



## Area Planning Committee (Central and East)

**Date** Tuesday 14 May 2019  
**Time** 1.00 pm  
**Venue** Council Chamber - County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 9 April 2019 (Pages 3 - 22)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
  - a) DM/19/00324/AD - 20-29 Claypath, Durham, DH1 1RH  
(Pages 23 - 36)  
3 no. vertical halo illuminated signs and 1 no. non-illuminated vertical sign.
  - b) DM/19/00178/FPA - Land to the North of St Godric's Close, Newton Hall (Pages 37 - 54)  
17 bungalows with associated infrastructure.
  - c) DM/19/00053/FPA - Site of Former Eden Community Primary School, Robson Avenue, Peterlee (Pages 55 - 70)  
67 dwellings and associated infrastructure.
  - d) DM/19/00371/FPA - Corner House, Potters Bank, Durham  
(Pages 71 - 84)  
Change of use from C3 dwelling house to HMO Sui Generis (Student Accommodation).
  - e) DM/19/00702/FPA - 7 Dryburn Hill, Durham (Pages 85 - 96)  
Change of use from dwelling (use class C3) to small HMO (use class C4) with 5 bedrooms and associated car parking.
  - f) DM/19/00649/FPA - 51 Whinney Hill, Durham (Pages 97 - 112)  
Change of use from a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap round single and 2 storey extension and external alterations.

- g) DM/19/00459/FPA - Brancepeth Castle Golf Club, Club House, Brancepeth (Pages 113 - 124)

Erection of timber structure on practice range and AstroTurf area.

6. Such other business as, in the opinion of the Chairman of the meeting, is of sufficient urgency to warrant consideration

**Helen Lynch**

Head of Legal and Democratic Services

County Hall  
Durham  
3 May 2019

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

Councillor A Laing (Chairman)  
Councillor K Corrigan (Vice-Chairman)

Councillors G Bleasdale, D Brown, J Clark, I Cochrane, M Davinson, D Freeman, 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 9 April 2019** at **1.00 pm**

**Present:**

**Councillor K Corrigan (Vice-Chairman in Chair)**

**Members of the Committee:**

Councillors D Bell (substitute for A Laing), D Brown, M Davinson, D Freeman, I Jewell (substitute for S Iveson), R Manchester, L Pounder (substitute for J Clark), J Robinson, P Taylor and O Temple

**1 Apologies for Absence**

Apologies for absence were received from Councillors J Clark, I Cochrane and P Jopling and A Laing.

**2 Substitute Members**

Councillor L Pounder substituted for Councillor J Clark, Councillor I Jewell substituted for Councillor S Iveson and Councillor D Bell substituted for Councillor A Laing.

**3 Minutes**

The minutes of the meeting held on 12 March 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)**

**a DM/19/00324/AD - Student Castle, Claypath, Durham**

The Senior Planning Officer, Colin Harding, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for 4 no. vertical halo illuminated signs and was recommended for approval.

The Senior Planning Officer noted that the address of the property was not Student Castle, rather 20-29 Claypath, Durham City. He referred Members to the site plan and photographs showing the ongoing works at the prominent location at Claypath, the construction of a purpose-built student accommodation (PBSA). Councillors were asked to note several listed buildings in the area, most notably Christchurch a Grade II listed building adjacent to the application site and The Big Jug Public House on the opposite side of Claypath. The Senior Planning Officer explained that the PBSA was nearing completion and accordingly the applicant was seeking advertisement consent for 4 no. vertical halo illuminated signs and presented proposed elevations with the signs on the screens for Members. It was highlighted that two of the signs would be within recesses along the main elevation, and the other two would be on the gable ends of the new PBSA, one next to 17 Claypath and the other next to Christchurch. The Senior Planning Officer explained that the sign would comprise of individually cut letters, silver in colour and halo illuminated individually with warm, white light emitting diode (LED) lights.

The Committee were informed of objections from the City of Durham Parish Council in relation to the appearance, in the context within the Conservation Area and nearby listed buildings, and whether there was a need for the signs to be illuminated.

The Senior Planning Officer noted no objections from the Highways Section and no objections from the Design and Conservation Team. He added that Durham Constabulary initially had objected in relation to potential confusion in terms of the brand and the existing University College, known as "Castle", being located within Durham Castle. It was noted that further to internal discussions within Durham Constabulary, they withdrew their objections, noting their command and control systems could be updated to mitigate the possibility for confusion.

Members noted that no objections had been received from any individual properties, however there had been objections received from St. Nicholas' Community Forum and the City of Durham Trust with their objections as summarised within the report.

The Senior Planning Officer noted that the application was for advertisement consent and the criteria for consideration were that of amenity and public safety.

It was added that Officers felt that in terms of amenity the proposed signage was appropriate and would not represent a negative impact. Members were informed that in terms of the name on the sign, it was felt this was outside the scope of the application, though were referred back to the comments from Durham Constabulary, offering no objection. The Senior Planning Officer reiterated that the recommendation within the report was for approval.

The Chairman thanked the Senior Planning Officer and asked Parish Councillor John Ashby, representing the City of Durham Parish Council to speak in relation to the application, noting he had accompanying slides which would be displayed on the projector screens.

Parish Councillor J Ashby thanked the Committee and explained that the Parish Council had carefully examined the designs of the four proposed signs and the applicant's accompanying letter which explained that "the purpose of the signs is to signpost the business and brand within the street-scene and directionally for those arriving at the scheme for the first time." He added that the Parish Council did not believe that it was necessary to have illuminated signs promoting the business and the signs should be the name of the building.

Parish Councillor J Ashby referred to a slide showing the Gala Theatre and noted that there were very satisfactory non-illuminated signs for the Gala Theatre nearby and for other PBSAs such as New Kepier Court, which would be much harder to find. He added that indeed, having found the Student Castle scheme in Claypath for the first time it would appear unnecessary for the student residents to have to be reminded every day and night thereafter of where they lived in Durham.

Parish Councillor J Ashby referred to further slides showing that most of the PBSAs had prominent names, for example: Chapel Heights; St Giles' Studios; Ernest Place; Elvet Studios; and Rushford Court. He noted that the last example showed the developer's name as well as the name of the PBSA. He added that this was fine, though noted none were just the developer's name only.

Parish Councillor J Ashby explained that there was also the matter of the County Council's naming policy which emphasised at paragraph 7.3 that the Council would endeavour to promote street names that reflected local, geographic or historic significance in the area. He added that the local residents' group had suggested to the Council's Street Naming Officer that this principle should appropriately apply to the naming of this new and very prominent building, and that recent history could be well captured by naming it Palladium Court, after the cinema that stood there. Parish Councillor J Ashby noted that the Planning Officer's report at the time of the original application had stated "the former Northern Gas Board offices and the former Palladium Cinema are considered to be of particular significance."

Parish Councillor J Ashby referred to his final slide setting out the Naming Officer's reply to the residents' group: "I will forward your comments in full to the developer and can reassure you that the developer's business name Student Castle will not be used in the building name for the development."

Parish Councillor J Ashby noted that the residents' group had also raised concerns about confusions in an emergency between the application site and Castle, the colloquial name for University College. He added that this concern was also raised by the Police and although protocols have been put in place to address this, the risk must remain.

Parish Councillor J Ashby explained that the Parish Council continued to believe that such large illuminated business advertisements were not appropriate or necessary in this prominent and sensitive location. He added that there would be no objection to non-illuminated signs that would usefully have the name of the building on them and noted the Parish Council believed that the assurance of the Council's Naming Officer should be upheld.

Parish Councillor J Ashby concluded by explaining that the Parish Council objected to the proposed signs being illuminated on the grounds of: having an adverse impact on significant features of historic interest within or adjacent to the site, contrary to Saved Policy E21 of the City of Durham Local Plan 2004; would detract from the character or appearance of the conservation area, contrary to Saved Policy E22 of the City of Durham Local Plan 2004; would detract from the setting of a listed building, contrary to Saved Policy E23 of the City of Durham Local Plan 2004; and would be detrimental to visual amenity whilst showing no particular attention being paid to the impact of the signage upon the character and setting of listed buildings and the character and appearance of the Conservation Area, contrary to Saved Policy Q16 of the City of Durham Local Plan 2004.

The Chairman thanked Parish Councillor J Ashby and asked Mr Alastair Willis of Lichfields to speak on behalf of the applicant.

Mr A Willis thanked the Committee for the opportunity to speak and noted that there was a clear summary within the report as regards why the applicant felt the application should be approved. He added that the 445 bed PBSA and retail use on the ground floor would be open for use later in 2019. He noted that the high-quality student accommodation would need signs to direct students and visitors to the accommodation.

Mr A Willis explained that there had been three objections at the consultation stage, with Durham Constabulary than having withdrawn their objection. He added that he did not support the objectors' position in terms of the impact upon the Conservation Area, noting the Council's Design and Conservation Section had themselves not offered any objections to the application. Mr A Willis explained that the design of the signage was clean and simple and would not increase the prominence of the building and was in keeping in terms of materials and use of subtle illumination, not detracting from the character or appearance of the Conservation Area or the overall street scene.

Mr A Willis explained that he felt the application did not detract from the heritage assets in the area, with there being a restriction in terms of the brightness of the illumination set out within Condition 8 of the Officer's recommendation. He added that the signs were located at the gable ends or within recesses within the building.

Mr A Willis noted that the address of the property would not change and remain 20-29 Claypath and therefore would be compliant with the Street Naming and Numbering Policy. He reiterated that Durham Constabulary had withdrawn their objection to the application in terms of potential confusion with the University College.

Mr A Willis concluded by noting that the application was in line with policy, that policy was for approval unless the application was harmful in terms of amenity or public safety and reiterated that the Officer's recommendation was for approval.

The Chairman thanked Mr A Willis and asked the Senior Planning Officer if he had any comments in terms of the points and issues raised by the speakers.

The Senior Planning Officer reiterated that the Committee were not being asked as regards the name of the building, which was 20-29 Claypath, rather the application as set out within the agenda papers. The Senior Planning Officer referred to Parish Councillor J Ashby's slides giving examples of existing signage at various PBSAs. He noted that while illuminated signs were not suitable in all situations, as there was a mix of signage at Claypath it was not felt unreasonable. He added that the examples given showed some signage that had the name of operators on them and it was felt to be reasonable for a commercial operator to have some presence on their building.

The Chairman thanked the Senior Planning Officer and asked Members of the Committee for their questions and comments.

