



## Area Planning Committee (Central and East)

**Date** Tuesday 15 January 2019  
**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 on 11 December 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/18/03308/FPA - 35 Front Street, Framwellgate Moor, Durham (Pages 15 - 26)  
Change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis).
  - b) DM/18/03100/OUT - Land to the West of Eden Cottage, Station Town (Pages 27 - 42)  
DM/18/03100/OUT - Outline application for residential development comprising 4 dwellings with all matters reserved.
  - c) DM/18/03366/FPA - 8 The Hallgarth, Durham (Pages 43 - 56)  
2 storey extension at rear of C4 property, including internal alterations.
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  
7 January 2019

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

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, P Taylor 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 11 December 2018** at **1.00 pm**

**Present:**

**Councillor P Taylor (Chairman)**

**Members of the Committee:**

Councillors H Bennett (substitute for K Corrigan), D Brown, J Clark, M Clarke (substitute for S Iveson), I Cochrane, M Davinson, D Freeman, A Laing (Vice-Chairman), J Maitland (substitute for G Bleasdale), R Manchester and O Temple

**1 Apologies for Absence**

Apologies for absence were received from Councillors G Bleasdale, K Corrigan, K Hawley, P Jopling and J Robinson.

**2 Substitute Members**

Councillor J Maitland substituted for Councillor G Bleasdale, Councillor H Bennett substituted for Councillor K Corrigan and Councillor M Clarke substituted for Councillor S Iveson.

**3 Minutes**

The minutes of the meeting held on 13 November 2018 were confirmed as a correct record by the Committee and signed by the Chairman, subject to the correction of a typographical error to amend Patterson Walk to read Patton Walk at Item 5b.

**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/17/03548/LB & DM/17/03547/FPA - Three Tuns, New Elvet, Durham**

The Senior Planning Officer, Barry Gavillet, 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 advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for 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) and was recommended for approval, subject to conditions and a Section 106 (s106) Legal Agreement as set out within the report.

The Senior Planning Officer noted two updates in relation to the report, that delegated authority was sought for Officers for an additional condition relating to ecology mitigation. He added that in reference to the contribution via the s106 agreement, the amount was now £82,051.30, representing a 50% reduction in respect of limited on-site provision and a further reduction in terms of removal of a need for children's play equipment.

Members noted that the site already had permission in terms of student accommodation, a change of use having been granted in 2013. The Senior Planning Officer noted that the site was located near to the Durham University Student Union, Old Shire Hall, and a number of shops and businesses. He added that Elvet Methodist Church, together with its associated Caretaker's house, was situated adjacent to the site. Councillors noted that a speaker representing the Church would address the Committee with their concerns.

The Senior Planning Officer explained that the hotel was a Grade II Listed Building within the Durham (City Centre) Conservation Area and that in reference to the proposed elevations, there was not a significant change, with some infill next to the Police Station. It was explained that there had been a lot of conversations between the Applicant and Officers and it was felt that the application enhanced the Conservation Area. Members noted the layout of the site and it was explained that no windows faced the Caretaker's property, No.8 Old Elvet.

The Committee noted no objections from statutory or internal consultees subject to conditions and a s106 legal agreement. It was explained there had been five letters of objection, with a summary of their concerns set out within the report. The Senior Planning Officer concluded by reiterating that the recommendation was for approval, subject to conditions, delegated authority in relation to an additional ecology mitigation condition, and a Section 106 (s106) Legal Agreement, as amended per the Officer's statement.

The Chairman thanked the Senior Planning Officer and asked Mr John Chamberlain representing Elvet Methodist Church to speak in objection to the application.

Mr J Chamberlin thanked the Committee and noted he represented the Caretaker living at No.8 Old Elvet in addition to the Elvet Methodist Church. He noted that the application was akin to having student accommodation in the back yard of No.8 and also the Church was not happy with the density of student accommodation as proposed within the application. Mr J Chamberlin added that there was concern in terms of the lack of communication from the Applicant and it was hoped that this would change in the future.

Mr J Chamberlin explained there was concern in relation to noise, not only during construction, but also when the student accommodation was occupied. He added that the condition in terms of no works on an evening or Sunday was welcomed, however, the Church had activities at various times throughout the day and every day of the week.

Mr J Chamberlin reminded the Committee that No.8 Old Elvet would overlook an entrance and cycle store, another source of potential noise at all times. He added that the Church welcomed the conditions in relation to materials and hoped that this could be looked at in reference to the cycle shed in terms of noise mitigation. Mr J Chamberlin asked that the management methods for the site could be reviewed once the site was up and running, and that if residents nearby experienced issues, for example such as noise nuisance, that there would be a contact, preferably by telephone, so that matters could be acted upon quickly.

Mr J Chamberlin noted a fire escape that led out on to Church owned land, with no discussions with or communications from the Applicant in this regard to date. He added that in relation to the car park belonging to the Church, if access was required by the Applicant then they would need to fully discuss this and seek agreement from the Church beforehand. Mr J Chamberlin noted plans for basement areas adjacent the car park and therefore the Church would need assurance that works would not undermine the car park, asking the Applicant to speak to the Church.

The Chairman thanked Mr J Chamberlin and asked Mr David Coundon, to speak on behalf of the Applicant in support of the application.

Mr D Coundon thanked Members for the opportunity to speak to Committee and referred to the conclusion set out within paragraph 58 of the report, with Officers stating the application would "...result in an enhancement to both the Listed Building and the Conservation Area." Mr D Coundon noted that the sections proposed for demolition were poor quality 1970s-1980s extensions and the removal of these was a positive step. Mr D Coundon explained that he was a local lad and that he felt the redevelopment of an important site within the Conservation Area was vital in terms of the city centre, with the proposals representing a high quality and sustainable use. He added that the design featuring a varied roof line respected the medieval buildings, the Cathedral and the surrounding area. Mr D Coundon noted that the proposals would restore the historic street front, utilise local materials and retain important features such as oriel windows and the carriage entrance. He added that the design had been such to retain the quality views from the world heritage site.

Mr D Coundon explained that the need in respect of student accommodation was already well established and that the number of rooms for students was 118, and he reminded Members that the former use was as a hotel and it was likely that there would have been more noise from that use. He emphasised that the statutory and internal consultees had raised no objections to the application.

Mr D Coundon noted that the genuine concerns raised by the Church and sought to address them in noting that there would be a construction management plan in place while works were undertaken and a management plan for when the accommodation was occupied. He added that there was acoustic mitigation within the design and that fire escape mentioned was an existing established feature, however, this was not required. In relation to the basement, Mr D Coundon explained that there were two existing basements and the relevant measures would be taken in terms of construction. He concluded by noting the Officer's recommendation for approval and asking Members to go along with their Officer.

The Chairman thanked Mr D Coundon and asked the Senior Planning Officer to respond to issues raised by the speakers.

The Senior Planning Officer emphasised conditions within the report: Condition Three referring to a construction management plan, including issues relating to traffic and noise; Condition Five referring to construction hours and no works on evenings, Sundays or Bank Holidays; and Condition Seven relating to a student management plan, with options that may include CCTV or a warden on site.

The Chairman thanked the Senior Planning Officer and asked the Committee for their questions and comments, asking Councillor D Freeman as a Local Member to speak first.

Councillor D Freeman noted that there clearly was some merit in returning the former Three Tuns Hotel back to use, and while he would have preferred another use, the use for student accommodation was acceptable. He noted that the Senior Planning Officer had referred to the proposals as being three and four storeys, however, the existing buildings were three storeys and therefore the application represented a higher building and roof-scape that did not mirror the existing buildings. Councillor D Freeman noted he had sympathy with the points made on behalf of the Church and the resident at No.8 Old Elvet. He noted that while the plans protected the views to the world heritage site, there were still the issue of noise from the adjacent courtyard, entrance and cycle store. Councillor D Freeman noted that information in respect bus stop and the footpath and highlighted that the footpath was very narrow and may not be able to cope with the volumes of people and would welcome the views of the Highways Section on the matter. He also asked for further information in relation to the change to the s106 contribution.

The Senior Planning Officer explained that the amount of contribution would be calculated from the open space needs assessment, with on-site provision being a higher value, a 50% reduction for provision off-site. It was added that further to this the use of the site for student accommodation negated the need for children's play space, further reducing the contribution.

In relation to the points raised by the Councillor as regards the footpath, the Senior Planning Officer noted that Highways Officers had not provided any objections to the application and had not asked for any improvements to the footpath.

Councillor D Freeman asked about the figure and the Senior Planning Officer replied that the figure in the report was incorrect as it had now been reduced.

Councillor J Clark asked for the slide with the site layout to be displayed and for the Officer to highlight the entrances, cycle stores and access to the courtyard. The Senior Planning Officer highlighted those areas, explaining that the access to the courtyard area was that already in place from New Elvet.

Councillor M Davinson noted he felt that given the close proximity of the Caretaker's property a more reasonable start time for works each day would be 8.00am and suggested that the Committee may wish to include this change to Condition 5 within any decision they made. Members agreed with Councillor M Davinson.

Subject to the amended start time for works in Condition 5, the amended s106 contribution and delegated authority as mentioned by the Senior Planning Officer for an additional ecology condition, Councillor J Clark moved that the application be approved, she was seconded by Councillor A Laing.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions and s106 Legal Agreement as detailed in the Officer's report, with the amendments as detailed by the Officer within his presentation and Members in relation to working hours.

### **b DM/18/03115/FPA - 36 The Hallgarth, Durham, DH1 3BJ**

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 for 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) and was recommended for approval, subject to conditions.

The Planning Officer reminded Members that the Committee had approved an application for a three-bed dwelling on the gable end of No.36, set back 1.5m from the building line, with the permission having not been implemented. It was noted that the application site was within the Durham (City Centre) Conservation Area, had a number of listed buildings nearby and was 450 metres east of the Durham Cathedral and Castle World Heritage Site.

The Committee were informed that the new proposed property would be set back 1.8 metres from the line of houses and Members noted proposed elevations. The Planning Officer noted the design was in keeping with the properties in the area in terms of material and scale. Councillors noted the location of bin stores for the proposed flats and that through discussions with Planners the Applicant had reduced the size of the proposed side extension.

The Planning Officer noted that the elements of the proposal were mainly as per the previously approved application, except the new extension and three additional doors to access the flats.

The Planning Officer noted no concerns from Northumbrian Water Limited and no objections from the Highways Section, highlighting no parking permits would be provided for the new property.

It was noted that the Design and Conservation Section had noted that the application would have a neutral impact in relation to heritage.

The Committee were informed that the Tree Section had noted none of the trees warranted a Tree Preservation Order (TPO) and Ecology and Contamination Land Officers had noted no objections. The Planning Officer noted the Archaeology Section had noted a condition in terms of a watching brief and investigation works as set out in the report.

