



Area Planning Committee (Central and East)

Date Tuesday 12 March 2019
Time 1.00 pm
Venue Council Chamber - County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held 12 February 2019 (Pages 3 - 8)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/17/01963/FPA - Land To The South Of Nursery Gardens, Thorpe Road, Easington (Pages 9 - 32)
Erection of 98 no. two-storey 2, 3 and 4 bedroom semi and detached dwellings with associated works (Revised Plans 18th May 2018).
 - b) DM/18/01333/FPA - East Durham Cathedral Farm, High Pitington, Durham (Pages 33 - 44)
Erection of dwelling.
 - c) DM/18/02975/FPA - William Robson House, Claypath, Durham (Pages 45 - 64)
Extension and conversion of the multi-level decked car park to form 4 no. 1-bed apartments and 8no. 2-bed apartments (C3 housing) (Resubmission).
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
4 March 2019

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

Councillor A Laing (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 12 February 2019** at **1.00 pm**

Present:

Councillor A Laing (Chairman)

Members of the Committee:

Councillors D Brown, J Clark, I Cochrane, K Corrigan, M Davinson, D Freeman, P Jopling, A Laing (Vice-Chairman), H Smith (substitute for S Iveson) and O Temple

Also Present:

Councillor M Wilkes

1 Apologies for Absence

Apologies for absence were received from Councillors S Iveson and J Robinson.

2 Substitute Members

Councillor H Smith substituted for Councillor S Iveson.

3 Minutes of the meeting held 15 January 2019

The minutes of the meeting held on 15 January 2019 were confirmed as a correct record by the Committee and signed by the Chairman.

4 Declarations of Interest

There were no Declarations of Interest submitted.

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

The Chairman noted that Item 5b, the application relating to 51 Whinney Hill, Durham, had been withdrawn.

a DM/18/03308/FPA - 35 Front Street, Framwellgate Moor, Durham, DH1 5EE

The Planning Officer, Susan Hyde, 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 previously and were familiar with the location and setting. The application was for change of use from hairdressing training centre to 8 bed house in multiple occupation (sui generis) (amended plan) and was recommended for approval, subject to conditions.

The Planning Officer noted that the application had been deferred by the Committee at its meeting on 15 January 2019, in order for issues relating to parking to be considered by the Applicant. It was noted the application now included four car parking spaces to the rear of the property, within the garden, with access to be gained through the existing garage. The Committee were referred to site plans and additional aerial photographs, noting the relationship with the nearby New College Durham site and shops and services within Framwellgate Moor centre.

The Committee noted no changes to the elevations of the property, and the proposed internal layout retained the garage together with internal alterations to accommodate the eight bedrooms. It was added that the Licensing Section had confirmed compliance in terms of headroom for the second floor.

Members were reminded that the only access to the rear garden was via the property, on foot through the property, and for vehicles via the single width garage, there was no access from the rear, Alexandra Close. Councillors were asked to note that the land to the immediate front of the property was adopted highway. Members were reminded of the adjoining social club to one side, and residential property to the other side.

Members were informed there had been no objections from Highways as regards the amended plan and parking arrangements, as the property was in a sustainable location, with amenities and transport links and that the additional parking had not been requested by the Highways Section. The Committee noted that there had been no objections from Environmental Health, subject to conditions including noise insulation. Councillors noted that the House in Multiple Occupation (HMO) Officer had noted the application met the required standards for HMO licensing.

The Planning Officer noted no further responses from the public to the amended plan, with three objections from nearby residents from Front Street and Alexandra Close to the initial application. She explained those initial objections were summarised within the report and related to: students occupying the property; increase noise and disturbance; the rear garden not being utilised for parking as per the previous planning consent; and the impact on parking. The Committee noted that Local Members Councillors A Hopgood and M Wilkes had made further representations as regards the width of the garage, accessibility and bin storage.

The Planning Officer reminded the Committee that as the land to the front of the property was adopted highway, the only location for bin storage would be to the rear of the property.

The Planning Officer noted that the application was considered acceptable in terms of being within a sustainable location, and reiterated that the previous uses of the property had been residential dwelling and hairdressing training centre, it had not previously been used as a retail unit. It was added that in terms of the sustainable location the parking provision proposed was in addition to the previous application and that the previous provision had been considered acceptable in highways terms.

The Chairman thanked the Planning Officer and asked Councillor M Wilkes, Local Member, to speak in objection to the application.

Councillor M Wilkes thanked the Committee for the opportunity to speak in relation to the application. He noted that he and his fellow Local Member, Councillor A Hopgood still had concerns as regards the application. He explained that Councillor A Hopgood had requested the Committee return to the site in order to observe a vehicle drive through the garage to gain access to the rear. He noted that this request was rejected. Councillor M Wilkes noted that the proposed parking arrangements were similar to the extant permission, yet the arrangement had not been taken up and no one had parked to the rear of the property for 20 years. He added that neither the Committee nor Local Members had seen if a vehicle could negotiate the narrow garage to access the rear of the property.

Councillor M Wilkes noted that the Council's Policy 2018 was for a garage of 3m in width, with the garage within the application being 2.25m, with a likely internal width of around 2.05m. He added he was not convinced as regards the ability to manoeuvre vehicles in the rear garden, given an approximate 10m strip for this purpose. He added that a lack of measurements on the amended plans did not help in understanding the issues with the proposed parking arrangements. Councillor M Wilkes noted that, accordingly, he was not sure if there was sufficient room in order for people to be able to get in or out of a vehicle parked in the rear garden. He added that even if the sizes were at minimum Council standards, he did not feel that the Committee could make a valid decision without dimensions set out clearly and that it would be almost certain that the proposed parking provision would not be used.

Councillor M Wilkes noted that in addition he felt that there would be safety issues in terms of being able to access the garage from the heavily used main road, with potential occupants having to open the garage doors for each and every journey. He added that he still felt that the application was in breach of saved Local Plan Policies T1 and H9, relating to parking and sub-division of properties that would adversely affect the amenity of nearby residents.

Councillor M Wilkes noted that should Members be minded to approve the application, he felt that a condition should be in place to have the garage doors interlinked to facilitate access to and from the busy main road.

He concluded by noting that given the lack of details in terms of measurements and lack of space to the rear for manoeuvring of vehicles that he could not see how the development as proposed could get past intelligent people such as those comprising the Planning Committee and asked that the application be refused.

The Chairman thanked Councillor M Wilkes and asked Officers to respond to the points raised.

The Highways Development Manager, John McGargill noted that a number of issues had been raised at the previous Committee meeting, and he reiterated that there was the extant permission in terms of the parking arrangements for the hairdressing training centre that had not been put into effect. He added that Officers could not restrict the number of vehicles relating to a property. The Highways Development Manager noted that he had measured the width of the garage, being 2.35m and explained that popular vehicle models, such as a Nissan SUV, were around 2m wide, with a Ford Fiesta being 1.8m wide. He noted that while it could feel uncomfortable for a driver to negotiate, it was still possible to drive through the garage to access the rear garden.

In terms of manoeuvring, the Highways Development Manager noted that the proposed area available at the rear garden was 10m, with an example given that in supermarket car parks, the space available was around 6m, less than as proposed within this application. He added that the Council's policy in terms of a 3m width was for new garages from January 2019 onwards, the existing garage pre-dating this. The Highways Development Manager concluded by noting that the applicant had volunteered the additional parking to the rear, adding that the Highways Section had been satisfied with the application as previously submitted given the sustainable location and the provision of parking in the area.

The Planning Officer noted she did not have any additional comments in terms of the parking arrangements further to the Highways Development Manager, other than to note the plans provided were to scale and that the Applicant had sought advice from the Highways Section when drawing up the proposed scheme. She reminded Members that the only access to the rear garden was via the garage, with no access from Alexandra Close. She noted that the garage doors would be as existing, with no scope for conditioning differently, standard garage doors. The Planning Officer noted that as a proposed HMO with 8 bedrooms it was more likely that any vehicles would be smaller in nature, and reiterated that the location was highly sustainable in terms of transport and amenities.

The Chairman thanked the Officers and asked Members of the Committee for their comments and questions.

Councillor O Temple noted that he had proposed deferral of the application at the last meeting of the Committee in order to look to address the parking concerns that had been raised.

He noted that the potential solutions discussed at that meeting had been in terms of parking within the rear garden and the Applicant had reflected within their amended application all of the points raised by the Committee previously, parking to the rear, access through the garage and electronic garage doors. He noted that he had parked for many years in a similarly sized garage with a standard door and, while narrow, it was possible to use.

Councillor O Temple noted that as the Applicant had conformed to the requests of the Committee he proposed that the application be approved as set out within the Officer's report. He was seconded by Councillor J Clark.

RESOLVED

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

b DM/18/03552/FPA - 51 Whinney Hill, Durham, DH1 3BD

The item had been withdrawn.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/17/01963/FPA
FULL APPLICATION DESCRIPTION:	Erection of 98no. two-storey 2, 3 and 4 bedroom semi and detached dwellings with associated works (Revised Plans 18th May 2018).
NAME OF APPLICANT:	Gleeson Regeneration Ltd
ADDRESS:	Land To The South Of Nursery Gardens, Thorpe Road, Easington
ELECTORAL DIVISION:	Easington
CASE OFFICER:	Graham Blakey, Senior Planning Officer 03000 264865, graham.blakey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site lies to the south of Nursery Gardens, a development of 30 houses, which sits adjacent to Easington Academy on the southern side of Easington Village, and Thorpe Road, the main route into the village from the south. The site is currently agricultural fields, bordered to the north by Nursery Gardens, the east by Thorpe Road, the south by the Thorpe Burn (and A1086 roundabout beyond), and to the west by playing fields associated with the Easington Academy school.
2. The land form in the area rises from the south and the Thorpe Burn, north up to a hill crest at the entrance to Nursery Gardens before rising again to the centre of the village to the north west. The A19 trunk route sits in an elevated position beyond the site to 4-500 metres to the west, with slip roads and access routes including Stockton Road lying between. Thorpe Road bounds the site to the east, with an open thinly planted hedgerow boundary treatment along its length. Conversely, a dense, maturing tree screen and associated mounds run along the southern boundary of the modern housing of Nursery Gardens. The site is made up of two agricultural fields, with separation first shown on the 1860 Ordinance Survey map and being fully formed to the current configuration by the 1898 version of the map. A sporadic, but clearly defined traditional agricultural hedgerow runs on the same line through the centre of the field currently, clearly defining two separate parcels of land for agricultural purposes.
3. The application site lies to the south of the village centre of Easington, whereby there are several designated and non-designated heritage assets. Notably, the Easington Village Conservation Area and several listed buildings around the village green and Seaton Holme. The conservation area is located approximately 200-250 metres from the application site at the nearest point.

4. The site contains no statutory or locally designated landscapes or ecological sites. There are no designated public rights of way within the application site.

The Proposals

5. Full planning permission is sought for the erection of 98 dwellings (revised down from 129 dwellings following amendments). Dwellings would be of two storeys, having two, three and four bedrooms and would be distributed across the development site.
6. The proposed layout shows a number of cul-de-sacs from several straight run lengths of internal roads, with most of the open space focused to the Thorpe Burn boundary of the site and the Thorpe Road / A1086 roundabout to the south east corner. Level differences between the application site and Thorpe Road as it heads up from the roundabout have resulted in proposed housing being set at a lower level than the road along most of the proposed development boundary, resulting properties facing side-on to the road for the most part.
7. Vehicular access is proposed via a new site entrance from Thorpe Road mid-way between the entrance to the village at the crest of the hill adjacent to the Nursery Gardens access point to the north, and the roundabout to the south of Thorpe Road. A standard T-junction arrangement is proposed.
8. This planning application is being reported to the Central and East Planning Committee because it is a major residential development with a site area in excess of 1 hectare and over 10 dwellings.

PLANNING HISTORY

9. No previous planning history for this site.

PLANNING POLICY

NATIONAL POLICY

10. A revised National Planning Policy Framework (NPPF) was published in July 2018. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
11. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.

12. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 4 Decision-Making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
14. *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.
15. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. *NPPF Part 8 Promoting Healthy and Safe 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.
17. *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.
18. *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.
19. *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.
20. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

21. *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.
22. *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>

23. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; conserving and enhancing the historic environment; design; flood risk; land stability; light pollution; natural environment; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The Easington District Local Plan (2001) (EDLP)

24. *Policy 1 – General Principles of Development.* 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.
25. *Policy 3 – Protection of the Countryside.* Development outside the “settlement limits” will be regarded as development within the countryside. Other than specifically allowed for by other policies, development in the countryside will not be approved.
26. *Policy 6 – Strategic Gap between Easington Village and Peterlee.* The open area separating Easington Village and Peterlee is allocated as a ‘green wedge’. In this area development is limited to agriculture, horticulture, forestry, wildlife reserves and informal recreation uses. All proposals should maintain the open nature of this area.
27. *Policy 14 – Protection of Special Areas of Conservation.* Development that is likely to adversely affect a Special Area of Conservation will not be permitted unless certain exceptional criteria are met.
28. *Policy 15 – Protection of Sites of Special Scientific Interest and National Nature Reserves.* Development that is likely to affect Sites of Special Scientific Interest (SSSI) or National Nature Reserves (NNRs) will only be permissible if no alternative solution can be found and is in the national interest. Minimisation of the impacts and appropriate compensation is required where works affect SSSIs or NNRs.

29. *Policy 16 – Protection of Sites of Nature Conservation Importance, Local Nature Reserves and Ancient Woodlands.* Advises that development which is likely to adversely affect such a site will only be approved where there is no alternative solution and the development is of national interest.
30. *Policy 18 – Species and Habitat Protection.* Development which adversely affects a protected species or its habitat will only be approved where the reasons for development outweigh the value of the species or its habitat.
31. *Policy 24 – Protection of Listed Buildings.* This policy states that any developments which adversely affect the character, appearance, special architectural features or setting of a listed building will not be approved.
32. *Policy 35 – Design and Layout of Development.* 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.
33. *Policy 36 – Design for Access and the Means of Travel.* The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
34. *Policy 37 – Design for Parking.* The design and layout of parking should seek to minimise the level of parking provision.
35. *Policy 38 – Designing out Crime.* The design and layout of development will be required to have due regard to personal safety and the security of property, particularly in the hours of darkness.
36. *Policy 66 – Provision of Outdoor Play Space.* This policy requires developers to provide adequate provision for children’s play space and outdoor recreation space in new major housing developments.

