mr S Wheeler added that the application had been assessed and Officers had deemed it acceptable against local and national polices, with there being a lot of additional work having been undertaken to address issues that had been raised by Members previously, including the reduction to 34 gas generator units, the reduction in the loss of agricultural land, additional landscaping, noise mitigation and air quality measures, resulting in an improved application. He added that the Environment Agency permit should add a level of assurance in terms of air quality.

Mr M Pearson reiterated that the concerns raised previously had been heard, understood and the revised application before Members reflected this, in terms of the reduced number of generators and improved landscaping. He noted that in response to Council Officers, acoustic fencing and replacement boundary hedging had been agreed, native hedgerow and buffer planting. He concluded by noting the site would better fit into the landscape and that the revised submission was an improved application and appropriate for the site.

The Chairman thanked Mr S Wheeler and Mr M Pearson and asked Members of the Committee for their comments and questions.

Councillor A Gardner thanked all the speakers and noted that carbon intensity when checking online was 252 gCO<sub>2</sub>/KWh at 11.00am today, with the target for 2030 being 50-100 gCO<sub>2</sub>/KWh. He noted that the Council had committed to carbon reduction and therefore the application was contrary to this as in increased carbon emissions.

Councillor J Clark reiterated comments she had made at the previous meeting in May, relating to the application site being on a route often used in travelling to the coast. She added the development would be an eyesore on the field, and that you would not wish to see this while travelling to the Durham Heritage Coast. She added that she would support refusal of the application on the reasons previously stated and the comments from Councillor A Gardner.

Councillor O Temple noted from the site visit and aerial photographs that the site was bounded on two sides by the existing large solar farm which was very clearly visible from the road. He added that he had supported the refusal at the May meeting, however, the changes that had been made to the application he felt had “tipped the balance” and he therefore was minded to support the application.

The Chairman asked if any Members wished to propose and second a motion either in support of the Officers recommendation or to the contrary.

Councillor O Temple moved that the application be approved, he was seconded by Councillor D Freeman. Upon a vote being taken the motion was lost. The Chairman asked for any Members wishing to propose a contrary motion to do so, giving the relevant reasons for doing so.

Councillor A Gardner noted he proposed refusal as per the reasons he had stated previously, with the application being contrary to Council policies in relation to carbon footprint. The Chairman asked for clarity in terms of which planning policies the application Members felt the application was not in accord with and for any seconder to the proposal for refusal.

*Councillor J Robinson left the meeting at 2.18pm*

Councillor J Clark noted that paragraph 70 of the Officer’s report referred to paragraph 170 of the NPPF and noted that while the size of the site and number of generators had reduced, emissions had not reduced and paragraph 71 of the report referred to pollution through noise and exhaust emissions.

The Senior Planning Officer, CS reiterated that in terms of air quality there had been no objections from the Environment Agency or the Council’s Environmental Health Section. The Solicitor - Planning And Development noted that it would be difficult to refuse the application on the issue of air quality as Technical Officer advice did not support this. The Chairman reiterated that the Committee would need to make their decision upon planning considerations and for reasons to be robust in terms of potential challenge at appeal.

Councillor A Gardner moved that the application be refused, he was seconded by Councillor J Clark.

The Solicitor - Planning And Development asked for clarity prior to a vote being taken whether the proposed refusal reasons were an amalgamation of those stated by the Councillors.

Councillor A Gardner noted in terms of the application being contrary to Part 14 of the NPPF relating to climate change, and Councillor J Clark noted in terms of the application being contrary to paragraph 170 of the NPPF regarding pollution. Upon a vote being taken it was:

**RESOLVED**

That the application be **REFUSED** as the development would have an adverse effect on the general health of the population of the area through emissions that would be generated from the development contrary to Paragraph 170 of the NPPF and the development would also be contrary to climate change objectives set out in Part 14 of the NPPF.

**d DM/18/02152/OUT - St Andrews Park, Dragon Lane, Gilesgate, DH1 2RH**

The Senior Planning Officer, CS gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was an outline application for erection of retail development (use Class A1) with associated access, parking and landscaping (with all matters reserved except access) and was recommended for approval, subject to conditions and a Section 106 Legal Agreement.

The Senior Planning Officer, CS noted that Phase One of development in the immediate area had included Kwik Fit and a number of trade units. He added that in the wider area there was the context of the Durham City Retail Park, Damson House development and former Mono Containers site. Members noted no objections from statutory or internal consultees subject to conditions and a Section 106 Agreement securing contributions towards a Retail Park Relief Road. The Senior Planning Officer, CS added there were no objections received from members of the public. He added that the scheme proposed sale of bulky goods and therefore did not impact upon town and district centres, and the application was proposed for approval as set out within the report.

The Chairman thanked the Senior Planning Officer, CS and asked Mr J Taylor, Agent on behalf of the Applicant to speak in support of the application.

Mr J Taylor thanked the Committee for the opportunity to speak and reiterated the points made by the Officer and set out within the report. He noted the loss of Kerry Foods at the site as an employer in the local area and that while the Kwik Fit were operating very well and there were also a number of trade units, there was no further demand for those particular types of use. It was explained that the use proposed in terms of bulky goods would not impact upon retail centres, and the proposed "drive-thru" restaurant would have a pedestrian link to the nearby Tesco, and the proposals would add to the overall experience and integration of the sites. Mr J Taylor noted the benefits to the highway network, with financial contributions, and improvements that would help reduce congestion.

The Chairman thanked Mr J Taylor and asked Members of the Committee for their comments and questions.

Councillor D Freeman noted that he was not opposed to the development and indeed it appears to have several benefits. He noted the proposed link road was much needed, however, he noted issues and similar examples where development was approved and there was still a shortfall in the total amount of funds required to complete such highways improvements or relief roads. Councillor D Freeman added that he did not see any reference to future end users of the development, and the nearby Durham City Retail Park had empty units, the Committee having considered an application at its last meeting. He added that bearing all this in mind he was still supportive of the application.

Councillor M Davinson proposed that the application be approved, he was seconded by Councillor J Clark.

**RESOLVED**

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement and the conditions detailed in the Officer's report to the Committee.



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/17/03547/FPA & DM/17/03548/LB
<b>FULL APPLICATION DESCRIPTION:</b>	Demolition and alteration of listed building at former Three Tuns Hotel (existing student accommodation) to create additional student accommodation. (Full planning and Listed Building Consent).
<b>NAME OF APPLICANT:</b>	Mr Ward & Mr Williams
<b>ADDRESS:</b>	Former Three Tuns Hotel, New Elvet, Durham
<b>ELECTORAL DIVISION:</b>	Elvet & Gilesgate
<b>CASE OFFICER:</b>	Barry Gavillet, Senior Planning Officer, <a href="mailto:barry.gavillet@durham.gov.uk">barry.gavillet@durham.gov.uk</a> 03000 261958

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### DESCRIPTION OF THE SITE AND PROPOSALS

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**Site:**

1. This application site lies to the eastern part of Durham City Centre and within the Durham (City Centre) Conservation Area. The building itself was a hotel until recently and is part Grade II listed. It is a very prominent building in this part of the city, located at the busy junction of Old Elvet, New Elvet and adjacent to Elvet Bridge. The majority of the building is three storeys with some two storey sections present, the building is rendered in a light beige colour and the roof covering is slate with the majority of roofs being pitched.
2. The English Heritage listing (grade II) describes the hotel as consisting of three houses, 18<sup>th</sup> Century but incorporating earlier buildings. The modern hotel extends further north. There is a 20<sup>th</sup> Century building immediately to the north which now forms an entrance to the car park at the rear, and with rooms above. The hotel continues further north at first and second floor level above numbers 3 to 9 New Elvet and finally number 1 Old Elvet which is also grade II listed. Planning permission was granted to change the use of the hotel into student accommodation in 2013.

**Proposal:**

3. Consent is sought for the demolition of parts of the existing building complex, the construction of new student accommodation blocks and internal modifications at the Three Tuns, New Elvet, Durham City. There are currently 50 student beds on within the existing building, a further 118 beds are proposed making a total of 168 beds on site. There would be no demolition of any parts of the listed building, only the modern brick extensions would be removed. There would be 7 car parking spaces retained along with 36 cycle spaces.

4. The proposal seeks to provide high quality accommodation within new build blocks that follow the mediaeval grain, massing and varied roofscape and utilise the listed and undesignated existing buildings without harming and where possible enhancing their significance. Furthermore the existing fabric would be repaired and the materials of the new build elements are derived from the traditional materials of the conservation area. All the buildings will also be in continual use and receive regular maintenance.
5. This application is being reported to committee as it is classed as a major application.