Councillors noted that the City of Durham Parish Council had objected to the application and this had not been noted within the report. It was explained that their comments were set out on the planning Public Access portal, and also their letter of objection had been circulated to Members of the Committee in advance of the meeting. The Planning Officer noted a number of public responses had been received, 10 letters of objection with the main concerns raised being summarised within the report.

The Planning Officer noted that they did not feel that the application represented purpose built student accommodation (PBSA) and as a smaller scale scheme it did not require the level of detail that a PBSA would require. It was added that as each flat was only two-bed, the application was not considered in terms of the Interim Policy on Student Accommodation. Members noted that the application was considered in terms of the balance test of NPPF paragraph 11, and the Planning Officer explained that it was felt the benefits of the scheme outweighed the dis-benefits, the benefits being; new homes within the city, a sustainable location; the new build being in scale and of similar design to existing buildings; and "neutral" impact in terms of the Conservation Area, Listed Building and World Heritage Site. It was explained the dis-benefits were loss of a family home and loss of garden land. The Planning Officer reiterated that the application was recommended for approval, subject to the conditions as set out within the report and added that Members may find it useful to include a condition as regards a construction management plan, in respect of issues such as traffic and hours of operation.



The Chairman thanked the Planning Officer and asked Mr Roger Cornwell, Chairman of the City of Durham Parish Council's Planning Committee, to speak in objection to the application.

Mr R Cornwell thanked the Chairman and reminded Members that The Hallgarth was a small estate of seventies-built council houses, originally affordable housing, now mostly sold under the Right-to-Buy legislation and subsequently sold on.

He added that nevertheless, there were still some housing association houses in the street, and the house prices for family homes were reasonable; it being when they become student lets that they become more expensive, and the stock of affordable houses in the City would be depleted.

Mr R Cornwell noted that in fact, as set out within public objections, 36 The Hallgarth was surrounded by family homes, its neighbours at No.34, Hallgarth Farmhouse, No.31 Hallgarth Street having all objected, as well as two more in Hallgarth Street and others from further afield. He added that he felt that it was plain that the application was intended for student accommodation, a fact that was attested to by all of the other objectors to the application. Mr R Cornwell noted the design of the flats with two small bedrooms, a bathroom, a kitchen/diner was a low end student accommodation and would be unlikely to appeal to "young professional people or couples or to mature post graduate students of sabbatical year visiting lectures", which was the assertion made without proof in the Design, Access and Heritage Statement. He added that Members would note that the Statement said the property was withdrawn from sale because it was unattractive given the number of student neighbours and asked would the flats now proposed not be unattractive to anybody but students.

Mr R Cornwell noted the Applicant referred to advice from local estate agents but had not submitted it, and therefore one could only guess at who the intended tenants were, and that the Parish Council's knowledge of the local market suggested that this would be for students. Mr R Cornwell added that he understood from neighbours that the asking price had been around £300,000 which was above the going rate. Councillors were reminded that it was a finely balanced decision last time the site came to Committee, and Mr R Cornwell suggested that had this proposal been before Committee at the previous meeting Members would have refused it. He noted that by bringing the application in two stages the Applicants were hoping that the Committee would pass it, with objectors looking to the Committee to not have that happen.

Mr R Cornwell noted that as the Officer stated in her report it was a question of balance. He noted that if one believed the proposal would in fact provide additional homes within a central location of Durham City then it should be approved. Mr R Cornwell noted that if Members felt, as the Parish Council did with its local knowledge, that it was more likely that the flats would be let to students, then you would have the loss of one actual home, No.36, and the loss of one potential home, the one the Committee gave permission for earlier in the year. Mr R Cornwell noted that in that case, Members should refuse the application and that is what the Parish Council urges the Committee to do.

The Chairman thanked Mr R Cornwell and asked Ms Davina Jones and Ms Roz Leighton, local residents to speak in objection to the application.

Ms D Jones noted she was speaking in objection and that at the meeting in April, objectors had felt the properties would end up as student properties and the Chairman had assured objectors in terms of the Article 4 Direction that was in place.

She added that it was felt the new application was a blatant attempt to get around the Article 4 Direction, and while the Officer's report stated the application was outside of the Direction as each flat was only two-bed, the fact there was no living room space suggested it was low-end student accommodation that was intended.

Ms D Jones noted there were also issues in terms of: poor access; parking; an unacceptable ratio of students; and added that only the Committee could help and she urged Members to refuse the application.

Ms R Leighton reiterated the issues raised by Ms D Jones, and noted NPPF Part 5 in terms of sufficient homes. She explained there was over 200 homes and PBSA being built at Whinney Hill and she felt that the application before Committee was an attempt to body swerve the Article 4 Direction and felt that may open the way to cynical development and urged the Committee to refuse the application.

The Chairman thanked Ms D Jones and Ms R Leighton asked Mr David Leybourne to speak in support of the application.

Mr D Leybourne thanked the Chairman and the Committee for the opportunity to speak and referred Members to the Officer's report as set out in the agenda pack. He noted that paragraph 70 referred to the internal layout and being less favourable for family occupation. He noted that the space was flexible, and one of the two proposed bedroom could be utilised as a living room and there was scope for different room uses. He added that as the application was only for two-bed flats, then saved Local Plan Policies H9 and H10 did not apply. Mr D Leybourne explained that paragraph 71 of the Officer's report stated that the policy in terms of PBSA did not apply to this application and paragraph 72 stated that the application was not considered to be a detriment in respect of conversion of a house to flats. He added that paragraph 73 of the report noted the frustration in terms of the loss of a family home, however, set out that paragraph 68 of the NPPF gave great weight to the benefits of using suitable windfall sites located within existing settlements for homes.

Mr D Leybourne referred Members to paragraph 87 of the Officer's report which reiterated that the Article 4 Direction did not apply in terms of two-bed flats and that should there be occupation such to be considered a house of multiple occupation (HMO) then a change of use application would be required. He explained that paragraph 88 referred to potential anti-social behaviour within the area due to the density of students, raised by objectors, and that Officers felt that this was not sufficient to warrant refusal. Mr D Leybourne noted that paragraph 102 of the report explained the planning balance and that Officers felt that subject to the appropriate conditions the concerns raised by the objectors were not of sufficient weight to justify refusal of the application.

He concluded by noting that the proposal was not for a HMO and therefore as per policies the application should be approved.

The Chairman thanked Mr D Leybourne and asked the Principal Planning Officer, Alan Dobie, to respond to the issues raised by the speakers.

The Principal Planning Officer noted that the planning system did not differentiate in terms of the type of occupier, for example a family, single person, or student, rather planning looked at land use, for example for a single dwelling, flats and so on. He noted there was nothing preventing a student buying a house within Durham. He added that the application, in seeking to develop flats, could be seen to be adding to the housing mix within the area. The Principal Planning Officer reassured Members that if there was an application for a HMO at this site, this would be something Planners would resist and recommend refusal upon. He reminded Members that the application at Committee was not for a HMO, and that if in the future it was shown that the property was being used as such then the necessary action would be taken, and retrospective consent would need to be sought.

The Chairman thanked the Principal Planning Officer and asked the Committee for their questions and comments, with Councillor D Freeman to speak first as the application was in his Electoral Division.

Councillor D Freeman noted that he felt there was a number of issues, and he would not go into the merits of building within a garden as he had made these points at the Committee in April. He noted that since permission had been granted in April for a property, the Applicant stated the property had been marketed unsuccessfully. He added that he did not feel seven months was a long time to market a property in the current market and it was not the responsibility of the Planning Committee to concern itself with the saleability of a property. He added that the sale of properties at the nearby Whinney Hill development showed that properties within the area were selling.

Councillor D Freeman noted that paragraph 86 of the Officer's report referred to three of the eight bedrooms potentially being able to accommodate two people per bedroom. While the application was not for a HMO, he added that it felt like a HMO. Councillor D Freeman noted that paragraph 52 of the report noted students were more likely to reside in larger HMOs, however, Councillor D Freeman felt that there was no minimum number of occupants in terms of a PBSA and that looking at the floor plan proposed and the lack of parking provision that the application did not reflect the assertion of the flats being preferred by young professional or retired couples. Councillor D Freeman noted it would represent a test case in terms of attempts to circumvent the Council's policies and that in 10 years there may be no residential properties at all.

The Chairman noted that Councillor D Freeman was also a Parish Councillor for the City of Durham Parish Council. Councillor D Freeman noted he was a member of the Parish Council, although he was not a member of the Parish Council's Planning Committee and had not been involved in their decision making or objection to the application as submitted.

Councillor O Temple noted that he recalled the previous site visit to when the application in April had been considered. He explained that on this visit he had noted how many vehicles were parked along the street and how tight access was in general.

He explained that he had not been satisfied in respect of this when the application was for a three-bed home, and was even less so now the application was for eight beds. Councillor O Temple noted no objections raised by the Highways Section, however, he suggested that they may wish to speak to the bus driver from the Committee's two visits to the site as regards the difficulties he had in negotiating the estate.

Councillor O Temple noted Councillor D Freeman was more of an expert in terms of student housing, having many properties within his Division, however he felt saved Policy H13 may be appropriate, with the application not protecting the character and amenity of the area. He added that he felt Policy Q8, in relation to layout and design of residential developments was also relevant as the density of the application, eight beds, was inappropriate. Councillor O Temple noted he had been unhappy with the application in April and was less so with the proposals before Committee and noted the Policies he felt were germane to the application.

Councillor M Clarke noted he had previously worked as a letting agent and given this experience he felt that it would be more likely that the flats would be let to students given the close proximity to the city centre. He reiterated the comments made by Councillor O Temple as regards the estate road being tight and added that if families were to occupy the flats this could be more of an issue in terms of traffic and parking. He added that Members on the site visit had noted a Traffic Warden issuing tickets in the area. Councillor M Clarke noted he felt torn as regards the application as he could see some potential negative impacts.

Councillor D Brown noted he had listened to the comments made by the speakers and Committee Members and recalled the decision that was made in April being contentious, in terms of some Members not being in favour. He noted that the property had been placed on the market and as it had not sold the Applicant was changing tack. He added that he felt as if the application was an attempt to take advantage of the system and he was minded not to accept the recommendation.

Councillor A Laing asked for clarification in terms of parking permits, the Planning Officer noted that there would not be any permits associated with the new properties.

Councillor M Davinson noted the points made by Councillor O Temple and asked if the Solicitor – Planning and Development, Neil Carter could advise the Committee in terms of the policy points raised. The Solicitor – Planning and Development noted he would respond in relation to the points made by Councillors D Freeman and O Temple. He reiterated that the application was not for a HMO, it was for four, two-bed flats and therefore policies in relation to HMOs did not apply. The Solicitor – Planning and Development added that advice from Spatial Policy was that it was not reasonable to apply PBSA Policies to this application.