EMERGING PLAN:

The County Durham Plan

37. Paragraph 48 of the NPPF states 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’ stage CDP was subject to consultation in summer 2018. On the 16th January 2019, Cabinet approved the ‘Pre Submission Draft’ CDP for consultation. 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 relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (Easington District Local Plan).

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

38. *Highways England* – Raise no objection subject to a condition to agree a construction management plan, ensuring traffic flows on to the A19 is suitably managed.
39. *Highway Authority* – Objects to the proposals. Revised Transport Assessment demonstrates that there are no material impacts from traffic generation on the local highway network. Visibility splays from the proposed access and levels of visitor parking are acceptable, however drive lengths to several plots would lead to overhanging of the highway by parked cars.
40. *Drainage and Coastal Protection* – Objects to the proposals. A greenfield run-off rate from the site is agreed, however the proposed development does not outline adherence to the Surface Water Management Plan with the incorporation of sustainable urban drainage systems (SuDs), contrary to the requirements of the NPPF and Planning Practice Guidance (PPG).
41. *Northumbrian Water* – Raises no objection subject to a condition to agree the drainage strategy prior to the commencement of the development.

INTERNAL CONSULTEE RESPONSES:

42. *Spatial Policy* – Objects to the proposals. Within the EDLP the land subject to this application is designated as a strategic gap ('Green Wedge') between Easington Village and Peterlee. The key determining factor relates to whether the proposal is in accordance with the Statutory Development Plan and if not whether there are other material considerations that indicate planning permission ought to be granted. The Statutory Development Plan that applies to the determination of the application site continues to comprise the EDLP. EDLP Policy 6 states that "development will be limited to agricultural, horticulture, forestry, wildlife reserves and informal recreation uses involving the quiet enjoyment of the countryside. All proposals should maintain the open nature". There are three essential functions for Green Wedges:
 - (i) to maintain a distinction between the countryside and built-up areas;
 - (ii) to maintain a distinction between adjacent places and prevent coalescence;
 - (ii) to provide a rural setting to development.
43. It is clear that the proposal is contrary to Policy 6 of the EDLP, so it is therefore necessary to consider whether there are "other material considerations" that would justify the grant of planning permission of a development contrary to its provisions. In this instance, consideration needs to be given to the adjacent implemented developments which will extend the settlement of Peterlee northwards, and, therefore gives added weight to the need to retain this application land open as it still performs its original intended function, and were it to be lost to development it would result in the merger of Easington Village and Peterlee.
44. *Environment, Health and Consumer Protection (Contaminated Land)* – Raise no objections. The submitted reports indicate the presence of no ground contamination and no conditions are therefore requested.
45. *Environment, Health and Consumer Protection (Noise, Light, Odour and Dust)* – Raise no objections, subject to conditions relating to the agreement of a construction management plan and final noise mitigation scheme.

46. *Environment, Health and Consumer Protection (Air Quality)* – Raise no objections. Advise the site is not in close proximity of any Air Quality Management Areas, that the scheme does not result in a cumulative impact upon air quality that is considered severe. A dust management plan would be required to address dust emissions from site during the construction phase of the development.
47. *Ecology* – Objects to this proposal. No shadow Habitats Regulations Appropriate Assessment has been provided outlining how the applicant intends to mitigate for increased recreation impacts on the nearby Durham Coast Special Area of Conservation (SAC) and Special Protection Area (SPA). Increased landscape buffer does not meet the requirements of the Council's Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham as it is of insufficient size to provide a circular route suitable for off-lead dog walking or similar recreational activities of equal qualities to that of the SAC it would be designed to mitigate the impacts upon.
48. *Landscape* – Objects to the proposals. The site and its surrounds are of a high visual amenity value, with the undeveloped nature of the defined visual envelope within which the site lies has a pronounced and augmented landscape value in the context of the proximity of Easington Village and Peterlee. The site is seasonally visible from properties in Nursery Gardens to the north, and continuously from Thorpe Road and properties to the north east of the site.
49. The proposed layout does not fully respect the context of the site and the presence of landscape features within the site, despite introduction of landscaping strips and areas to Thorpe Road, Nursery Gardens and the western field boundary. Public open space provision is distributed peripherally rather than distributed more effectively through the development.
50. The proposals would therefore result in significant landscape and visual effects upon the landscape in this area, remaining in clear and substantive conflict with the NPPF and EDLP Policies.
51. *Design and Conservation* – Objects to the proposals. A lack of protection of existing landscape features and their integration in to the proposed development has not been achieved. Revisions to the scheme have addressed some concerns of the original layout such as structure planting, however not all necessary changes to the scheme have been taken on board.
52. *Access and Rights of Way* – Raise no objections. No public rights of way would be affected by the proposals.
53. *Archaeology* – Raise no objections. Condition requiring trial trenching to be undertaken prior to the commencement of the development.
54. *Sustainable Travel* – Raise no objections. Existing bus stop infrastructure is partially outside of the 400m standard walking distance from the housing on the site, across a busy roundabout and within a 60mph speed zone. New bus stop infrastructure should be provided adjacent to the site prior to the occupation of the development. A final travel plan will also be required by condition within 6 months of the completion of the development.

55. *Arboricultural Officer* – Objects to the proposals. While revisions have led to the greater protection of the trees to the Thorpe Burn, the internal hedgerows lines of the two current fields have not been appropriately assimilated into the development. The loss of parts of structure planting to the south of Nursery Gardens would also lead to negative impacts as well as placing pressure upon the remaining trees from future households.
56. *School Places and Admissions Manager* – Advise that the development would likely produce an additional 30 primary school pupils and 12 secondary school pupils. Capacity exists at secondary school level but there would be insufficient capacity available at primary school level. A contribution of £323,466 would be needed to mitigate the impacts of the proposed development upon primary school places.
57. *Affordable Housing* – 10 affordable units would need to be delivered as part of a scheme for 98 dwellings. The developer in their Affordable Housing Statement has indicated that they would not be providing any affordable dwellings on the scheme as this would be unviable, however no evidence has been provided to this effect. Therefore, raises an objection to the proposals.

EXTERNAL CONSULTEE RESPONSES:

58. *Durham Constabulary Architectural Liaison Officer* – Raise no overall objections though express concerns in regards to use of loose aggregate to driveways within the proposed development, with concerns that this would lead to potential issues with antisocial behaviour.

PUBLIC RESPONSES:

59. The application has been publicised by way of press notice, site notice and individual notification letters to neighbouring residents and occupiers. A total of 95 letters of representation have been received, of which all 95 letters object to the development. Comments are summarised below.

Principle of the development

- Proposal would change the boundaries of the village and extend it towards Peterlee, altering the landscaping and blurring it with Peterlee.
- EDLP Policy 6 seeks to protect 'strategic gap' between Easington and Peterlee, which this proposal would erode.
- Site not considered within the SHLAA undertaken by the Council.
- Development to Lowhills (900 houses) and the Thorpe Hospital Site will come forward and this site would leave no gap between settlements leading to coalescence of the settlements.
- Plenty of brownfield sites in the surrounding area which should be utilised for new development first before even considering such prime agricultural land.
- Sales on current development sites in the village, particularly for the smaller two bed properties, are slow and several are still for sale in the village (i.e. Persimmon site, former Council Offices site).
- With a Plan requiring 1,800 homes in the South East Durham area, 1,600 of those have permission or are already built adding in numbers from Peterlee this target is already exceed by 10%. This also increases demand upon local services.

Affordable Housing

- Developer should be required to provide affordable housing – not acceptable to consider such a large development that discriminates against those who cannot afford market value.
- High levels of low-cost housing still unoccupied in the village (i.e. permission estate, old kings head sites).

Highways

- Thorpe Road is busy and congested, additional traffic will cause problems and create a safety hazard, in particular the secondary school.
- Thorpe Road and Stockton Road have problems with speeding vehicles which will be made worse by increased volumes of traffic. Serious accidents have taken place on these roads.
- Three junctions on to Thorpe Road within 50 metres of each other, this would affect safety, particularly near the “blind summit”.
- Access to A19 southbound is a circa 2 mile journey via the centre of the village (Thorpe Road, South Side, Stockton Road) and past two entrances to the secondary school in the village.
- Vehicles entering the proposed site would be directly opposite the first floor windows of the Nursery Garden properties which would have a negative impact upon their amenity with overlooking and headlights shining into the properties.

Design, layout and scale

- Easington Village is a dispersed settlement; estate type development would overwhelm it and ruin the character of the village.
- Density, style and mix of development is at odds with the village of Easington and the surrounding area.
- Proposed development has ignored and removed the protective bund/embankment and tree screen to the Nursery Garden development. New properties to have gardens backing directly on to existing properties. EDLP Policy 35 seeks this requirement and so this development would be conflict with this policy.
- No communal area or usable green space that could feature a play area is included in the layout.
- Housing sizes are below the minimum standards set out by the DCLG Technical Housing Standards (March 2015) – Type 201 is 60sqm, standard is 70sqm; Type 301 is 73sqm; standard is 84sqm.
- Garden size sacrificed at the expense of adding as many houses as possible.

Amenity

- Overlooking and loss of privacy to Nursery Gardens – landscaping from original development would be lost.
- Overlooking and loss of privacy to Nursery Gardens – difference of levels would lead to overlooking and vehicle lights shining into properties.
- Noise and disturbance to the properties of Nursery Gardens from the future occupiers of the development.

Ecology

- Currently in agricultural use therefore significant ecological issues would occur, such as loss of habitats and wildlife 'commuting' route that includes a hedgerow.
- Adverse impacts upon the flora and fauna of the application site – tree screen has established itself as a home to wildlife, including squirrels, foxes, rabbits, pheasants and numerous other species of bird.
- Bats are present within the trees and can be regularly seen foraging the in area in summer.

Other Issues

- Easington secondary school at capacity and cannot accommodate pupils generated from this development.
- Devaluation of house prices in Nursery Gardens.
- There is not enough capacity at the local doctors surgeries and GP Practices.
- Site may lie within an area of archaeological interest at the foot of the Andrews Hill Saxon burial ground. Previous investigations near the Thorpe Hospital site produced important finds in the recent past.
- 1,800+ homes built / to be built in the Easington area, with no major plans for jobs, school places or medical services.
- Further strain on already stretched infrastructure, e.g. medical services and schools.

60. *Graham Morris MP* – there is great concern with the number housing developments earmarked for Easington Village. The level of development of this area is unsustainable, as there are no additional amenities, investment or infrastructure improvements attached this application. The gradual erosion of the green wedge between Easington and Peterlee is leading to coalescence that will undermine the community and the historic heritage of Easington. Volume and speed of traffic around Easington is becoming a major issue with concerns expressed by the Parish Council an residents. Opposition to the use of green land as development sites, when there are existing brownfield alternatives remains.
61. *Easington Parish Council* – Object to the proposals on the basis that the relevant saved policies in the former Easington District Local Plan (EDLP) and the National Planning Policy Framework (NPPF). The development would be contrary to Policies 1, 3 and 6 of the EDLP and advice contained within the paragraphs 8, 11, 170 and 117 of the NPPF.
62. *CPRE* – Objects to the proposals as the development is contrary to policies 3 and 6 in the Easington District Local Plan (EDLP) which are not housing supply policies and so cannot be considered out of date with regard to the NPPF. The Council can demonstrate a 5 year housing land supply and so the proposed development would be in breach of important policies in the EDLP. There is also no reason to apply the “tilted balance” mentioned in the Richborough judgment in this case.

APPLICANTS STATEMENT:

63. This planning application has considered all relevant planning policy matters in respect of the proposal for bringing forward residential development. At a national, regional and local planning policy level, there remains a priority for development in urban areas to which this site of 3.61 hectares of land would accord.

64. The site lies within a residential area in close proximity to services and facilities including access to sustainable travel options including bus services.
65. The proposal achieves a density level of around 33 dwellings per net developable hectare and is integrated well into the locality through the design proposals which accords with National Planning Policy. In addition, the development proposes to seek to achieve a reduction in CO2 emissions.
66. All criteria required to be complied with in Saved Policies requirements have been taken into account through the evolution of the scheme, resulting in a well-designed proposal that responds to the specifics of the site, both in terms of layout but also the design of the elevational treatment. It must also be noted that the proposals aim to deliver quality new homes to local people in addition to providing much needed new housing in this specific location.
67. On the basis of the above, it is considered that the proposal accords with national, regional and local planning policy. It is therefore considered that the proposal accords with all Planning guidance and relevant Policies, and as such planning permission should be granted as no other material considerations arise.

The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at: <http://publicaccess.durham.gov.uk/>

PLANNING CONSIDERATIONS AND ASSESSMENT

68. 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 advice within 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; landscape and visual impact; design and layout; affordable housing; highway safety and access; ecology; residential amenity; flood risk and drainage; heritage impacts and archaeology and other issues.

Principle of the Development

69. 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. The EDLP was adopted in 2001 and was intended to cover the period to 2006. However, 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.

The NPPF

70. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:-
 - c) approving development proposals that accord with an up to date development plan without delay; or

- d) 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 this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed⁶ ; 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.

71. The footnote 6 to Paragraph 11 d) i. specifies policies relating to habitats sites (and those listed in Paragraph 176). Paragraph 177 of the NPPF advises that the presumption in favour of sustainable development does not apply unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitat site. This is relevant in this case as discussed in more detail in the ecology section of this report. Accordingly, the presumption in favour of sustainable development set out at Paragraph 11 is not engaged.

Five Year Housing Land Supply

72. Paragraph 73 of the 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.
73. 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 'Pre Submission Draft' (Jan 2019) 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.
74. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that a five year housing land supply (5YHLS) had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council considers that the Inspector applied paragraph 74 prematurely. Paragraph 74 does not allow for the submission of an Annual Position Statement on 5YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such a position statement in place at the time of the appeal.
75. To summarise, the Council's position remains that the NPPF has confirmed the use of the standard methodology 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.
76. Accordingly, the weight to be afforded to the additional housing supply as a material consideration is clearly less than in circumstances where such a healthy land supply position could not be demonstrated.