Councillor J Robinson noted that he travelled past the application site a number of times each week and while he understood the need for signage, and he felt the signage on the Gala Theatre was good, he asked whether there was a necessity for signage of the size proposed and whether there was a need for four of them. The Senior Planning Officer noted that whether four was acceptable was an issue for the Committee to consider, however, the opinion of Officers was that the proposals were acceptable and that the positioning of the signage would be such that usually only one of the signs would be visible at a time.

Councillor P Taylor noted that he felt there was merit in the comments made by Parish Councillor J Ashby and that he felt that one sign could be sufficient and added that while he could live with the sign, he did not see the need for it to be illuminated.

Councillor D Freeman explained he was a Member of the City of Durham Parish Council, however, was not a member of their Planning Committee and had no input into their comments on the application. He noted he agreed with those Committee Members that had already spoken, adding that he felt that the signs represented the worst form of visual pollution in a historic street within the City. Councillor D Freeman noted that many students made do without signage at their accommodation and therefore he did not feel they were required. He added that should Members be minded to approve the application he did not feel they needed to be lit, with Claypath itself already being lit.

Councillor D Freeman noted he questioned the need for four signs, or indeed any, and suggested two was more reasonable. He added that given the historic nature of the street and area he felt the applicant had missed an opportunity in terms of incorporating something into the name of the PBSA.

Councillor O Temple asked for further information as regards “halo illumination”. The Senior Planning Officer explained that they would be usually LED, backlighting around the individual letters, less prominent than neon or “swan neck” externally lit signage.

Councillor M Davinson asked what the Committee could decide upon in terms of suggesting less signage, no illumination or other options. The Senior Planning Officer noted that advertising consent was not the same as full planning applications and that if Members had concerns as regards the number of signs they had options for a split decision in terms of this. He added that in terms of the illumination, this element could not be disaggregated without the applicant wishing, and without illumination would be considered a different application.

Councillor P Taylor moved that the application was deferred to allow time to seek clarification from the applicant as regards what they would be happy with, in terms of numbers of signs and with or without illumination.

Councillor D Freeman seconded Councillor P Taylor and added that the applicant had heard the concerns raised by Members and Officers and the applicant would be able to discuss in more detail.

Councillor I Jewell noted concern in terms of deferment, noting what Members may want may be difficult. Councillor P Taylor noted he felt deferment was preferable to guessing in terms of what may be possible and would provide the developer the opportunity to consider their application.

## **RESOLVED**

That the application be **DEFERRED**.

### **b DM/19/00601/FPA - Petite Mer, St Oswalds Square, Pity Me**

The Principal Planning Officer, Alan Dobie, 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 Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a loft conversion with flat roof dormer and velux windows, installation of solar panels and was recommended for approval subject to conditions.

The Principal Planning Officer referred to plans, images and aerial photographs to show the context of the site, noting Members on the site visit had the opportunity to view the application site from the main road through a gap in Front Street.

The Committee were reminded of an intervening strip of land between the application site and properties at Front Street and the trees, screening and hedgerows at the site.

The Principal Planning Officer explained that there had been no objections from the Highways Section and no objections from the Ecology Team, though they suggested an informative advising on conditions relating to bats.

Members noted there had been objections from three properties in Front Street, noting: loss of garden privacy; the proposed dormer presenting privacy issues as it would face rear bedroom windows of properties on Front Street; and objections in relation to the materials and finishes to be used on the dormer roof windows and walls.

The Principal Planning Officer noted that national and local policy supported improvements to residential properties and added that Officers did not feel that the impact upon residential and visual amenity was sufficient to warrant refusal. He added that the gardens in question were already overlooked and that the materials largely matched with a variety of house styles and materials being used in the area. He concluded by reiterating that the recommendation was for approval, subject to the conditions as set out within the report.

The Chairman thanked the Principal Planning Officer and asked Mr Alan Clarke, local resident to speak in objection to the application.

Mr A Clarke thanked the Committee for the opportunity to speak and noted he had read the report and the recommendation. He noted that he wished to speak in relation to the loss of privacy that would result from the proposals and in terms of the materials not being in keeping with the setting.

Mr A Clarke explained that the Council acknowledged within paragraph 35 of the report that the property would become two storey and within paragraph 33 that there would be potential for increased overlooking. He added that while the Officer stated that there was not specific separation distance protection for garden space, he felt that Members would not feel this was correct if they visited. Mr A Clarke noted that there were areas of his garden that were currently private and not overlooked and the proposals would mean that his sheltered garden would absolutely be overlooked from the dormer window.

Mr A Clarke noted that saved City of Durham Local Plan Policy Q10 in respect of dormer windows stated that they would be permitted where "*...it does not result in any loss of privacy for surrounding properties*". Mr A Clarke noted that accordingly, the application was contrary to the Policy Q10, not in accord as stated by the Planning Officer within the report.

Mr A Clarke noted that there had been no consultation or mitigation proposed, the first notice he had as regards the proposals was when the planning application process had notified him. He added that had he been given the opportunity he would have suggested the applicant rotate the roof by 180 degrees such that the applicant would only be overlooking their own property.

Mr A Clarke explained that Paragraph 128 of the NPPF stated that *“Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot”*.

Mr A Clarke noted that he would lose privacy even he was to raise the height of wall to two metres, at his own expense.

Mr A Clarke noted in respect of materials, he noted saved City of Durham Local Plan Policy Q9 noted in respect of alterations and extensions that they would be permitted *“...provided that the design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area...”*. He added that he did not feel this was the case, and that the proposed use of wood was unprecedented in the area.

Mr A Clarke noted that within the report the hours of any proposed works was not stated and added that the road accessing the site was not a wide road. He explained that before 9.00am and after 5.00-6.00pm there was no space in the street and there was a turning head and parking opposite and suggested that should works be carried out they be 9.00am to 5.00pm Monday to Friday.

The Chairman thanked Mr A Clarke and asked the Principal Planning Officer to comment on the points raised by Mr A Clarke.

The Principal Planning Officer explained that in terms of the loss of privacy, the report did acknowledge some loss, however, it was felt this was not sufficient to warrant refusal, in the context of there already being a degree of overlooking existing. As regards the opportunity to comment upon the application, the applicant had engaged in pre-application consultation with Officers, and the Principal Planning Officer noted that it was not a requirement for the applicant to consult with neighbours, though it could be advantageous.

The Chairman thanked the Principal Planning Officer and asked Members of the Committee for their questions and comments.

Councillor I Jewell noted that the site visit had been very useful for Members and asked as regards the separation distances. The Principal Planning Officer noted that this was set out within paragraph 32 of the report, with the distance standard being 21 metres, window to window, and the distance from the proposed development to 52 Front Street being approximately 35 metres, and 53 and 54 Front Street being approximately 38 metres.

Councillor P Taylor noted he had sympathy with the resident that had spoken, however, in planning terms he did not feel there was sufficient reasons to sustain a refusal reason and therefore proposed the application be approved as set out within the report. Councillor I Jewell seconded the proposal.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report.

**c DM/19/00426/FPA - 13 Bevan Grove, Gilesgate, Durham**

The Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from C3 to C4 property and was recommended for approval, subject to conditions.

The Planning Officer explained that the property was at the end of a cul-de-sac, with units of Dragonville Park to the rear of the property. Members noted that there was an integral garage and a driveway, and there were no proposed alterations to the property.

The Planning Officer noted no objections from the Highways Section, having commented that there was sufficient parking provision.

The Planning Officer noted that Belmont Parish Council had objected to the application, noting: loss of an affordable family house at the end of a quiet cul-de-sac; loss of residential amenity from potential noise; and impact upon parking.

The Planning Officer noted that the Council's Spatial Policy Team noted that 2.6 percent of properties within a 100-metre radius were in use as houses in multiple occupation (HMOs), less than the 10 percent threshold set out in the Council's Interim Policy relating to student accommodation. Councillors noted no objections from Environmental Health.

It was explained there had been three letters of objection, two from the Local Divisional Members, and one from Durham Constabulary. It was noted the comments had been similar to that of the Parish Council and also included comparisons to Laburnum Avenue where Police had been called to deal with complaints specifically related to HMO properties and concerns regarding an increase in the fear of crime that could be created by letting property out as an HMO.

The Planning Officer explained that the application was in line with the Interim Policy relating to student accommodation and there was not anticipated to be any serious impact in an increase of one student from two to three occupying the property. She added that the site was in a sustainable location and as the application was in accord with policies the recommendation was for approval subject to conditions.

The Chairman thanked the Planning Officer and asked Parish Councillor Barbara Howarth, representing Belmont Parish Council to speak in relation to the application.

Parish Councillor B Howarth thanked the Committee for the opportunity to speak and noted she was the Chairman of the Planning Committee of Belmont Parish Council.

She noted that the Parish Council had concern in terms of the proposals for the property at the bottom of a narrow cul-de-sac, a two-storey semi-detached house, adjoining 14 Bevan Grove, near to numbers 11 and 12. She added that the cul-de-sac was used as a turning head and that 13 Bevan Grove had parking for one vehicle within the garage, if vacant, and one vehicle on a driveway. Parish Councillor B Howarth noted that consequently any additional vehicles would have a negative effect, contrary to saved City of Durham Local Plan Policy T1.

Parish Councillor B Howarth noted that Durham Constabulary had raised concerns, and that the Committee report set out their full letter. She explained that the size of the house lacked the necessary amenity space for three unrelated individuals and added that students were not static, they changed year on year. It was noted that paragraph 43 of the Officer's report set out that "*...HMO accommodation occupied by students does result in differing patterns of activity to a standard family household...*".

Parish Councillor B Howarth noted that it was stated within the report that student density within the area was less than the 10 percent threshold within the interim policy, however, she explained that only a few hundred metres away, and visible on the map shown by the Officer in their report, there was a large PBSA at Ernest Place, and therefore it was felt that the area had a good share of students.

Parish Councillor B Howarth noted there was concern in the removal of affordable family housing from the market and that the grant of change of use from C3 to C4 use could set a precedent and was contrary to saved policies H9, H10 in respect of loss of amenity for neighbours, and T1 as previously described. She noted that the Parish Council therefore asked that the Committee refuse the application.

The Chairman thanked Parish Councillor B Howarth and asked Mr Andrew Wilkinson, owner and applicant to speak in support of his application.

Mr A Wilkinson thanked Members for the opportunity to speak and noted that while the Highways Section had raised no objections, he had offered to pave the front garden to provide three car parking spaces if required, although he preferred not to and indeed Highways had said it was not necessary.

Mr A Wilkinson stated the application to increase from two to three student use came from the current students occupying the property, they were wishing to have a friend live in addition. He noted two of those would complete their studies and be working next year, with the other being a post-graduate student. He added that the location was in general considered too far out from the city centre for students.