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## **PLANNING HISTORY**

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6. 05/00314/FPA - Siting of mobile testing vehicle for computer based academic tests.
7. 05/01188/LB - Demolition of existing and erection of new stair/ramp access to rear, internal alterations including removal and replacement of doors, provision of ramps, alterations to toilets at existing hotel.
8. 06/00015/FPA - Erection of disabled access to rear of existing building.
9. DM/14/0167/LB – External alterations and repairs.
10. 4/13/00626/FPA - Change of use from hotel to student accommodation

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

11. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
12. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). 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.
13. *Part 2* - 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.
14. *Part 5* - To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.

15. *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.

16. *Part 9* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

17. *Part 12* - 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. *Part 15* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

19. *Part 16* - NPPF Part 16 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:**

##### **City of Durham Local Plan**

20. 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.

21. 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.

22. 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.
23. 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.
24. Policy E23 (Listed Buildings) seeks to safeguard listed buildings and their settings by not permitting development that would adversely affect the special interest of a listed building, total or substantial demolition, or development detracting from the setting of a listed building. Any alterations must be sympathetic in design, scale and materials.
25. Policy H7 - City Centre Housing seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
26. 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.
27. Policy H16 - Residential Institutions and Student Halls of Residence 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.
28. Policies Q1 and Q2 (General Principles Designing for People and Accessibility) state that the layout and design of all new development should take into account the requirements of all users.

#### Interim Student Policy

29. On the 15 July 2015, Cabinet approved consultation on an Interim Policy on Student Accommodation. The consultation took place during September and October 2015. Responses received during the consultation period were considered and amendments were made to the Policy. On the 16 March 2016, Cabinet recommended that full Council adopt the revised Interim Policy and Council adopted the Policy on 13 April 2016. As the Interim Policy has been adopted, it can be afforded weight in the decision making process, although the weight to be afforded to it must be less than if it were part of the statutory Development Plan for the area.

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

##### The County Durham Plan

30. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

31. Environment Agency does not object subject to compliance with the Flood Risk Assessment.

### **INTERNAL CONSULTEE RESPONSES:**

32. Highways officers have confirmed that no highway objections are raised.
33. Spatial Policy offers no objection to the proposal.
34. Pollution Control do not object subject to a construction management plan condition including a restriction on construction hours.
35. Ecology officers do not object subject to compliance with the submitted ecology report.
36. Design and conservation officers have no objections to the proposals.

### **PUBLIC RESPONSES:**

37. Northumbrian Water have no objections.
38. Five letters of concern have been received by nearby residents. The concerns include that the development is too dense, the design is not appropriate, it would lead to an increase in the number of students and anti-social behaviour, the would be an impact on residential amenity and that the development would cause congestion and safety issues as a result of an increase in the number of cyclists.

### **APPLICANTS STATEMENT:**

39. When the Three Tuns Hotel was purchased by Durham University and it transformed parts of the buildings into student accommodation it brought to an end the long standing historic use as a coaching inn and hotel. Historic assets stand the best chance of survival when they are in the use they were designed for or failing that another viable use can be found.
40. The hotel was sold due to its gradual decline and it has been argued that as the original use was no longer viable the use as student accommodation with bedrooms and lounges etc is very similar to that of a hotel.
41. The reports accompanying this application have set out the heritage values or significance of all the historic assets affected by the proposal, assessed the impact of the proposals on that significance and set out the mitigation required and incorporated into the scheme. The proposal causes minimal harm to a number of the buildings but the overall proposal and the public benefits of such scheme outweigh that harm and will improve the site in terms of use and quality including bringing key listed buildings back into good order and full use.

42. Furthermore, the need assessment has shown, through detailed evaluation, assessment and analysis, that the proposed scheme on the former Three Tuns Hotel site fully complies with the Durham County Council Interim Policy for Purpose Built Student Accommodation (PBSA).

*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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43. 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 development, the impact upon surrounding occupiers, the listed building and the character and appearance of the conservation area, highways issues, section 106 contributions and objections received.

### **Principle of the development**

44. As mentioned previously, the site was granted planning permission in 2013 for the change of use from a hotel to student accommodation. As such, the principle of the development has already been established. Notwithstanding this, the applicant has submitted an assessment to confirm that the proposals are in accordance with the councils interim policy on student development. Officers concur with the report which confirms that:

- (a) There is a need for additional student accommodation;
- (b) It would not result in a significant negative impact on retail, employment, leisure, tourism or housing use or would support the Council's regeneration objectives;
- (c) Consultation with the relevant education provider.

The development is readily accessible to an existing university or college academic site, or hospital and research site;

The design and layout of the student accommodation and siting of individual uses within the overall development are appropriate to its location in relation to adjacent neighbouring uses;

The internal design, layout and standard of accommodation and facilities is of appropriate standard;

The impacts from occupants of the development will not have an unacceptable impact upon the amenity of surrounding residents in itself or when considered alongside existing and approved student housing provision.

Prior to occupation a management plan or draft outline management plan appropriate to the scale of the development shall be provided;

The quantity of cycle and car parking provided is in line with the Council's Parking and Accessibility Guidelines; and

The applicant has shown that the security of the building and its occupants has been considered along with that of other local residents and legitimate users.

The proposals contribute to the re-use of listed buildings, heritage assets and other buildings with a particular heritage value.

### **Impact upon surrounding occupiers, the listed building and the character and appearance of the conservation area**

45. One letter of concern has been received from number 8 Old Elvet which raises concern about loss of residential amenity. Having assessed this situation on site it is not considered that there would be any overlooking issues or loss of privacy to the property given the proximity and window locations in the proposed development. In addition, the rest of the site is surrounded by commercial uses and the existing student accommodation and therefore residential amenity would not be compromised.
46. Beginning with the proposed demolition works this would not be opposed due to the elements identified for removal being of no interest historically, dating from the 1970s, with their architectural/aesthetic merits limited at best. As such complete loss of the building components would not be detrimental to the listed building individually or to the surrounding conservation area.
47. Demolition of the extensions within the southern part of the site would be beneficial by offering a positive opportunity to reinstate the historic street frontage delivering townscape enhancement. The c.1861 OS plan shows that the whole of New Elvet was developed continuously to either side of the hotel. The buildings south of bay 5 were demolished in the later part of the 1800's and have never been replaced with the current open car park and the visible extensions negatively impacting on the overall quality of the historic streetscape.
48. In terms of the detailed design, the proposed frontage development block within the south part of the site appropriately follows the existing building line; the design focusses on simplicity of shape, a narrowness and vertical emphasis, along with repetitive fenestration that reflects the local vernacular in a positive manner. The proposed building forms would also accurately demonstrate the known series of medieval burgage plots behind that inform the historic urban grain of the city achieving suitable integration. The inclusion of height, ridge and eaves level variants and the set back of the contemporary link assists to break down the overall scale and massing so that the heritage assets adjoining the site to either remain fully legible and dominant. Historically the frontage incorporated carriage entrances to access the rear open courtyards, shown on building plans from c.1861 onwards, and it is welcoming that this approached is continued within the proposed development. Design cues have been taken from the existing historic streetscape with the inclusion of pitched roofs, bay oriel windows, the size, shape and style of the other window openings, head and sill details and through choice of materials. The connecting element at the point of contact with the existing hotel is a fitting contemporary take on the local vernacular adding a further breaking feature and aesthetic interest.
49. Overall these three blocks will be experienced as a unified group rather than individually with subtle differences generating interest and complementing the primary frontage to New Elvet. They will also bridge the unsympathetic gap in the streetscape to reinforce the sense of continual development to the back of the footway and the strong characteristic of enclose this provides. In relation to the block behind, architecturally the contemporary form and aesthetic reflects the type of development. This response is comfortable given the inward facing nature of the primary elevation with no public face to the building, and it includes sufficient variants to break the overall composition while maintaining an appropriate vertical and repetitive theme.