77. Within the EDLP, Policy 1 outlines general principles for development which encourages sustainable development. EDLP Policy 3 defines countryside through the definition of settlement limits to urban areas, limiting development outside of those limits to that which is allowed by other policies in the plan. Finally, EDLP Policy 6 specifically relates to the area between Easington Village and Peterlee, allocating the area as a 'green wedge' between the two settlements. This includes the application site.
78. The proposals are located to the south of Nursery Gardens to an area out with the settlement limit of Easington Village, bringing the proposals into conflict with EDLP Policy 3. Given the age of the EDLP and housing supply figures that informed it, the restriction of housing by settlement limits is informed in part by housing requirements for a period which has since passed. Subsequently, the Policy must now be considered out-of-date and the weight to be afforded to the policy reduced as a result. However, as directed by Paragraph 213 of the NPPF, out-of-date policies should not be considered irrelevant, but appropriate weight should be given to the policies in accordance with their consistency with the NPPF. While the above restrictive nature of Policy 3 is not consistent with the NPPF, the protection of landscape and visual harm that the Policy also implies, does carry weight in the decision-making process.
79. EDLP Policy 6 specifies that the application site and land surrounding it to south towards Peterlee performs the function of a green wedge. Green wedges comprise open areas around towns and villages and between parts of settlements which assist in maintaining the distinction between the countryside and built up areas, prevent the coalescence of adjacent places and provide a rural setting to development. They can also provide a link between the countryside and built up areas and can be a valuable recreation and wildlife resource. To fulfil these functions, green wedges must be preserved and built development within them resisted. The type of land uses that would be encouraged in green wedges include: agriculture, horticulture, forestry, outdoor leisure uses, wildlife reserves and other appropriate open space uses. EDLP Policy 6 is considered consistent with the NPPF, the Framework at Paragraph 8 making it clear that development should 'contribute to protecting and enhancing our natural, built and historic environment' and at Paragraph 170 in respect of recognising the intrinsic character and beauty of the countryside.
80. Moreover, it is important to note that planning permission has previously been granted to the southern part of the green wedge area on a site known as 'Low Hills' for circa. 900 dwellings, with the former Thorpe Hospital Site having been granted permission for a further circa. 50 dwellings. The development at Low Hills has since the submission of this application commenced works resulting in an active planning permission in perpetuity. Those approvals were issued at a time when the understanding of green wedge policies was consistent with legal soundings at that time, and when it was considered that green wedges 'were policies for the supply of housing' in the context of the NPPF. More recently the Supreme Court has clarified matters and it is now clear that green wedge policies are not policies for the supply of housing.

81. Taking into account the above, it is considered that EDLP Policy 6 is up-to-date and should be attributed full weight. The presumption in favour of sustainable development set out at Paragraph 11 of the NPPF is therefore not engaged in this instance as EDLP Policy 6 is a most important policy for determining the application that clearly addresses the principle of development in this particular case. The policy is considered to not be out-of-date because its function in maintaining the separation of two distinct settlements is as valid today, as it was when the policy was adopted in 2001. EDLP Policy 6 is considered to not be a policy for the supply of housing. Consequently, as residential development would not comprise any of the forms of development that the policy is generally permissive of, the proposed development would be in clear conflict with Policy 6 of the EDLP and Paragraphs 8 and 170 of the NPPF.

Landscape and Visual Impact

82. The application site is formed of two parcels of land that form part of the landscape that is considered to perform an important role in maintaining a physical and visual separation between Easington Village and Peterlee. Both EDLP Policies 3 and 6 define the application site as countryside and green wedge, respectively. The NPPF sets out at Paragraph 8 the three overarching objectives of sustainable development, with new development needing to contribute to the protection of the natural environment. Paragraph 170 further requires planning decisions to recognise the intrinsic character and beauty of the countryside whilst paragraph 127 advises amongst other matters that development should be sympathetic to local character including the surrounding built environment and landscape setting.
83. The proposed development would result in an incursion in to the countryside in an area of landscape which performs the function of separating the two settlements of Easington Village and Peterlee. Attempts have been made by the applicant to reduce the visual impact of the development to some degree by introducing tree planting and soft landscaping to the southern part of the site and the Thorpe Burn, resulting a reduction in housing numbers to 98 dwellings.
84. Landscape officers advise the area of countryside between Easington Village and Peterlee is of high visual amenity value, that has continuous visibility from Thorpe Road to the eastern boundary and seasonal visibility from the north and south. As a result, the effect of the development on the character of the site and its immediate surroundings would be generally transformative and adverse, as with all developments of this nature.
85. New development to the south of the application site at Low Hills would see a significant volume of built development introduced into views from Easington Village south from Thorpe Road. The introduction of new housing to the south of Easington Village would further add to the prominence of built development in what is an area of high visual amenity between Easington Village and Peterlee.
86. Many of the above aspects have been highlighted by neighbouring residents as concerns and reasons for their objection to the development.
87. Landscape officers conclude that the proposals would result in significant landscape and visual effects upon the landscape in this area. Consequently, the proposals are considered to be in with conflict EDLP Policies 3 and 6 in this regard, both which have consistency with Paragraphs 8, 127 and 170 of the NPPF.

Design and Layout

88. EDLP Policy 35 requires the design and layout of new development to 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. Schemes should provide adequate open space and appropriate landscape features and screening where required. Policy 38 requires new development to reduce crime through consideration at the design stage of a scheme. Policy 39 seeks to improve developments through the provision of artistic elements. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 127 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. As a result, EDLP Policies 35, 38 and 39 are considered consistent with the NPPF.
89. The application site is formed of two agricultural fields divided by a hedgerow, albeit somewhat sporadic in its density. Design, landscape and tree officers have all raised concerns insofar as the proposed development layout has had limited regard to the hedgerow and its retention in parts where applicable.
90. Improved pedestrian links to the south and the bottom of Thorpe Road are now included in a revised scheme of 98 dwellings, however, the introduction of open space within the layout has been placed to the southern most part of the site to aid with other ecological matters. Landscaping is improved to the Thorpe Road boundary to aid screening of the development, however, for topographic reasons the proposed housing cannot provide frontage development to Thorpe Road. The impacts to the southern part of Thorpe Road would be greatest with rear gardens facing outward to Thorpe Road. The resultant layout is one of limited visual amenity, making local distinctiveness unachievable and not aiding navigation through the development in the context of an edge of settlement development.
91. Residents of Nursery Gardens have raised concerns with respect to the interaction of the development with the boundaries of their estate to the north of the application site. Historic structure planting along the southern boundary of the existing housing would be partially removed to achieve the proposed layout, with an existing hedgerow to the north east part of the site forming the boundary to the 1,3 and 5 Nursery Gardens. These have associated visual impacts which, to the southern part of the existing housing, would result in negative landscape impacts from the proposed layout.
92. Overall, it is considered that the proposed development would not achieve a high quality design and layout, as required by EDLP Policies 35, 38 and 39, together with Paragraphs 127 and 170 of the NPPF.

Affordable Housing

93. In order to deliver a suitable amount and variety of homes, local need should identify, among other things, affordable housing requirements for their area, whereby Paragraph 64 of the NPPF encourages the provision of affordable housing based on evidenced need. The up-to-date evidence in the Strategic Housing Market Assessment establishing a requirement for 10% provision in perpetuity, equating to 10 affordable units across this development and the viability evidence for this area establishes that 10% affordable housing should be capable of being delivered without adversely affecting viability.

94. The Housing Delivery Team has requested that this be delivered in the form of 80% affordable rent and 20% affordable home ownership. The application, however, does not propose any affordable homes for retention in perpetuity on viability grounds. Paragraph 57 of the NPPF outlines the importance of viability as a material planning consideration, setting out that developments should not be subject to obligations which threaten their ability to be viably developed. In circumstances where the viability of the scheme is in question, the developer is required to demonstrate to the Council's satisfaction that this is the case. The applicant has failed to provide any justification to demonstrate that an obligation to deliver affordable housing on this site would make the scheme unviable. Therefore, the proposal would fail to address an identified need for affordable housing and would be in conflict with the NPPF.

Highway Safety and Access

95. EDLP Policy 36 requires that development proposals achieve a satisfactory means of access onto the wider highway network while seeking to protect highway safety in terms of vehicle movements and traffic generation. Policy 36 is considered compliant with the NPPF which also seeks to promote accessibility by a range of methods, while ensuring that a safe and suitable access can be achieved.
96. The application is accompanied by a Transport Assessment (TA) which seeks to inform on and assess the key highways related implications of the development. This includes the accessibility of the development; trip generation and traffic assignment; future year flows; operational assessment of junctions; highway safety; and present highways works necessary to facilitate the development. The Highway Authority consider the assessment establishes that the impact of the development upon the highway network would, for a large part be acceptable, and would not result in impacts that could be considered severe. Highways England are also of the opinion that the proposed development would not cause a severe impact upon the A19 and traffic flows would be acceptable, subject to a condition ensuring a construction management plan in agreed maintaining control over construction traffic.
97. Residents of Easington Village have raised significant concerns over the route's future residents would use to access the A19. Both routes would see traffic generated from the development likely head through the village to head both north and south on the A19. Particular concern is highlighted by residents with respect to South Side, seen as being narrow and often lined with parked cars restricting widths to a single lane. The submitted TA, reviewed by the Highway Authority, has highlighted that the proposed development would not result in material impacts upon the local highway network, and is subsequently considered to be acceptable by the Highway Authority.
98. Revisions made to the proposed access point from Thorpe Road have seen the proposed access relocated from the northern most part of Thorpe Road to and point midway along the eastern boundary. This was to improve junction visibility with respect to future drivers achieving the desired view north and south along Thorpe Road.
99. Internally, the revised layout of 98 units resolves some items with respect to the original scheme, but some outstanding concerns with respect to drive lengths and the footpath link from the development to the south east remain. These would not be to the set minimum lengths as outlined by the County Durham Parking and Accessibility Standards (2019), and subsequently would lead to vehicles overhanging the highway and a highways safety issue. Consequently, it is with respect to these areas the proposed development is considered to be in conflict with EDLP Policy 36. EDLP Policy 37 seeks to minimise the level of parking within developments, however, this is considered to not be consistent with the NPPF which seeks minimum requirements for new development and therefore limited weight only can be afforded to this.

Ecology

100. A number of European Protected Sites are within a 15km radius of the application site. These sites are the Durham Coast Special Area of Conservation (SAC), Castle Eden Dene SAC, Northumbria Coast Special Protection Area (SPA) and Teesmouth and Cleveland Coast SPA and Ramsar site. These sites vary in distance from the site from between 2.1km to 6.3km.
101. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests. Specifically, Paragraph 175 states that if significant harm to biodiversity resulting from a development cannot be avoided, that planning permission should be refused. NPPF Paragraph 176 outlines that SPAs, SACs and Ramsar sites should be afforded the same protection as habitat sites in the NPPF. EDLP Policy 14 states that development which is likely to adversely affect a designated Special Area of Conservation will only be approved where there is no alternative solution, or there are imperative reasons of over-riding national interest for the development. Similarly, EDLP Policy 15 applies the same criteria to development adversely affecting SSSIs, and EDLP Policy 16 to notified sites of nature conservation importance, local nature reserves and areas of ancient woodland. EDLP Policies 14, 15 and 16 are considered to be consistent with the NPPF. EDLP Policy 18 states that development that would significantly adversely affect any protected species, or its habitat, will only be approved where the reasons for the development outweigh the value of the species or habitat.; and is consistent with the NPPF.
102. Additionally, regard should be had to The EU Habitats Directive 92/43/EEC, The Conservation of Habitats and Species Regulations 2017, The Wildlife and Countryside Act 1981, The Protection of Badgers Act 1992, the Hedgerow Regulations 1998 and The Natural Environment and Rural Communities Act 2006.
103. A Preliminary Ecological Appraisal (PEA) and subsequent Assessment of Likely Significant Effect (ALSE) have been submitted in support of the application. The Council's Ecology Officer has reviewed the information and has raise concerns with respect to these reports.
104. The PEA outlines that further survey work is required to assess the value of the site for bats and the potential for otter and water vole to the Thorpe Burn on the southern boundary. This information has not been provided by the applicant. The ALSE outlines that the proposed development, through the provision of open space and pathways on site, connections to the wider public footpath network in the vicinity (including mitigation previously secured within the Low Hills development to the south of the site) and the scale of the proposed housing would all not lead to an impact upon the nearby protected areas of the Durham Coast. Therefore, no mitigation is proposed by the application.
105. Durham County Council is the competent authority who must decide whether this application requires an appropriate assessment under The Conservation of Habitats and Species Regulations 2017 (The Habitats Regulations). This would be undertaken by the carrying out of a screening exercise on the planning application using survey data submitted with the application. Such an appropriate assessment would consist of a robust assessment of the implications of the proposed development upon a European site.
106. In considering whether the application requires an appropriate assessment under The Habitats Regulations an assessment for the potential for significant effects on the relevant sites is made. In this instance those relevant sites are the abovementioned SACs and SPAs. The Habitats Regulations assessment also applies to the special features of the Ramsar sites identified above.

107. Key potential effects of the development proposal upon these sites are: the degree of habitat and species disturbance through an increase in recreational pressure; potential for detrimental impacts on air quality; potential for detrimental impacts on water quality; and, potential hydrology impacts. The revised 98 dwelling scheme proposes a landscaped buffer at the south of the site between the residential development and the Thorpe Burn, operating in part with a pedestrian recreation route. This would provide some mitigation to the protected areas mentioned above by providing recreational space so as to divert potential users away from the European protected sites.
108. However, the Ecology officer has assessed the proposed landscaping and considers that it does not meet the Council's Adopted Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham. The space is considered to not be of sufficient size to provide a circular walk suitable for off-lead dog walking and unlikely to offer recreational qualities of a similar nature to the SAC it is designated to mitigate impacts upon.
109. A development of this nature should be accompanied by a shadow Habitat Regulations Appropriate Assessment provided by the developer. This has been provided by the applicant with respect to the development. The Ecology Officer has undertaken a screening (appropriate assessment) of their own to review the proposed development, where they have concluded that the proposed scheme does not sufficiently mitigate the impacts of the development and so would have a likely significant effect on the interest features of the Durham Coast SAC and Northumbrian Coast SPA. The submitted assessment argues that the scale of the development (98 units) with the proposed landscaping and footpath to the southern part of the site and the access to nearby public footpath network would be sufficient to mitigate the impacts of the development, and that an Appropriate Assessment is, therefore, not required. However, this is contrary to the view of the Ecology officers who are not satisfied that the proposals and the assessment have suitably addressed the necessary mitigation required by the Council's HRA guidance and that there has not been any Appropriate Assessment undertaken. The Council had screened the development at the outset of the application and considered an Appropriate Assessment was required due to the scale of the development and the likely impacts.
110. As the necessary assessments of the development have concluded that the development has not mitigated its impacts upon European protected sites sufficiently, the proposals are considered to be contrary to Paragraph 175 of the NPPF. Paragraph 177 of the NPPF states that the presumption in favour of sustainable development does not apply where development requiring appropriate assessment because of its potential impact on a habitats site is being planned or determined unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitat site. Accordingly, the presumption in favour of sustainable development set out at Paragraph 11 is not engaged, and consequently conflicts with NPPF Paragraph 175 and EDLP Policy 14 should result in refusal of the application.