He added that any potential change of use for an HMO was not being considered by Committee at this meeting and that should the number of occupants increase in the future such that it represented a change of use, then this would be an issue for Planning Enforcement and accordingly no weight could be afforded to a potential future change of use. The Solicitor – Planning and Development referred Members to the paragraph at the end of the Planning Officer’s report which set out the balance test in respect of Paragraph 11 of the NPPF, including the benefits and dis-benefits of the application. He noted that it was for the Committee to weigh up and come to a view on those. The Solicitor – Planning and Development advised that the policies referred to by Councillor O Temple were relevant, however, a refusal reason based on character impact would be difficult to sustain, as the Design and Conservation Section had not objected to the application and there were no external changes proposed to that which had been previously approved.

Councillor M Davinson noted that it was his feeling that none of the Committee were happy in respect of what could potentially happen as regards the properties being used as HMOs, however, based upon the Planning Officer’s report and the advice of the Solicitor – Planning and Development he would move that the application be approved as recommended. Councillor A Laing seconded that the application be approved.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as detailed in the Officer’s report, and to include a condition relating to a construction management plan.

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## Planning Services

**COMMITTEE REPORT**

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**APPLICATION DETAILS**

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<b>APPLICATION NO:</b>	<b>DM/18/03308/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) (amended plan).</b>
<b>NAME OF APPLICANT:</b>	<b>Mrs Leeka Xu</b>
<b>ADDRESS:</b>	<b>35 Front Street, Framwellgate Moor Durham. DH1 5EE</b>
<b>ELECTORAL DIVISION:</b>	<b>Framwellgate Moor</b>
<b>CASE OFFICER:</b>	<b>Susan Hyde Planning Officer 03000 263961</b>

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**DESCRIPTION OF THE SITE AND PROPOSALS**

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## The Site

1. The application site forms a two storey terraced double fronted property with roof lights in the roof space and with an integral garage located with the front elevation fronting Front Street. The location is sited within the local centre of Framwellgate Moor. Attached to the application site to the south is a social club and to the north is a dwelling and then a barber's shop. Across Front Street to the east is Framwellgate community centre and to the rear of the property to the west are residential dwellings accessed from Alexandra Close. The property is currently vacant, and the last use of the building was as a training centre for hairdressing. To the rear of the property is a private grassed and paved area accessed through the property only.

## The Proposal

2. This application seeks consent to change the use of the property from the vacant hair dressing training centre to a house in multiple occupation with 8 bedrooms that each have en suite facilities and a communal open plan lounge and dining kitchen on the ground floor. Bedroom accommodation is provided with one bedroom on the ground floor, five bedrooms on the first floor and two bedrooms on the second floor in the roof space illuminated by roof lights. The plans have been amended to remove the parking spaces to the rear which were accessed through the garage and retain the garage for tandem parking only. The rear of the property is proposed to be used as a garden only. No external alterations or extensions are proposed on the property.
3. The application is before Members at the request of Councillor Mark Wilkes as he is concerned about the impact of the development on car parking in the locality.

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## PLANNING HISTORY

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4. 4/02/00805/FPA - Change of use and conversion of existing dwelling to offices, construction of a pitched roof, two storey side extension, single storey front and rear and erection of detached garages, store and workshop. Approved .
5. 4/05/00294/FPA – Change of use from office to hairdressing training centre – Approved and implemented.

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## PLANNING POLICY

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### **NATIONAL POLICY**

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. 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.
8. 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.
9. 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.
10. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

11. 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:

### City of Durham Local Plan

12. *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.
13. *Policy T1 (Traffic – General)* states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
14. *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.
15. *Policy T10 (Parking – General Provision)* states that vehicle parking should be limited in amount, to promote sustainable transport choices and reduce the land-take of development.
16. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
17. Policies Q1 and Q2 General Principles Designing for People and Accessibility states that the layout and design of all new development should consider the requirements of all users.
18. 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.
19. *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.
20. *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.
21. Policy S5 – Local Centres -
22. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal

23. On the 26<sup>th</sup> October 2016 an Article 4 direction that removed permitted development rights to change from a C3 dwelling to a C4 house in multiple occupation in the Framwellgate Moor Area was confirmed and adopted. Cabinet approved consultation on an Interim Policy on Student Accommodation and the consultation took place during April and May 2017. Responses received during the consultation period were considered and amendments were made to the Policy. On the 11<sup>th</sup> May 2017, Cabinet recommended that full Council adopt the revised Interim Policy. 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:**

24. 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**

25. Paragraph 73 of the updated NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
26. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council can demonstrate in excess of 6 years supply of deliverable housing land against this figure.
27. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was therefore impossible for the Council to have such an annual position statement in place at the time of the appeal.
28. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard method for calculating local housing need and as the emerging CDP is aligned with the figure derived from the standardised methodology (1,368dpa), a supply in excess of 6 years supply of deliverable housing can be demonstrated when measured against this.

29. 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.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

30. County Highway Officer – Note that the agent has confirmed there are two in curtilage parking spaces and taking into account the sustainable location of the development they raise no objection to the proposal.
31. Environmental Health – Noise. Considers the site is located in a mixed commercial / residential area and therefore raise concerns that the proposed use could be affected by noise transfer from the commercial club next door and to the residential property adjacent to the site. As such a condition is requested that requires details of noise insulation in the proposed dwelling on the walls adjacent to the club and the residential dwelling. The Environmental Health Officer also noted that the property could be let to students which could lead to some anti-social behaviour which could be addressed through other legislation.
32. HMO officer – Provided detailed comments on the standards required for a HMO to be licensed. This application appears to meet these requirements.

### PUBLIC RESPONSES:

33. The application was advertised by neighbour letters and a site notice and a further letter was sent to neighbours regarding the amended plan.
34. Objections have been received from three neighbouring properties on Front Street and Alexandra Close on the following grounds:
35. When the hairdressing training centre received consent, it did so with a plan showing car parking to the rear of the planning application site. This parking area was never provided and the access to the car park through the internal garage (with two garage doors) was not of an adequate standard to provide access to this parking.
36. Parking in the area is limited and residents and businesses are already finding parking inadequate in the locality. This proposal will make a poor situation even worse.
37. An 8 bedroom HMO will cause noise and disturbance to neighbours, and neighbours already suffer from noise from the social club and nearby student dwellings.

### APPLICANTS STATEMENT:

It is my intention to convert the property to a high standard of student accommodation.

My target students will be New College students, but that wouldn't preclude any other students.

I shall appoint a local agent to manage the property on my behalf.

Each student will be made aware of their duty to behave in a responsible and respectful manner with the local residents.

The national average for students who have cars whilst at University is 46.8 percent. However, there are some colleges where it is extremely uncommon for students to have cars. I am not expecting any more than a maximum of two or three cars using the parking facility.

Please accept this statement in support of my planning application.

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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38. 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 relates to the principle of development, status of the land, use class, the character and appearance of the conservation area, residential amenity, highways and environmental health.

### Principle of Development

#### *The Development Plan*

39. 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 in 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, paragraph 11 of the NPPF is engaged and the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.

40. The application site is located in a local centre allocation in the CDLP where policy S5 supports the provision of Class A1 shops, Class A2 service uses and Class A3 (and A4) food and drink establishments. The application site currently does not fall within this range of use classes and has an established use as a D2 training centre with the last previous use for training hairdressers.

41. From the site visit officers consider that the local centre in Framwellgate Moor is doing well with a range of local shops available including a supermarket, chemist, hairdressers etc. The application is located towards the north of the allocated area and has a residential dwelling to the adjoining north of the application site. The supporting text in para 7.39 of S5 in the local plan supports the change of use to housing in such areas provided the development does not erode the supply of land required for shopping or community facilities. In this case the application site was previously a dwelling then obtained consent in 2002 to become an office and in 2005 benefited from consent to form a D2 training centre and so has historically not been in a shop use. Given the size of Framwellgate Moor Local Centre and the range of facilities available within the centre officers do not consider the proposal leads to an erosion of land required for shopping or community facilities within the local centre if the application site changes its use.

42. Part 7 of the NPPF on 'Ensuring the vitality of town centres' supports planning policies to define a hierarchy of town centres – and officers consider that the local centre of Framwellgate Moor defined in the City of Durham Local Plan retains a relevant local centre definition and spatial boundary. Paragraph 85 f) of Part 7 also recognises 'that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.' As such both the NPPF and the Local Plan policy S5 allow residential use within allocated centres.
43. 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.
44. Officers therefore consider that the local plan policy S5 in the City of Durham Local Plan is consistent with Part 7 of the NPPF and continue to provide an up to date relevance with regard to the local shopping area in Framwellgate Moor in having a relevant defined centre and allowing housing, where appropriate in the local centre. Accordingly, paragraph 11 of the NPPF is not engaged. As such officers consider that the policy S5 of the CoDLP is consistent with the NPPF with regards to the local centre in Framwellgate Moor as the local shopping area defined is still relevant and with regard to this application both policies allow dwellings providing it is not to the detriment of the local centre. As such the change of use is acceptable in principle.

#### *Locational Sustainability of the Site*

45. 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.
46. In this respect the application site is situated within Framwellgate Moor local centre and is well related to a variety of shops, services, education and employment opportunities and as such, the provision of 1 house in multiple occupation within this mixed commercial and residential area, close to existing facilities is considered to be located in a sustainable location and could be supported in principle subject to assessment against other local plan policies and material planning considerations.
47. In terms of the accommodation offer, the proposals are seeking to convert the building to a house in multiple occupation with 8 bedrooms and shared communal facilities with a shared kitchen / lounge. As the building is for 8 bedrooms the proposal falls within a sui generis use.