50. The proposed accommodation blocks within the northern part of the site place an emphasis on linearity orientated to respond to the historic urban grain. They would rise up towards the rear but the heights have been restrained so that they don't break the skyline, and at their greater vertical extent they would not be greater than that of the existing built form. The blocks would be suitably fragmented creating an articulated roof scape to reduce the impact on the street frontage and the wider roof scape of the city. Again the contemporary architectural response is comfortable with articulated elevations via differences in heights, block forms and materials yet including unifying elements across all four blocks to create cohesion.
51. The site figures in a range of views that are important to the significance and setting of both the conservation area and the World Heritage Site and how these assets are understood and appreciated. The development proposed will change the physical nature of the site in succession impacting visually in the local context and wider townscape. However, the elevations and visualisations/modelling provided indicates that the proposed development is unlikely to have significant harmful effects in this respect.
52. The site location is within the defined inner setting of Durham World Heritage Site, this ranges from close glimpsed views in the City to those where the townscape can be seen against the WHS, and in this context the relative subordination of the City's buildings are key defining features. The settings of World Heritage Sites are also recognised as making a fundamental contribution to their Outstanding Universal Values. With regards to the above, in wider views eastwards from the WHS looking towards the development it would likely form only a minor component that would be assimilated in the mixed dense built environment of the City. The most dominant element to be read in such wider views would be the roofscape, and this has been addressed in the formulation of the design so that the development does not appear monolithic or compete for attention.
53. In terms of listed buildings, the development to the south would directly impact on the listed building positioned to either side of the site, namely, the main Hotel itself (Grade II) and the Police Station No 20 New Elvet (Grade II). But it is considered that the physical impacts would not be significant given bland character of the side elevations affected while the principle assets legibility and the understating of their heritage values would be fully sustained. The setting of these can be considered enhanced given the quality design solution of the reinstated street frontage. Within the northern part of the site the development is within the setting of numerous listed buildings at varying distances. But the proposal would not reduce or clash with the prominence or experience of these and given the lack of visual interaction their setting would not be harmed to any substantial degree.
54. Overall, in assessing the development proposals it is considered that there would be varying degrees of impact on the significance of interrelated designated heritage assets and their setting in both the local and wider context. Certain components result in harm but the overall level would be "less than substantial" in accordance with the NPPF that requires such impact to be weighed against any heritage and/or public benefits. It is also considered that the proposals would serve to enhance and preserve the conservation area in accordance with section 72 of the relevant act. If approval is granted then critical to the success of the scheme will lie in the delivery of the final design quality and therefore conditions in relation to materials and detailing are required.

## **Highways Issues**

55. There would be 7 car parking spaces retained along with 36 cycle spaces which highways officers confirm as being acceptable for a student development in a highly sustainable location.
56. On the basis of the above, highways officers offer no objections to the proposals and it is therefore considered that with regard to highways issues that the proposals are in accordance with part 9 of the National Planning Policy Framework and saved Policy T1 of the City of Durham Local Plan.

## **Section 106 contributions**

57. Saved policy R2 in the DCLP sets out the levels of open space required for housing developments of ten or more dwellings. Whilst student accommodation is not specifically mentioned within the policy, it is clear that the students will reside in this accommodation for most of the year, and the students will also use open space facilities within the City. This is more likely to be the case given that there is no on-site open space as part of this development. Therefore, officers consider it reasonable to request a contribution from the development and this is justified in terms of para 56 of the NPPF which requires planning obligations to be necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. A contribution of £168,504 has been calculated in this regard.

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## **CONCLUSION**

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58. The proposal involves the demolition of some modern extensions and the redevelopment of part of the site to provide student accommodation. It is considered by officers that this would result in an enhancement to both the Listed Building and the Conservation area. The use of the site for student accommodation is already well established and there are no adverse impacts that would significantly and demonstrably outweigh the benefits, therefore the application is recommended for approval.

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## **RECOMMENDATION**

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That application DM/17/03547/FPA be **APPROVED** subject to the following conditions and subject to the completion of a Section 106 legal agreement to secure the provision of:

- i. £168,504 towards recreation in the Elvet and Gielsgate Electoral Division.
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 only in accordance with the approved plans and specifications contained within:

Proposed Elevations, Proposed Elevations sheet 2 both received 13.03.2018.

Proposed Basement and Ground Floor Plans received 19.6.2018

Proposed First and Second Floor Plans  
Proposed Third and Fourth Floor Plans  
Ground Floor Plan – Demolitions  
First and Second Floor Plans – Demolition  
Third Floor Plan  
All received 27.20.2017

Reason: To meet the objectives of part 16 of the NPPF.

3. Prior to the commencement of any part of the development or any works of demolition, 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:

A Dust Action Plan including measures to control the emission of dust and dirt during construction

Details of methods and means of noise reduction

Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site;

Designation, layout and design of construction access and egress points;

Details for the provision of directional signage (on and off site);

Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;

Details of provision for all site operatives for the loading and unloading of plant, machinery and materials

Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;

Routing agreements for construction traffic.

Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;

Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

Reason: In the interests of residential amenity and to accord with part 15 of the NPPF. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

4. Notwithstanding any details of materials submitted with the application no development shall commence until details of the external walling, roofing materials, hard surfacing, windows and doors, specification detail of roof-lights, specification details of rain water goods, specification details of secondary glazing system proposed within the listed building and precise details/section drawing of the construction of the internal stud partition walls forming the en-suite in Studio1-4.

Reason: In the interests of the appearance of the area and to comply with part 16 of the NPPF. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

5. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1400 on Saturday.

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

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

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

Reason: Reason: In the interests of residential amenity and to accord with part 15 of the NPPF.

6. The development permitted by this planning permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA) 3E Consulting Engineers Ltd P17-573-3E-00-XX-DR-C-9000 Issue 2 dated May 2018 and the following mitigation measures detailed within the FRA:

1. The basement level shall remain as Storage only for the life time of the development in accordance with Drawing 01-00-DR-A-01-0001 Rev P2.
2. *The minimum finished floor levels of the development shall be in accordance with Ground Floor Plan - Proposed 01-00-DR-A-01-0001 Rev P2.*

The mitigation measures shall be fully implemented prior to occupation and subsequently in accordance with the timing / phasing arrangements embodied within the scheme, or within any other period as may subsequently be agreed, in writing, by the local planning authority.

Reason: To ensure effective drainage measures and sustainable principles are adhered to, and to safeguard the proposed development from flood risk in accordance with part 14 of the NPPF.

7. Notwithstanding the details submitted within the application the development shall be occupied until a detailed strategy of precise management methods, approaches and techniques for the operation of the site has been submitted to and agreed in writing by the Local Planning Authority. The strategy may include measures of CCTV coverage, 24 hour security or warden presence, student warden schemes or other management operations. Thereafter the development shall be implemented in accordance with the agreed details, with adherence to the agreed management scheme in perpetuity.

Reason: In the interests of reducing the potential for harm to residential amenity, anti-social behaviour or the fear of such behaviour within the community having regards Policies H16 and H13 of the City of Durham Local Plan 2004.

8. The development shall not be beneficially occupied until public art has been provided within the development, in accordance with a scheme which has been submitted to and approved in writing by the Local Planning Authority.

Reason: In interests of good design, in accordance with Policy Q15 of the City of Durham Local Plan 2004.

That application DM/17/03548/LB be **APPROVED** subject to the following conditions:

1. The works to which this consent relates must be begun not later than the expiration of three years beginning with the date on which the consent is granted.

Reason: In accordance with Section 18(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990.

2. The development hereby approved shall be carried out only in accordance with the approved plans and specifications contained within:

Proposed Elevations, Proposed Elevations sheet 2 both received 13.03.2018.

Proposed Basement and Ground Floor Plans received 19.6.2018

Proposed First and Second Floor Plans  
Proposed Third and Fourth Floor Plans  
Ground Floor Plan – Demolitions  
First and Second Floor Plans – Demolition  
Third Floor Plan  
All received 27.20.2017

Reason: To meet the objectives of part 16 of the NPPF.

3. The development shall not be beneficially occupied until public art has been provided within the development, in accordance with a scheme which has been submitted to, and approved in writing by the Local Planning Authority.

Reason: In interests of good design, in accordance with Policy Q15 of the City of Durham Local Plan 2004.