Residential Amenity

111. EDLP Policies 1 and 35 requires, amongst other things, that the design and layout of development should have no serious adverse effect on the amenity of neighbouring residents or occupiers. Policy 38 relates to designing out crime in development. Within the EDLP at Appendix 6, the plan outlines guidance upon separation distances that should be sought between new build dwellings. These Policies are considered consistent with Paragraph 127 of the NPPF stating that planning should always seek to secure a good standard of amenity for existing and future users.

112. With regards to the relationships within the proposed development itself, in many instances the siting of the dwellings meets or exceeds the separation distance requirements as required by EDLP Appendix 6. Public responses to the application have raised concerns over the impact of the proposed development upon the existing residents of Nursery Gardens. Generally, properties proposed along the northern boundary of the application site backing on to 11-23 (odds) Nursery Gardens are in excess of the required 21 metres, which is aided by what would remain of the original structure planting. Residents have raised concerns over the loss of the bund / structure planting as a result of the proposed development and this is a factor in achieving an appropriate level of amenity for the existing occupiers. Proposed plots 82-88 would back westward towards the frontage of 1-5 (odds) Nursery Gardens. These plots lie close to the limit of the 21 metres, dipping below with respect to plots 87 and 88 with respect to No. 5 Nursery Gardens to 20 metres. At this distance, with intervening and established hedgerow planting, the impact upon residential amenity would be considered to be insufficient to warrant refusal of the application, with a condition requiring retention of the hedgerow in perpetuity an appropriate option. Concerns over the level difference of properties in the area are also highlighted by residents; however, these could be controlled by way of condition should a positive recommendation be made.
113. Construction of the proposed dwellings in this location would lead to the potential impact upon the neighbouring residents during their construction. The Environment, Health and Consumer Protection Team have reviewed the proposals and have raised no objections subject to the submission of a Construction Management Plan with associated dust management provisions. Air quality impacts from the operational phase of the development, when the houses would be occupied, are considered by the Environment, Health and Consumer Protection Team as being of negligible difference and so offer no objections to the proposals in this regard.
114. The Police Architectural Liaison Officer has highlighted the use of loose aggregate to the driveways of the proposed new properties as an issue with respect to anti-social behaviour. Officers consider that this issue would not in itself warrant refusal of the application, in the event of an approval driveway materials could potentially be reviewed further under condition.
115. With regard to air quality, the application is accompanied by an air quality screening which outlines that the impact of the development would be negligible and that there would be no cumulative impact upon air quality that is considered severe.
116. The proposals would bring some conflict with EDLP Policies 1, 35 and 38 with respect to residential amenity of both existing and future occupiers with respect to partly infringing separation distances. Therefore, the proposed development would be in conflict with EDLP Policies 1, 35 and 38 as well as EDLP Appendix 6 and NPPF Paragraph 127.

Flood Risk and Drainage

117. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment. The application site is located within flood zone 1 and is, therefore, located on land least likely to suffer from tidal or fluvial flooding.

118. With regards to how the development would address drainage, the application proposes to meet the greenfield run-off rate for the application site (6.6 l/s) and would be an acceptable discharge from the development into the Thorpe Burn as proposed in the submitted Flood Risk Assessment. However, the proposals do not propose any sustainable drainage systems to control surface water run off close to where it falls and mimic natural drainage as closely as possible.
119. Paragraph 163 of the NPPF requires LPAs to ensure that flood risk is not increased elsewhere, and Paragraph 165 requires major developments to incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The applicant has failed to counter the view of the Drainage and Coastal Protection team that sustainable drainage systems are required in conjunction with the Council's Sustainable Urban Drainage System Adoption Guide (2016). Therefore, the proposed development would be in conflict with Paragraph 165 of the NPPF.

Heritage Impacts and Archaeology

120. The application site does not lie within or contain any designated heritage assets, with the closest being the Easington Village Conservation Area located 250 metres to the north. Within the conservation area there are several listed buildings, the nearest of which (The Manor House, Grade II listed) would be 320 metres from the application site. The topography of the immediate area around the application site would result in the proposed development not having a direct visual relationship to the conservation area or the designated heritage assets. As a result, it is considered that there would be no harm to the setting of the listed buildings from the proposed development. In terms of non-designated heritage assets, none have been identified within the immediate vicinity of the site.
121. Analysis, including field evaluation, is required to establish if the presence of archaeological assets are present beneath the site and the implications it would have for the development. The desk-based study highlights areas where trial trenching should be undertaken and the Archaeology Officer is in agreement with this methodology. Conditions requiring the results of trial trenching to be provided prior to the commencement of development are considered appropriate by the Archaeology Officer in this instance.
122. Paragraph 196 of the NPPF states that the impact of an application upon the significance of a designated heritage asset, with the scale of any harm or loss to significance to be taken into account in the determination of the application. In this instance, with there being no impact upon significance, the application is considered to be acceptable in this regard, and in accordance with Part 16 of the NPPF and EDLP Policy 24 (partially consistent with the NPPF).

Other Issues

123. The School Places Manager has advised that there is sufficient capacity at secondary schools in the area to accommodate pupils from the development; however, there is insufficient capacity for additional primary school age pupils in Easington. Therefore, additional school places at this level would be required. A financial contribution of £323,466 is required for the provision of additional primary school places, and this could be secured by means of a planning obligation.
124. As the proposed development involved a sensitive end use, the site has been subject to Phase 1 study to assess the risk of contamination. These reports identified the absence of contaminants at the site and, therefore, no further remediation work would be required. The proposed development, therefore, complies with Paragraphs 170 and 178 of the NPPF which seek to ensure that a site is suitable for the proposed use.

125. No recorded public rights of way cross the site or are noted by the Public Rights of Way Team.

CONCLUSION

126. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the Development Plan (EDLP), decisions should be made in accordance with the Development Plan unless material considerations indicate otherwise. The NPPF does not change the statutory status of the Development Plan as the starting point for decision making but is a material planning consideration and weight to policies within the EDLP should be applied dependent upon the degree of consistency with the NPPF.
127. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development, however, Paragraph 177 disengages the presumption in favour where development is likely to have a significant effect on a habitats site and no appropriate assessment has been undertaken. Therefore, Paragraph 12 of the NPPF outlines where a planning application conflicts with an up-to-date development plan, planning permission should not usually be granted.
128. New housing is proposed within the designated green wedge between Easington Village and Peterlee, that is considered to be contrary to EDLP Policy 6 which seeks to protect the openness of this area and is up to date and consistent with the NPPF. The proposals would reduce this openness and lead to adverse landscape impacts associated with narrowing of the green wedge between the Easington Village and Peterlee and the coalescence of the two urban areas.
129. Being located close to the coast, the proposed development is required to mitigate the impacts it would have upon the Durham Coast SAC and Northumbrian Coastal SPA. The applicant has attempted to provide space within the development to provide a walking route to the southern part of the site together with evidence to conclude an Appropriate Assessment is not required. The Council, as competent authority, consider that an Appropriate Assessment is required, due to the scale of the proposed development and that the proposed mitigation is insufficient to mitigate the impacts of the proposed development.
130. Assessment against the key other relevant material planning considerations has been made with regard to issues of affordable housing, design and layout, highways, sustainable drainage and school places which remain unresolved. Areas covering, heritage asset impacts, ground contamination and air quality have been resolved with no concerns being raised.
131. Taking the above into consideration, the proposals are considered to be contrary to the relevant EDLP Policies with respect to the green wedge and protected habitat sites and there are no other material considerations which would outweigh this conflict with policy. As a result having regards to all material planning considerations including comments raised in the public consultation exercise, it is considered that the proposals are unacceptable and the application is recommended for refusal as a result.

RECOMMENDATION

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

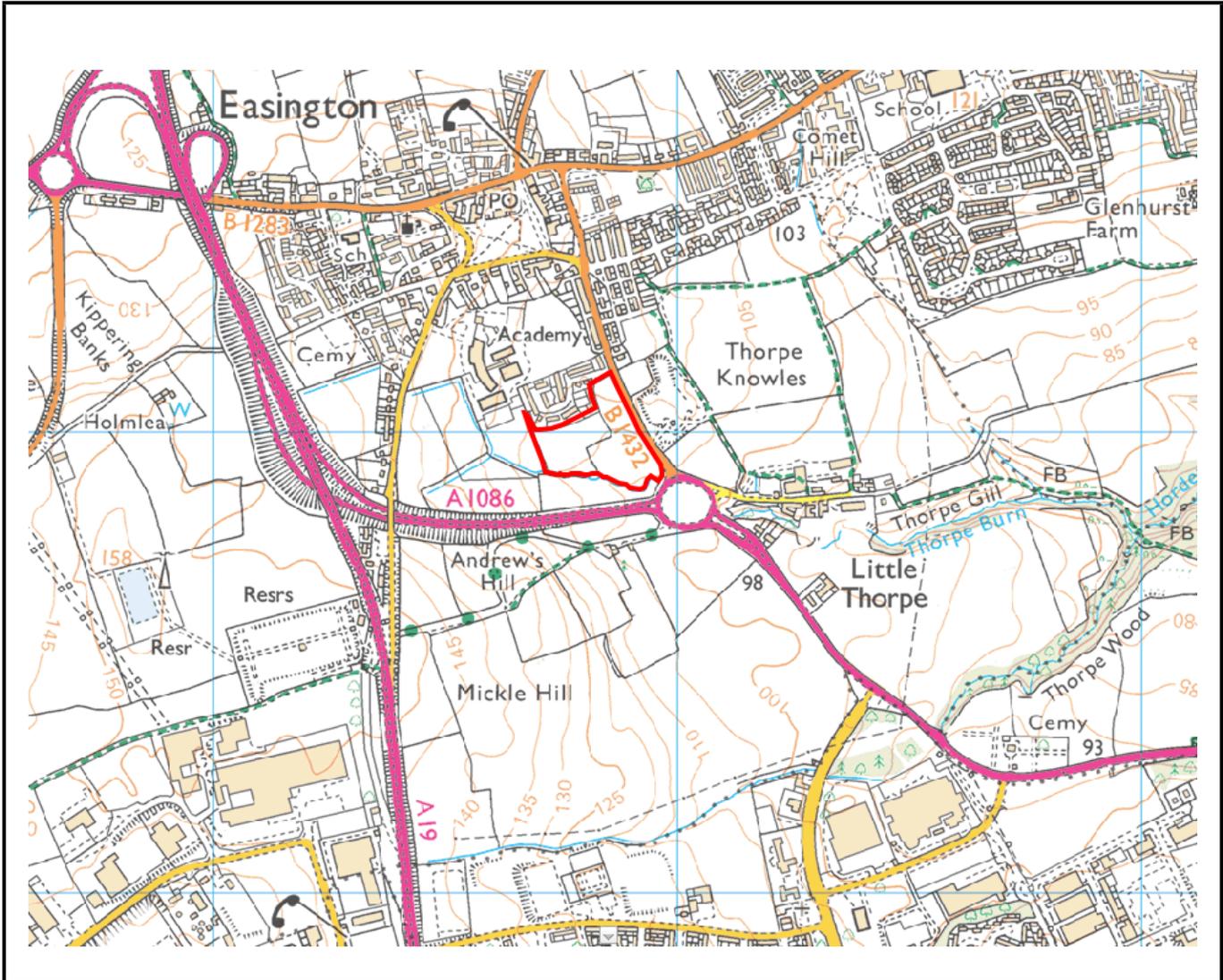
1. The Local Planning Authority considers that the proposed development would result in significant adverse landscape and visual impacts that would detract from the open nature of the green wedge between Easington Village and Peterlee, as well as failing to protect or enhance the natural environment and the intrinsic character and beauty of the countryside. Therefore, these proposals would be contrary to Policies 3 and 6 of the Easington District Local Plan and Paragraphs 8, 127 and 170 of the National Planning Policy Framework.
2. The Local Planning Authority considers that the proposed development would have an impact from recreational pressures placed upon the Durham Coast Special Area of Conservation and the Northumbrian Coast Special Protection Area without undertaking an appropriate assessment and without sufficient mitigation being provided. As a result, it is considered that the development would adversely affect these habitat sites, contrary to Policy 14 of the Easington District Local Plan and Paragraph 175 of the National Planning Policy Framework.
3. The Local Planning Authority considers that the proposed development would not provide sufficient affordable housing and no viability justification has been provided and is therefore in conflict with Paragraphs 64 and 57 of the National Planning Policy Framework.
4. The Local Planning Authority considers that the proposed development would not achieve a high quality of design and layout with inadequate public realm / landscaping provision and deficiencies in design quality and a lack of local distinctiveness to the proposed house types. As a result, the proposals are in conflict with Policies 35, 38 and 39 of the Easington District Local Plan, together with Paragraphs 127 and 170 of the National Planning Policy Framework.
5. The proposed development does not incorporate sustainable urban drainage systems (SuDS). The Local Planning Authority considers that the application includes no adequate justification or evidence as to why SuDS would be inappropriate to serve the development. As a result, the development is in conflict with Paragraph 165 of the National Planning Policy Framework.
6. The Local Planning Authority considers that the proposed development would be prejudicial to highway safety through incorrect driveway lengths to plots which would lead to unacceptable overhanging of the highway. As a result, there would be in conflict with Policy 36 of the Easington District Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its recommendation to refuse this 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) (CC) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)*

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- The National Planning Policy Framework (2018)
- National Planning Practice Guidance notes.
- Easington District Local Plan
- Evidence Base Documents e.g. SHLAA, SHMA, County Durham Settlement Study and OSNA
- County Durham Parking and Accessibility Standards 2019
- DCC Sustainable Urban Drainage Systems Adoption Guide 2016
- Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham 2019
- Statutory, internal and public consultation responses



 <p>Durham County Council Planning Services</p>	<p>DM/17/01963/FPA</p> <p>Erection of 98no. two-storey 2, 3 and 4 bedroom semi and detached dwellings with associated works (Revised Plans 18th May 2018).</p> <p>Gleeson Regeneration Ltd</p>	
<p>This map is based upon Ordnance Survey material with the permission Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Comments</p>	
	<p>Date 12th March 2019</p>	<p>Scale Not to scale</p>

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/01333/FPA
FULL APPLICATION DESCRIPTION:	Erection of dwelling.
NAME OF APPLICANT:	Mr Paul Johnson
ADDRESS:	East Durham Cathedral Farm, High Pittington, Durham, DH6 1EY
ELECTORAL DIVISION:	Sherburn
CASE OFFICER:	Lisa Morina Planning Officer 03000 264877

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to land known as East Durham Cathedral Farm which is situated off Lady Piece Lane which connects Sherburn Village and High Pittington.
2. The site currently consists of three businesses comprising a factory, equestrian use and agricultural use which was granted consent retrospectively in 2013.
3. Access is taken from the north eastern part of the site with a long hard surfaced track leading past a section of equestrian training track and outdoor equestrian exercise area. Car parking is provided adjacent to a main large building which is in use as a factory and an extension is currently being constructed to the side of this for cattle. To the south of this is an amenity building with a caravan located next to this building which is moved on and off site when required. To the west of the training track is a building which is used to run the equestrian business.