## Residential amenity and housing mix.

48. In terms of separation distance of new properties in relation to existing properties, guidance within the local plan in policy Q8 indicates that separation distances of 21 metres should be achieved between windows of habitable windows. No alterations are proposed to the fenestrations in the existing property and the proposal meets the minimum standard in Policy Q8 of the local plan.
49. Policy H13 of the CODLP is relevant and states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them. The approach contained within policy H13 of the City of Durham Local Plan is considered consistent with the general aim of the NPPF in paragraph 62 to create mixed and balanced communities and as such it remains a relevant policy of the current development plan and as such can be attributed weight accordingly in determination of this application. (For clarity Policy H9 on multiple occupation / student households only related to the subdivision or conversion of houses – and not other types of property).
50. The application site is at the northern end of the allocated local centre in Framwellgate Moor and in a mixed commercial and residential area which is reflected in the attached properties being a working men's club and a dwelling.
51. In addition, the Council's Interim Policy relating to student accommodation is also relevant and addresses both HMO's and new build accommodation. It states that the Local Planning Authority will not support the change of use of properties in instances where there is more than 10% of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet following a 6-week consultation period ending May 2017 and being confirmed in October 2017. The threshold of 10% was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.
52. In terms of applicability of the Interim Policy, the proposed development is a change of use which fits into Part A of the policy. The Interim Policy sets out that if more than 10% of the total number of properties within 100 metres of the application site are already in use as HMOs or student accommodation exempt from Council Tax charges, then the development will not be permitted. Publicly available information is in the form of a post code map with the relevant % figures shown. However, the County Council also calculates a bespoke 100 metre radius figure from the application site calculated from Council tax exempt data which demonstrates that within a 100m radius of 35 Front Street, 1.8% of properties are student exempt properties as defined by Council Tax records. As the 10% threshold has not been exceeded, the proposed development is consistent with the threshold in the Interim Policy.
53. In addition, the Policy sets out a further 4 criteria in Part A (a) – (e) with (a) – (d) relating to HMO conversions and new build and (e) relating to the change of use to HMO properties only. Going through each of these points in turn it reveals that the level of car parking and turning (a) is considered acceptable (see highway comments below), and sufficient space is provided to the rear of the property for cycle storage (b) bin storage for the conversion can be provided to the rear of the property (c). The proposal does not include any extensions or physical alterations to the existing building (d). No issue has been raised about security of the building (d). Part E relates to the exception to the Interim Policy if the % of student properties in an area is very high. This is not such an area.

54. The application is therefore considered to comply with the Interim Policy on Student Accommodation.

55. With regard to noise and disturbance officers acknowledge that an 8 bedroom house in multiple occupation is likely to have more comings and goings than a usual family house and compared to the last established use for a training centre is likely to have a different pattern of occupation. As mentioned earlier this location is mixed between commercial and residential where there is more noise and comings and goings than an established residential area. The County Councils Environmental Health Officers (noise) have commented that the proposed development will be within an area of mixed commercial and residential use and located between a social club and existing residential property. The proposed use will be residential therefore the use should be compatible to the area. However, the proposed use will be as an HMO and will house more than 5 people within the house at any one time. The occupants are likely to be students and therefore the use of the house may differ from permanent residents within the street. This could result in noise being created however this can be controlled using statutory nuisance legislation if required. The same legislation could apply to noise transfer from the social club into the proposed development and between the individual households with this potential noise transfer in mind and the lack of information in the application regarding the upgrading of sound insulation in the property a condition is proposed which seeks an upgrade to the sound insulation between the application site and the social club and between the application site and the adjacent dwelling.

56. Officers therefore consider that subject to a condition regarding sound insulation the proposal is acceptable with regard to its impact on residential amenity for the proposed dwelling and the impact on the existing adjoining dwelling.

#### Highway and access issues

57. The existing dwelling benefits from an integral double (tandem) garage. As the site lies in a sustainable location close to a range of services and public transport the County Highway Officer has raised no objection to the proposal in this sustainable site.

#### Comments on the objectors concerns

58. Objectors raised concerns about the planning consent for the previous training centre having been granted consent with car parking to the rear but this parking area to the rear was not implemented. The objector considers the parking area was too difficult to use as it was accessed by two garage doors and was narrow. Officers have checked the planning history and this is the case that the consent was granted with parking provision to the rear and there is no evidence that the parking had been implemented. Officers have checked with colleagues in enforcement and no complaints seemed to have been made about the lack of parking whilst the hairdressing training salon was in operation.

59. Concerns that the mixed commercial and residential use of the area leads to parking being at a premium in the area and the proposal for an 8 bedroom HMO should include additional car parking. The amended plan includes the garage space only and no additional parking to the rear. As discussed above officers consider this is a sustainable location and additional private parking is not therefore required.

60. Concerns that 8 tenants will lead to noise and disturbance with people accessing the property at different times. Officers note that comings and goings to the property will alter from the existing but that the use of conditions will require improved wall and floor insulation which will assist within the house. As the objectors note the area is partly commercial with a social club next door and so there is additional comings and goings in the vicinity currently, officers consider that the additional potential disturbance from the property is not sufficient to warrant a refusal of planning permission.

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## CONCLUSION

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80. This application has been fully assessed and considered in relation to the relevant policies including Q8, S5, T1, T10 and H13, of the City of Durham Local Plan and criteria detailed in the NPPF. In reaching a recommendation on this application, comments submitted with the application have been fully considered along with comments received from consultees and the objectors.

81. The application is submitted for the conversion of a D2 vacant hairdressing training centre to a house in multiple occupation for 8 people with no extensions or alterations to the exterior of the building within the local centre of Framwellgate Moor. Officers conclude that the principle of the change of use is acceptable in this location, that the location is sustainable, and that adequate parking is available for a central Framwellgate Moor. Officers consider that the impact on residential amenity is considered acceptable subject to conditions regarding noise insulation.

82. The application is therefore recommended for approval with conditions.

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## RECOMMENDATION

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That the application be approved subject to the following conditions:

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

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

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

Site location plan validated on the 08/11/2018

Plans, elevations & site plan, existing & proposed Drawing no.101 Rev F Received 07.12.2018

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

3. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The scheme shall be to ensure that the noise insulation of walls, and floors between both adjoining properties (dwelling and social club) shall be sufficient to prevent excessive ingress and egress of noise. The approved scheme shall be implemented prior to the first occupation of the development and shall be permanently retained thereafter.



*Reason: To ensure satisfactory noise insulation is provided for the benefit of the residents of the proposed dwelling and the existing residents of the adjacent dwelling in accordance with Policy Q8 of the Paragraph 180 of the NPPF.*

4. *The garage shall be retained for the storage of motor vehicles only and for no other ancillary residential purpose.*

*Reason: To ensure the car parking spaces are retained for use by the residents in the interests of pedestrian and highway safety in accordance with policy Q8 and T1 of the City of Durham Local Plan 2004.*

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## STATEMENT OF PROACTIVE ENGAGEMENT

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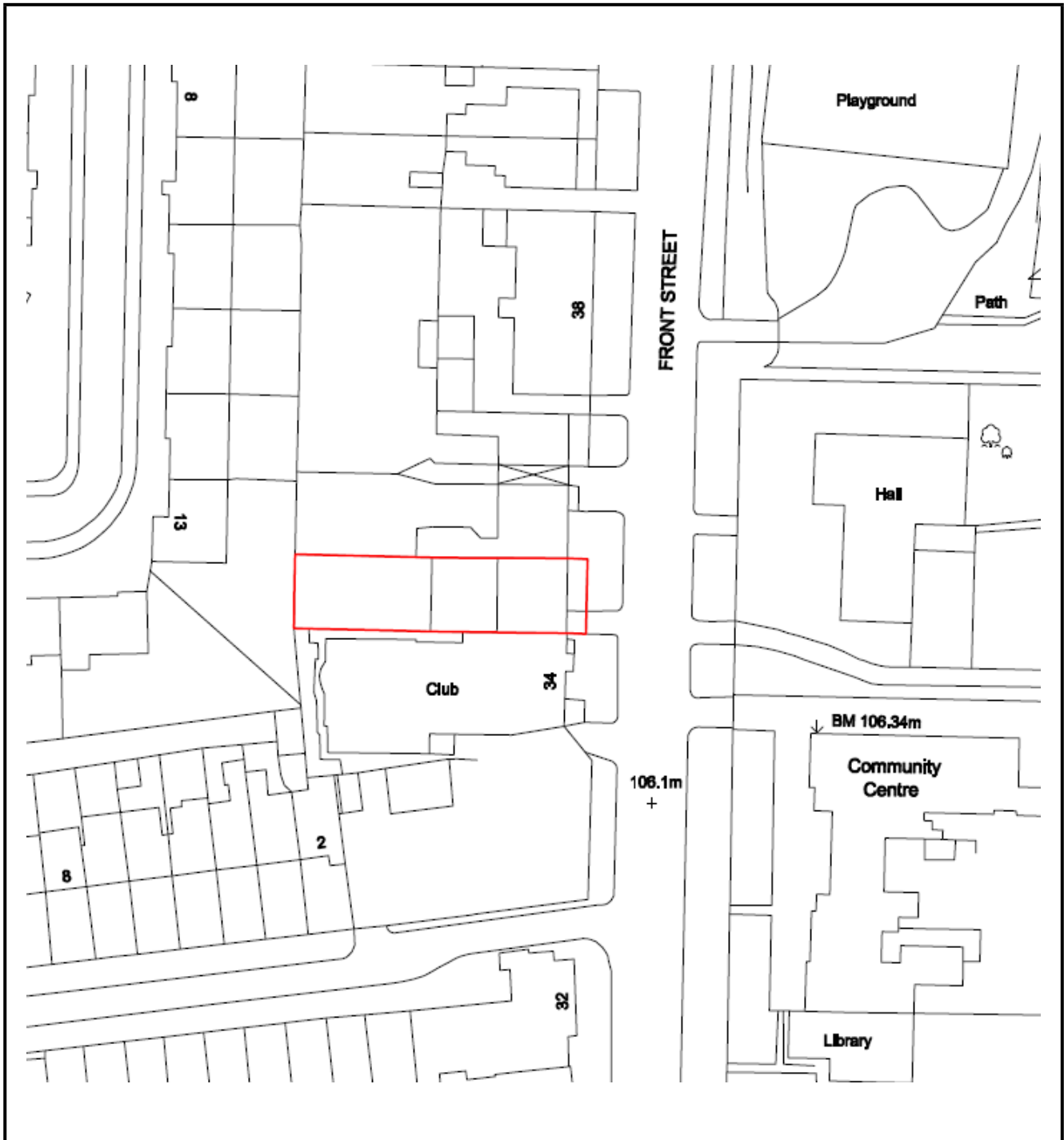
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering 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 Forms, Plans and supporting documentation  
City of Durham Local Plan 2004  
National Planning Policy Framework  
Internal consultee responses  
Public responses  
Responses from statutory and other consultees  
National Planning Policy Guidance



**Planning Services**

**Change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) (amended plan).**

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**Date**  
January 2019

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/18/03100/OUT
<b>FULL APPLICATION DESCRIPTION:</b>	Outline application for residential development comprising 4 dwellings with all matters reserved
<b>NAME OF APPLICANT:</b>	Mr Brinn Barber
<b>ADDRESS:</b>	Land To The West Of Eden Cottage, Station Town TS28 5EZ
<b>ELECTORAL DIVISION:</b>	Blackhalls
<b>CASE OFFICER:</b>	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site comprises a rectangular parcel of land approximately 0.28 hectares in area located to the south east of Station Town/Wingate and is situated between a pair of semi-detached properties at Carmel Cottage to the west and two detached dwellings to the east at Eden Cottage and Hutton Cottage. In the wider landscape the site is framed to the north and south by open space and agricultural land.
2. At present the site is used for some limited agricultural purposes with a handful of horses and goats grazed at the site which also hosts a small timber structure and several items of machinery and other paraphernalia. Access is taken via the C22 to the south and the site is framed by a mix of hedgerow to its southern boundary and post and rail fence throughout the remainder.