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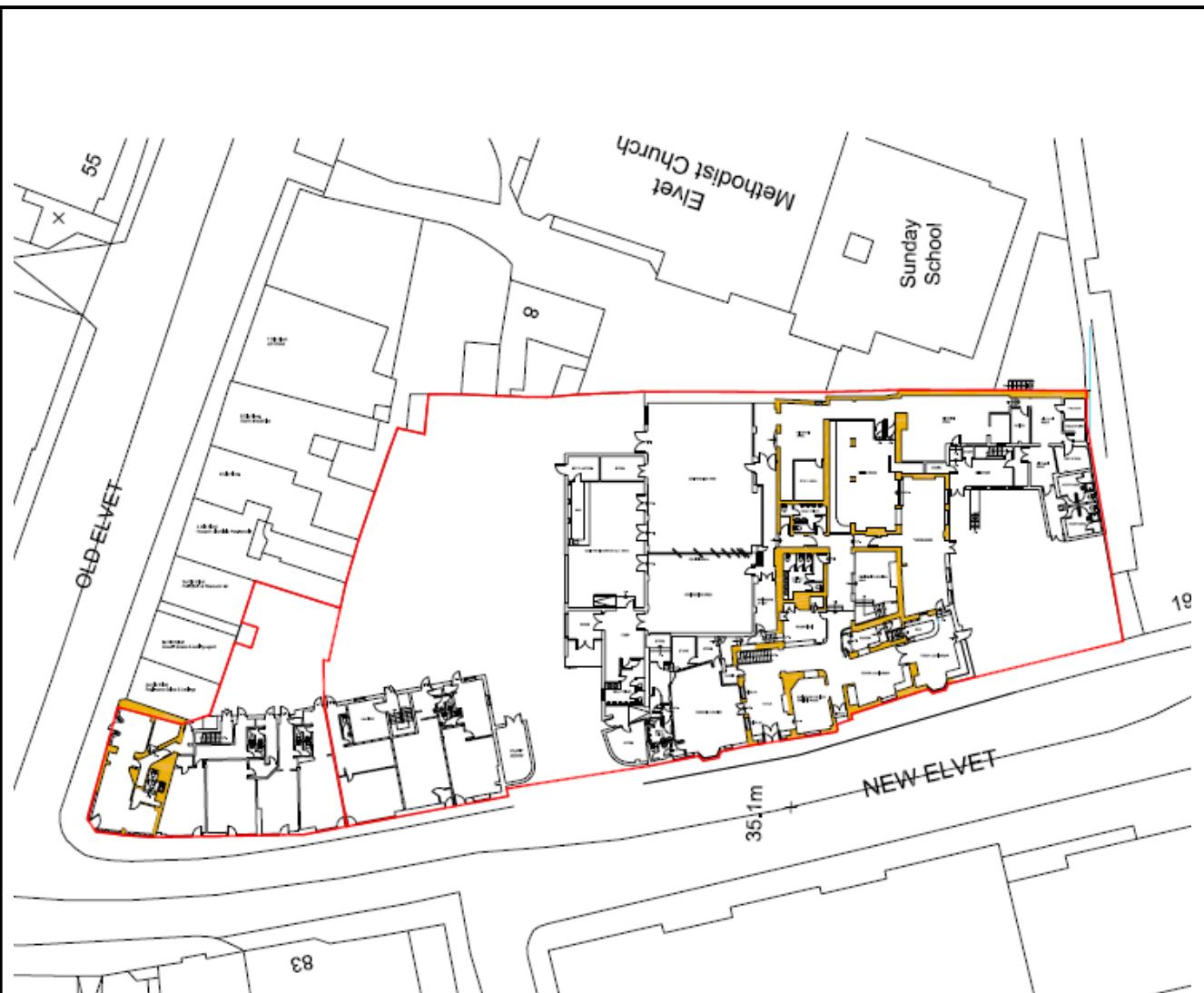
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Statutory, internal and public consultation responses

City of Durham Local Plan



 <b>Planning Services</b>	Demolition and alteration of listed building at former Three Tuns Hotel (existing student accommodation) to create additional student accommodation. (Full planning and Listed Building Consent).
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005	<b>Comments</b>
	<b>Date</b> December 2018

**Planning Services****COMMITTEE REPORT**

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**APPLICATION DETAILS**

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**APPLICATION NO:** DM/18/03115/FPA  
**FULL APPLICATION DESCRIPTION:** 4 No. two bedroom flats (consisting of conversion of existing dwelling at No. 36 into 2 dwellings and approved dwelling in garden altered to form 2 flats)  
**NAME OF APPLICANT:** Trustees of Mrs Doreen Hodgsons Estate  
**ADDRESS:** 36 The Hallgarth  
Durham  
DH1 3BJ  
**ELECTORAL DIVISION:** Elvet and Gilesgate  
**CASE OFFICER:** Jennifer Jennings  
Planning Officer  
Telephone: 03000 261057  
[jennifer.jennings@durham.gov.uk](mailto:jennifer.jennings@durham.gov.uk)

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**DESCRIPTION OF THE SITE AND PROPOSALS**

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**The Site**

1. The application site is located to the east of Durham City Centre within a modern residential estate built in the 1970s. It is located within Durham (City Centre) Conservation Area, in close proximity to a number of listed buildings, and approximately 450 metres to the east of Durham Cathedral and Castle World Heritage Site (WHS).
2. The site relates to property and garden land at no. 36 The Hallgarth, a three-bed dwelling house, which is presently an end terrace of four properties that extend to the east of the site. The garden land to the west of the house was granted planning permission in April 2018 for the erection of a matching three-bed dwelling on the gable end of no. 36 set back from the building line. This permission has not been implemented at the time of writing.
3. The garden land is uniform in level, laid to grass with paving adjacent to the existing house. A 1.8 metres high timber fence bounds the garden area along with a mix of mature hedging, shrubs and conifer trees. To the south of the site lies the gable end of a row of former council owned garages. To the north is residential property 'Hallgarth Farm House', which although not listed, would have non-designated heritage status and appears on 1860 OS maps. To the west lies the rear gardens associated with the line of terraced properties along Hallgarth Street, all of which are Grade 2 listed. It should be noted that a significant and sudden drop in levels of some 2-2.5 metres exists just west of the site boundary, with the ground level along the frontage of Hallgarth Street 5 metres lower than The Hallgarth estate.

## Proposal

4. The proposal seeks full planning permission for the conversion of the existing three-bed dwelling and construction of a similar building to the recently approved three-bed dwelling to provide two flats in each, with each flat accommodating two bedrooms. The proposals would involve the construction of a new two storey building on the existing garden land to form an end terrace to the line of properties along The Hallgarth. The design and materials would continue to match the adjacent properties. The rear garden area would be subdivided between the new property and no. 36 with ground floor flats in each building having access and bin storage therein. The upper floor flats would not have garden access, but their bins would be located to the front of the properties in a purpose built timber store. No car parking is proposed.
5. The application is referred to Committee at the request of the local member Councillor David Freeman as local residents are concerned about the loss of family homes, the amenity of local residents being further damaged by the proposed amendments as well as concerns that the application is trying to get around the Council's policy on HMOs.

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## PLANNING HISTORY

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6. Planning permission was granted in April 2018 for the erection of a new three-bed house in the garden of no. 36 The Hallgarth.

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## PLANNING POLICY

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### NATIONAL POLICY

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
9. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
10. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

11. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

12. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

#### NATIONAL PLANNING PRACTICE GUIDANCE:

13. 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; conserving and enhancing the historic environment; design; and use of planning conditions.

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

#### LOCAL PLAN POLICY:

##### *The City of Durham Local Plan (2004) (CDLP)*

14. *Policy E3 World Heritage Site – Protection* – Durham Cathedral and Castle WHS and its setting will be protected by restricting development to safeguard local and long distance views to and from the cathedral and castle and peninsula and seeking the conservation and management of buildings which make up the WHS and its setting.

15. *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.

16. *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, copse 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.

17. *Policy E21 – Conservation and Enhancement of the Historic Environment* – states that the historic environment will be preserved and enhanced by minimising adverse impacts by development proposals.

18. *Policy E22 – Conservation Areas* – seeks to preserve or enhance the character or appearance of conservation areas, by nor 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.
19. *Policy E23 – Listed Buildings* – The Council will seek to safeguard listed buildings by no permitting development which detract from their setting.
20. *Policy H2 – New Housing in Durham City* – comprising windfall development of previously developed land and conversions will be permitted within the settlement boundary so long as it accords with other relevant policies within the plan.
21. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.
22. *Policy H13 – Residential Areas – Impact upon Character and Amenity* – protects residential areas from development that would have a significant adverse effect on their character or appearance, or the amenities of residents within them.
23. *Policy T1 – Traffic Generation – General* – states that development proposals which would result in a level of traffic generation detrimental to highway safety should not be granted planning permission.
24. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
25. *Policy T10 – Parking* – States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
26. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
27. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility* – states that the layout and design of all new development should take into account the requirements of all users.
28. *Policy Q5 – Landscaping – General* – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
29. *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.
30. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal.

31. *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.

## RELEVANT EMERGING POLICY:

32. Paragraph 48 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. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

### Five Year Housing Land Supply

33. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.

34. In September 2017, the Government published a consultation document entitled "*Planning for the Right Homes in the Right Places*", which introduced a standard methodology for calculating housing need (OAN). Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).