The Proposal

4. This application seeks consent for the erection of a dwelling. The dwelling is proposed to be located to the west of the amenity building and will be of a dormer bungalow style construction providing 3 bedrooms and an office within the roof space. At its widest points, the structure will measure 22m x 15.2m.
5. The application is before Members at the request of Councillor David Hall for consideration of the need for the dwelling for the proper functional running and security of three important and growing local businesses run by this one family based from this site.

PLANNING HISTORY

6. 4/02/01012/FPA - Part change of use of agricultural land and building for employment use (B2 and office), for the keeping and breeding of horses, siting of cabins for office and storage use, formation of horse exercise areas and runs, enclosures and electricity line pole and engineering works to the landscape for drainage purposes (Retrospective). Approved 16/9/2003.
7. DM/14/00476/FPA – Stable Block, withdrawn 16/5/2014
8. DM/14/02859/FPA – Stable block (in association with the relocation of existing horses on site), access track and fencing (resubmission). Approved 25/11/14.
9. DM/15/01403/FPA - Extension to existing building and new amenity building. Approved 13/10/15.
10. DM/15/01550/COL - Application for Certificate of Lawfulness of existing development for access to a classified road. Approved 8/7/15.
11. DM/15/03559/VOC - Variation of condition no.2 (compliance with approved plans) pursuant to planning permission DM/15/01403/FPA for extension to existing building and new amenity building. Approved 15/1/16.

PLANNING POLICY

NATIONAL POLICY

12. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
13. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
14. 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.
15. NPPF Part 6 Building a Strong, Competitive Economy - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. NPPF Part 8 Promoting Healthy and Safe 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.

17. 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.
18. 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.
19. 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>

LOCAL PLAN POLICY:

City of Durham Local Plan

20. Policy E7 - Development Outside Settlement Boundaries - Seeks to limit new development in the open countryside unless of agricultural/forestry purposes or essential infrastructure.
21. Policy T1 - General Transport Policy - Requires all developments to protect highway safety and/or have significant affect on the amenity of occupiers of neighbouring properties.
22. Policy T10 - Parking Provision - Sets out off street car parking in order to promote sustainable transport choices.
23. Policy H5 - New Housing the Countryside sets out criteria outlining the limited circumstances in which new housing in the countryside will be permitted, this being where it is required for occupation by persons employed solely or mainly in agriculture or forestry.
24. 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.

RELEVANT EMERGING POLICY:

25. 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.

STATUTORY RESPONSES:

26. County Highway Officer – Objects to the proposal due to its unsustainable position.
27. Environmental Health (Contaminated Land) – Contaminated land condition should be added.
28. Landscape Officer – Original scheme too large, amended scheme should be accompanied by a landscaping scheme to assess overall acceptability.
29. Business Durham – Information provided does not show functional need for industrial premises however temporary structure could be considered for animal side.

PUBLIC RESPONSES:

30. The application was advertised by neighbour letters and a site notice, no letters of objection have been received. Cllr David Hall, Pitlington Parish Council and Sherburn Village Council all offer no objection to the proposal.

APPLICANTS STATEMENT:

31. PJI Engineering Ltd is an important and expanding local business which employs 25 local people and has recently secured contracts with major manufacturing companies of critical importance to the North East and the regional economy. There is a current need for someone to be readily available at all times to more effectively and efficiently service the 24/7 call-out needs, 365 days of the year, of its major manufacturing client base.
32. Two other businesses operate from the site (East Durham Cathedral Farm and East Durham Equestrian) which are also under the ownership and control of the applicant. These are continuing to grow rapidly and are resulting in increasing animal numbers requiring intensive care and attention, especially the equine business which was established as a farm diversification project specialising in the training of horses and whose essential functional requirements can only be met by having someone on-site at all times.
33. The plans submitted with the application have been revised to ensure that the proposed dwelling would be commensurate with the size of the business enterprises operating from the site and also to ensure that there would be no resultant adverse impact on visual amenity or the landscape character of the area.
34. The proposed scheme and the detailed supporting case underpinning it is wholly compliant with all relevant national and local planning policy. Fundamentally, the application accords with Policy H5 of the City of Durham Local Plan, Draft Policy 12 of the emerging County Durham Plan, and paragraph 79 of the National Planning Policy Framework (Feb 2019) which all support the provision of new housing in the countryside provided there is an essential need for a rural worker to live permanently at or near to their place of work which is clearly the case in this instance.

35. 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 issues in this instance relate to the principle of development (including an assessment of the justification for a workers dwelling at the site), housing need, impact on residential amenity and streetscene/landscaping issues. as well as access/highways/sustainability issues and any other issues which may be relevant.

Principle of Development

36. The application site is located outside of the residential framework of any town or village, in a predominantly rural location within the open countryside and some distance from the nearest residential dwellings. The proposal therefore represents development within the open countryside where there is normally a presumption against new isolated dwellings.

37. Policy H5 of the City of Durham Local Plan remains relevant to the determination of this application and seeks to restrict new isolated dwellings within the open countryside. Specifically, it states that a new dwelling will not be permitted in the countryside unless it can be shown to be essential to the needs of agriculture or forestry, and where this need cannot reasonably be accommodated by a property within an existing town or village. Where such justification exists and permission is granted an appropriate occupancy condition should be attached. In this respect paragraph 79 of the NPPF is also relevant and takes a similar approach and states that dwellings will only be considered acceptable if there are special circumstances such as the essential need for a rural worker to live permanently at or near their place of work. In addition, the development should be of a size commensurate with the established functional requirement of the enterprise.

38. Policy H5 also states that the functional and financial viability of the scheme needs to be considered. While no longer forming part of national policy, the approach contained within Annex A of PPS7 is still accepted and endorsed by recent appeal decisions, advocating the application of functional and financial tests in determination of the need test for rural workers dwellings contained in paragraph 79 of the NPPF. These tests require proposals to be genuine, financially viable and have a clearly established functional need for the dwelling. For the local planning authority to accept that there is clear justification for a new dwelling, any application should robustly demonstrate that the functional and financial tests have been satisfied.

39. Whilst Policy H5 of the Local Plan is similar to the NPPF in respect of a dwelling within the open countryside and therefore weight can be afforded to it due to the level of consistency, the evidence base behind this policy is out of date therefore, Paragraph 11 of the NPPF is engaged.

40. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:

- 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 provide a clear reason for refusing the application; 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

41. The tests for a rural worker's dwelling were included in Annex A of PPS7. This PPS has been replaced by the National Planning Policy Framework (NPPF) which does not give any detail on how to assess whether there is an essential need or not for a person to live permanently at or near their place of work. although caselaw R (Embleton PV) V. Northumberland CC (2013)) has emphasised that the need test in the NPPF differs from the former requirements of Annex A of PPS7 that was based upon the NPPF bringing about a change in policy which subsequent caselaw (Redhill Aerodrome) has cast doubt upon. () ,It is considered that the Annex guidance can still be used to an extent to help assess such applications. In particular, the Planning Inspectorate stance seems to be that the Annex A tests remain a useful tool but are not necessary to satisfy the national 'essential need' requirement which may be adequately demonstrated by other evidence as an alternative approach.

42. An Inspector has recently (August 2014) taken the view that Annex A is a "useful tried and tested methodology for assessing whether there is an essential need for an agricultural workers dwelling" and the Inspector referred to and shared the view of another Inspector in a 2013 decision that "the terms of para.55 cannot preclude demonstration of agricultural need by evidence that does not seek to, or cannot show, all the Annex A tests of PPS7 have been met" (Messrs I W & JM Appleyard v SOS APP/F0114/A/14/2220728). The last two appeal decisions appear to indicate that the Annex remains a useful tool in the absence of any alternative guidance.

43. Bearing the above in mind it is considered that a series of essential need tests must all be satisfied in order to permit such development. Each of the tests are set out and examined below. An assessment must also be made as to whether the proposal constitutes sustainable development in other respects.

Assessment of Functional/Financial Requirement

44. The site is currently split into 3 with the following businesses namely East Durham Cathedral Farm, East Durham Equestrian and PJI Engineering Ltd being located on the site. In order to consider whether a dwelling can be considered acceptable the first thing to consider is whether there is a clear established existing functional need for at least one worker to live at the site. This will be assessed individually for all three businesses given they are separate in their own right.

45. A functional need is defined as one which establishes whether it is essential for the proper functioning of the enterprise for one or more workers to be readily available at most times, for example, in case animals require essential care at short notice. In addition to this, whether the business is viable and likely to remain so in order to support the dwelling.

East Durham Cathedral Farm

46. The existing agricultural element presently comprises the rearing of sheep and cattle with around 25 animals currently on site. The applicant states an intention to introduce a housed bull beef unit following the completion of structures on the site, with animals brought in at around 2 weeks old up to about 12-15 months of age.

47. Given the limited number of animals on site, it is not considered that currently this business provides a functional need for a worker on site however depending upon the expansion of the premises this may change in the future however, it is considered that a bull beef herd wouldn't normally warrant on site presence especially if no breeding is taking place. In addition to this, consent has been granted for a separate agricultural building to the south of Sherburn Village which has no physical relationship to this site and in which the planning statement which accompanied this application stated that Mr Jonah Johnson was looking to expand the farming in this location away from the application site.

East Durham Equestrian

The second business run from the site is East Durham Equestrian which has been established by the applicant as a farm diversification project specialising in the training of horses. The applicant along with his son care for and train their own horses while offering training and other facilities (horse spa, plate massage, equine hydro therapy facilities) for third party horses. It is stated that 24 hour cover, protection and on-site supervision is currently provided although this is without the benefit of planning permission. The reason for the on-site presence is due to the cost of the horses and also the type of treatment/care that is required which is estimated at around 19 hours per day with on site presence being required for illnesses that may develop and require prompt treatment to be successful.

48. In addition to this, a deal has been established with Oakwood Stud in Ireland to look after their British based Clients however this has not yet been implemented.

49. Therefore, whilst it is considered that a presence may be required on site for this business, financial justification has not been given to show that it is currently viable enough to sustain a permanent dwelling on site in accordance with policy H5 of the Local Plan and Paragraph 79 of the NPPF. Given the functional need for the equestrian business can be met, the Council in accordance with policy H5 would be supportive of a temporary permission for the caravan which currently is stored on site and taken off site when required for business purposes that would help to allow the business to grown and therefore, a permanent dwelling could be sought in the future if the business becomes viable.

PJI Engineering Limited

50. The functional and financial need for the dwelling on site has predominantly been centred around this business. PJI engineering are metal fabricators who provide 24 hour off-site repairs and it is considered that the business can run more effectively with an on-site presence by providing a more effective and efficient service for the 24/7 call out service that the business provides.

51. Whilst financial information has been provided which would appear to prove the business could support a dwelling on the site, it is not considered that the functional need can be proven on this case.

52. Various other engineering firms operate from industrial estates, typically not in close proximity to their owner's residential properties, with businesses operating remotely in terms of security and function perfectly well. In addition to this, call outs to site require travel to the business which requires assistance and it is considered that the reduction in travel that would be achieved by the development which works out at approximately 2.4miles which with no traffic would be a 7minute drive, is not considered significant enough to demonstrate a functional need. Given this, it is not considered that the functional need can be proven in respect of this business. In addition to this, confirmation has not been provided that there are no other suitable properties nearby that are appropriate. Currently there are 54 properties for sale within a 1 mile radius of the postcode for this property.

53. Taking all the above into consideration, it is considered that whilst the financial justification may have been provided in respect of the PJI Engineering Business, the functional case has not been satisfactorily demonstrated; and whilst the functional case appears to have been provided in respect of East Durham Equestrian, the financial justification has not been proven. With regard to the agricultural business, this is not considered to satisfy either the functional or financial requirements at the present time. On this basis, the proposal is currently not considered acceptable in principle as the aims of policy H5 of the City of Durham Local Plan can not be met as the functional and financial justifications must relate to the same business.

Housing Need

54. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements). The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure. 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. The boost to housing supply from the development of one dwelling should not therefore be given significant positive weight in the planning balance.

Impact on residential amenity

55. The proposal is not within nearby proximity to any residential dwellings therefore, the impact on the residential amenity of neighbouring properties is not compromised.

Impact on streetscene/landscape

56. The NPPF in section 15 seeks to protect and enhance valued landscapes. Local Plan Policy E7 also seeks to ensure that developments within the countryside are situated so as not to be harmful to the landscape character of the area. In terms of design Section 12 of the NPPF and Local Plan Policy H5 encourage a high standard of design for all buildings in keeping with the character of the area.

57. The primary viewpoints are on Pittington Road and from Sherburn Village. The recent industrial and equestrian developments have eroded the unbroken rural character and nature of the location and this development represents an additional substantial change to the character of the countryside.

58. The revised design and amended location represents a modest improvement in terms of likely visual impact.

59. Whilst the dwelling is of an acceptable design within the area being sited within an existing cluster buildings and of an appropriate scale in relation to these buildings, it is still considered there would be some conflict with the NPPF and Local Plan Policy E7 in respect of the harm to the landscape from the presence of the dwelling given it would be visible from distances however, it is felt that providing an appropriate landscaping scheme is submitted, the harm is not considered sufficient to warrant refusal of the application on landscape issues.