Mr A Wilkinson explained that he handpicked the tenants and he spoke to local residents to ensure there was no problem or complaints. He gave examples where those currently living in the property had helped clear snow in the cul-de-sac and help a neighbour to assemble furniture.

Mr A Wilkinson noted that the comments from the Police as regards Laburnum Terrace and in general seemed to refer more to the viaduct area of the city centre than Bevan Grove at Gilesgate.

He noted that he had made it very clear to the tenants that the property was not “party central” and if that was what they wanted then they should go elsewhere.

Mr A Wilkinson noted the student density was below the threshold for the area and he noted that his experience of students in the property over the last few years had been a positive one. He added that the option those young people were choosing in terms of living in a shared house gave them the option to save up for a mortgage, having four sons himself he could empathise with that situation.

Mr A Wilkinson concluded by reiterating that the application had no building works associated, and he would ask the Committee to support their Officer’s recommendation for approval.

The Chairman thanked Mr A Wilkinson and, with no further comments from the Officers, asked Members of the Committee for their questions and comments.

Councillor M Davinson asked as regards clarity on the number of letters of objection, as set out at paragraph 25 of the report. The Principal Planning Officer noted the number was three, one each from two of the Local Divisional Members, and one from Durham Constabulary, none from local residents.

Councillor I Jewell noted there was always an element of objection in terms of any application before Committee. He noted the property already had two students living there and that if Members refused the application, it would still have students living there. He added that if the property was a family home, there could indeed be more than three people living there, with potential for more issues in terms of vehicles and parking than a student property with three tenants. Councillor I Jewell noted it was very interesting that there had been no objections from residents.

Councillor P Taylor asked why the Police had objected now, given no evidence of any incidents in the past at the location.

Councillor O Temple asked as regards the change of use application, and whether it would go forward with the property if it was sold in the future. He noted the current owner seemed a model landlord, however, he asked what could be done in terms of the future and asked if the decision opened up the avenue for other such changes of use or would each be upon their own merits.

The Principal Planning Officer noted the application was for change of use from C3 to C4. He added if an extension was proposed or for larger numbers then this would require the appropriate permission. He noted the current floorspace and licencing appeared to limit this to three at present.

The Principal Planning Officer noted that this was not to say those elements could not come forward by way of an application in the future, and that should the change of use be granted it would be for the property itself going forward.

Councillor J Robinson noted that in some cases the student houses in the city were little more than coalhouses and he felt that if the numbers in the property were less than six then he did not object.

He added that he would have liked to have heard from the Local Members as regards where their information had come from and noted he was saddened by comments regarding “the fear of crime”, noting the vast majority of students were good people.

Councillor D Freeman noted the actual high density of students in the area, given the nearby PBSA and while he understood there were little grounds for refusal he noted he felt concerns for the future of such areas.

Parish Councillor B Howarth noted for clarity that there were four letters of objection, the Parish Council’s, the two Local Members and Durham Constabulary. The Principal Planning Officer noted that the Parish Council’s objections had been set out within its own paragraph within the report.

Councillor I Jewell sought clarification on the comment made by Councillor D Freeman on the student density in the area, whether it was high or was low. The Principal Planning Officer noted that while there was the PBSA in the local area, the figures are an assessment of small-scale HMOs in the area, though having the PBSA did raise the number of students living in the area.

Councillor P Taylor asked as regards what grounds the Local Members had called-in the application to Committee. The Principal Planning Officer referred to paragraph two of the report, Local Members having cited impact on amenity and the character of the area, and issues in terms of parking. Councillor P Taylor added he did not see the objections from the Police as being justified.

Councillor O Temple noted that Local Members had stated an issue in terms of parking, however, there were no letters of objection from residents. He added that while the Highways Section had stated no additional parking was required, the application had stated willingness to provide additional spaces. He asked for advice in terms of this element.

The Highway Development Manager, John McGargill explained that the parking was in line with a standard residential street, with three bed units having an internal garage and driveway., he noted some properties in the area had extended and only had single driveways. He noted that the Highways Section could not recommend refusal on the basis of the parking provision, and while he would not object to the applicant’s offer as regards additional provision, he would also not object in terms of the current provision.

Councillor I Jewell moved that the application be approved, Councillor P Taylor seconded the motion.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report.

**d DM/18/03671/FPA - 22a Allergate, Durham**

The Planning Team Leader, Central and East, Sarah Eldridge 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 Team Leader, Central and East advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for a two-storey extension to existing dwelling to create a total of 2 No. dwellinghouses and was recommended for approval, subject to conditions.

The Planning Team Leader, Central and East explained that the property was in the City of Durham Conservation Area and that 22 Allergate was a Grade II Listed Building. She added that 22 and 22a Allergate were within the same ownership, and there was shared use of the gated access and amenity space. It was explained that the external dimensions of the proposed extension were 3.5 metres wide and 4.5 metres deep. Members were referred to photographs of the site, showing Hanover Court adjacent to the site. Planning Team Leader, Central and East noted the floorplans, with their being two, one-bed flats one on each floor.

In terms of representations, the Planning Team Leader, Central and East noted objections had been received from the City of Durham Parish Council, the City of Durham Trust and from six members of the public. She added there had been no objections from the Design and Conservation Team, subject to conditions, and that the details as regards all representations were summarised within the report.

The Planning Team Leader, Central and East noted that in considering the application, it had been considered that the application was in a sustainable location within the city centre, close to shops, services, education and transport links. Members noted that Hanover Court was approximately 13.5 metres away and the application had been amended from a previous form to remove a first-floor window to the western elevation of the proposed extension and therefore the required separation distances were achieved.

The Planning Team Leader, Central and East noted that construction management would be dealt with via condition and that Officers had considered there would be no additional harm to the Listed Building from the application. It was highlighted that there was no in-curtilage parking and that the street was in a controlled parking zone. The Planning Team Leader, Central and East noted there had been no objections from the Environmental Health or Ecology Teams in relation to the application.

The Planning Team Leader, Central and East concluded that it was felt the application was in accord with national and saved Local Plan policies and as there was no detriment to the setting of the Listed Building, the application was recommended for approval.

The Chairman thanked the Planning Team Leader, Central and East and asked Parish Councillor Grenville Holland, representing the City of Durham Parish Council to speak in relation to the application.

Parish Councillor G Holland thanked the Committee for the opportunity to speak on behalf of the City of Durham Parish Council. He noted that the application was about 22 Allergate and not just about 22a Allergate, which was a later annexe to the main building. He explained that the environmental impact of the proposed development therefore fell both within the main building and its curtilage.

Parish Councillor G Holland noted the report concerned the Parish Council because, in paragraph 48, by using NPPF paragraph 213 it was seeking to set aside or minimise the policies contained in the City of Durham Local Plan published in 2004. He added that the carefully crafted policies of the Local Plan were tailored to the specific needs of our City. He stated they were Saved, and the Parish believed that they were just as relevant and valid today as they were in 2004.

Parish Councillor G Holland noted that Furthermore, without the Local Plan there was really nothing to rely on, as the NPPF was far too broad a brush to deal with the necessary level of detail within this application. He noted that one must therefore use the saved Local Plan policies to test this proposed development in order to determine whether it adversely affects 22 Allergate, a Grade II listed building which formed an important and vital part of our City's heritage.

Parish Councillor G Holland explained that first of all, there was an important raft of environmental policies that were designed to control development in our city centre. He noted Policy E3 protected the central core of the city and its relationship to the Cathedral and the Castle. He added that the setting and history of 22 Allergate had to be seen in the context of a Georgian street scene dating back to medieval times.

Parish Councillor G Holland noted Policy E6 protected the special character, appearance and setting of the Conservation Area which the policy insists must be preserved and enhanced by any new development. He asked, was the Conservation Area actually preserved and enhanced by the proposed development? He explained that Policy E21 also requires that any development must enhance and preserve the historic environment, and this was not just limited to listed buildings. Parish Councillor G Holland noted 22 Allergate was, in its present form, an important Grade II listed building that enriched the city's historic fabric and environment. He asked, does the proposed development really enhance and preserve the historic environment?

Parish Councillor G Holland noted that Policy E22 carried the requirement further by not permitting proposals that would detract from the character or appearance of the Conservation Area or its setting and it pursued this demand in greater detail. He explained that the Parish Council believed that this proposed development was detrimental to the Conservation Area.

Parish Councillor G Holland referred to Policy E23 noting it safeguarded listed buildings and their setting, with 22 Allergate being a listed building with a lovely tiered garden which therefore must be safeguarded.

He noted that the proposed development clearly fell well short of every one of those environmental policies and their cumulative impact could not be disregarded.

With reference to the NPPF, paragraphs 184 to 187, Parish Councillor G Holland noted these were also concerned with conserving and enhancing the historic environment. He added that the NPPF provided similar guidance to the Local Plan stating that new development should make a positive contribution to the character of an historic environment. He asked, does the application really make a positive contribution to the setting of the city and does it really respect, preserve and protect 22 Allergate and the neighbouring properties?

Parish Councillor G Holland noted saved Policy H10, restricted backland and tandem development and that this important policy was missing from the report. He explained that H10 required safe and adequate access and must accord with Policy T10, which he would return to. He added that H10 also required that both the amenities and the character of the existing, adjacent properties are not adversely affected and that from the letters of objection they clearly would be adversely affected. Parish Councillor G Holland noted Policy H13 echoes Policy H10 and once again this application fails the test of H13.

Parish Councillor G Holland referred to Policy T10 which dealt with vehicle parking and off-road provision, of which there was apparently none. He added that Policy Q8 was about quality, the privacy enjoyed by the neighbours, and sought to minimise the impact on the neighbours and there was no doubt from the public response that this would be diminished by the introduction of two new properties and their occupants on the households next door.

Parish Councillor G Holland explained that Policy Q9 dealt with alterations and extensions to residential properties and required these to be sympathetic. He added that it was felt there was nothing sympathetic about the internal and external treatment of 22 Allergate.

Parish Councillor G Holland concluded by noting that the Parish Council were asking the Committee to understand their deep concern about the application, recognise that the saved Local Plan policies were as fresh and relevant today as they were in 2004 and use them as the only effective guide that Committee had and to refuse the application.

The Chairman thanked Parish Councillor G Holland and asked Dr Robert Banks, local resident to speak in objection to the application.