35. The Government published its response to the consultation in March 2018, and clarified that the standardised approach is the most appropriate method for calculating need as it meets the three key principles of being simple, realistic and based on publicly available data. At the same time, the revised draft NPPF was issued for consultation, with paragraph 61 of that document advising that, 'in determining the minimum number of homes needed, strategic plans should be based upon a local housing need assessment, conducted using the standard method in national planning guidance'.

36. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.

37. The Council's position on 5-year housing land supply was publically tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its OAN. On the 13<sup>th</sup> June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

38. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.

## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

39. Northumbrian Water offer no comments in relation to the application.
40. Highways Authority commented that a transport statement outlining the accessible location of the development and approach to parking supply had been provided. The development sits within the City's controlled parking zone, and highways are satisfied that car ownership and parking demand will be limited as no residents parking permits would be issued to property occupiers. No objection to this proposal is offered on highways grounds.

### **INTERNAL CONSULTEE RESPONSES:**

41. Design and Conservation – comment that they have no objection to this proposal from a design and conservation perspective as there would be no external changes involved to the scheme granted approval pursuant of application DM/18/00328/FPA. As such again the design would be considered to relate acceptably in the context of its modern surroundings. With regards to views towards Durham Cathedral and Castle World Heritage Site, the surrounding Durham (City Centre) Conservation Area and the setting of nearby listed buildings the impact would again be a neutral, conserving one.
42. Environment, Health and Consumer Protection (Nuisance Action Team) provided comments stating in relation to the flats, due to the increase in households there is a greater likelihood of noise, both between flats and adjoining properties. However it is considered that assuming the scheme of insulation measures stated are installed, that the potential for noise impact is suitably managed. Based on the information submitted with the application, the development is unlikely to cause a statutory nuisance
43. Environment, Health and Consumer Protection (Contaminated Land section) – comment that they have no adverse comments to make and that no contaminated land condition would be required.
44. Ecology section have no adverse comments to make but require an informative to be applied to any permission granted.
45. Arboricultural – No additional comments from the previous approved application. These comments were that trees to be removed to make way for the development do not warrant individual tree preservation orders and their removal would not have a negative effect at street level. Mature trees located within Hallgarth Farm House to the north would have tree roots located within the rear garden of No. 36, therefore any development must take these into consideration with a detailed Tree Protection Plan and Method Statement which must comply with BS 5837 2012.

## PUBLIC RESPONSES:

46. The application has been advertised by means of site notice on site, press notice and by notifying neighbouring residents by letter. Ten objections have been received raising the following points:

- The proposals would negatively impact on levels of traffic and parking in the cul de sac.
- The application is intended to circumvent the article 4 directive and the Interim policy on student accommodation with the aim to house students.
- The proposals would see the loss of 2 family homes, which if occupied as a family home would redress the imbalance in the area where high student numbers exist.
- The potential for the use of the properties as student housing would lead to an increase in anti social behaviour.
- The proposal should be considered under Part B of the Interim policy in relation to purpose built student accommodation (PBSA). Under this part there is a requirement to prove a need for additional student accommodation and to prove that it would not result in negative impact on retail, employment, leisure tourism or housing use in the area.
- The proposal can be considered to potentially be HMO if double beds are put into each bedroom with a maximum of 16 possibly living in the flats.
- The application raises the same issues and objections as the previous application and demonstrates how easy it is to get around restrictions on HMO growth in the city.
- The use of the properties for students will mean no council tax paid, but an increased demand on public services
- Application poses a worrying precedent for every other family home in the area, where in order to avoid refusals under the interim policy homes will potentially be converted to flats, thus further intensifying student ghettos in the city.
- The concerns raised during previous application with regards overcrowded site, no vehicle access, exacerbating existing parking problems, overloading drainage systems, problems with noise and anti-social behaviour from existing students, will be multiplied as a result of the current submission.
- It is not for planning to concern itself with issues of buying and selling on the housing market and to be involved in rectifying problems encountered by private individuals.
- The property has only been marketed for six months which is not a sufficient period of time to properly test interest. The short time scale from grant of permission to resubmission proves it was always the intention to let to students and circumvent the article 4.
- The applicant states that the area is already blighted by students lets in the area and the sale of the current property has been affected by this. This is not true as no. 36 is currently surrounded by non-student lets, although there are still numerous student houses in the area. But this is no reason to justify further student lets.
- The internal layout of the flats is clearly intended for students as it would not attract professional individuals.
- The more student lets in the area the greater the adverse effects on non-student residents.
- Concerns that if converted to flats, only one non-student resident living within the terrace of houses. Residents suffer effects of late night noise, litter throwing, cars parked inconsiderately, harassment. Concerns that area blighted with To Let boards and this change of use would further intensify the problem.
- The new development at Whinney Hill would provide 30 flats, so there is not a need for 4 flats in this location.
- Ward Councillor provided comments raising similar points to residents.

## **APPLICANT'S STATEMENT:**

47. Planning permission was granted to build a new house in the garden of no. 36 The Hallgarth in April 2018. Having marketed the property with the benefit of planning permission unsuccessfully it was decided on the advice of local estate agents to submit a new planning application for a development of 4 nos two bedroom flats each designed specifically for use by no more than two people.
48. A Pre application enquiry was therefore made prior to submission of the current planning application to develop the site with flats instead of houses. In her response to this enquiry the Planning Officer considered that the proposal submitted could be supported in principle as the previous planning permission granted to build a new house in the garden had already established that the new scheme for 4 flats was acceptable in terms of Scale, Design, Highway Safety, Sustainability, Residential Amenity and Overlooking. The Highways Engineer has raised no objections to the proposals and has not asked for any additional parking to be provided related to the flats as he considers the site to be in a sustainable location. This is backed up by the transport statement included with this submission.
49. The conservation officer has also raised no objections to the design for these flats as the planning permission granted for the new house for an identical external design is considered to be acceptable.
50. In order to preserve the existing stock of family housing, the Council have adopted a planning policy which prevents existing houses in city centre locations from being converted into H.M.O.'s.
51. This policy however is not applicable to the proposed flats in this application as each flat will provide accommodation for a maximum of two people whilst the policy applies only to dwellings occupied by 3 or more people. It is considered that a development of 4 small flats in this city centre location will be beneficial to increasing the small stock of two person flats currently available and provide new accommodation more suitable to a wider spectrum of occupant in an area predominated by large H.M.O. student houses. Charles Church are presently building 38 new family houses on the old Whinney Hill School site 250m from 36 The Hallgarth which should very much improve the stock of family houses in the area.
52. Whilst these flats could be let out to students it is more likely that small two bedroom flats such as these will be preferred by young professional couples, mature post graduate students, sabbatical year visiting lecturers or even a retired couple looking for a smaller more private residence rather than by students who are more likely to reside in larger H.M.O.'s shared by up to 6 or more people.
53. These 2 person flats will not generate the noise and nuisance problems that can be experienced by neighbours of larger H.M.O.'s occupied for example by first year fresher students in the adjacent houses at nos 33 and 34 The Hallgarth.
54. The fact that Durham County Council may already have a surplus supply of housing land should not prevent planning permission being granted for this proposal provided that it satisfies the required planning conditions and there is a proven market for housing in the form of two bed flats as has been identified by local estate agents in this particular location.

55. Planning permission has previously been granted for a new house in the garden at 36 The Hallgarth earlier this year so a housing use on this site has already been established. Para 11 of the NPPF referred to by the planning officer should not therefore be relevant in this instance.

56. Existing housing sites identified in the surplus supply land survey referred in the Councils recent survey may not all be attractive to develop with family houses and when new sites such as this one become available which are more attractive to developers who want to build flats rather than houses then planning permission should not be denied.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at*

*<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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57. 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, impact on the character of the surrounding conservation area and heritage assets, residential amenity, highway safety and access.

### **Principle of Development**

#### *The Development Plan*

58. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the CDLP was adopted in 2004 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.

59. On this basis given the age of the CDLP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need and must now be considered out-of-date. As such the weight to be afforded to these policies is reduced as a result and paragraph 11 of the NPPF is also engaged. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor is it prescribed how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.

60. Policy H2 of the local plan supports the provision of new housing in Durham City providing it accords with other policies, including policies relating to the conservation area, open spaces and the World Heritage Site (WHS) and providing the development is on previously developed land. In this case the development is partly on previously developed land - as it would occupy part of the site on which an existing dwelling is located – but also relates to an area of garden, classed as greenfield land. In this regard the development would not be in compliance with Policy H2, however, this aspect of the policy does not accord with the NPPF which places less emphasis on developing brownfield sites and does not preclude development on greenfield sites. Accordingly, less weight must be afforded to this policy due to the inconsistency with the NPPF.