60. The proposal would be accessed from an existing access from a classified road which is considered appropriate in highway terms and ample parking is available on site. The proposal is therefore considered acceptable in respect of access and parking in accordance with policy T10 of the City of Durham Local Plan.
61. Part 9 of the NPPF however, promotes sustainable transport and the proposal would be remote from services and amenities and would not be readily accessible to public transport. Given this any occupants of the dwelling would be heavily reliant on a motor vehicle which is contrary to Part 9 and the proposal is not considered to be sustainably located.
62. Normally, this would not be considered an issue when the dwelling would be on the site of the occupier's work as this would counteract such journeys. However, as it is considered that the proposal cannot justify a worker's dwelling, it cannot be considered to be in a sustainable location when considered under normal housing policies given it is detached from any village. The proposal is therefore not considered to be in a sustainable location in respect of reducing the reliance on the motor vehicle.
63. The Manual for Streets by the Department of Transport promoted the concept of walkable neighbourhoods and these are typically characterised by having a range of facilities within 10 minutes' walking distance (about 800m) of residential areas which residents may access comfortably on foot.
64. The application site is not considered to fall within this requirement with all measurements being taken from actual walking routes and taken from the entrance to the site. The application site is located some 980m to the nearest school in Pitlington with the school in Sherburn being located around 1200m away and the closest shops within Sherburn being 1246m away. The nearest bus stops are located 655m and 760m away. These routes are also considered unacceptable as they are not formal footpaths with limited lighting and are adjacent a national speed limit single carriageway. Therefore, whilst the applicant has stated that footway links would be improved, it is not considered that the proposal falls within a sustainable distance and therefore, the benefits of this would be limited and would not warrant an approval of the application on this basis. In addition, this would also include works to land outside of the ownership of the applicant and therefore may not be able to be achieved.

Other Issues

65. 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.

The Council's Contaminated Land Section has been consulted and raises no objection to the application subject to a condition regarding remediation being placed on any approval. The development is therefore considered to accord with the aims of paragraph 178 of the NPPF.

66. Whilst it has been stated that the businesses help other local businesses and the community through donations, it is not considered that this is a sufficient enough reason to allow the development and does not override the fundamental sustainability concerns identified.

Planning Balance

67. The application is subject to the titled balance test contained in paragraph 11 of the NPPF. As there are no policies that protect areas or assets of particular importance which provide a clear reason for refusal then, accordingly, planning permission should be granted unless the adverse impacts of the development would significantly and demonstrably outweigh the benefits.

The Benefits of the scheme are as follows:

68. The development would provide some benefit in terms of providing a boost to housing supply although this would be considered very limited at one dwelling, particularly in the context that the Council is currently able to demonstrate a 5 year supply of housing land and less weight should be afforded to the benefits of delivering new housing than would be the case if a shortfall in supply existed. It would also provide personal benefits to the businesses that operate from the site in terms of creating more convenient living arrangements.

The Adverse impacts of the scheme are as follows:

69. The proposal is not considered to provide a sustainable dwelling given its location within the open countryside and insufficient justification has been submitted to meet the requirements for a rural workers dwelling. There would be a reliance on the use of private motor vehicles for access to essential services and facilities, other than employment. In addition to this, the development of a new building is considered to have a negative impact, although it is considered that this could be potentially mitigated against with the submission of an appropriate landscaping scheme.

Concluding Point regarding Paragraph 11

70. It is considered that given the benefits of the scheme can only be afforded limited weight, the adverse impacts of the scheme would significantly and demonstrably outweigh the benefits of the development, and accordingly planning permission should be refused.

CONCLUSION

71. This application has been fully assessed and considered in relation to the relevant. In reaching a recommendation on this application, comments submitted with the application have been fully considered along with comments received from consultees.

72. The proposal is considered to conflict with guidance contained within the NPPF in that it fails to present adequate justification for both the functional and financial need for the creation of a new isolated dwelling within the countryside to accommodate the essential need for a rural worker to live permanently at or near their place of work. In this regard the application is considered to be contrary to guidance contained within paragraph 79 of the NPPF and policy H5 of the City of Durham Local Plan.

73. The application is therefore recommended for refusal.

RECOMMENDATION

That the application be refused for the following reasons:

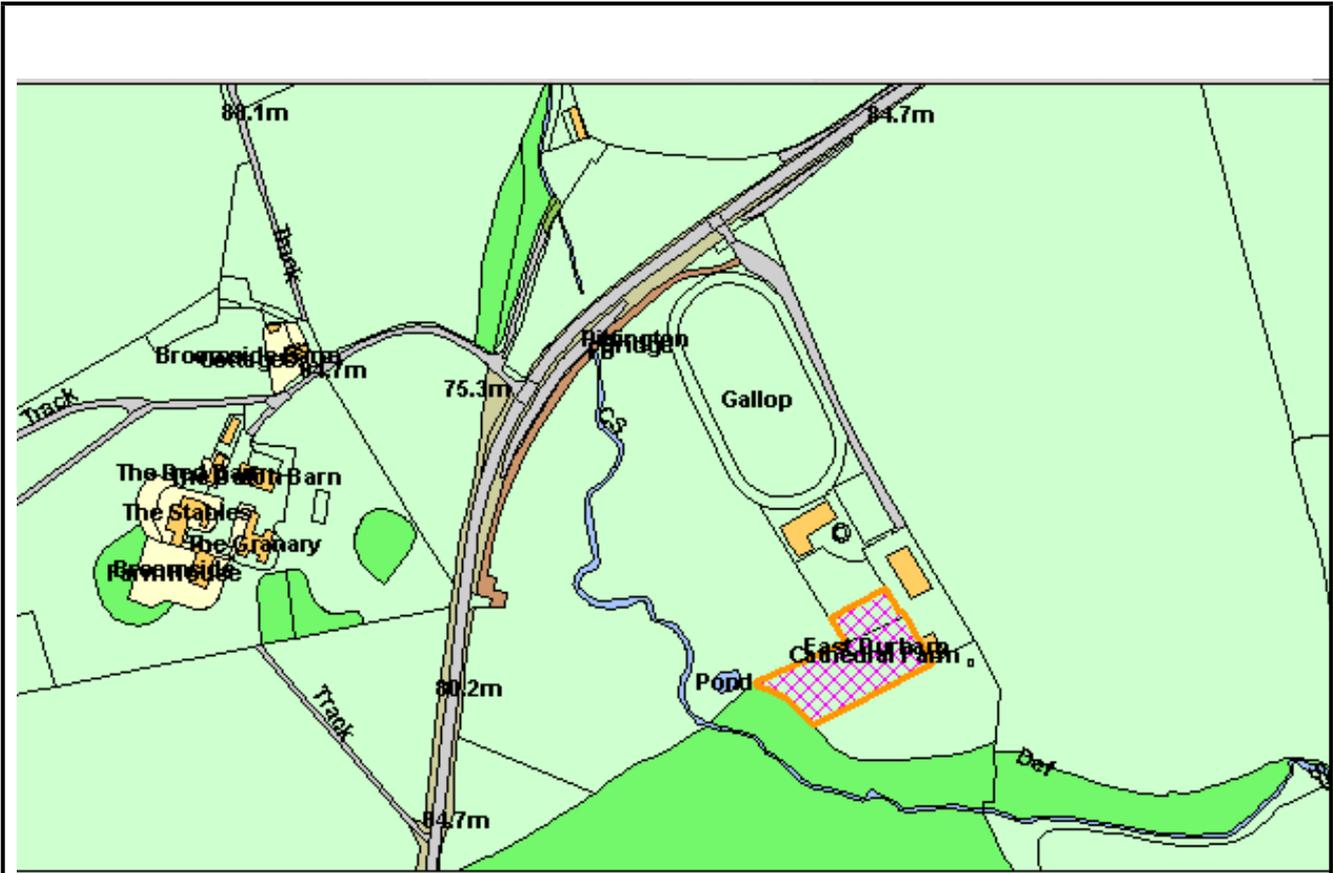
1. The proposal constitutes new residential development in the open countryside which is considered to be within an unsustainable location and without adequate justification in terms of an identified essential need or sufficient financial justification. Consequently, it is considered that the proposal is contrary to guidance contained within Paragraph 79 of the National Planning Policy Framework and the requirements of saved policy H5 of the City of Durham Local Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies and representations received, however, the issues of concern could not result in a positive recommendation.

BACKGROUND PAPERS

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




Durham
 County Council

Planning Services

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Erection of dwelling at East Durham Cathedral Farm	
Date March 2019	

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/02975/FPA
FULL APPLICATION DESCRIPTION:	Extension and Conversion of the multi-level decked car park to form 4 No 1 bed apartments and 8 No. 2 bed apartments (C3 Housing)(resubmission)
NAME OF APPLICANT:	Hillcrest NE Ltd
ADDRESS:	William Robson House Car Park, Claypath, Durham, DH1 1SA
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a two-storey building which currently provides parking provision for an adjacent office complex and is situated to the rear of Claypath towards the commercial centre of Durham City. It is understood that the office building was originally used as a printing works but presently provides B1 office accommodation for several independent occupiers across all three floors excluding the roof void. However, it is noted that planning permission exists for the conversion of part of this building to residential accommodation through permitted development rights and that the remainder of the building is subject to an associated planning permission for conversion to residential accommodation.
2. The car park is framed by commercial properties to the north and west, by residential properties to the east and Leazes Road to the south. Both the car park and office building take a vehicular access from Claypath via a narrow vennel. The site also lies within the Durham City Conservation Area and to the rear of listed buildings at Claypath.
3. Planning permission was refused in 2018 for the extension and conversion of the existing car park to residential accommodation as it was considered that the proposal would have an unacceptable adverse impact upon the amenity of adjacent residential occupiers and existing trees and also failed to meet minimum internal space requirements. This application represents an amendment to that scheme which increases the amount of internal space available for each unit.

The Proposal

4. Planning permission is sought for the extension and conversion to residential accommodation of an existing car park adjacent to William Robson House, Claypath, Durham City. The proposal seeks to create 4 No. 1 bed apartments and 8 No. 2 bed apartments and would require extension to the footprint of the existing building along with an increase to its height through the addition of an additional storey.
5. The result would be a structure approximately 16 metres deep by 15 metres wide with an overall height of 9.1 metres to the ridgeline. Residential accommodation would be spread over 3 floors with each unit providing approximately 40sqm of floor space. Windows would be provided predominantly to the northern, southern and western elevations with access gained via external doorways to the north and west. External surfaces would be finished in a mix of brick and render to the walls and natural slate to the roof with timber windows and doors. It is proposed to take vehicular access via the current arrangement from Claypath.
6. The application is reported to the Planning Committee as it constitutes a major development.

PLANNING HISTORY

7. Planning Permission was refused in 2018 for the extension and conversion of the existing car park to residential accommodation. The LPA considered that the proposal would have an unacceptable adverse impact upon the amenity of adjacent residential occupiers and existing trees and also failed to meet minimum internal space requirements.

PLANNING POLICY

NATIONAL POLICY

8. 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.
9. 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;
10. *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
11. *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.

12. *NPPF Part 7 Ensuring the Vitality of Town Centres*: Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
13. *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
14. *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.
15. *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.
16. *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.
17. *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:

18. The following policies of the City of Durham Local Plan (CofDLP) are considered relevant to the determination of this application.
19. Policy E3 (World Heritage Site – Protection) Durham Cathedral and Castle World Heritage Site 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 in accordance with policies E1, E5, E6, E10, E23 and E24 and applying policies E1, E5, E6, E10, E21, E22, E23 AND E24 relating to green belt, landscape setting, conservation areas, listed buildings, and archaeological remains; and seeking the conservation and management of buildings, Archaeological remains, woodland and open spaces which make up the world heritage site and its setting.
20. Policy E6 (Durham City Centre Conservation Area) The special character, appearance and setting of the Durham (city centre) conservation area will be preserved or enhanced.
21. Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.

22. Policy E15 (Provision of New Trees and Hedgerows) states that the Council will encourage tree and hedgerow planting.
23. Policy E16 (Protection and Promotion of Nature Conservation) states that the Council will the council will protect and enhance the nature conservation assets of the district.
24. Policy E21 (Historic Environment) The council will preserve and enhance the historic environment of the district by requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site; and encouraging the retention, repair and re-use of buildings and structures which are not listed, but are of visual or local interest.
25. Policy E22 (Conservation Areas) The council will seek to preserve or enhance the character or appearance of the conservation areas within the City of Durham by not permitting development proposals which would detract from the character or appearance of the conservation area or its setting. All development proposals should be sensitive in terms of siting, scale, design and materials, reflecting, where appropriate, existing architectural details; not permitting the demolition of buildings which contribute to the area's character. Permission for the demolition of any significant building will not be granted until a detailed scheme for appropriate redevelopment of the site has been approved; protecting trees, hedgerows, landscape features, views and undeveloped areas which contribute to the character or appearance of the area and its setting; requiring a sufficient level of detail to accompany applications for development to enable an assessment to be made of its impact on the conservation area. In addition the council will also implement schemes for the enhancement of conservation areas where appropriate and as resources permit.
26. Policy H2 (New Housing In Durham City) New housing development comprising windfall development on previously developed land: and conversions will be permitted, within settlement the settlement boundary of Durham City. Provided either the site is included in policy H11 or that the proposal does not contravene policies E3, E5 and E6, and the site is not allocated or safeguarded for an alternative use; and the development accords with policies Q8, R2, T10 and U8A.
27. Policy H7 (City Centre Housing) the Council will encourage new housing development and conversions to residential use on sites within or conveniently close to the city centre provided; there is no conflict with any other policy or proposal of this plan, particularly those relating to the conservation area or world heritage site, and it is in scale and character with its surroundings.
28. 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.
29. 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.
30. Policy T10 (Parking - General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
31. Policy Q1 and Q2 (General Principles Designing for People and Accessibility) The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.

32. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
33. Policy Q8 (Layout and Design - Residential Development) sets out the Council's standards for the layout of new residential development. Amongst other things, new dwellings must be appropriate in scale, form, density and materials to the character of their surroundings. The impact on the occupants of existing nearby properties should be minimised.
34. Policy Q15 (Art in Design) states that the Council will encourage the provision of artistic elements in the design and layout of proposed developments. Due regard will be made in determining applications to the contribution they make to the appearance of the proposal and the amenities of the area.
35. Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
36. Policy U11 (Development on Contaminated Land) Development on sites which are known to be, or suspected of being contaminated will only be permitted provided that: the nature and extent of contamination is first established; the development will not add to the level of contamination; proposals for development include remedial measures which address the actual or potential hazard of contamination identified; there is no detrimental affect on the environment as a result of the disturbance of contaminates during and after development.
37. Policy R2 (Provision of Open Space - New Residential Development) states that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development in accordance with Policy Q8.