Dr R Banks thanked Members and noted he had asked to speak to the Committee as a resident of Allergate for almost 40 years. He asked if he could first point to a serious material error in the Committee Report where, on page 59 paragraph 74, it stated that *“With regard to the adjacent Grade II Listed Building it is noted that the application building sits to the north of this and firmly within its setting. However, the asset’s setting has already been compromised by the presence of the building itself constructed within the original burgage plot and it possesses no historic, functional, or positive visual associations with the asset.”*

Dr R Banks explained that in reality the application building had a direct historic association with the asset, because it was originally granted planning permission and built in 1911 as “addition of study and bedroom at 22 Allergate for Miss Thompson”. He noted the documents concerning that permission were held in the County Record Office, and he could give the catalogue reference if required. He added that The Durham Directory and Almanac showed that Miss Thompson was living at 22 Allergate from at least 1896 to at least 1915.

Dr R Banks noted that moreover, the application building was so occupied by the previous owner of number 22; was used by himself and his family at the time of listing; and, indeed, was advertised as an annex to number 22 when the property was recently sold. He added that therefore it was clear that the application building was an annex to number 22, and as such was a part of the Listed asset. Dr R Banks stated that to claim otherwise was wrong and negated the Officer’s recommendation at the end of the report.

Dr R Banks asked Members’ to draw their attention to the fact that Allergate was a small medieval street in a Conservation Area, and it required the Committee’s protection. He noted that if it was to retain its character and its heritage value to the City it was imperative that further subdivision of existing buildings, especially ones as sensitive and historically important as number 22, must not to be permitted. He commented that Bill Bryson’s “perfect little city” was constantly under threat from overdevelopment, and we must do all we could to protect what’s left.

Dr R Banks concluded by noting that on behalf of himself, his family and his neighbours he was earnestly asking the Committee to help sustain the historical integrity of Durham City and refuse the application.

The Chairman thanked Dr R Banks and asked Mrs Gabrielle Moore, the applicant to speak in support of her application.

Mrs G Moore thanked Members for the opportunity to speak and explained that the property had been bought at auction and financially to be able to carry out the necessary works to the beautiful listed building, 22 Allergate, it was necessary to carry out the proposed works to 22a Allergate. She noted that she had asked Planning Officers to view the property and for their suggestions in relation to an application. She explained that there had been proposals in relation to straightening out the roof line and the proposed extension did not affect the garden. She added for clarity that the application was for one additional property, not two additional properties.

Mrs G Moore noted she had read the history of the property within Peter Ryder's unpublished Buildings Survey and noted that the property had been rented out several times, with two doctoral students living in the property when she purchased the property. She added the property was in a highly sustainable location, less than 800 metres from the bus station.

Mrs G Moore explained she had offered to render the proposed extension and would be in sympathy with 22 Allergate and help 22a to blend in.

She noted that in the context of the comments on the medieval street, she agreed to the historic nature, however, pointed out that there were ugly concrete buildings to either side of 22a Allergate and that in order to carry out the restoration of 22 Allergate correctly the application as regards 22a Allergate was necessary financially.

Mrs G Moore concluded by noting that 22a Allergate had existed before those newer concrete buildings and that she felt when the proposed works were completed that the building would look better.

The Chairman thanked Mr G Moore and asked the Planning Team Leader, Central and East to comment on the points raised by the speakers.

The Planning Team Leader, Central and East noted in reference to the query as regards 22a being part of a Listed Building, she explained that when referring to Historic England guidance on the issue, when it came to determining the acceptability of alterations to curtilage structures it was important to remember that curtilage structures were not listed in their own right, but can be important for their contribution to the special interest of the principle listed building. She noted that the annex was within the rear garden boundary of the main listed house, forming part of its physical surroundings, it pre-dated the listing (1971) and the pre-1948 requirement and, as far as she understood, had always been within the same ownership as the house. She added however, it held no special interest historically, architecturally, or archaeologically, the main house being C17 while the annex C20, it had been in use as a separate dwelling for a considerable time and did no longer support the main house, and most importantly extending it would not affect the heritage significance of the principle listed building.

The Planning Team Leader, Central and East noted that given the buildings limited value it should not be treated as part of the listed building even though it is within its curtilage at the date of listing, and Listed Building Consent was not required for the proposals.

The Chairman thanked the Planning Team Leader, Central and East and asked Members of the Committee for their questions and comments.

Councillor D Freeman reiterated he was a Member of the City of Durham Parish Council, however, was not a member of their Planning Committee and had no input into their comments on the application. He noted that upon considering the application and the points raised by the speakers at Committee he had concerns. He added he was amazed that 22a was not considered part of the listed building, not only in respect that it was referred to as an annex to 22 Allergate. Councillor D Freeman noted there was a live planning application in consideration by the Authority relating to 22 Allergate which related to partial demolition and replacement of part of the building. He added that he did not understand the impact of this in the context of what Members were being asked to consider. Councillor D Freeman noted that the issue of backland development had been raised, saved Policy H10, and noted that this was dependant upon adequate parking provision. He noted there was no parking provision at all and therefore he felt the application was contrary to Policy H10 and others.

Councillor D Freeman noted that a number of residents of Hanover Court had objected to the application, the age of residents being around 60 to 100 years old. He noted that therefore the views from their homes and natural light were of particular importance to those residents and he felt the application failed on policy in terms of this.

Councillor D Freeman added he felt on a practical perspective the application was problematic, there being only one wooden door and corridor leading to the rear and 22a Allergate. He added he felt that they should be both considered as one property.

Councillor D Freeman added that he felt that if Members were minded to approve the application, there should be conditions to ensure the works to not adversely affect the area and neighbours.

Councillor O Temple asked as regards the saved Local Plan and the NPPF and asked if only the element relating to housing supply was considered out of date in this case. The Planning Team Leader, Central and East noted information as regards this was set out at paragraph 50 of the report and that Councillor O Temple was correct.

Councillor O Temple noted he felt it was odd that the application for 22 Allergate was being considered separated if 22a was considered an annex. He noted that he could see some benefits to the property being improved and noted City of Durham policies were clear in terms of views of the Cathedral not being interfered with. He noted he was minded to move deferral so that the application could be considered alongside the application for 22 Allergate, though would seek advice from the Solicitor.

The Solicitor – Planning and Development, Neil Carter referred to the Planning Team Leader, Central and East as regards the two applications being considered separate. The Planning Team Leader, Central and East noted that the building 22a Allergate had been referred to over time by several names, including the ‘Annex’ and the ‘Cottage’, there having been an evolution over time. She added that it was demonstrated that 22a had been and was occupied as a separate dwelling for a number of years, albeit in the same ownership as 22 Allergate. She noted that the “sister application” was referenced at paragraph eight of the report and was a more complex application and would be for consideration by Members should it come to Committee in due course. She noted that in terms of access, the site was not convenient with restricted access width, and added that a construction management plan would ensure impact on the surrounding area was minimised.

The Planning Team Leader, Central and East noted in terms of Hanover Court, Officers’ view was that there was sufficient separation distance in terms of light and overlooking. She added that while it was accepted that some views of the World Heritage Site may be lost, weight could not be afforded to the loss of a view for an individual. The Planning Team Leader, Central and East noted that in relation to saved Policy H10, as the development was an alteration to an existing building it was not considered backland development.

Councillor P Taylor noted it was good to hear from Parish Councillor G Holland and the references to the City of Durham Local Plan. He added that he felt that several points were not relevant, and he could hear the worry in the applicant's voice as regards the work to her properties. He noted he felt that on balance that a refusal would stop an improvement to the property.

The Chairman allowed Mrs G Moore to clarify as regards the demolition aspect of her other pending planning application. Mrs G Moore noted this related to part of the Listed Building and did not form part of the application before Members. She noted this was in respect of a 1940s addition that Members would have seen on their site visit and was not part of the medieval or Georgian building. She explained that she wished to complete any works very carefully and would not be removing any elements that were older than 50 years old.

Councillor I Jewell noted the site visit had been very interesting and noted that it was not for the Committee to carry the materials through the site for any developer. He added he felt the annex had been added piecemeal and that the extension and works proposed would improve the property. Councillor I Jewell noted he thought it was not helpful to confuse this application with other issues and that there was not reason for refusal. Councillor I Jewell moved that the application be approved, Councillor D Bell seconded the motion.

## **RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report.

### **e DM/17/03999/FPA - Former Greyhound Stadium Sunderland Road, Easington**

The Planning Team Leader, Central and East gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the demolition of the former Easington Greyhound Stadium and the erection of 47 no. dwellinghouses with associated access, landscaping and infrastructure and was recommended for approval, subject to conditions and appropriate Section 106 Legal Agreement.

The Planning Team Leader, Central and East noted the report was as set out within the agenda papers, with no objections from internal consultees, subject to the conditions and s106 Legal Agreement. She noted that Easington Village Parish Council objected to the application stating that they felt the village would be unable to cope with the additional infrastructure required. It was added one letter of objection had been received, with concerns as regards construction traffic, noise and disturbance.

The Planning Team Leader, Central and East noted that in reference to conditions, she noted amendments to include: a commuted sum in respect of affordable housing provision; additional highways conditions in respect of visual splay, the moving of the bus stop before occupation of properties, and roller doors to be fitted to the shorter driveways; and a condition as regards a hedgerow protection plan.

The Chairman thanked the Planning Team Leader, Central and East and asked Mr Adam McVickers to speak on behalf of the applicant in support of the application.

Mr A McVickers explained that the application location was a brownfield site, the former Easington Greyhound Stadium. He noted that the business had no longer been viable and had not operated for a number of years. He added that the site did not lend itself to a change of use application for conversion or alternative use. Mr A McVickers noted that the application represented the opportunity to bring the brownfield site back into use through the delivery of high quality two, three, four- and five-bedroom properties, the property mix being tailored to the Council's Strategic Housing Market Assessment (SHMA) and to provide 10 percent affordable housing in line with policy. He explained that while the development was outside of the settlement boundary, it was within an acceptable distance and accessible along a lit footpath via a short walk. He added that the nearby bus stop would be improved, and the site was a sustainable location.

Mr A McVickers noted that the developer had worked with the Planning Officers as regards the scheme and the benefits were set out within paragraph 46 to 48 of the report. He added that he requested that Members support the recommendation of Officers and approve the application.

The Chairman thanked Mr A McVickers and asked Members of the Committee for their questions and comments.

Councillor I Jewell noted the application appeared to be straightforward and in general very positive. He added he felt that within the conditions, and additional conditions and amendments mentioned by the Planning Team Leader, Central and East, that the level of mitigation in terms of impacts was appropriate. He therefore moved that the application be approved. Councillor P Taylor seconded Councillor I Jewell.