61. With Policy H2 being a settlement boundary policy, informed by what is now an out of date evidence base, the policy is therefore considered to be an out of date policy for the purposes of engagement of paragraph 11 of the NPPF. Accordingly, only limited weight should be afforded to this policy.

62. Consequently, the application must be determined in accordance with Paragraph 11 of the NPPF.

63. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);

- approving development proposals that accord with an up to date development plan without delay; or
- where there are no relevant development plan policies or the policies which are most important for determining the application are out-of-date, granting permission unless:
  - i) the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development or
  - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

#### *Five year Housing Land Supply*

64. Paragraph 67 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) to ensure choice and competition in the market for land.

65. In September 2017, the Government published a consultation document entitled "*Planning for the Right Homes in the Right Places*", which introduced a standard methodology for calculating housing need (OAN) which is now also reflected in paragraph 60 of the NPPF. Applying that methodology for County Durham, the housing need figure would be 1,368 dwellings per annum (dpa).

66. The Council's position on 5-year housing land supply was publicly tested at a recent public inquiry (APP/X1355/W/17/3180108 – decision issued 10th May 2018) with the Inspector concluding that the use of the Government proposed standardised methodology for calculating land supply would be premature until it has formally come in to force or until the council has adopted a formal position in relation to its OAN. On the 13<sup>th</sup> June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

67. Accordingly, the benefit of boosting housing land supply will need to be factored into the planning balance, whilst recognising that the benefits of delivering new housing would be less than if a shortfall in supply existed.

#### *Locational Sustainability of the Site*

68. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.

69. In this respect the application site is situated within Durham City and is well related to a wide variety of shops, services, education and employment opportunities and as such, the provision of 4 dwellings within this well-established residential area, close to existing facilities could be supported in principle subject to assessment against other local plan policies and material planning considerations.

70. In terms of the accommodation offer, the proposals are seeking to replace two three-bed family homes (one existing and one proposed) with four two-bed flats. With the change in the internal layout of the dwellings the accommodation would be less attractive for family occupation and may likely attract students, given the size of the properties, the internal arrangements which indicate bedrooms containing single beds with desk space, and given the location of the properties close to the university. Having previously advised the agent that there would be no support under the Interim Policy on Student Accommodation for the change of use of the existing and approved C3 dwelling houses to HMO status, the current proposals for the creation of two bed flats appear to have been submitted on the basis that the application does not fall to be considered under the Interim Policy.

71. It is noted as part of the comments and objections received that because the proposals appear designed for student accommodation, they should be assessed against the criteria for Purpose Built Student Accommodation (PBSA) within the Interim Policy. It is acknowledged that the definition of PBSA could be considered to correspond with the current submission. However, in consultation with Spatial Policy in this regard, it would not be appropriate to apply the requirements of the PBSA section of the Interim Policy to such a small scheme, as to do so would be disproportionate. In any case, it would be feasible for the flats to be bought by or let to professionals or small families, meaning that the development could not be narrowly defined by PBSA in this circumstance.

72. Local plan policy H9 (multiple occupation and student households) relates to the conversion of houses to flats and seeks to ensure development is in scale and character with the area, protects residential amenity and provides adequate parking as well as ensure that developments do not result in concentrations of subdivided houses that would be detrimental to the range and stock of housing. Consideration of the impact on the area, neighbours and parking are detailed in relevant sections below. In terms of issues relating to subdivision concentrations, the policy relates to conversions only and can therefore only apply to no. 36 and not the new build. In this case it would be difficult to demonstrate that the proposed conversion of this single C3 dwelling to two C3 dwellings would result in a detrimental concentration of sub divided dwellings, particularly as it relates to conversion of one single house with the use class remaining as a C3 class.

73. There is an understandable frustration that the proposals would see the loss of traditional sized family homes that had the potential to maintain a non-student residential balance within the community. The most up to date figure relating to student numbers within 100 metres of the site indicate that 36.5 per cent of properties are occupied by students based on council tax exemption figures. The addition of four two-bed flats would exacerbate this figure if let out to students, but there remains a potential for the properties to be occupied by professionals or small families. Regrettable as it may be, there are no up-to-date planning policies that can provide direction in terms of appropriate size, type and tenure of housing needed within the community which would justify refusal of the creation of four two-bed flats over retention of the two three-bed houses. On this basis the planning balance under Paragraph 11 of the NPPF comes into play where it must be determined whether adverse impacts outweigh the benefits when assessed against policies in the NPPF. Paragraph 68 of the NPPF in this regard states that planning decisions should support the development of windfall sites giving great weight to the benefits of using suitable sites within existing settlements for homes. The proposals are considered to be suitably located within an established settlement, and this fact weighs heavily in its favour.

74. Nonetheless further consideration of other impacts is required as part of the planning balance.

#### Impact on heritage assets and the character of the surrounding Conservation Area

75. Local authorities have a duty to preserve or enhance the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area. Local authorities also have a duty under Section 66 of the same legislation to pay special regard to the desirability of preserving a listed building or its setting or any features of special architectural or historic interest which it possesses.

76. Policies E22 and E23 of the Local Plan reflect these legislative requirements and are also deemed to be consistent with the NPPF. Within the policies there is a requirement that development be refused where it would detract from the character of the area or the setting of a listed building and that all development should be sensitive in terms of siting, scale, design and materials, reflecting where appropriate existing architectural details. In addition the policy requires that trees, hedgerows, views and undeveloped areas which contribute to the character or appearance of the area should be protected.

77. The proposals are to a large extent a resubmission of a previously approved scheme, whereby the external design, scale and appearance of the new build would be very similar to the approved scheme, with the intensification of use being the main amendment. The acceptability of the previous scheme was fully assessed in terms of its impact on the conservation area, nearby listed buildings and views across to the World Heritage Site (WHS) and it was determined that the proposals would not lead to substantial harm and would be less than substantially harmful to the various heritage assets. As a result, the restrictive policies in paragraphs 133 and 134 of the previous NPPF 2012 (now contained within paragraphs 195 and 196 of the revised NPPF 2018) did not apply as the proposals were considered to have a neutral impact. The current scheme is largely identical in appearance to that previously approved.

The main external amendments relate to the dwelling being set back a further 0.3 metres, the new side extension being 0.2 metres wider and 1 metre longer and the rear extension to no. 36 increasing in width by 0.4 metres. Two front doors are also proposed to each property to provide separate access to each flat. These amendments are considered to be minor and would not impact on the surrounding heritage assets. In relation to the new proposals, Design and Conservation commented that the design would relate acceptably in the context of its modern surroundings. With regards to views towards Durham Cathedral and Castle World Heritage Site, the surrounding Durham (City Centre) Conservation Area and the setting of nearby listed buildings they state that the impact would again be a neutral, conserving one.

78. In respect of the above and in the context of the statutory duties and relevant policies E22 and E23 as well as policy H9, the proposed previously approved dwelling, now to be developed as two flats, has been designed to reflect the scale and design of the adjacent properties along the terrace. Being set back by some 1.8 metres (previously 1.5 metres), it would not follow the existing building line, which would create an unbalanced block in relation to others in the estate. However this layout is preferred in order to preserve the existing view towards the WHS, reducing the intrusiveness of the new build from the street scene. In this regard, the proposals are seen to reflect the requirements set out in policy E22 (1) whereby the proposals are sensitive to the appearance of the area. In addition, given the location of the application site, not readily visible from main public areas, it is not considered that the development of this land would detract from the character of the conservation area. It is accepted that the garden area provides an attractive break from the built form and its loss is regrettable, but it does not contribute to the public green spaces within the immediate or wider area or to the significance of the conservation area as a whole. Trees section have also assessed the details of the new application and raise no new issues in relation to the proposals. They do not consider that any of the planting within the site merits the application of a tree protection order.
79. Reverting back to paragraph 11d(i) of the NPPF, which states that permission should be granted unless the application of policies in the framework that protect areas or assets of particular importance provides a clear reason for refusing the development, it is considered that this restrictive policy would not apply in this case. In addition the impact of the proposals are not considered to be significantly adverse on the amenities of the area.