### The Proposal

3. Whilst it is noted that the application initially included conflicting information as to the total number of dwellings proposed, the applicant has since confirmed that outline planning permission is sought for the erection of 4 dwellings at the site with all matters reserved for future consideration.
4. Whilst details of layout, landscape, appearance, scale and access are all reserved for future consideration, the application is nevertheless supported by an indicative site layout which was amended during the course of the application and shows a linear arrangement of 4 detached properties with associated double garages each set with its own curtilage and taking an access from the C22 to the south.

5. The application is being reported to planning committee at the request of Cllrs Croute and Pounder who are the Local Councillors for the ward and considered the planning balance as contained in paragraph 11 of the NPPF to be such that the matter should be considered by Planning Committee.

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## **PLANNING HISTORY**

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6. This application represents the resubmission of a similar proposal in 2018 for 6 dwellings which was subsequently withdrawn.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal;
9. *NPPF Part 5 Delivering a Wide Choice of High Quality Homes.* The Government advises Local Planning Authority’s to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
10. *NPPF Part 6 Building a Strong, Competitive Economy:* The Government is committed to ensuring the planning system does everything it can to support sustainable economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore significant weight should be placed on the need to support economic growth through the planning system.
11. *NPPF Part 8 Promoting Healthy Communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted
12. *NPPF Part 9 Promoting Sustainable Transport:* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
13. *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.

14. *NPPF Part 15 Conserving and Enhancing the Natural Environment*: Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
15. *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:**

16. The following policies of the Easington District Local Plan are considered relevant to the determination of this application.
17. Policy 1- Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
18. Policy 3 - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
19. Policy 14 - Development which (either individually or cumulatively) is likely to adversely affect (either directly or indirectly) a designated or candidate special area of conservation, and is not directly connected with, or necessary for, managing the scientific interest of the site, will only be approved where:
  - i) There is no alternative solution; and
  - ii) There are imperative reasons of over-riding national interest for the development. In the case of sites which host a priority habitat or a priority species, such development will only be approved where:
  - iii) It is necessary for reasons of human health or public safety; or
  - iv) Beneficial consequences of primary nature conservation importance arise.

Before any project is allowed, developers will be required to demonstrate that adverse effects are minimised and that commensurate efforts to compensate for unavoidable damage are made.'

20. Policy 18 - Development which would significantly adversely affect, either directly or indirectly, any protected species or its habitat will only be approved where the reasons for the development clearly outweigh the value of the species or its habitat. Before any project is allowed, developers will be required to demonstrate that adverse effects are minimised and that commensurate efforts to compensate for unavoidable damage are made.
21. Policy 35 - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.

22. Policy 36 - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
23. Policy 67 - states that housing development will be approved on previously developed sites within settlement boundaries of established towns and villages provided the proposal is appropriate in scale and character and does not conflict with specific policies relating to the settlement or the general policies of the plan.

#### **EMERGING COUNTY DURHAM PLAN:**

##### The County Durham Plan

23. Paragraph 213 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 (CofDP) 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.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

24. The Highway Authority has no objection to the application after the applicant demonstrated that the proposed vehicular access crossings within the extended 1.8 metres wide footpath could be of a footway crossing, type and not the radius kerb type as suggested on the Indicative Proposed Site Plan. In addition the plan was also amended to demonstrate that the proposed 4 No. 4 bed bungalows could be supported by in curtilage turning in order to avoid the requirement for non-allocated visitor car parking spaces.

#### **INTERNAL CONSULTEE RESPONSES:**

25. Spatial Policy Section confirms that the planning application should be assessed in the context of para 11 of the NPPF as the policies which are most important for determining the application are out-of-date. Consequently, a scheme should be supported unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
26. Landscape Section raises objection to the application noting that the proposals would have substantial adverse landscape and visual impact in a DCC *Landscape Improvement Priority Area* where the spatial policy aim is to *restore and enhance*.
27. Environmental Health Section (Noise Action Team) has no objection to the application subject to the inclusion of planning conditions to control the environmental impact of the development during the construction phase (to include the submission and agreement of a construction management plan to demonstrate how noise, vibration and dust in particular would be controlled).

28. Contaminated Land Section has no objection to the application subject to the inclusion of the standard planning condition relating to the need for a contaminated land risk assessment, intrusive site investigations and remediation and verification where need is identified.
29. Ecology Section raises no fundamental objection to the application but notes the need for a HRA commuted sum payment to offset the impact of the development upon the Heritage Coast should no mitigation be provided on site, and that as the development would have a significant impact upon biodiversity that this should be mitigated either on site or through a commuted sum for offsite works.

**PUBLIC RESPONSES:**

30. The application has been publicised by way of site notice and notification letters sent to neighbouring properties. No representations have been received.

**APPLICANTS STATEMENT:**

31. The application site lies to the North of the C22 road as it leaves the main settlement area of Station Town heading towards Hutton Henry. The site is a plot of land approximately 105 metres long x 26 metres deep, between Carmel Cottage to the West and Eden Cottage to the East. The Northern boundary of the site lines through exactly with the Northern boundary of both of the above cottages. It is therefore a natural infill site.

Agricultural land lies to the North of all of these properties. Eden Cottage is not an isolated building outside the main settlement area. It has two neighbouring properties, Hutton Cottage and Newton Cottage on the first of a double bend in the road. On the second bend is the prominent and relatively new development of Hartbushes, comprising 12 detached two storey dwellings.

As the road continues towards Hutton Henry there is continuous long established development to the North of the C22, ending with a small terrace of 4 properties. Therefore on the north side of the C22 road there is continuous development from Station Town to the end of the terrace mentioned above, with the exception of the application site.

All of the above identified properties have Station Town addresses. The application site has limited use as anything other than a site to keep few livestock or horses on.

As tends to happen with these type of sites certain local people see these areas as a convenient site to dispose of their various types of rubbish, resulting in a very untidy area.

The full application site has three different owners, with the owner of the largest area making the application on behalf of the other two owners, who each wish to build their own single bungalow for their personal use.

In recent years there have been two separate planning enquiries in respect of this site. In May 2016 one of the co-owners enquired about building two bungalows on part of the site.

The planning officer's response was to advise that a formal application would be likely to be refused. In October 2016 a further enquiry was submitted in respect of 2 separate blocks of four & five terraced houses on the whole of the site. This enquiry was made by a potential developer.

A different planning officer's response to this further application was more detailed and concluded that the application could be approved if the applicants could demonstrate that the benefits of approving the application would outweigh the detrimental impact of the development upon the character and appearance surrounding area.

On the basis of the response to the second enquiry my client submitted an outline application for six detached dwellings on the site. Following discussions with the Planning Section this was later amended to 4 bungalows to reduce the visual impact of the proposal.

For the following reasons we believe that the case for approving the application outweighs any perceived impact on the character of the area.

1) The site, with its existing limited use, can never be anything other than a visual eyesore and a convenient fly-tipping area. A small high quality residential development would remove the potential for the site to become even more of an eyesore in the future.

2) Part 6 of the National Planning Policy Framework refers to the need to significantly boost the supply of housing, and applications should be considered in the context of the presumption in favour of sustainable development. Page 6 of the recently revised NPPF further advises that Planning Permission should be granted unless the benefits of refusing the application would SIGNIFICANTLY & DEMONSTRABLY outweigh the benefits of granting Planning Permission.

Not one letter of objection has been received from the public about this application.

The Parish Council have raised no objections.

As part of the Council's internal consultation process the following have responded. The Highways Officer has raised no objections to the proposal.

The Senior Environmental Health Officer has asked for 2 conditions to be attached to any approval. These are standard conditions attached to most Planning applications of this nature.

The Landscape Officer has responded with talk of rewarding distant rural views to the North from the C22 being lost by the development. At present it is hard to quantify just who exactly benefits from these rewarding views, especially as he confirms that there is intermittent hedging currently obscuring those views. The vast majority of people travelling along this road will be in motorised vehicles and one would presume they are concentrating on the road ahead, not gazing at the distant countryside.

In conclusion we ask that the Council Planning Committee members deciding this application weigh up the benefits of approving a small development of self-build homes on a currently untidy site that is a natural infill between existing groups of properties, against the perceived loss of rural character and the somewhat vague notion of the loss of distant rural views.

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

### Principle of Development

33. 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 Easington District Local Plan (EDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plan policies will depend on their consistency with the NPPF.
34. The Easington District Local Plan (EDLP) was adopted in 2004 and was intended to cover the period to 2006. The NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired.
35. On this basis, given the age of the EDLP 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, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe 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.
36. Policy 3 of the EDLP is relevant and seeks to restrict new development within the countryside and outside of existing settlements other than specifically permitted by other policies in the plan. In addition, Policy 67 of the EDLP is also relevant and states that housing development will be approved on previously developed sites within settlement boundaries of established towns and villages provided the proposal is appropriate in scale and character and does not conflict with specific policies relating to the settlement or the general policies of the plan. The supporting text to this policy states that housing development should normally only be approved on sites within the towns and villages of the District as defined in the settlement chapters and sufficient land has been identified within the settlements to meet demand over the Plan period.
37. However, the out of date evidence base which underpins these policies means that they must be regarded as out of date for the purposes of paragraph 11 of the NPPF and as a consequence, can be afforded only limited weight.

38. Consequently, as the development plan policies which are most important for the determination of the application are out of date, regard must therefore be had to Paragraph 11 of the NPPF which establishes a presumption in favour of sustainable development. For decision taking this means (unless material considerations indicate otherwise);
- approving development proposals that accord with the development plan without delay; and
  - where the development plan is absent, silent or relevant policies 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 refusal 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; or
39. Having regard to the above, the Development Plan is considered to be out of date and there are no policies which protect areas or assets of particular importance which provide a clear reason for refusal with respect to this proposed development. As a result, the acceptability of the development largely rests on planning balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits.

#### Five year Housing Land Supply

40. Paragraph 73 of the updated NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
41. Within County Durham all of the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Preferred Options' (June 2018) stage of the emerging County Durham Plan (CDP) is aligned with the standardised methodology and identifies a housing need figure of 1,368 dwellings per annum (dpa). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
42. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was therefore impossible for the Council to have such an annual position statement in place at the time of the appeal.

43. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard method for calculating local housing need and as the emerging CDP is aligned with the figure derived from the standardised methodology (1,368dpa), a supply in excess of 6 years supply of deliverable housing can be demonstrated when measured against this.
44. 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

45. 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. In this respect, whilst recognising that the development is located on the edge of Station Town/Wingate it is nevertheless noted that the Wingate and Station Town area is categorised as a small town/large village by the Council's most recent settlement study, noting that such areas generally contain a reasonable array of services due to their location, which tends to be far enough away from the main towns to ensure that these settlements are self-sustaining, but to a lesser degree. Given the links to existing shops, services and employment opportunities and noting the fact that the site is reasonably well served by public transport there being two bus stops within walking distance served by a lit footpath, the site is considered to represent a sustainable location.

#### Impact upon the character and appearance of the surrounding area

46. The site is located within the countryside to the north of the C22 between Station Town and Hutton Henry and although not subject to any specific landscape designation nevertheless occupies a prominent location within an area which is identified in the Council's Landscape Strategy as being an area of Landscape Improvement where the strategic aim is to 'restore and enhance'.
47. Previous sporadic ribbon development is present along this section of highway between Station Town/Wingate and Hutton Henry which has eroded the rural character of the surrounding landscape and resulted in a degree of coalescence between the two settlements.
48. Policy 35 of the EDLP relates to the general design and layout of new development and requires that development reflect the scale and character of adjacent buildings and the area generally, particularly in terms of site coverage, height, roof style, detailed design and materials and should provide appropriate landscape features and screening where required. This is considered to display a broad level of accordance with the aims of paragraph 127 of the NPPF which states that planning decisions should ensure that developments are sympathetic to local character and history, including the surrounding built environment and landscape setting. Accordingly, full weight should be afforded to this policy.
49. The application, whilst in outline with all matters reserved, proposes a total of 4 detached dwellings of bungalow style set in a linear form infilling an area between a pair of semi-detached properties to the west and a brace of detached dwellings to the east. The length of frontage proposed to be created onto the C22 would be notable at approximately 104 metres and the indicative drawing showing a possible arrangement whereby the dwellings would present principal elevations to the south, each taking its own access through the existing boundary hedge.

50. The application site is located on the Central East Durham Plateau which is a broad open and gently undulating landscape comprising predominantly large fields and offers distant views. The character of the area in this context is assessed as being one of medium sensitivity to the effects of built environment and it is noted that the site is at present only partially obscured from the adjacent lane by surviving sections of a hedge.
51. The Council's Landscape Section has been consulted and raises objection to the application noting that the development would have substantial adverse landscape and visual effects. In particular, it is considered that the development would have a significant and detrimental impact upon the defining rural characteristic of this short stretch of highway immediately beyond the eastern edge of the settlement through the introduction of the 4 bungalows proposed, which would be exposed to views from the C22 in an area which at present signals the transition between the residential framework of Station Town and the open countryside between it and Hutton Henry. In addition, it is considered that the development would result in an unacceptable level of encroachment into the open countryside further compounding the issue of coalescence of the two settlements, resulting in the loss of rewarding, distant rural views to the north from the C22 to the detriment of the rural landscape character of the area contrary to policy 35 of the EDLP and paragraph 127 of the NPPF.

#### Impact upon Residential Amenity

52. Policy 35 of the EDLP requires that the layout and design of new development will be required to have no serious adverse impact on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation. This is considered to display a broad level of accord with the aims of the NPPF at paragraphs 127 and 180 which require new development to function well and add to the quality of the overall area and prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution respectively. Accordingly, full weight is to be afforded to this policy.
53. Whilst it is noted that detailed matters in relation to scale and layout are reserved for future consideration the application is nevertheless supported by an indicative site layout which shows a total of 4 No. properties set in a linear street arrangement each taking a point of access from the C22 to the south. The indicative plan shows that an acceptable arrangement can be achieved which secures adequate separation distances for existing and proposed occupiers and that adequate private amenity space could be achieved for each unit.
54. Consequently, the application provides sufficient information in order to demonstrate that the site is capable of accommodating residential development of the type described without adverse impact upon residential amenity. In this regard the agreement of precise detail in terms of layout, appearance and scale could be subject to detailed consideration at reserved matter stage
55. In order to limit the potential for disturbance during construction phase the Council's Environmental Health Section (Noise Action Team) recommends that conditions be included to limit the hours of construction and to ensure the use of best practicable means of suppression of noise, dust and vibration during this time.
56. Overall, the scheme would therefore comply with EDLP Policy 35 and Part 15 of the NPPF in that it would not lead to a significant reduction in residential amenity for existing or future residents.

## Access and Highway Safety

57. As already noted the application relates to outline planning permission with all detailed matters reserved for future consideration including access. Nevertheless the applicant has provided an indicative plan in order to demonstrate that safe and satisfactory means of access to the site could be achieved, which in this case takes the forms of 4 separate points of access serving each unit directly from the C22 to the south of the site.
58. Policy 36 of the EDLP requires that new development provide safe and adequate access capable of serving the amount and nature of traffic to be generated. This is considered consistent with paragraph 108 of the NPPF in respect of achieving safe and suitable site access.
59. The Highway Authority raises no objection to the application as the applicant provided a revised indicative proposed layout plan which demonstrates that a turning head could be incorporated within each plot and that the proposed vehicular access crossings within the extended 1.8 metres wide footpath could be of a footway crossing type and not the radius kerb type as suggested on the Indicative Proposed Site Plan.
60. In summary, it is considered that sufficient information has been provided to demonstrate that the development could be served by a safe and sufficient means of access although it is noted that consideration of precise detail in this regard would be subject to a reserved matter application should members be minded to approve the application. The proposal is therefore considered acceptable in accordance with the aims of policy 36 of the EDLP and paragraph 108 of the NPPF.

## Ecology

61. Policies 14 and 18 of the EDLP seek to protect Special Areas of Conservation and protected species and habitats respectively and this is considered to display a broad level of accordance with Part 15 of the NPPF which seeks to ensure that developments protect and mitigate harm to biodiversity interests.
62. There are no structures of note currently present on site and as noted in the site summary the predominant use appears to be that of agriculture with a number of horses and goats grazed across part of the site.
63. However, the impact of the development has been assessed using the biodiversity calculator as advised by the Council's Ecologist which concluded that there would be some adverse impact in this regard in terms of a net loss to the sites current biodiversity value. Paragraph 175 of the NPPF requires that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
64. As there is no potential for mitigation to be undertaken on site, the applicant has agreed to make a commuted sum payment of £3951.28 for offsite works in the form of species rich grassland improvements and in this regard a scheme at Castle Eden Walkway has been identified as being suitable. Officers are satisfied that this is required to make the development acceptable and that this sum could be adequately secured through appropriate Legal Agreement and in this context the Council's Ecologist raises no objection to the application.

65. The Council's Ecologist has also notes that the proposed development is within the 6km Durham Coast HRA buffer therefore a financial contribution to the Coastal Management Plan is required to mitigate impacts as a result of new housing development. Durham County Council has carried out screening in compliance with the Habitats Regulations for all housing allocations in the county, this work was done in conjunction with Natural England, and after Appropriate Assessment, concluded that there is likely to be a significant effect on the Northumbria Coast SPA and Durham Coast SAC from new housing development within 6km of the coastal European sites due to increased recreational impacts including dog walking and coastal erosion. It was agreed that mitigation for those identified impacts upon the European protected sites will include the provision of alternative green space suitable for off-lead dog walking and or a financial contribution to the coastal management plan designed to limit the identified impacts.
66. The applicant has agreed to make a contribution of £323.92 per residential unit towards one of the strategic programmes within the Heritage Coast Management Plan.
67. Subject to the commuted sums being made available and secured through S106 Legal Agreement, it is considered that the proposed development would accord with saved policy 14 of the EDLP and part 11 of the NPPF, both of which seek to protect and enhance biodiversity and the natural environment.

#### Contaminated Land

68. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
69. It is noted that the site is currently used for agriculture and as the proposal relates to a residential development which is a more sensitive use the Council's Contaminated Land Section raises no objection to the application subject to the inclusion of a planning condition requiring the submission and agreement of a Contaminated Land Risk Assessment (including intrusive site investigation and the implementation of remediation and verification where need is identified). Subject to a condition in this regard the development is therefore considered to accord with the requirements of paragraph 178 of the NPPF.

#### Drainage

70. The application proposes the disposal of surface water to SuDs and foul water to the existing system. Both arrangements are considered acceptable in principle and precise detail could be secured through planning condition. In this respect the development is considered to accord with the requirements of policy 1 of the EDLP.

#### Planning Balance

71. As the relevant policies of the EDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

### *Benefits*

72. The development would provide some limited benefit in terms of a boost to housing supply, although it is noted that this could be considered severely limited at 4 dwellings in the context of the Council's ability to demonstrate a 5 year supply of housing land.
73. To a limited degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area. Such benefits can be afforded some limited weight.

### *Adverse Impacts*

74. It is considered that the development would have a significant and detrimental impact upon the defining rural characteristic of this short stretch of highway immediately beyond the eastern edge of the settlement through the introduction of the 4 bungalows proposed, which would be exposed to views from the C22 in an area which at present signals the transition between the residential framework of Station Town and the open countryside between it and Hutton Henry. In addition, it is considered that the development would result in an unacceptable level of encroachment into the open countryside further compounding the issue of coalescence of the two settlements, resulting in the loss of rewarding, distant rural views to the north from the C22 to the detriment of the rural landscape character of the area contrary to policy 35 of the EDLP and paragraph 127 of the NPPF.

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## **CONCLUSION**

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75. When applying the planning balance contained in paragraph 11 of the NPPF it is considered that the adverse landscape and visual impacts of the development would significantly and demonstrably outweigh the benefits, in particular that the proposal would have a significant detrimental impact upon the defining rural characteristic of the immediate locale at the eastern edge of Station Town/Wingate creating an unacceptable level of coalescence between the settlements of Hutton Henry and Station Town/Wingate to the detriment of the rural landscape character of the area and contrary to policy 35 of the EDLP and paragraph 127 of the NPPF. Accordingly, planning permission should be refused.

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## **RECOMMENDATION**

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

76. The proposed development would have a significant detrimental impact upon the defining rural characteristic of the immediate locale at the eastern edge of Station Town/Wingate through the introduction of the 4 bungalows proposed which would be exposed to views from the C22 creating an unacceptable level of coalescence between the settlements of Hutton Henry and Station Town/Wingate to the detriment of the rural landscape character of the area and contrary to policy 35 of the EDLP and paragraph 127 of the NPPF.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to refuse 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. Regretfully, a positive recommendation has not been possible in this instance. (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.