## **RESOLVED**

That the application be **APPROVED** subject to completion of a s106 legal agreement, the conditions as set out within the report and the additional conditions as set out by the Officer within the presentation.

# COMMITTEE REPORT

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## APPLICATION DETAILS

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APPLICATION NO:	DM/19/00324/AD
FULL APPLICATION DESCRIPTION:	<b>3 no. vertical halo illuminated signs and 1 no. non-illuminated vertical sign (amended description)</b>
NAME OF APPLICANT:	SC Claypath Ltd
ADDRESS:	20-29 Claypath, Durham, DH1 1RH
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Colin Harding, Senior Planning Officer, 03000 263945 <a href="mailto:colin.harding@durham.gov.uk">colin.harding@durham.gov.uk</a>

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## BACKGROUND

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1. **Members will recall that this application was considered by the Central and East Planning Committee on 9<sup>th</sup> April 2019, where it was resolved to defer a decision on the application in order to allow the applicant to reconsider the signage proposals, particularly in relation to the number of signs proposed, and their illumination.**
  2. **Amended plans have now been received, and this report has been updated to reflect those amendments, with any alterations indicated by the use of bold text.**
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## DESCRIPTION OF THE SITE AND PROPOSALS

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### Site

3. The application site relates to a site at 20-29 Claypath within Durham City Centre, on which a Purpose Built Student Accommodation (PBSA) development is currently under construction. The site lies immediately to the south west of Christchurch which is a Grade II listed building, and to the north of the former Council offices at no.17 Claypath.
4. The site lies within Durham City Centre Conservation Area, and Claypath is acknowledged as being an historic primary route to the heart of the city centre and peninsula, and contains several listed buildings, of which nos.32, 83, 91 and 91A, as well as The Big Jug Public House are considered to be closest.
5. Claypath itself contains a mix of uses including both commercial and residential, and a number of properties display signage, some of which is externally illuminated.

6. **Advertisement Consent is sought for 4no. vertical signs, three of which would be halo illuminated and one, on the eastern gable of the building, which would be non-illuminated. It is the removal of the illumination from one of the signs which constitutes the main amendment. The signs would all take the form of individually cut stainless steel letters of approximately 80mm depth and, where illumination is proposed, would be lit by Warm White LEDs with illumination not exceeding 250cd/m<sup>2</sup> and would identify the property as being operated by “StudentCastle”. The overall height of the signage would be 2.1m.**
7. Of the four proposed signs, two would be located on the front elevation of the building, located within natural recesses above both the pedestrian entrance to the building, and also the gated vehicular access, these signs would be located 5.8m and 5.2m above ground level respectively at their lowest points. **These signs would be illuminated.** The remaining two signs would be located on both the eastern and western gable ends, close to the front elevation. The western sign would effectively be located above the Gala Theatre Service Yard entrance, 7m above ground level, and the eastern above the service access road adjacent to Christchurch, around 6.1m above ground level. **The western elevation sign would be illuminated, but that on the eastern gable, closest to Christchurch would be not be illuminated.**
8. The application is being presented to the Council’s Central and East Planning Committee at the request of City of Durham Parish Council.

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## **PLANNING HISTORY**

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9. DM/18/02897/AD - Advertisement consent for temporary advertisement hoarding (Retrospective) – Approved 14.01.2019
10. DM/16/03213/VOC - Variation of Condition 2 of planning permission DM/14/03842/FPA to provide 28 additional student bedrooms (new total of 473 bedrooms), amend layout, materials and design, and allow use of 47 bedrooms for visitor accommodation for short stays on an aparthotel basis. (Amended Description) – Approved 06.06.2017
11. DM/14/03842/FPA - Demolition of buildings and redevelopment to provide student accommodation (445 bedrooms), associated offices & A1 retail unit at ground floor – Approved 13.07.2015

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

12. A revised National Planning Policy Framework (NPPF) was published in February 2019. 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.

13. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
14. The following elements of the NPPF are considered relevant to this proposal.
15. *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.
16. *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.
17. *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.
18. *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.
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 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>

21. 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; advertisement consent, neighbourhood planning and use of planning conditions

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

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

City of Durham Local Plan (2004) (CDLP)

22. *Policy E3 – (World Heritage Site)* – Protection seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
23. *Policy E6 – (Durham City Centre Conservation Area)* – states that the special *character*, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
24. *Policy E21 – (Historic Environment)* – states that the historic environment of the district shall be preserved and enhanced by requiring development proposals to minimise adverse impacts on significant features of historic interest within or adjacent to the site, and encourage the retention, repair and re-use of buildings and structures which are not listed, but are of visual interest.
25. *Policy E22 – (Conservation Areas)* – seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details
26. *Policy E23 – (Listed Buildings)* – seeks to safeguard listed buildings and their settings by only permitting alterations and extensions to listed buildings which are sympathetic in design, scale and materials; not permitting alterations to architectural or historic features which adversely affect the special interest of a listed building; not permitting total or substantial demolition of a listed building; and, not permitting development which detracts from the setting of a listed buildings.
27. *Policy Q16 (Advertisements – General Criteria)* – states that advertisement consent will be granted for non-illuminated and illuminated signs provided that their size, design, materials, colouring, and in the case of illuminated signs, on commercial premises for appropriate uses and particular opening hours, their form of illumination would not be detrimental to visual amenity or highway safety. It also states that particular attention will be paid to the impact of advertisements upon the character and setting of listed buildings and the character and appearance of conservation areas in accordance with policies E6, E22 and E23.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <http://www.durham.gov.uk/article/3266/Whats-in-place-to-support-planning-and-development-decision-making-at-the-moment> (City of Durham Local Plan)*

## RELEVANT EMERGING POLICY:

### The County Durham Plan

28. 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.

### Durham City Neighbourhood Plan

29. The Durham City Neighbourhood Plan is at an early stage of preparation and has not yet reached a stage where weight can be afforded to it.

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

30. *City of Durham Parish Council* – Object to the application. It is noted that the proposed signs are in a prominent location near the historic Market Place with its Grade II\* listed Town Hall, and in Claypath itself, the listed buildings of Christchurch and nos. 32, 83, 91 and 91A, as well as The Big Jug, and within Durham City Centre Conservation Area. The Parish Council does not believe that it is necessary to have illuminated advertisements promoting the business and the brand, nor for those arriving at the property for the first time. It is considered that there are very effective non-illuminated signs, and having found the property for the first time, it would appear unnecessary for the student residents to have to be reminded every day and night thereafter of where they live in Durham. The Parish Council considers that the proposed signs being illuminated would have an adverse impact upon significant features of historic interest within, or adjacent to the site, and would detract from the character and appearance of the conservation area. The Parish Council also request that should officers be minded to support the application, that it be called to planning committee.
31. **Since the consideration of this application by Members on 9<sup>th</sup> April 2019, City of Durham Parish Council have made further representations. Within these it is recognised that the deferment of the application was a helpful and constructive decision. Additionally, it is noted that the name “20-29 Claypath” does not appear on any of the signage, and it is considered that the building should have an actual name in line with other PBSA, that the name should be prominent, that there should be two, not four, prominent name signs, and that the signs should not be illuminated.**
32. *Highway Authority* – No objections are raised.

### INTERNAL CONSULTEE RESPONSES:

33. *Design and Conservation* – No objections are raised. In considering this proposal policies E6 and Q16 of the City of Durham Local Plan are of particular relevance. For completeness the impact on the WHS has also been considered but given the intervening topography and development there is considered to be no impact on this either in daytime or night-time.

34. The form and chosen location of the proposed signage reflect the design of the overall building being simple and clean whilst following the vertical rhythm of the newly created blocks. Given the direction of travel of both pedestrians and vehicles in Claypath the use of solely the gable signage may suffice as points of identification, however, the inclusion of the two signs to the front elevation as submitted does not unduly increase the prominence of the overall scheme.
35. Given the scale, location and quantum of signage proposed and the subtle halo illumination it is considered that the proposal will not be harmful to visual amenity within the local environment and thus will not be harmful to the significance of designated assets or their setting in the context of a vibrant historic city centre.

#### **EXTERNAL CONSULTEE RESPONSES:**

36. *Durham Constabulary* – Originally objected to the proposals on the basis that University College is known commonly as “Castle” and hosts students, and that there would be potential implications for emergency response, and opportunities for confusion having two “student castles” within such close proximity. However, following further internal discussions within Durham Constabulary, it has become apparent such problems are not unknown, and that Durham Constabulary Command and Control systems can be updated to mitigate the possibilities for confusion. As a result, the objection has been withdrawn.

#### **PUBLIC RESPONSES:**

37. The application has been advertised by means of individual notification letters and site notice. **The application has not been the subject of further consultation following the removal of illumination form one of the advertisements.**
38. No comments have been received from individual properties, or businesses, however, two objections have been received from St Nicholas Community Forum and the City of Durham Trust.
39. *St Nicholas’ Community Forum* – Object to the application. Concern is raised over the naming of the building as “Student Castle”, and reference is made to previous discussions that have taken place between the Forum and the County Council’s Street Naming and Numbering Team. The concern raised is that Durham University College is widely known across the city community as “Castle”, and that to have two student residences in close proximity with virtually the same name could too easily give rise to a detrimental effect in an emergency. Reference is made to correspondence received from the Council’s Street Naming Officer which confirms that the developer’s business name “Student Castle” will not be used in the building name for the development.
40. *City of Durham Trust* – The vertical arrangement and size of the lettering is appropriate, but the proposed illumination, even though of the halo variety, must be questioned. It is a building which will be open at all hours because of the lifestyle of the residents, not to attract night-time customers. An appropriate precedent among PBSAs is the lettering on Duresme Court. A Claypath precedent, visible in the northwards cone of vision with Studentcastle, is the lettering on the face of Millennium Place advertising the Gala Theatre.

#### **APPLICANTS STATEMENT:**

41. The construction of the building providing 445 bedrooms for students with retail use on the ground floor is almost complete and is due to open later this year.

42. This advertisement consent application is for the display of four signs to signpost and advertise this business and the Student Castle brand within the street scene. Two of the signs will be located on the left and right of the principle south facing elevation, fronting Claypath. The other two signs will be located on the east and west facing elevations and will be visible along Claypath. The signs are an integral part of the development's design and are an important part of directing students and visitors to the accommodation and ultimately ensuring the commercial success of Student Castle's development. The design of the signs is of a high quality and will enhance the appearance of the building. The signs will consist of individual stainless-steel symbols and letters, which will be internally illuminated by warm white LED's to highlight the 'Student Castle' name and logo. The signs will in no way detract from the character or the appearance of the conservation area or the overall street scene.
43. When assessed against the policies of the NPPF (February 2019) and the saved policies of the Durham City Local Plan, the proposed signs comply with all relevant criteria. It therefore our view that this application should be approved.