#### Impact on residential amenity

80. Local plan policy Q8 requires that new residential development should provide adequate amenity and privacy for each dwelling and minimise the impact of the proposal upon the occupants of existing nearby and adjacent properties. To meet with these requirements, guidelines are set for privacy distances, requiring a distance of 21 metres between habitable room windows and 13 metres between blank gables and habitable windows.
81. The proposed dwelling would be set back from the front line of the adjacent property by 1.8 metres, meaning it would jut out at the rear by the same amount. In this location the distance from the rear elevation to the facing elevation of Hallgarth Farm House measures 13.7 metres. On the upper floor, the proposed rear elevation would have a single window serving the bathroom and any approval would condition that this window is obscure glazed in perpetuity to protect mutual amenities. The windows to the Farm House on this elevation closest to the proposed dwelling do not serve habitable rooms.

In this respect it would be difficult to refuse the current submission based on privacy distances which are considered met. In any case, the upper floor rear windows of no. 36 are large bedroom windows and already breach distancing standards being no more than 15.5 metres away from the facing windows of Hallgarth Farm House. This arrangement does not meet current standards, but as it is an existing relationship between buildings that cannot be altered, it is considered acceptable in this case.

82. In terms of outlook, the proposed dwelling would have negative impacts by removing the last remaining area of openness along the south elevation of Hallgarth Farm House, however, the level of intervening planting on the Farm House side, would help to reduce these impacts to a degree. In addition good levels of outlook still exist along the west and north elevations of this property where the majority of habitable room windows exist. Overall adequate levels of amenity and privacy would be retained for this adjacent dwelling and the proposals are not considered to contravene the aims of policy Q8 in this regard.
83. The addition of a new building to the west of no. 36, set beyond the rear building line by 1.8 metres, would not be considered overly excessive in terms of impacts on no. 34 (attached to the east of no. 36 The Hallgarth) given the distance of some 6 metres from this property. In addition it is noted that no. 36 presently has a single storey rear extension running along the shared boundary to no. 34 which would have an existing impact on this resident. The current proposal showed that this rear extension was to be widened as well as heightened and lengthened along the boundary wall with no. 34. The agent was requested to amend the plans to bring the height back to existing 3 metres height and reduce the length to protect visual amenities of no. 34. The agent submitted amended plans indicating these changes as requested. The proposals are not considered to be obtrusive to no. 34 given the above factors.
84. Properties along Hallgarth Street would have views of the proposed new build, with nos. 28 and 29 most directly affected. No. 29 has a rear extension with fenestration on the rear elevation looking towards the application site. The distance from this part of the building to the proposed new dwelling measures approximately 20.5 metres, which although falling short of the 21 metre standard, is not considered a significant breach that would detrimentally impact on the amenities of these neighbours to a significant degree. With the extent of level differences between the application site and the ground level by the properties on Hallgarth Street, the eaves of these properties are equivalent in height to a single storey height when viewed from The Hallgarth. As a result it is considered that the level of impact is not as severe as might be expected if these properties and the proposed dwelling were on the same ground level. Additionally the orientation of the proposed dwelling is slightly offset from this property, helping to further reduce impacts on amenities. The increase in the width and length of the single storey side extension is not considered significant as to detrimentally impact on neighbouring amenity of residents along Hallgarth Street, particularly as the majority of the build would be behind the boundary fence, with only the hipped roof area visible.
85. The amendments to the proposals continue to allow the new build to be accommodated here without breaching to any significant level the distancing standards within the local plan.
86. In terms of living and outdoor amenity space available for the proposed flats, as a guide, the HMO licencing regime introduced in October 2018 has been considered and it is noted that all the bedrooms within the flats provide appropriate space standards for single person bedrooms, with three of the eight bedrooms potentially able to accommodate two people.

While these standards are not directly applicable to the current proposals, they nevertheless provide an indication of the general acceptability of the room sizes proposed. Access to outdoor garden space would only be available to the two downstairs flats and is considered acceptable. The first floor flats would not benefit from this amenity but this is not an unusual arrangement for flats in any case. Bin stores have been provided for each flat and these are considered appropriate both in terms of size and location.

87. In consideration of the proposed intensification of residential use, based on the floor plans, the four flats appear to be designed to accommodate two individuals each or eight people in total, which would not be significantly different to what might have existed if the two family homes were retained and occupied. As commented above, if three of the bedrooms were used for two individuals, so long as the individuals were related or couples there would be no breach of planning under the Article 4 direction. Such an arrangement might be expected in the case of a small family. In any case there is potential for the occupiers of the four flats to generate more activity than occupiers of two larger family homes. Notwithstanding this, the increase in number of dwellings is not considered so large as to overwhelm the area. Whilst objections raised concerns regarding the ability of rooms to accommodate two beds, allowing potentially up to four people per flat, such occupation levels would bring the accommodation into the realms of HMO status requiring the submission of a planning application for a change of use to C4 given the Article 4 direction in force in the area.
88. The concerns raised by some objectors in terms of anti-social behaviour within the area due to the high density of students are noted but are not sufficient to warrant refusal. Whilst some levels of increased noise would be expected from dwellings housing large numbers of residents, the proposed flats would limit the number of residents within and with limited congregation areas within the flats in terms of kitchen/dining/lounge space, it is anticipated that there may be less opportunity for activities of disturbance than would exist in larger HMO properties of 3+ people.
89. Environmental Health were consulted for their views in terms of noise impacts and raised no objections based on the scheme of sound insulation proposed.
90. In consideration of the above, whilst two additional dwellings over and above the existing and approved dwellings would intensify the residential use on site, it is deemed that this is not excessive and given the location and internal room arrangements would not detrimentally impact on the amenity and privacy of surrounding neighbours. The proposals are considered to accord with policy Q8 and H9, where applicable, in this regard.

#### Highway Safety and Access

91. Saved local plan policy T1 requires that the council should not grant planning permission for development that would generate traffic which would be detrimental to highway safety and have a significant effect on occupiers of neighbouring properties. Policy T10 requires vehicle parking off the public highway in new development to be limited in amount so as to promote sustainable transport choices.
92. By reason of the layout and location of the site, it would not be possible to include off road parking for the development. The Council's Highways team considered this fact and accepted that in curtilage parking could not be achieved, but further acknowledged that the city centre location of the application site would mean that no parking provision would be required from a highways standpoint. The applicant has been advised that no parking permits to park within the Durham City controlled Parking Zone would be given for the new properties should approval be granted.

93. The lack of parking provision, whilst not ideal, is not considered a sufficient ground for refusal of planning permission, and in many respects, such a circumstance would be more likely to deter car owners from inhabiting the properties as well as encourage sustainable transport choices in accordance with policy T10. It is recommended however that a condition be applied requiring details of bicycle stores for each flat.

#### Ecology

94. Policy E16 of the Local Plan states that development proposals should take account of any nature conservation interest within the site by providing appropriate surveys, avoid any unacceptable harm and provide mitigation measures where appropriate. This policy is considered to be compliant with Part 15 of the NPPF which seeks to ensure that developments protect and mitigate harm to biodiversity interests and can be afforded weight in the decision making process. In consultation with ecology section, no objections are raised to the proposals and there is no requirement for the submission of any survey works. A request has been put forward for the inclusion of a standard bat informative should permission be granted.

#### Other issues

95. Archaeology section have assessed the details of the application and given the location they have requested the implementation of a watching brief condition should planning permission be required.

96. Northumbrian Water were consulted regarding the proposals and made no comment regarding connection to the sewers. Concern has been raised regarding the impact of the proposals on existing drainage, which is considered to be at maximum capacity and also quite old. No specific details have been included with the application on how foul and surface water will be handled and it is therefore recommended that a condition is attached requiring full details of foul and surface water disposal to be submitted and agreed before development commences.

#### Planning Balance

97. The acceptability of the application should be considered under the planning balance test contained within Paragraph 11 of the NPPF, which states that permission should be granted unless, policies in the NPPF that protect areas or assets of particular importance provide a clear reason for refusal, or any adverse impacts of granting permission would significantly and demonstrably outweigh the benefits. There are no such policies within the NPPF that provide a clear reason for refusal for this application.

98. The benefits of the proposal would be the provision of additional homes within a central location of Durham City which would meet NPPF aspirations to ensure that a sufficient number and range of homes can be provided to meet the needs of present and future generations. These dwellings would contribute economic benefits directly and indirectly to the locality through patronage of surrounding businesses and services.