Durham City Neighbourhood Plan (DCNP):

38. The DCNP is at an early stage of preparation and has not yet reached a stage where weight can be afforded to it.

EMERGING COUNTY DURHAM PLAN:

The County Durham Plan

39. 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 (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>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

40. Highway Authority notes that there has been considerable discussion with the applicant's Transport Consultant regarding the safe future use of the access to William Robson House from Claypath. During these discussions concern was expressed with particular regard to the potential increase in vulnerable road user numbers and possible conflict with vehicles entering a vennen onto Claypath which is only 2.6m wide and the potential conflict arising with pedestrians as a result.
41. However, notwithstanding this the Highway Authority note both the existing use and the fallback position which could see intensification of use as B1 office development over and above the level of use that the proposed residential accommodation would generate. In doing so it is conceded that if this fallback position was reached, the access may become less safe than the change of use situation.
42. In this context the Highway Authority does not consider an objection on highway safety grounds could be sustained and offer no objection to the application subject to the inclusion of a planning condition requiring the submission, agreement and implementation of a Construction Management Plan prior to commencement of development.
43. Northumbrian Water Limited offers no objection to the application subject to the inclusion of a planning condition requiring the submission and agreement of precise details of foul and surface water disposal prior to commencement of the development.

INTERNAL CONSULTEE RESPONSES:

44. Spatial Policy Section confirms that the two limbed test set out in Paragraph 11 of the NPPF is, irrespective of the position on housing land supply, relevant to this application due to the fact that the local plan's housing requirement policy has expired. Paragraph 11 of the NPPF is therefore relevant and the application granted planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.
45. The proposals are for the redevelopment and conversion of a building within the centre of Durham City which is a highly accessible location well related to services, facilities and public transport and would support sustainable patterns of growth. The proposal would make a contribution to local housing supply, broaden housing choice and also support the local economy through construction and occupation. However, there remains a concern that the proposal is intended to be Purpose Built Student Accommodation (PSBA) on the basis that the proposed units are very small units, which are likely to appeal to purchasers for student accommodation rather than open market housing for the general population despite the applicant increasing the size of each unit proposed.
46. In addition, it is confirmed that a financial contribution of £22,924.50 would be required to improve open space facilities in the area. Calculated thus;

11 x 1-bed apartments (assumed single occupancy) = 11 people
8 x 2-bed apartments (based on 2011 census data of 2.2 persons per household) = 18 people. = 29 residents. 29 x £790.50 (Table 16) resulting in the **£22,924.50** contribution.

47. Education Authority has advised that existing school places within the locality could accommodate the anticipated increase in the demand for primary and secondary school places.
48. Landscape Section whilst noting that adjacent trees may well be retained during the course of the development, raises concern that these would undoubtedly come under increased pressure from heavy pruning from future occupants given that they would restrict light into proposed windows. In responding they note that it is generally accepted that for good housing design dwellings should be no nearer than two thirds of the height of an adjacent tree in maturity. Mature height is predicted in the report as 30m (single poplar) 23m (sycamores and crack willow) and 20m (limes) and the proposed building would fall within this.
49. In summary, the Landscape Section advises that in recognition of the sensitivity of the location in the centre of the city and the physical dominance of the existing buildings, it is likely that the development would result in significant adverse landscape and visual effects post construction, and would potentially be in conflict with saved Policies E6 and E14 of the CofDLP as a result.
50. Arborist whilst noting that only minor works would be required to existing trees to the south in order to facilitate the development, notes the concerns of the Landscape Section as described above.
51. Design and Conservation Section in offering no objection to the application notes some concern with the level of extension proposed which would fundamentally change the buildings current size, scale and proportions.
52. Nevertheless, they consider that the resulting building would not be considered so excessive in relation to the surrounding built form as the properties in Claypath vary from two to three storeys with larger block developments to the rear and either side of the application site in particular. These are also constructed over different levels in response to the topography, and again vary in design. In this context, and subject to careful and sympathetic selection of external materials, the extended building is considered unlikely to appear as in incongruous or dominant addition and assimilate into this part of the townscape without any major detriment.
53. The rear of Claypath can be seen from various parts of the city including the riverside environment, New Elvet, and Old Elvet Bridge etc. but for the same reasons' as identified above the impacts would be considered mitigated by the built context surrounding the site. It would also represent a changing built component in the wider context of Durham World Heritage Site, but would not compete for attention, be intrusive, or harmful in any views towards the Cathedral and Castle.
54. Environmental Health Section has no objection to the application subject to the inclusion of a planning condition which requires the submission and agreement of details of sound attenuation to be incorporated into the scheme prior to commencement.
55. Contaminated Land Section has no objection to the application subject to the inclusion of a planning condition requiring the submission and agreement of a Contaminated Land Risk Assessment prior to the commencement of development and the implementation of intrusive site investigation, remediation, and verification where need is identified.

56. Ecology Section has no objection to the application subject to the inclusion of a planning condition requiring the implementation of the mitigation described in the ecological report supporting the application.

57. Archaeology Section has no objection to the application.

NON STATUTORY RESPONSES:

58. City of Durham Parish Council in principle welcomes C3 development in the area that provide residential accommodation for year-long occupation noting that the application site is an ideal location, especially suitable for elderly people because of its proximity to the city centre. Notwithstanding the above they raise several areas of concern, notably that;

- Essential provision to meet accessibility requirements do not appear to be shown.
- Strict Conditions will need to be included should planning permission be granted to ensure the result is C3 accommodation and not C4 HMO use.
- Arrangements for the collection of wheelie bins to ensure that these are not left on the public highway.
- No provision is provided for car parking.
- Operational conditions will be needed and enforced to manage the entry and exit of construction and building material lorries.

PUBLIC RESPONSES:

59. The application has been publicised by way of site notice, press notice and notification letters sent to neighbouring properties. Five letters of objection have been received which raises the following points of concern;

- Adverse impact upon residential amenity from overbearing and overshadowing given the excessive size and scale of the proposed development noting that in 1997 a three storey development was found to have an unacceptable impact upon adjacent residential occupiers.
- Adverse impact as a result of noise given the scheme is likely to be occupied by students.

APPLICANTS STATEMENT:

60. This application is a resubmission following an application for 28no. 1-bed apartments (DM/18/00114/FPA) which was refused permission on 4 June 2018 through powers delegated to the Head of Planning.

61. The scheme presented for consideration by members of the planning committee significantly reduces the number of proposed apartments from the original submission with the proposed apartments designed to meet nationally accepted minimum space standards.

62. In addition a detailed response has been submitted to address concerns raised by officers regarding off-site trees.

63. In considering the current application the Design and Conservation section have referred to their previous comments. Both in their pre-application advice and their comments that informed the case officer's report for the original application, Design and Conservation Officers found: *"In this context, and subject to careful and sympathetic selection of external materials, the extended building would unlikely appear incongruous or dominant and assimilate into this part of the townscape without any major detriment."*

64. Approval was granted, subject to conditions, on 20 April 2018 for change of use of the vacant William Robson House from offices to 27no. 1-bed and 3no. 2-bed studio apartments.
65. The multi-level decked car park had been built for the use of the office tenants at William Robson House. Until recently it was being used by rough sleepers and drug users leading to vandalism and other ant-social behaviour. The car park has had to be secured to prevent access and it is proposed that, along with the conversion of William Robson House, this application can bring the entire site back into beneficial use.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

66. 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, impact upon residential amenity, impact upon City of Durham Conservation Area and other designated heritage assets, surrounding landscape, highway safety, ecology and land contamination.

Principle of Development

67. 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 (CofDLP) 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 degree of weight to be afforded to existing Local Plan policies will depend upon their consistency with the NPPF.
68. The City of Durham Local Plan (CofDLP) 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.
69. On this basis, given the age of the CofDP 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.

70. In the first instance a number of concerns have been raised by local residents, interested parties and statutory and non-statutory consultees as to the precise nature of the proposed use with some citing a belief that the building would be occupied wholly as Purpose Built Student Accommodation (PBSA) and as such should be assessed against the requirements of the Council's Interim Policy on Student Accommodation. This point is noted by the Council's Spatial Policy Section which has provided both a response in relation to the application being offered on the open market as C3 dwellings and also as a PBSA.
71. With regard to the latter the Council's Interim Policy relating to Student Accommodation requires proposals for new PBSAs to demonstrate that there is a need for additional student accommodation that the proposal would not result in a significant negative impact on retail, employment leisure, tourism or housing use and that consultation has been undertaken with the relevant education provider. When assessed against the requirements of this policy the application fails to include sufficient information and in particular does not include an evidence of need for additional accommodation or consultation with a relevant education provider.
72. In light of these concerns the applicant has sought to clarify the position confirming that the units would be offered as C3 dwelling houses and not wholly as Student Accommodation and as such the development should be considered on the basis that the proposed units fall within Use Class C3 as defined by the Town and Country Planning (Use Classes) Order 1987.
73. Therefore policy H2 of the CofDLP is relevant which relates to new housing within Durham City and seeks to direct new development to the most sustainable locations. It states that windfall housing development of previously developed land (PDL) and conversions will be permitted within settlement boundary of Durham City, subject to amongst other things, not contravening saved Policy E3 (World Heritage Site Protection), E5 (Open Spaces within Durham City) and E6 (Durham City Conservation Area) and the development accords with policies Q2 (General Principles – Designing For Accessibility), R2 (Recreational and Amenity Space in New Residential Developments), T10 (Parking) and U8A (Disposal of Foul Water).
74. Given the emphasis on PDL sites this policy is not consistency with the NPPF as there may be instances where a Greenfield site can be justified through NPPF. This policy should therefore not be used as a reason to refuse such sites on this basis and can therefore only be given some weight. However, as the evidence base which underpins this policy is out of date, then this policy must be regarded as out of date and paragraph 11 of the NPPF is therefore engaged.
75. Policy H7 is also relevant and advises that the Council will encourage new housing developments and conversions to residential use on sites within or in close proximity to the city centre provided there is no conflict with any other plan policy or proposal and it is in scale and in character with its surroundings. This policy is consistent with the NPPF and it is up to date.
76. As the policies in the development plan which are most important for determining the application are out of date, then Paragraph 11 of the NPPF is engaged which establishes a presumption in favour of sustainable development. For decision taking this means;
- 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 this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; 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

77. Having regard to the above, the policies of the Development Plan which are most important for determining the application are considered to be out of date.. 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 there being no policies in this Framework that protect areas or assets of particular importance and which provide a clear reason for refusing the application.

Five year Housing Land Supply

78. 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..

79. 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.

80. 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.

81. 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.

Locational Sustainability of the Site

82. 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, it is noted that the site is located within Durham City Centre and as such has good access to a full and wide variety of shops, services and employment opportunities and is well served by public transport. As such the site is considered to represent a sustainable location.

Impact upon Residential Amenity

83. Policies H7 and H13 of the CofDLP relate to city centre housing and the character of residential areas respectively. Together they seek to protect the amenity of adjacent users by resisting development which would have a significant adverse effect on the amenities of residents. 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. Therefore significant weight can be afforded to these policies.

84. Works to facilitate the conversion and change of use of the building including the formation of two additional storeys above its current height and a considerable increase to its overall footprint. It includes the formation of a blank and featureless gable elevation fronting residential properties to the west at Blue Coat Court which would be approximately 9.1 metres in height by 16 metres wide positioned 2.3 metres from the principal elevation of No. 1 Blue Coat, Court which it is noted includes windows to habitable rooms.

85. Residents of Blue Coat Court have raised objection to the application in this regard noting concerns that the building as extended would have a significant adverse impact in terms of overbearing and overshadowing as a result of its excessive size, scale, height and positioning. In objecting residents note that a previous application in 1997 to extend the car park, (adding additional storeys), was withdrawn due to concerns relating to its impact upon residential amenity.

86. The application in question was considered by the LPA in 1997 and during the course of that application officers were minded to refuse the application in part, due to concerns regarding the impact upon residential amenity. However, it should be noted that the specific points of concern were that the upper floor of the proposed car park extension was open air and afforded users views overlooking adjacent dwellings into habitable rooms.

87. Nevertheless, policy H13 of the CofDLP states that planning permission will not be granted for new development where it would have a significant adverse effect on the amenity of nearby residents. Given the limited separation distances involved and the height of the structure proposed it is considered that the development would have an unacceptable and adverse impact upon the amenity of residential occupiers at Blue Coat Court in terms of overbearing and overshadowing, specifically in relation to No. 1 Blue Coat Court contrary to policies H7 and H13 of the City of Durham Local Plan and paragraph 180 of the NPPF.

88. With regard to noise it is noted that the adjacent residents have raised objection to the application noting that the development is likely to be occupied by students which would generate a significant level of noise.
89. The Council's EHO has been consulted and notes that it is expected that there would be a certain level of tolerance for noise arising from the night time economy given the position of the site within this city centre location, although it is anticipated that occupiers should be able to close windows to ensure a reasonable degree of acoustic protection is afforded. As such the inclusion of a planning condition which requires the submission and agreement of a scheme for noise mitigation within the build that achieves a noise level of NR20 or less within habitable rooms or the worst affected sensitive receptor with closed windows is advised. Subject to the inclusion of a planning condition in this regard this aspect of the development would accord with policies H7 and H13 of the CofDLP and paragraph 180 of the NPPF.
90. In order to limit the potential for disturbance during the 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.

Impact upon the special character and appearance of Durham City Conservation Area and World Heritage Site

91. The application site is located towards the commercial centre of Durham City, within Durham City Conservation Area and to the east of Durham City World Heritage Site. The building whilst not listed is nevertheless considered to be a non-designated heritage asset for the purposes of paragraph 135 of the National Planning Policy Framework (NPPF) and in addition it is noted that policies E6 and E21 of the CofDLP are also relevant. As the site is framed by existing trees immediately to the south policy E14 of the CofDLP is also considered relevant.
92. Local residents and Durham City Parish Council raise objection to the application citing concerns regarding its impact upon the special historic character of Durham City Conservation Area.
93. Policy E6 of the CofDLP requires new development to preserve or enhance the special character of Durham City Conservation Area in accordance with the requirements of Section 72 of the Town and Country planning (Listed Buildings and Conservation Areas) Act 1990. In addition paragraph 132 of the NPPF requires great weight to be attached to the conservation of a heritage asset (including conservation areas) when considering the impact of a proposal on its significance.
94. The Council's Design and Conservation Section advises that at present the existing building is relatively low-lying and sits quietly on higher ground when viewed from the public environment around the Leazes Road area and that the proposal would generate a three storey building that would naturally increase the buildings presence and make it more dominant when compared to the existing situation in an area where there is a desirability to maintain its present scale. However, they go on to advise that the resulting structure would not be considered excessive in relation to the surrounding built form as the properties in Claypath vary from two to three storeys, with larger block developments present to the rear and either side of the application site that are constructed over different levels in response to the topography, and vary in design.