*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 <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=summary&keyVal=PM8YQRGDHJG00>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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44. Advertisements are controlled under the Town and Country Planning (Control of Advertisements) Regulations 2007. This enables the Local Planning Authority to consider such proposals in terms of the interests of 'amenity' and where applicable, 'public safety', taking into account the provisions of the development plan where material, and any other relevant factors.
45. Paragraph 132 of the NPPF states that the quality and character of places can suffer when advertisements are poorly sited and designed, and that poorly placed advertisement can have a negative impact upon the appearance of the built and natural environment. It goes on to state that the separate consent for advertisements should be operated in a way which is simple, efficient, and effective. Furthermore, advertisements should be subject to control only in the interests of amenity and public safety, taking into account of cumulative impacts.

### **Amenity**

46. Planning Practice Guidance clarifies that unless the nature of the advertisement is in itself harmful to amenity or public safety, consent cannot be refused because the local planning authority considers the advertisement to be misleading (in so far as it makes misleading claims for products), unnecessary, or offensive to public morals. It also clarifies that amenity can include aural and visual amenity, and that factors relevant to this can include the presence of any historic, architectural, cultural or similar interest. It also states that in practice amenity is usually understood to mean the effect on visual and aural amenity in the immediate neighbourhood of a site, where residents or passers-by will be aware of the advertisement.
47. In addition, policies with the Development Plan may also be taken into account where relevant. In this respect, given the location of the site within Durham City Conservation Area, in close proximity to several listed buildings, and within the inner setting of Durham Castle and Cathedral World Heritage Site, CDLP Policies E3, E6, E21, E22 and E23, which relate to the protection of such heritage assets are considered relevant, as is CDLP Policy Q16 which relates to advertisements.

48. As outlined above, objections have been received from the Parish Council, as well as City of Durham Trust relating to the visual impact that the proposed signage would have upon heritage assets and questioning the need for illumination.
49. The design of the proposed signage is considered to be acceptable, being well considered in terms of approach and location, as well as scale.
50. CDLP Policy Q16 in part advises that illuminated advertisements should be located on commercial premises for appropriate uses and particular opening hours, although it does not specify what an appropriate use comprises or provide any detailed advice with regards to particular opening hours. The development in question is of a mixed-use, although the signage proposed appears to relate solely to the residential element which forms a substantial part of the development. The development to which the adverts relate is residential and does not have defined operational hours, albeit the site is also run commercially by a PBSA provider. It is considered reasonable that branding be applied to the building in common with many PBSA schemes both within Durham and in other cities. The concerns of the City of Durham Trust and Parish Council are noted, however, it is conceivable that residents, and more likely, visitors may wish to easily identify the property during hours of darkness and it is considered reasonable to allow them do so. Therefore, there is no issue in principle with the signage being illuminated and notwithstanding this the key consideration is ultimately a matter of the acceptability of the amenity impacts which are primarily visual.
51. The proposed form of illumination is considered to not be harmfully conspicuous, using LEDs of 250 candelas/m<sup>2</sup> to backlight individual letters meaning that it would not be excessively bright or harsh. Additionally, the signage on the front elevation would be located with recesses in the building line, and the signage on the ends of the building would be located with relatively narrow vehicular accesses which restricts the views within which they would be visible. Claypath itself is characterised by a number of different uses, many commercial, and exhibiting various signage, some illuminated by a variety of methods. As a result, it is considered that the proposed signs would not appear incongruous or harmful in this city centre context, in accordance with CDLP Policy Q16.
52. In terms of impacts upon heritage assets, turning first to the setting of the World Heritage Site, it is considered that due to intervening topography and existing built development, the level of illumination proposed, and the generally discreet location of the signage, both local and long-distance views would not be impacted upon adversely, in accordance with CDLP Policy E3.
53. Equally, it is considered that the signs would not have an adverse impact upon Durham City Centre Conservation Area. Whilst illuminated signage in some parts of the Conservation Area may not be appropriate, in this location, where there is a mix of commercial uses with existing illuminated signage and taking into account the particular illuminated signage proposed it is considered that there would not be any harm on heritage assets, in accordance with CDLP Policies E6, E22 and E23 or the historic environs of the site having regards to Policy E21, thus preserving the character and appearance of the Conservation Area. The Council's Design and Conservation Team raise no concerns with the proposed signage.
54. Overall the design, appearance and siting of the advertisements proposed are considered acceptable in amenity terms having regards to both the general characteristics of the locality and having regards to heritage assets which include those upon which the Local Authority have statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990. The advertisements raise no issues with regards to aural amenity considerations.

55. Therefore, with regards to issues of amenity, the advertisements are considered compliant with CDLP Policies E3, E6, E21, E22, E23 and Q16 and Parts 12 and 16 of the NPPF. Policies E3, E6, E22 and E23 are partially consistent with the content of the NPPF and E21 and Q16 fully consistent and each can be attributed weight in the decision-making process.
56. **Since Officers considered that the signage proposals were acceptable in terms of amenity in their originally submitted form, the proposed amendments do not alter conclusions reached on this matter. Notwithstanding this, the removal of illumination from the eastern gable sign is welcomed and would further assist in this particular sign assimilating into the streetscape.**

#### Public Safety

57. The Town and Country Planning (Control of Advertisements) Regulations 2007 state that factors relevant to public safety include;
- i) the safety of persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
  - ii) whether the display of the advertisement is likely to obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air;
  - iii) whether the display of the advertisement in question is likely to hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle.
58. This, however, is not an exhaustive list, and it is considered that uncommonly, matters of safety beyond those cited may constitute issues that require consideration, and that such issues could include concerns raised by St Nicolas' Community Forum relating to public safety arising from confusion as a result of the building becoming known as "StudentCastle".
59. It is understood that the primary concern relates to the fact that University College, which provides student accommodation at Durham Castle is commonly known colloquially as "Castle" or "Castle College", and that 20 – 29 Claypath becoming known as "StudentCastle", would lead to potential confusion when reporting incidents to the emergency services, where either location could conceivably be described as castle-related student accommodation.
60. Before considering this issue further it is important to note that the actual name of this building on Claypath does not fall within the remit of this application, and the Council's Street Naming and Numbering Team have confirmed that the building is formally named "20-29 Claypath". However, it is considered to not be unreasonable for a commercial brand to identify themselves on a building which they occupy, and "StudentCastle" is an established brand that operates student accommodation in 7 different cities across the country. It is not a proposed name for the building. Notwithstanding this, Officers accept that it is reasonably likely that the building will become known locally as "StudentCastle", however it is also considered that this could occur regardless of the presence or otherwise of signage on the exterior of the building due to it being the name of the operator.
61. On the issue of potential confusion, Durham Constabulary originally raised concerns with regards to this application, however following further internal discussions with the Constabulary's Command and Control section, it became apparent that emergency service systems can be updated to take account of the issues of concern, and the objection was subsequently withdrawn.

62. Indeed, for context, it is noted that there are several instances within the Durham City of there being buildings of similar name, usually where a commercial operator has more than one outlet. Some examples within the city centre include Greggs Bakery (North Rd & Saddler St plus Arnison Centre), Flat White Café/Flat White Kitchen (Elvet Bridge & Saddler St), JD Wetherspoon/Lloyds No.1 (sometimes also referred to as being a Wetherspoon premises) (North Rd & Millennium Place), and Tesco (North Rd & Market Place – plus Dragon Lane). Further examples within the wider city include Lebaneat (North Bailey & Sunderland Rd), Bell's Fish & Chip Restaurant (Market Place, Sunderland Rd & Old Pit Lane), Boots Chemist (Prince Bishop's Shopping Centre, Durham City Retail Park & Arnison Centre), New Look (Prince Bishop's Shopping Centre & Arnison Centre), and Premier Inn (Rotary Way, Freeman's Place & Belmont Industrial Estate).
63. In conclusion, therefore, the concerns raised by St Nicholas' Community Forum with regards to potential confusion of properties have been considered, and with Durham Constabulary having confirmed that the building being known as "StudentCastle" would not lead to confusion within the emergency services so as constitute an issue of public safety concern, it is considered that it would be unreasonable to withhold advertisement consent on this basis. Additionally, it is considered that the proposed signage would not lead to any highway, railway, waterway, dock, harbour or aerodrome safety concerns. Nor would it obscure road signs, CCTV or speed cameras. Accordingly, the proposed signage is considered to be acceptable having regards to matters of public safety.
64. Additionally, it is also considered that any potential issues would not necessarily be directly related to the signage itself, or more pertinently, that the refusal of this particular application would not prevent the site becoming known as "StudentCastle" in any case. As a result, in regard to matters of public safety the proposals are considered compliant with CDLP Policy Q16 and Part 12 of the NPPF.

### Other Issues

65. **The additional representations of City of Durham Parish Council with regards to the name of the building are noted, however, the content of the signage is not a matter which can be considered as part of this application, nor is a proposed name, or indeed lack of a proposed name. The naming of buildings is solely a matter for the Council's Street Naming and Numbering Team, in conjunction with the owner/occupier, and falls outside of the scope of the Advertisement Regulations.**

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## CONCLUSION

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66. The Town and Country Planning (Control of Advertisements) Regulations 2007 state that applications for advertisement consent should be considered only in terms of their impact upon amenity and public safety.
67. With regards to amenity, it is considered that the signage would be appropriately designed and located, and despite its illumination, would not have an adverse impact upon the character of the area or either designated or non-designated heritage assets. It would therefore preserve the character and appearance of the Conservation Area and the setting of the listed buildings in accordance with sections 66 and 72 of the Listed Building Act. The Council's Design and Conservation Officers raise no objections to the proposal.

68. Turning to public safety, no objections are raised by the Highway Authority or Durham Constabulary, and the signage would be designed and located so as to not affect highway safety.
69. The concerns of City of Durham Parish Council, City of Durham Trust and St Nicholas' Community Forum have been considered but are not considered to raise issues that would warrant the refusal of the application, which is considered to be in accordance with CDLP Policies E3, E6, E22, E21, E23 and Q16, as well as key advice within the NPPF most notably in Parts 12 and 16.

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## RECOMMENDATION

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That the application be **APPROVED** subject to the following conditions:

- 1) This consent to display the advertisements is for a period of five years from the date of this permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 and Part 12 of the NPPF.