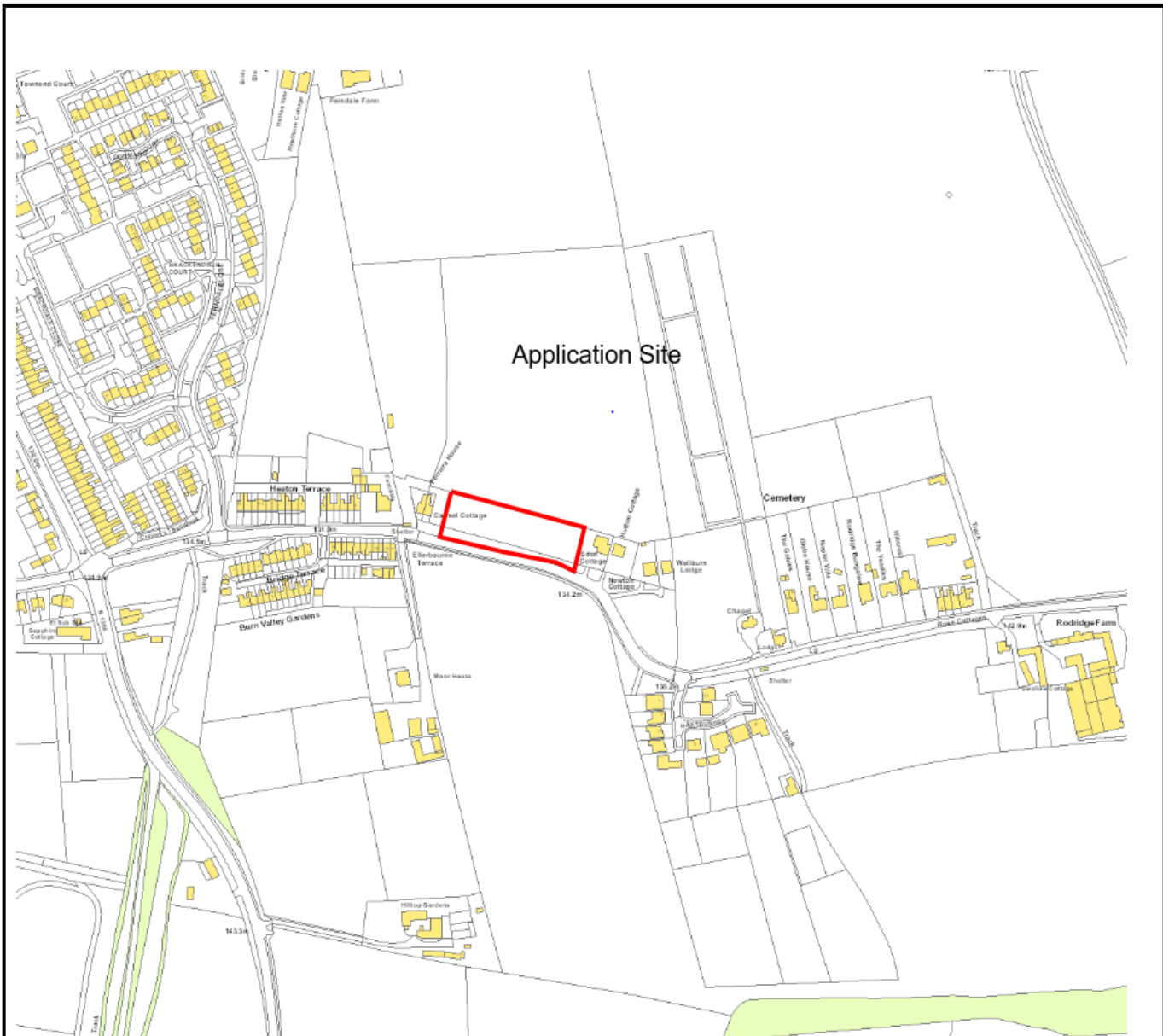
The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Easington District Local Plan 2007

Statutory, internal and public consultation responses





**Planning Services**

Outline application for residential development with all matters reserved

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**Comments**

**Date** 15 January 2019

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/18/03366/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	2 storey extension at rear of C4 property, including internal alterations
<b>NAME OF APPLICANT:</b>	Mr Marc Shalam
<b>ADDRESS:</b>	8 The Hallgarth Durham
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	Jennifer Jennings Planning Officer Telephone: 03000 261057 <a href="mailto:jennifer.jennings@durham.gov.uk">jennifer.jennings@durham.gov.uk</a>

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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 500 metres to the east of Durham Cathedral and Castle World Heritage Site (WHS).
2. The site relates to property and garden land at no. 8 The Hallgarth, a four-bed dwelling house in use as a house in multiple occupation (HMO), which is presently a mid-terrace of six properties that extend to the east and west of the site. The rear elevation faces north towards the prison area and overlooks the main access road which leads to The Hallgarth and which also links Hallgarth Street to Whinney Hill. The south elevation of the property overlooks a pedestrian footpath link as well as former council owned garages.
3. The garden land to the rear of the property is mostly paved with a single storey rear offshoot that offers storage space. The yard area provides bin storage with a gateway in the rear boundary for bringing bins out for collection.

4. The proposal seeks full planning permission for a rear two-storey extension with a further single storey offshoot. The extension would be in matching brick with a hipped roof for the two storey element and a mono pitched roof for the single storey extension. Both single and two-storey extensions would be just short of the full width of the house, allowing for roof overhang and guttering to remain within the property boundary. The two storey element would extend out by 2.3 metres with the single storey element extending out by a further 2 metres. Maximum ridge height would be 6.2 metres, short by 0.7 metres from the main house, with eaves at 4.9 metres, matching the existing eaves on the house. The single storey extension would have a maximum roof height of 3 metres, sloping down to 2.5 metres at eaves.
5. Currently, the building has four bedrooms and is occupied by four persons. Internally the building is to be reconfigured to allow the creation of an additional bedroom. Four bedrooms and two bathrooms are proposed upstairs, with an additional fifth bedroom downstairs and bathroom. The proposals would increase the shared living spaces from the current arrangement by providing a large dining area with kitchen and lounge space. Access to the yard would be gained through the lounge space.
6. In support of the application, tenancy agreements have been provided showing 4 unrelated occupants have resided at the property since 2015. The property is therefore an existing C4 use that predates the Article 4 direction.
7. The application is referred to Committee at the request of the local member Councillor David Freeman on behalf of the local resident association in the area who requested it on the grounds that there are a large number of students already living in the area, permitted development rights have been withdrawn under the Article 4 Directions and there is no automatic right to an approval. The proposal is also considered contrary to policy H9 of the Local Plan.

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## **PLANNING HISTORY**

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8. There is no planning history for the site.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

9. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
10. 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.
11. 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.

12. 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.
13. 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:**

14. 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)*

15. *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.
16. *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.
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 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.
19. *Policy E23 – Listed Buildings* – The Council will seek to safeguard listed buildings by not permitting development which detract from their setting.

20. *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.
21. *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.
22. *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.
23. *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.
24. *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.
25. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
26. *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.
27. *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.
28. *Policy Q9 – Alterations and Extensions to Residential Property* - The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.

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

29. 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.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

30. Northumbrian Water have no comments to make.
31. Highways Authority comment that no in curtilage parking could be provided if requested, however, given the city centre location, no parking provision would be sought. 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.
32. City of Durham Parish Council – objects on the basis that the proposals conflict with the Interim Policy on Student Accommodation and would lead to a further intensification of student numbers in the area.

### **INTERNAL CONSULTEE RESPONSES:**

33. Design and Conservation – comment that while the extension would be considered dominant and alien to the original design, the wider impact within the estate and upon the character, appearance and setting of the designated heritage assets concerned, would be considered a neutral conserving one. Given the individual circumstances and context of the site, despite the design flaws where the extension is not subservient to the host dwelling, it is difficult to object to this application on heritage or design grounds.
34. Environment, Health and Consumer Protection (Nuisance Action Team) – have no comments or concerns with regards the application. They do not consider that the proposals would create a statutory nuisance.
35. Ecology section do not require the submission of a bat survey on this occasion, given the extent of security lighting associated with the adjacent prison grounds.
36. Spatial Policy – comment that the proposal does not fall to be considered under the planning balance associated with NPPF paragraph 11, as relevant policies are not silent, absent or out of date. The interim policy for student accommodation and HMOs is a material consideration. Applying the Interim Policy the percentage of HMOs within 100m of the application site is 36.5% of properties which are student properties as defined by Council Tax records, this house included. On this basis the proposal for an extension to the property will result in additional bed spaces which would be contrary to the interim policy. Consideration also needs to be given to an appeal case at Hawthorn Terrace in January 2017 where a similar proposal was allowed despite being contrary to the interim policy.
37. HMO Section –comment that the property would need to be licensed under the Housing Act 2004 Part 2 and provide further details on the criteria associated with this legislation.

### **PUBLIC RESPONSES:**

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

- City of Durham Trust objects on the basis that the proposal would be at odds with the interim policy and would result in increased studentification. The exemption clause associated with the interim policy cannot be invoked as a reasonable proportion of family homes still exists in the area.
- One objection raised by a neighbouring family. Concerns relate to parking and noise at night as well as rat infestations.

#### **APPLICANT'S STATEMENT:**

39. The application is for an extension to an existing C4 student property. The property has been used for student accommodation for some time already and that has been established by the supply of previous tenancy agreements. Recent New Licensing requirements for two storey HMO units have brought about a re-inspection of existing HMO's that previously did not need licences and Environmental Health Inspections by the HMO teams. This coupled with the desire of students for higher quality provision has brought a number of Landlords to consider their existing housing stock rather than look to new units.
40. To improve the provision of accommodation given the client looks to expand the bedroom sizes and provide better shared amenity within the dwelling and thus an extension is proposed that raises the unit from currently 4 bedrooms to 5 bedrooms, a modest increase. This increase will not give rise to a noticeable increase or intensification of student housing in the area as the house is already used as C4 and only a modest increase in one bed space provision is proposed.
41. The objectors note that the area is already around 70% student accommodation well above the 10% threshold of the interim policy. We note that values of around 70% have been proven at appeal as the general threshold to demonstrate that additional HMO bed provision will not cause further detrimental harm or conspicuous concentration.
42. The property has a large remaining garden that will be used for external amenity, but will also have areas for the refuse bins and the provision of cycle storage. The property is in an area of resident only parking restrictions and permits and this will equally apply to the residents. The house will remain with one permit and any other additional parking will be in the on street paid bays as used by all residents.
43. The design of the building matches that of other similar extensions on The Hallgarth, previously done by this practice. The property will be fully managed by Harrington's a specialist student accommodation agent who have a wealth of experience dealing with issues around antisocial behaviour and include such policies in their tenancy arrangements and these will be monitored and enforced.
44. Harringtons is 3 a minutes' walk away at 30 New Elvet. Harringtons have a full time maintenance man and have a 24 hour mobile telephone number answered physically by the maintenance man himself. This property as with all new Green Mountain properties will be in the Durham Student Approved Housing Scheme. Harringtons undertake quarterly property inspections and also aim to be on very good terms with all neighbours, both local and landlord/student. As a local agent they aim to support the local environment for everyone and come down as hard as they can on the rare times the students misbehave.