95. In this context, and subject to careful and sympathetic selection of materials, the Design and Conservation Section note that the extended building is unlikely to appear incongruous or dominant and assimilate into this part of the townscape without any major detriment. Whilst the rear of Claypath can be seen from various parts of the city including the riverside environment, New Elvet, and Old Elvet Bridge etc, the potential impacts would be mitigated by the built context surrounding the site. The development would also represent a changing built component in the wider context of Durham World Heritage Site and listed building to the north, but would not compete for attention, be intrusive, or harmful in any views towards the Cathedral and Castle and views of the listed building. In this respect the Council's Design and Conservation Section offer no objection to the application and it is considered that the application is compliant with Section 72 of the Listed Building Act and policy E6 in that it would (have a neutral impact on the character and appearance of the conservation area and the setting of the Grade II Listed Building to the north at Claypath).
96. Notwithstanding the above it is noted that a number of mature trees are located immediately to the south of the site which are not within the application site itself and are under the ownership of the County Council. Their crown spread currently comes into conflict with the existing building and it is noted that they are subject to protection due to their position within Durham City Conservation Area. However, the Council's Arborist advises that minor works would resolve any conflict in this regard in the short term. Policy E14 of the CofDLP is nevertheless relevant and requires new development to retain important groups of trees, copses and individual trees and hedgerows wherever possible.
97. The application is supported by an Arboricultural Impact Assessment (AIA) which confirms that the proposed works to extend and convert the existing building could be achieved with only minor works to these specimens which would be retained post development subject to appropriate protection. However, both the Council's Landscape Section and Arborist note that the submitted AIA fails to address the seasonal absence of sunlight penetration into restricted living rooms, daylight reduction that the heavy crown coverage of sycamores and limes would create and concerns over the chance of structural failures during high winds. They consider that given the proximity of these specimens to the proposed building it is likely that there would be considerable pressure from future residents to fell these trees as they would likely restrict natural light into these rooms with external windows to the southern elevation. The importance of natural light into these units is considered especially important as they would be the only source of natural light to those rooms. In summary, the Council's Landscape Section considered that in recognition of the sensitivity of the location and the physical dominance of the existing buildings, development could result in significant adverse landscape and visual effects post construction.
98. The applicant has provided additional information in response to the concerns raised and considers that the established 'building to treescape' relationship in the locality has not resulted in any evident increase in pressure to remove the trees, and that the proposed development is not likely to result in a sudden increase in requests for wholesale removal of the trees in this location, particularly given the Conservation Area status and provisions set out within the Council's Tree Management Policy.
99. Nevertheless the concerns raised by the Council's Landscape Section remain and it is considered that whilst existing trees to the south of the site could be retained post construction, it is likely that there would be significant long term pressure from future residents to remove these specimens which would likely restrict daylight to some of the windows situated in the buildings southern elevation. The trees make a positive contribution to the conservation area and their removal would have a negative impact upon the visual amenity of the area contrary to the requirements of policy E14 of the City of Durham Local Plan.

Parking, Access and Highway Safety

100. At present the office and car park benefit from an existing vehicular and pedestrian access directly from Claypath to the north via a narrow vennel approximately 2.6 metres wide and it is proposed to retain this arrangement to serve the development.
101. Policy T1 of the City of Durham Local Plan states that planning permission will not be granted for development that would generate traffic which would be detrimental to highway safety and/or have a significant affect on the amenity of occupiers of neighbouring property and policy T10 requires new development to provide adequate car parking. This is considered to display a broad level of accord with the requirements of paragraph 32 of the NPPF which requires new development to provide safe and secure access to the new development.
102. The Highway Authority has been consulted and whilst concern was initially raised with regard to the use of the existing arrangement, given the narrowness of the vennel access, nevertheless raise no objection to the application with regards to highway safety. In doing so the Authority noted the fall-back position with regard to the current use which could see an unrestricted intensification of the B1 office use over and above that resulting from the proposed residential use. In this instance the Authority notes that should this fall-back position be reached, the access may become less safe than that proposed through the change of use. However, the inclusion of a planning condition requiring the submission and agreement of a Construction management plan to be approved by the LPA prior to the commencement of development is advised. In this regard concerns raised by City of Durham Parish Council are noted in relation to the management of construction traffic which would be included in the management plan.
103. Whilst the Parish Council also raise concern at the extent of proposed parking provision, it is noted that the site occupies a city centre location and that the Highway Authority raises no objection to the scheme in this regard.
104. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policies T1 and T10 of the CofDLP and paragraph 32 of the NPPF.

Ecology

105. The proposal is supported by a Preliminary Ecological Appraisal and Bat Risk Assessment which concludes that the building has limited potential to support small numbers of crevice roosting bats at times during the bat activity season. The Council's Ecologist has been consulted and offers no objection to the application subject to the inclusion of a planning condition ensuring the mitigation advised in the report is implemented.
106. Subject the inclusion of a condition in this regard the proposal is considered to accord with the requirements of paragraph 175 of the NPPF in that it would not have any unacceptable impact in terms of biodiversity or protected species.

Drainage

107. The application proposes disposal of both foul and surface water to main drainage to which NWL offer no objection subject to the inclusion of a planning conditions requiring the submission and agreement of precise details of foul and surface water disposal prior to commencement of the development.
108. Subject to the inclusion of a planning condition in this regard the development would accord with the requirements of U8A of the CofDLP which requires new development to provide adequate means of foul and surface water drainage.

Contaminated land

109. The proposed C3 use is considered a more sensitive receptor and as such the Council's Contaminated Land Section has confirmed requirement for a Contaminated Land Risk Assessment and for intrusive site investigations, remediation and verification where a subsequent need is identified. This could be secured through planning condition and as such, subject to the inclusion of a condition in this regard, the proposal is considered to accord with the requirements of policy U11 of the CofDLP and paragraph 178 of the NPPF.

Planning Obligations

Open Space

110. CofDLP policy R2 requires developers to provide adequate provision for children's play space and outdoor recreation space in new major new housing developments. These targets have been revised under the Council's Open Space Needs Assessment (OSNA) 2018, which is considered the most up to date assessment of need for the purposes of Paragraph 96 of the NPPF. Paragraph 96 states that access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and that policies should be based upon robust and up-to-date assessments of provision.
111. The OSNA sets out the requirements for public open space on a population pro rata basis, and this development would be expected to provide provision for six typologies, either within the site, or through a financial contribution towards offsite provision, in lieu.
112. Given the constrained nature of the site within the City Centre the application does not include the provision of any on site open/play space provision. In this context it is considered that in lieu of any on site provision a commuted sum would be payable secured through Section 106 Agreement to which the applicant has agreed. The calculated figure in this regard would be £22,924.50.

Affordable Housing

113. There is no policy within the CofDLP with regards to the provision of affordable housing, however paragraph 64 of the NPPF states that major development involving the provision of housing should include a provision of at least 10% dwellings available for affordable ownership. Furthermore, NPPF defines affordable housing as "housing for sale or rent, for those whose needs are not met by the market. It further sets out that affordable housing includes a variety of products comprising affordable housing for rent, starter homes, discounted market sales housing, and other affordable routes to home ownership including shared ownership, equity loans, and rent-to-buy. It also states that exemptions to the 10% may be appropriate where a proposed development provides specialist accommodation for the elderly.

114. The evidence base which has informed the County Durham Plan Preferred Options, identifies that the site lies within an area where 25% affordable housing should be achievable without adversely affecting the viability of developments. With regards to this, the applicant has agreed to provide the stated level of provision which would amount to 3 units (tenure mix of 80% affordable rented housing to 20% immediate products) which could be secured by means of a Section 106 legal agreement.

Other Matters

115. The City of Durham Parish Council advise that strict conditions will need to be included should planning permission be granted to ensure the result is C3 accommodation and not C4 HMO use. However, the application is for C3 dwellings, not C4 HMOs, so it is considered that such a condition in this regard would not meet the test of reasonableness which all planning conditions are required to meet.
116. In addition, the Parish Council also raises concerns at the arrangements for the collection of wheelie bins which will need to ensure that these are not left on the public highway. Means of bin storage are shown on the submitted plans and considered satisfactorily. The Highway Authority raise no objection to the application in this regard.

Planning Balance

117. As the relevant policies of the CofDLP are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph 11 of the NPPF is engaged. There are no policies which protect areas or assets of particular importance which would provide a clear reason for refusing the application and therefore balancing exercise of benefits and adverse impacts must be undertaken. In this regard a summary of the benefits and adverse impacts of the proposal are considered below;

Benefits

118. The development would provide some benefit in terms of a boost to housing supply, although it is noted that this would be considered very limited at 12 dwellings in the context that the Council's ability to demonstrate a 5 year supply of housing land. Less weight should therefore be afforded to the benefits of delivering new housing in this regard as such than would otherwise be the case if any shortfall in supply existed.
119. 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

120. The development would, by reason of its size, scale, height and proximity to the nearest residential occupiers result in an unacceptable and adverse impact upon residential amenity in terms of overbearing and overshadowing contrary to policies H7 and H13 of the CofDLP and paragraph 180 of the NPPF.

121. In addition, it is likely that whilst existing trees to the south of the site would survive the construction phase of development, should planning permission be granted, it is likely that there would be considerable pressure from future occupants to fell these trees. As they make a valuable and positive contribution to the visual amenity of the surrounding locale their loss would have a detrimental impact in this regard contrary to the requirements of policy E14 of the City of Durham Local Plan.

CONCLUSION

122. When applying the planning balance contained in paragraph 11 of the NPPF it is considered that the adverse impacts of the development would significantly and demonstrably outweigh the benefits, in particular that the proposal would have a significant detrimental impact upon the residential amenity of surrounding occupiers from overbearing and overshadowing and would result in the loss of several trees to the south of the site which would have a detrimental impact upon the visual amenity of the area.
123. The development would therefore be contrary to the aims of policies H7, H13 and E14 of the City of Durham Local Plan and paragraphs 11, 127 and 180 of the NPPF.

RECOMMENDATION

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

124. The proposal would have a significant detrimental impact upon the residential amenity of surrounding occupiers from overbearing and overshadowing and would result in the loss of several trees to the south of the site which would have a detrimental impact upon the visual amenity of the area. The development would therefore be contrary to policies H7, H13 and E14 of the City of Durham Local Plan and paragraphs 11, 127 and 180 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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. Regrettably, 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.

BACKGROUND PAPERS

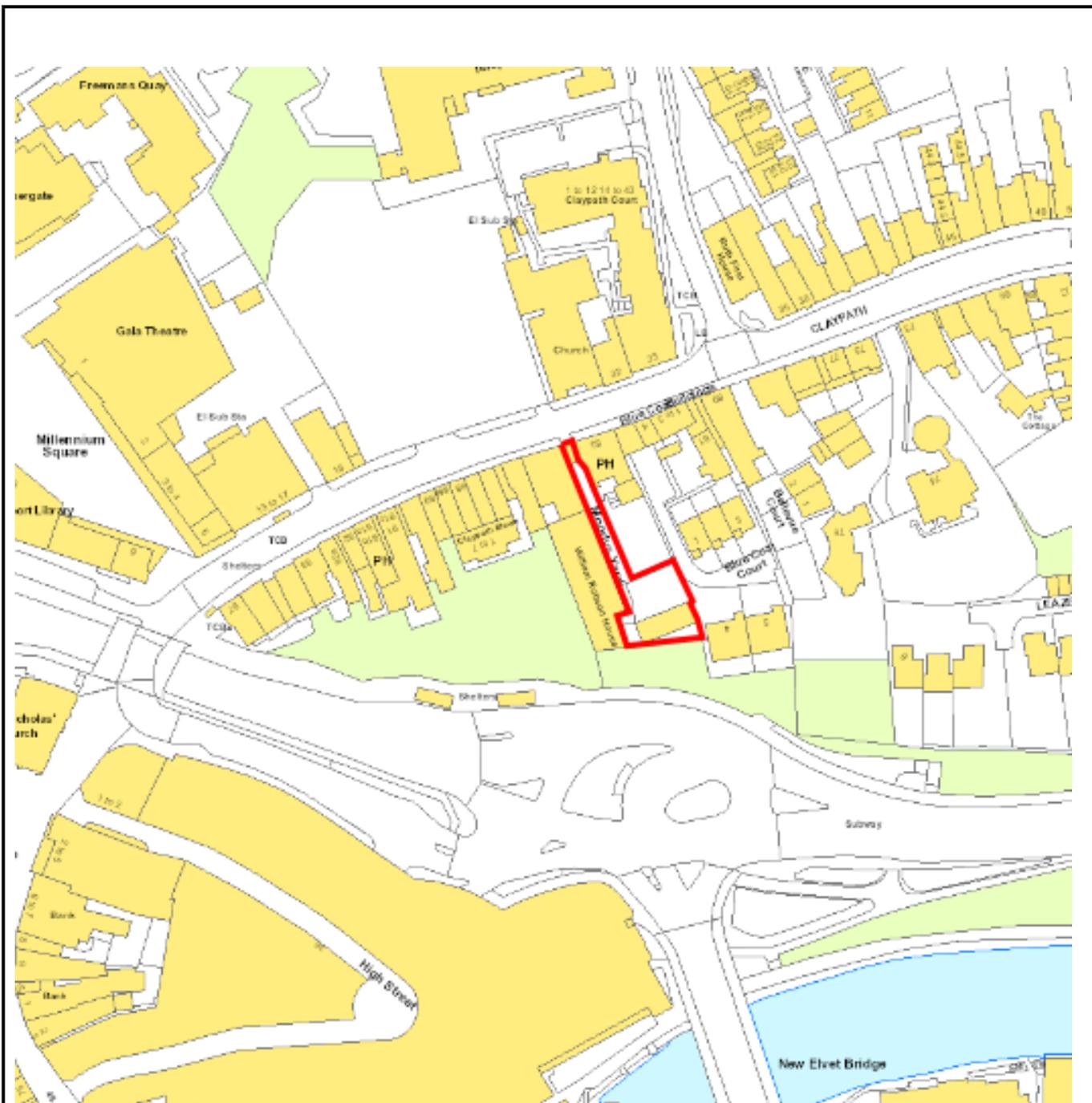
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan 2007

Statutory, internal and public consultation responses



Planning Services

Extension and Conversion of the multi-level decked car park to form 4no. 1-bed apartments and 8no. 2-bed apartments (C3 housing) (Resubmission)

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Comments

Date 12 March 2019

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