- 2) The development hereby approved shall only be carried in strict accordance with the following plans:

<p>ADVERTISEMENT PLACEMENT PLAN  <b>BUILDING ELEVATIONS EXISTING AND PROPOSED</b>          SITE GA PLANS - SITE LEVEL 2  <b>STUDENT CASTLE ADVERTISEMENT DESIGN FOR ELEVATIONS</b></p>	<p><b>103s</b></p>	<p>01/02/19  <b>25/04/19</b>           01/02/19  <b>25/04/19</b></p>
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Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E3, E6, E21, E22, E23 and Q16 of the City of Durham Local Plan.

- 3) Any advertisements displayed and any site used for the display of advertisements shall be maintained in a condition which does not impair the visual amenity of the site.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 12 of the NPPF and in the interests of visual amenity in accordance with Policies E3, E6, E21, E22, E23 and Q16 of the City of Durham Local Plan 2004.

- 4) Any structure or hoarding erected or used principally for the purpose of displaying advertisements shall be maintained in a condition that does not endanger the public.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 12 of the NPPF and in the interests of visual amenity in accordance with Policies E3, E6, E21, E22, E23 and Q16 of the City of Durham Local Plan 2004.

- 5) Where any advertisement is required under these Regulations to be removed, its removal shall be carried out to the reasonable satisfaction of the Local Planning Authority.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 12 of the NPPF and in the interests of visual amenity in accordance with Policies E3, E6, E21, E22, E23 and Q16 of the City of Durham Local Plan 2004.

- 6) No advertisement is to be displayed without the permission of the owner of the site or any person with an interest in the site entitled to grant permission.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 12 of the NPPF and in the interests of visual amenity in accordance with Policies E3, E6, E21, E22, E23 and Q16 of the City of Durham Local Plan 2004.

- 7) No advertisement shall be sited or displayed so as to obscure or hinder the ready interpretation of any road traffic sign, railway sign or aid to navigation by water or air, or so as to otherwise render hazardous the use of any highway, railway, waterway or aerodrome (civil or military).

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 12 of the NPPF and in the interests of visual amenity in accordance with Policies E3, E6, E21, E22, E23 and Q16 of the City of Durham Local Plan 2004.

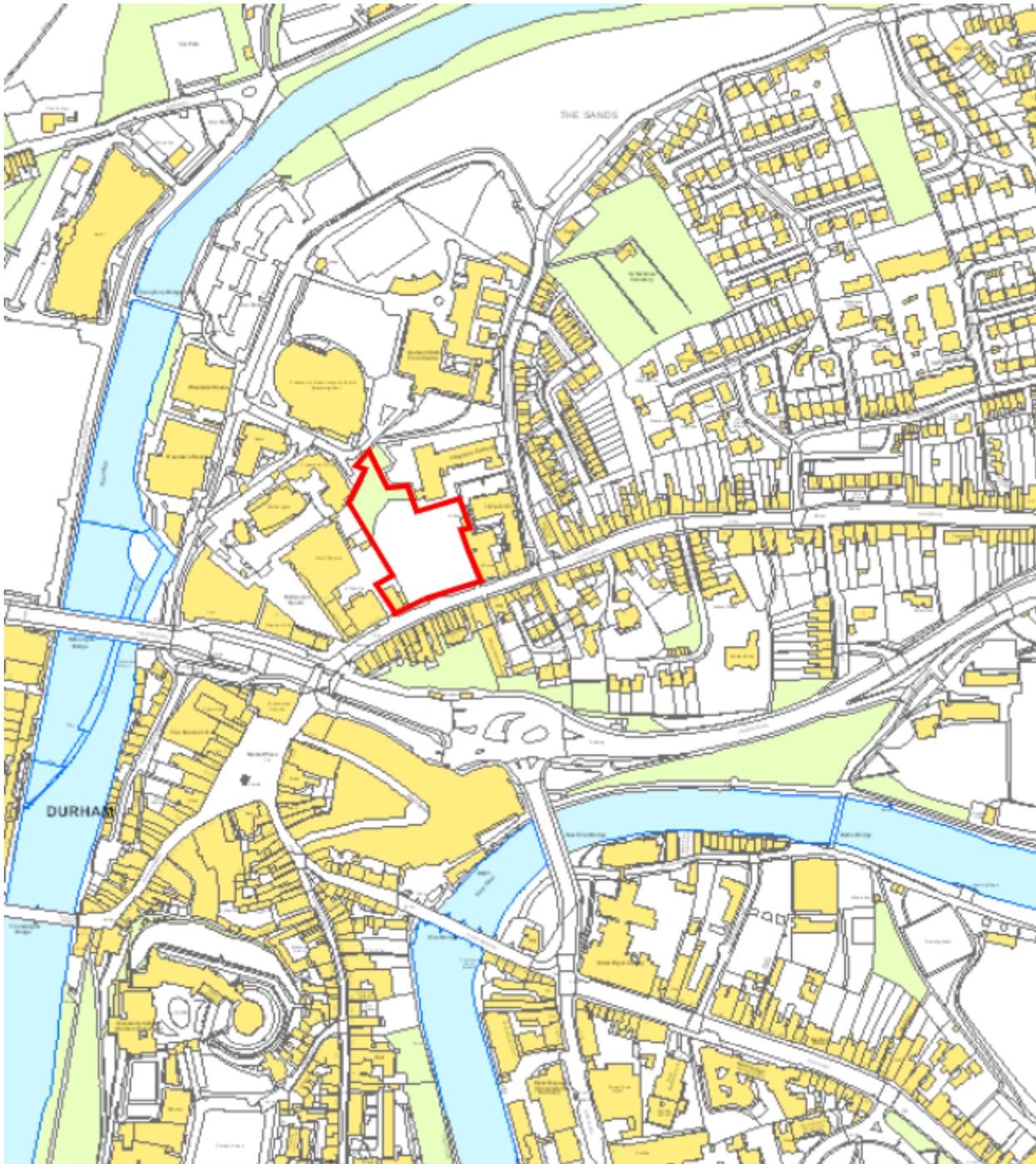
- 8) The intensity of the illumination of the sign(s) hereby approved shall not exceed 250 candelas per square metre and the source of illumination shall not be intermittent or flashing.

Reason: To comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, comply with the requirements of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, Part 12 of the NPPF and in the interests of visual amenity in accordance with Policies E3, E6, E21, E22, E23 and Q16 of the City of Durham Local Plan 2004.

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## **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 2004
- Statutory, internal and public consultation responses.



**Planning Services**

DM/19/00324/AD

**3 no. vertical halo illuminated signs and 1 no. non-illuminated vertical sign (amended description) at 21-29 Claypath, Durham, DH1 1RH**

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**Comments**

**Date** May 2019

**Not to Scale**

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/19/00178/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	17 bungalows with associated infrastructure
<b>NAME OF APPLICANT:</b>	County Durham Housing Group
<b>ADDRESS:</b>	Land To The North Of St Godrics Close, Newton Hall,
<b>ELECTORAL DIVISION:</b>	Framwellgate and Newton Hall
<b>CASE OFFICER:</b>	Barry Gavillet, Senior Planning Officer, <a href="mailto:barry.gavillet@durham.gov.uk">barry.gavillet@durham.gov.uk</a> 03000 261958

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### Site:

1. This application site is located within the settlement boundary of Durham City within the Framwellgate Moor and Newton Hall Electoral Division to the northern part of the city. The site is currently open grassland and is located to the east of Framwellgate Moor, 2 miles (3.3km) to the north of Durham City Centre. The site is located on an area of undeveloped land to the north of St Godric's Close and south of Raby Road. The immediate surrounding area is predominantly residential to the north, east and south, with Hawthorn Residential Day Care Centre and St Godric's RC Primary School to the west.
2. Framwellgate Moor is a village of approximately 6,000 population located adjacent to Pity Me and Newton Hall, to the north of Durham. Facilities in the surrounding area include New College Durham, the Arnison Centre, Framwellgate High and Primary School, library, community centre, clinic, churches, local shops, restaurants and public houses along with regular bus services.
3. A public recreational space including children's play area and playing fields is located 700m to the east off Lumley Road and Richmond Road. The site is relatively flat and has an open grassed aspect. The levels of the site rise on the eastern boundary.

### Proposal:

4. This application proposes a residential development of 17 bungalows along with associated infrastructure, constructed from a traditional facing brick and render with tiled roofs to match in with the existing area.
5. The scheme involves 15 two-bedroom bungalows and 2 three-bedroom bungalows which would be let as traditional affordable rented dwellings.

6. Access to the development would be taken off St Godric's Close with a new adopted highway complying with Durham Council Highway Department standard design criteria. The existing turning head to the east of St Godric's Close will be stopped up. Turning heads will be provided in the new adopted highway and at the junction with St Godric's Close. The bungalows are located around the perimeter of the site on the east, north and southern boundaries. No proposed dwellings directly impact onto Hawthorn House.
7. A communal green open space is located adjacent to Hawthorn House with natural surveillance provided from the proposed bungalows and Hawthorn House.
8. The bungalows would be constructed with red multi facing brick external walls under a concrete tiled grey pitched roof and full height windows to kitchen/dining room along with black window and door frames, fascia and rainwater goods.
9. Landscaping would be provided to the front garden areas of the individual plots whilst all rear gardens would be turfed. The communal open space adjacent to Hawthorn House would be a combination of turf, new trees and shrubs.
10. Boundary treatments would comprise of a combination of polyester powder coated metal railings to the front elevations and treated timber hit and miss fencing to private rear gardens.
11. This application is being reported to committee as it is classed as a major application.

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## **PLANNING HISTORY**

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12. None relevant

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

13. 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.
14. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
15. *Part 2* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.

16. *Part 5* - To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
17. *Part 8* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible, Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
18. *Part 9* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.
19. *Part 12* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
20. *Part 14* - Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
21. *Part 15* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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

##### City of Durham Local Plan

22. Policy H2 (New Housing Development within Durham City) sets out criteria outlining the limited circumstances, in which new housing within Durham City will be permitted, this being primarily appropriate on previously developed land and through conversions.
23. 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.
24. Policy H14 (Improving & Creating More Attractive Residential Areas) seeks to improve the environment of existing residential areas and their housing stock.

25. 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.
26. 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.
27. Policies Q1 and Q2 (General Principles Designing for People and Accessibility) states that the layout and design of all new development should take into account the requirements of all users.
28. Policy 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.

## **RELEVANT EMERGING POLICY:**

### The County Durham Plan

29. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.
30. 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. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

31. None

### **INTERNAL CONSULTEE RESPONSES:**

32. Highways officers have confirmed that no highway objections are raised subject to a condition relating to a construction management plan given the proximity of the nearby school and day care centre.