99. Adverse impacts include the loss of an existing and an approved dwelling that potentially could have provided traditional sized family homes within an area of high student numbers. The loss of these dwellings to provide 4 flats means that they could potentially be let out as student accommodation which would add to the already high student numbers in the area to the detriment of maintaining a balanced community, as sought by the Interim Policy on Student Accommodation. However, as each of the properties falls below the criteria that would allow the proposals to be assessed against the Interim Policy, it is not possible to refuse the scheme on this basis. There would also be the loss of a current large garden area which would have some negative impacts on visual amenity, but permission has already been granted for a dwelling on this site. On the basis of this 'fallback' position, this would not outweigh the benefits of the scheme.

100. In consideration of the above, none of these adverse impacts are considered to significantly and demonstrably outweigh the benefits of creating new sustainably located dwellings within an established residential cul de sac location within the City of Durham.

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## CONCLUSION

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101. The Paragraph 11 of the NPPF presumption in favour of sustainable development requires granting planning permission unless the adverse impacts of a proposed development are shown to significantly and demonstrably outweigh any benefits, allowing the refusal of planning permission to be justified. In this instance, it is accepted that there would be some adverse impacts as a result of the development, however as identified in the planning assessment above, the negative impacts do not significantly and demonstrably outweigh the benefits associated with the provision of additional dwellings within a sustainable location.
102. The proposal has generated significant public interest, with a number of letters of objection having been received. The objections and concerns raised by local residents have been taken account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application in light of the benefits of the scheme and the ability to impose conditions.

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## RECOMMENDATION

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That the application be **APPROVED**, subject to the conditions detailed below:

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:

Site location plan scale 1:1250 received 12/10/2018

Proposed site plan G/67/14 Rev D received 28/11/2018

Proposed floor plans G/67/12 Rev C received 28/11/2018

Proposed elevations G/67/14 Rev C received 28/11/2018

Proposed party wall and floor sound insulation details received 29/11/2018

*Reason: To define the consent and ensure a satisfactory form of development is obtained.*

3. Notwithstanding any details of materials submitted with the application, no development shall commence until details of all materials to be used externally have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details thereafter.

*Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the Durham City Conservation Area accordance with the provisions of policies E6, E21, E22 and Q8 of the Durham City Local Plan.*

4. No development shall commence until a scheme for the provision of foul and surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The drainage shall be completed in accordance with the approved details.

*Reason: To prevent pollution of the water environment in accordance with policy U8a of the Durham City Local Plan.*

5. No development shall commence until details to protect all trees and hedges around the boundary of the site in the form of a tree protection plan has been submitted to and approved in writing by the Local Planning Authority. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, have been protected in accordance with the approved plan. The tree protection shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

*Reason: In the interests of the visual amenity of the area having regards to Policies E14 of the City of Durham Local Plan and Parts 7 and 11 of the NPPF.*

6. Before the development hereby approved is commenced detailed drawings showing facilities for cycle parking along with a plan detailing their location on site shall be submitted to and approved in writing by the Local Planning Authority and shall be implemented before any part of the development hereby approved is first used and thereafter shall be permanently retained for such purposes to the satisfaction of the Local Planning Authority.

*Reason: In the interests of highway safety and to comply with Policy T10 of the City of Durham Local Plan 2004.*

7. No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme of investigation that has been approved in writing by the Local Planning Authority. The Scheme shall provide for:
  - 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; Report content and arrangements for dissemination, and publication proposals.
  - v; Archive preparation and deposition with recognised repositories.
  - vi; 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.
  - vii; 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.
  - viii; A list of all staff involved in the implementation of the strategy, including subcontractors and specialists, their responsibilities and qualifications.The archaeological mitigation strategy shall be carried out in accordance with the approved details and timings.

*Reason: To comply with paragraph 135 and 141 of the NPPF because the site is of archaeological interest.*

- Prior to the occupation of the development, a copy of any analysis, reporting, publication or archiving required as part of the archaeological mitigation strategy shall be deposited at the County Durham Historic Environment Record.

*Reason: To comply with paragraph 141 of the NPPF which ensures information gathered becomes publicly accessible.*

- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (or any Order revoking and re-enacting that Order) the glass in the first floor bathroom window on the rear elevation and overlooking property Hallgarth Farm House shall be frosted/opaque and shall remain so for the lifetime of the development.

*Reason: In the interests of the privacy of the neighbouring occupier and to comply with Policy Q8 of the City of Durham District Local Plan*

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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 (2018)

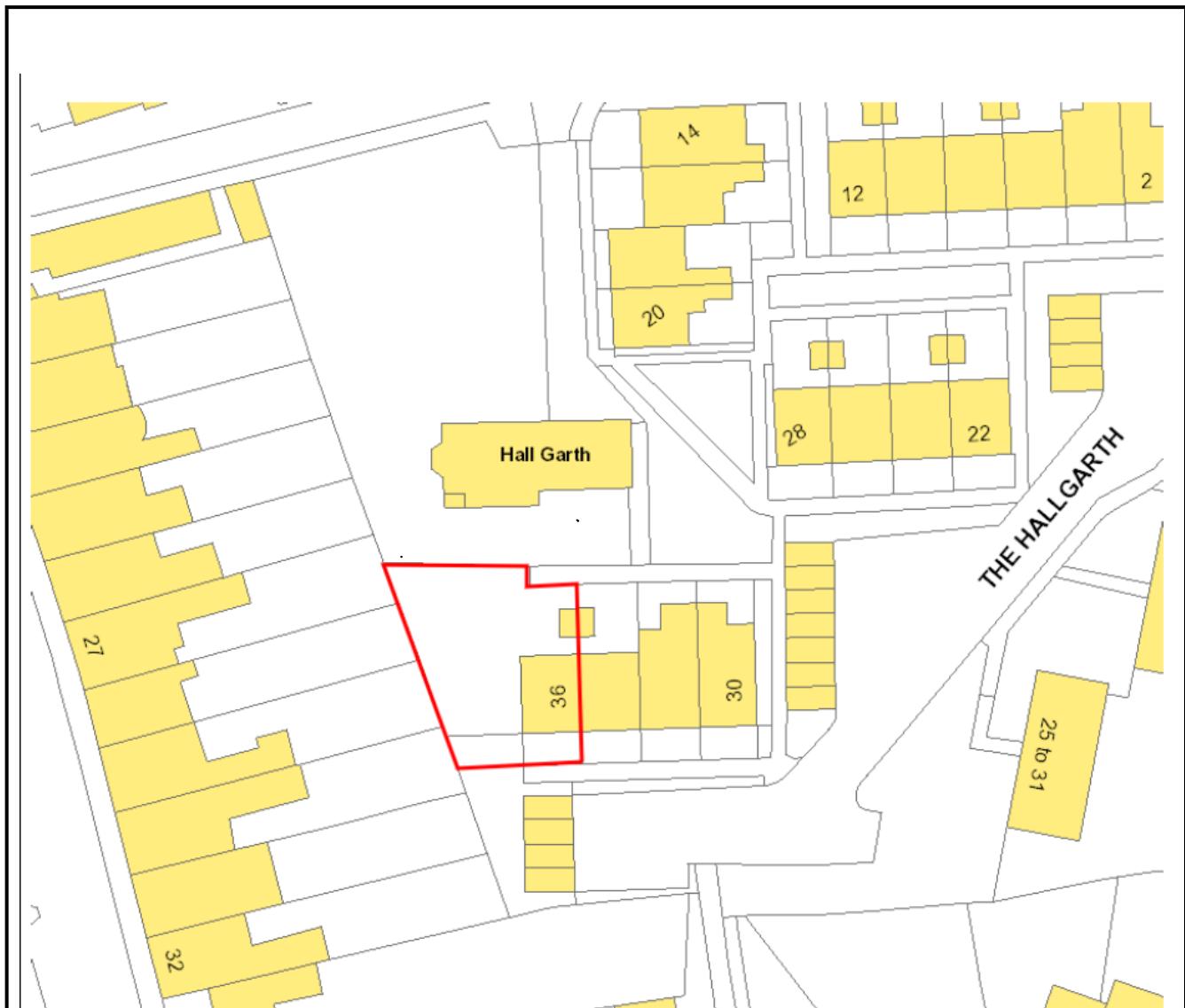
National Planning Practice Guidance Notes

City of Durham Local Plan

County Durham Strategic Housing Land Assessment

County Durham Strategic Housing Market Assessment

Statutory, internal and public consultation responses



<b>Planning Services</b>	4 No. two bedroom flats (consisting of conversion of existing dwelling at No. 36 into 2 dwellings and approved dwelling in garden altered to form 2 flats)
	Application Number DM/18/03115/FPA
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her majesty's Stationery Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005	<b>Comments</b>
	<b>Date</b> 11 Dec. 2018 <b>Scale</b> NTS