45. All Harringtons houses require their student tenants to have parental guarantors who we also call if there are problems with neighbours, which are incredibly rare. They also have contact numbers for all the local college reps as well as the Durham University Community Liaison Officer and the Durham Constabulary's Police University Liaison Officer to make sure that pressure is put on the students to behave in every way possible. They also give these last two contact details out to any neighbour who complains, so they have direct access to this information too. They also send the students Moving In letters with a large amount of information on how to live in a house and the local environment including what days to put the bins out etc. and also send the students Moving Out letters which explain how to dispose of your rubbish at the end of the tenancy.

*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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46. 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 concentration of students.

### Principle of Development

#### *The Development Plan*

47. 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.

48. In consideration of the above, saved policy H9 relating to multiple occupation and student accommodation is directly relevant to the proposal as it deals with alterations and extensions to existing properties already in HMO use. This policy is considered consistent with the NPPF, as it is up to date and not time limited and can therefore be afforded full weight in the decision-making process. Paragraph 11 of the NPPF is not engaged.

49. Policy H9 of the City of Durham Local Plan states that proposals to extend or alter properties which are already an established HMO use class will be permitted provided that there is adequate parking, there is sufficient privacy and amenity areas for occupiers, the proposal would not adversely affect the amenities of nearby residents and the extension would be in scale and character with the host dwelling and surrounding area in compliance with Policy Q9. The various points within Policy H9 are covered in the relevant sections of the report below. The Interim Policy on Student Accommodation includes similar criteria. However the Interim policy goes further than policy H9 as it states that extensions that result in additional bed spaces will not be permitted if more than 10 per cent of the total number of properties within 100 metres of the application site are already in use as HMOs.
50. In consideration of the above, the proposals are considered to accord with policy H9 which is permissive in principle of extensions to properties already in C4 use. However when assessed against the Interim Policy, which seeks to curtail extensions and creation of bed spaces, the proposals are contrary, particularly as the percentage of properties within the 100 metres radius of the application site equates to 36.5 per cent. It must be noted however that the proposed extension would not impact on the percentage of properties in HMO status as the application site already falls within this category. On this basis, the proposal would equate to one additional bedroom creating a 5-bed HMO over a 4-bed HMO and in consideration of this, the proposals do not offend against the aims and objectives of the interim policy which seeks to maintain an appropriate housing mix by assessing the change in the percentage of housing in student accommodation within a 100 metres radius. The addition of one additional bed space to an existing C4 property does not undermine this principle. It must also be noted that the interim policy is not part of the adopted development plan and therefore less weight must be afforded to it as a result and in the event of conflict with save local plan policies, those policies must prevail.
51. Furthermore, a recent appeal decision (reference APP/X1355/W/16/3160444) for a two storey rear extension of a class C4 HMO to provide 3 additional bedrooms at 40 Hawthorn Terrace, Durham, considered the issues associated with the creation of additional bedrooms within established HMOs and whether such development is considered to conflict with the Interim Policy. The Inspector found that within the Interim Policy there is no explicit reference made on how to address extensions to existing HMOs against the 10 per cent tipping point. This would suggest that the Council has essentially sought a moratorium on extensions to HMO properties within the Durham City area where the majority of residential areas are in excess of 10 per cent HMOs. The Inspector considered that such a stance would be at odds with the more permissive approach of saved Policy H9 of the local plan. The Inspector further commented that the provision of additional bed spaces to an existing HMO in an area where more than 10 per cent of properties within 100 metres of the appeal site are in use as HMOs would not result in an adverse impact on the overall range and variety of local housing stock in the area. On this basis, the Inspector allowed the appeal.
52. In terms of the extension itself, it is noted that a number of properties have been similarly extended. The principle of extending the properties within the area is therefore well established. The proposal is therefore considered acceptable in principle in this context.
53. Accordingly, it is considered that the proposal complies with policy H9 and whilst there is some conflict with the strict wording of the interim policy, that is not sufficient to justify refusal of the application especially in light of the guidance on that policy which has been provided by the recent appeal decision.

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

54. 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.
55. 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.
56. The Hallgarth is located within the eastern part of the designated conservation area within a back land location between Hallgarth Street to the west, HMP Durham and Whinney Hill to the north, and surrounded to the south and east by the dense residential properties in the upper part of Whinney Hill and Hallgarth View. The Hallgarth consists of a small group of modern terraced properties and flats constructed on the site of the former Hallgarth Farm in the early 1970's, the surviving remnants being the Farmhouse and the group of listed barns across the road at Durham Prison Officers Club (grade II and II\* listed). The modern residential properties are of no historic interest and little merit architecturally, consequently their contribution to the surrounding designated conservation area is considered to be neutral, at best.
57. Design and Conservation provided comments on the proposals, stating that ordinarily this form of extension, full height and full width with limited subordination, would not be considered an appropriate design in a conservation area location. However the form, scale, massing and design is commensurate with extensions approved to the rears of a number of the neighbouring properties for example at nos. 4, 14, 20, 30, 32. As a consequence there is an established pattern development within this part of the city centre as a result of which the extensions would not appear incongruous in the streetscene. These were accepted because of the geometric simplicity in relation to the host building and due to impacting on modern properties in the localised context of a modern housing estate of neutral character.
58. The extension would be largely hidden from the main historic streets forming the focus of this part of the conservation area and would not be considered a harmful introduction into the setting of the grade II and II\* Durham Priory Farm buildings at Durham Prison Officer Club, 30 metres to the north of the site. This is due to it being viewed in conjunction with the neighbouring extension of the same design and there is a clear and very differing character at The Hallgarth that sets it apart from the listed group. There would be an absence of intervisibility between the site of the extension and the listed buildings along Hallgarth Street meaning it would have a neutral impact within their settings.

59. In terms of policy Q9, this states that extensions are to appear subordinate to the host dwelling and incorporate pitched roofs wherever possible. The proposed extension would result in an enlarged property but the increased size would not appear overly dominant or be out of character with the host dwelling, surrounding properties or the immediate streetscene and is considered to accord with the policy in this regard, although not entirely in accordance with other aspects of Q9.
60. In respect of the above and in the context of the statutory duties and relevant policies E22 and E23 and policy H9 the proposals are considered to be compliant with these policies. In respect of policy Q9, it is considered that it would be partially compliant but would be unreasonable to refuse planning permission on design grounds.

#### Impact on residential amenity

61. Local plan policy H9 states that extensions should not adversely affect the amenities of nearby residents. The dwelling is already an established C4 use and the proposal to increase the number of bedrooms from four to five would not alter the C4 designation in this case. The dwelling would therefore continue as a small HMO and it is not considered that the addition of a single bedroom to enlarge the HMO use would be sufficiently detrimental to the amenities of neighbouring residents. One objection was received from a neighbouring resident raising issues regarding noise and parking in the area with additional concerns regarding rat infestations. It is accepted that occupants of HMOs differ in their activities and general movements from that expected of family homes, and depending on individuals involved, these activities can cause levels of disturbance that create negative impacts on non-HMO residents. However it would be difficult to demonstrate any proliferation of these disturbances to the addition of a single bedroom in an established HMO or indeed sustain a refusal in this case, on that basis.
62. Environmental Health were consulted for their views in terms of noise impacts and raised no objections based on the scheme proposed.
63. In terms of the impact of the extension upon neighbouring amenity of nos. 6 and 10 The Hallgarth, from assessing the site, it appears that no. 6 would be most directly impacted by the extension due to an existing two storey extension at no. 4. However the proposed extension would be adjacent to a high level obscure glazed window associated with a bathroom and in this respect would not impact on outlook. The window associated with the habitable room of no. 6 is adjacent to the extension at no. 4 and whilst this will have had an impact on their outlook, the proposed extension at no. 8 will have a lesser impact given its distance from this window. Some degree of overshadowing would be experienced by neighbouring residents but being located on the north elevation it is not expected to be detrimental to their amenities. The proposed single storey element of the extension would not extend further out than the existing out building, meaning the impacts of this built arrangement are already experienced by residents at no. 6 and the small increase in height associated with the mono pitched roof would not be sufficiently detrimental to warrant refusal. Some loss of outlook would be experienced by no. 10 on its east side due to the two storey extension and additional single storey element but reasonable outlook would be retained towards the north east, north and west. Overall, whilst the extension is large and covers the whole width of the house, the impacts on neighbouring residents are not considered harmful to the extent that a refusal on these grounds could be sustained.

64. In light of the above considerations and in consideration of policies H9 and Q9, it is not considered that the proposed extension and resultant additional bedroom would create a situation that would significantly compromise the amenities of residents within the area. Whilst the additional bedroom may result in increased activity, this is not considered to be at a level that would materially affect the residential character of the area or amenities of the nearby neighbours, particularly as the property already operates as a HMO.

#### Highway Safety and Access

65. 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.

66. 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 in any case.

67. 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 property as well as encourage sustainable transport choices in accordance with policy T10. The proposals are considered acceptable in this regard.

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## CONCLUSION

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68. In conclusion, the proposed development would not result in an increase in HMOs in the area as the property currently operates as a small C4 HMO. In this regard the proposal does not run contrary to the principles associated with the Interim Policy as the housing mix would remain unaltered. The small increase in occupancy levels is not considered detrimental to the wider amenities of the area, and the proposed extension by reason of its design and scale is considered acceptable, not causing undue harm to the surrounding heritage assets or neighbouring amenity. The proposals are considered to comply with relevant saved policies of the local plan and whilst there is some conflict with the interim policy on student accommodation, it is not felt that a refusal reason could be sustained on that basis.

69. The proposal has generated public interest, with letters of objection submitted from residents, the City of Durham Parish Council and the City of Durham Trust. The objections and concerns raised have been taken into 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.

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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 no 1042-02 received 2/11/2018  
Proposed plans, elevation and section no. 1042-03 received 15/11/2018

*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.*

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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  
Statutory, internal and public consultation responses



**Planning Services**

2 storey extension at rear of C4 property, including internal alterations at 8 The Hallgarth Durham.

Application Number DM/18/03366/FPA

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**Comments**

**Date** 15 January. 2019

**Scale** NTS

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