33. Spatial Policy offers no objection to the proposal subject to the applicants providing sufficient s106 contributions to mitigate the development. It is noted that the site is green in the SHLAA confirming that the site is suitable for housing.

34. Education officers confirm that primary school places are insufficient therefore, a contribution is required. There are sufficient secondary school places in the area.

35. Pollution Control do not object subject to a contaminated land condition.

36. Tree officers have no objections subject to a condition requiring tree protection.

37. Landscape officers have no objections.

38. Ecology officers do not object.

### **PUBLIC RESPONSES:**

39. Northumbrian Water have no objections subject to a condition requiring details of foul water drainage.

40. NHS require a contribution toward healthcare provision in the area.

41. No responses have been received from members of the public.

### **APPLICANTS STATEMENT:**

42. The application provides 17 new bungalows for affordable rented on undeveloped land at St Godric's Close in Newton Hall, Durham. The site is approximately 2 miles north of Durham city and is well located with good access to shops and amenities. The new homes will be owned and managed by Believe Housing (formerly known as County Durham Housing Group), a registered provider of social housing.

43. The proposed site layout has been designed to reflect the urban grain of existing residential dwellings along St Godric's Close and Raby Road. Access to the development is taken off St Godric's Close with a new adopted traditional highway complying with Durham Council's Highway Department standard design criteria.

44. The bungalows are located around the perimeter of the site on the east, north and southern boundaries. No proposed dwellings directly impact onto Hawthorn House. A communal green open space is located adjacent to Hawthorn House with natural surveillance provided from the proposed bungalows and Hawthorn House.

45. The proposed mix includes 15 two-bedroom bungalows and 2 three-bedroom bungalows which will be let as traditional affordable rented dwellings via a Choice Based Lettings service based on priority need. Demand for bungalows in this area of the county is very high and there's a considerable waiting list for them; this was reaffirmed at our public consultation event where residents expressed a preference for bungalows; local members have also been very supportive of the proposals to develop bungalows on the site.
46. The Strategic Housing Market Assessment (SHMA) 2016 indicates a net shortfall of 148 older persons' homes per year, driven by the aging population where there is expected to be a 46% increase in the number of people over 65 (compared to 2015), reaching 152,000 by 2037. The 17 new homes will also be built to wheelchair user adaptable standards which provides more sustainable accommodation that will help to meet the needs of an ageing population in the longer term.
47. In summary the proposed development at St Godric's Close, Newton Hall has been well designed and will provide much needed new affordable homes that will be highly sought after.

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

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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48. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the impact upon surrounding occupiers and character and appearance of the area, highways issues and section 106 contributions.

### **Principle of the development**

49. This application proposes a residential development of 17 bungalows on the site of Council owned open land, frequently used for grazing and informal open space. The site lie within the built-up area of Newton Hall which is to the northern extremity of Durham City Centre as defined in the City of Durham Local Plan. It is considered to be a highly sustainable location which is capable of supporting local resident's daily needs. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 11 of the NPPF. However, the NPPF advises at Paragraph 213 that the weight to be afforded to Local Plan policy will depend upon the degree to which the policy is consistent with the NPPF.
50. The CDLP was adopted in 2004 and was intended to cover a five-year period. 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. 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 depending on the circumstances. This application proposes a scheme of 17 dwellings within the settlement boundary of Durham City as defined in the Local Plan. In planning terms, the development of the site for housing would not be in conflict with saved housing policies in the Local Plan. However, housing policies in the Local Plan are considered to be out of date and therefore the application must be considered in the context of paragraph 11 of the NPPF. Whilst weight can still be afforded to saved housing policy, the weight must be accordingly reduced. This will be discussed in more detail later in this report.

51. Subject to matters of access and layout discussed below, the site has scope to accord with the detailed requirements of saved policy Q8 related to design, saved policies Q1 and Q2 relating to access and means of travel, the objectives of saved policy H2 relating to Housing in Durham City and saved policy H13 relating residential areas.

## **The NPPF**

52. 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 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.

53. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.

54. The NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 11 of the NPPF is engaged, and an application is to be assessed in this context.

55. However, Paragraph 11 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the DLP are out-of-date where outlined below.

### *Five Year Housing Land Supply*

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

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

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

59. The Government also issued draft planning guidance on 9 March 2018, which sets out that where a local plan is more than five years old and the housing figure needs revising, as is the case in County Durham, the starting point for calculating land supply will be local housing need using the standard methodology.
60. On the 13<sup>th</sup> June, the 'Preferred Options' of the County Durham Plan (CDP) was presented to the Council's Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.
61. In a recent written representations appeal involving a site in Esh Winning, the Inspector took the view that housing supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework. However, the Planning Inspectorate have subsequently confirmed that the Inspector misapplied paragraph 74 as it was impossible for the Council to have an Annual Position Statement in place at the time of the appeal. In addition, in three further, more recent, written representation appeals, the Inspector outlined that there are also the requirements of Paragraph 73 under which Councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.
62. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.
63. Paragraph 11 of the NPPF is engaged because saved housing policies and the evidence which underpins them are out of date. As there are no policies which protect areas or assets of particular importance which would provide a clear reason for refusal, the application must therefore be approved unless any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. It is appropriate to carry out this balancing exercise after consideration of all other planning matters set out in this report.

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

64. 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.
65. Schemes should provide adequate open space, appropriate landscape features and screening (where required) and development should have no serious adverse impact on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
66. In terms of the street scene it is considered that the scheme is of a good quality. Dwellings would be single storey bungalows, and all would have their own front and rear garden areas along with an appropriate level of parking spaces, additional visitor spaces would also be provided. The dwellings would be constructed from a mix of brick, render and concrete roof tiles which is considered appropriate in this location being similar the scale and design of others in the area.

67. No objections have been received from nearby residents, moreover it appears that the development was generally welcomed when the developer carried out a public consultation.
68. With regard to the impact on the amenity of existing residents who surround the site and that of those occupying the proposed new properties, the distancing standards as set out in the City of Durham Local Plan are adhered to in all instances to ensure there are no adverse impacts in terms of overlooking, loss of privacy, loss of light or overshadowing.
69. Overall, it is considered that the proposals would lead to a good quality housing scheme on what is a previously developed site in a location which is considered to be sustainable. There would be little or no impact on nearby residents given the distances involved. Having regards to part 12 of the NPPF and the most applicable Policies of the City of Durham Local Plan officers raise no objections to the application having regards to the impact upon surrounding residents and character and appearance of the area.

### **Highways Issues**

70. Saved Policies Q1, Q2 and T1 relate to access and traffic. Highways officers have confirmed that the access, level of off-street and visitor parking are all acceptable, the proposal will require roads and footpaths within the site area to be finished to an adoptable standard which is acceptable. However, given the proximity of the school and day car centre, a condition is required which would ensure that there would be no conflict with school arrivals and construction traffic.
71. On the basis of the above, highways officers offer no objections to the proposals and it is therefore considered that with regard to highways issues that the proposals are in accordance with part 9 of the National Planning Policy Framework and saved Policies Q1, Q2 and T1 of the City of Durham Local Plan.

### **Section 106 contributions and viability**

72. County Durham Housing Group have submitted a viability appraisal showing that the development would not be viable if the full open space and education contribution were required and that the benefits of the scheme would outweigh any adverse impact.
73. On this basis, a consultation has been carried out with the Councils Assets team and the Housing Development Manager.
74. Colleagues have stated that the site is currently included in an option agreement between the County Council and CDHG as part of the Council's commitment to assist with CDHG's target of delivering 700 new homes by 31<sup>st</sup> March 2022.
75. The requirement to provide accommodation for older people has increased significantly and the trend is set to continue. Baseline population projections undertaken over the County Durham Plan period, indicate that both the number and proportion of older age people will increase. Over the same period 2016 – 2035, a minimum of 90% of household growth over the Plan period will be in households aged over 65.

76. The Strategic Market Housing Assessment provides an analysis of property type preferences which suggests that, primarily, delivery of houses is a priority (with 66.6% stating an expectation of moving to a house), followed by bungalows (24.4%) and flats (9%). A summary of open market dwelling stock and preferences shows that the current stock in the county has 9.6% bungalow provision, however the housing expectation is that 15.2% of the stock should be bungalow provision. The SHMA also examines the tenure of property types, highlighting that only 5.6% of current private rented properties are bungalows. It also highlights that there is a shortage of bungalows across the market.
77. Whilst there is significant need across the county developers are typically not providing schemes with significant numbers of bungalows as they do not allow for the highest densities resulting in reduced capital values in comparison to unrestricted residential developments.
78. Newton Hall/Durham City is a high value location within the county, this makes it important to create affordable products in a location that is otherwise unaffordable to often out of the reach of those with a limited income. Demand for affordable units within this locality is very high, with a similar scheme to this seeing on average 40 bids via Durham Key options per property.
79. Currently demand for bungalow provision of an affordable nature within the county is also at an all-time high. Provision for older persons due to the demography of the county, is now becoming more and evident, with a large number of older persons with medical conditions waiting for some time for suitable accommodation.
80. Areas such as this in order to maintained mixed and balanced communities need the assistance of Registered Providers to bring forward affordable units which would otherwise be unviable for open market developers. Furthermore bungalows add to the cost of making a scheme unviable and thus upon occasions some Registered Providers would also shy away from such developments. This is a trend which the Housing Development Team and looking to buck, with greater collaborative and partnership working.
81. With regard to the above, it is considered that whilst the proposed development would be contrary to planning policy due to the reduced contributions in relation to education and play space, it is considered that the development of bungalows within the area would far outweigh the benefits purported by these sums.

## **Open Space**

82. Saved policy R2 of the City of Durham Local Plan states that developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site. On this basis the applicant has agreed to make a financial contribution of £11,797.50 towards the provision or improvement of offsite recreation in the electoral division. This is a reduced amount, the normal requirement of the Councils Open Space Needs Assessment would be a contribution of £34,595.

## **Education**

83. The Councils Education team have assessed the scheme based on the methodology set out in the Councils adopted Securing Developer Contributions towards Education Provision in County Durham.

84. Based on the projected rolls of the schools, taking into account the likely implementation time frame of the development, build rates and other committed development there would not be sufficient primary school space to accommodate pupils generated by the development, whilst maintaining a 5% surplus. Therefore, in order to mitigate the impact of the development a contribution of £22,202.50 has been offered in order to facilitate the provision of additional teaching accommodation. This is a reduced amount, the normal requirement would be £88,218.

85. The adopted Securing Developer Contributions towards Education Provision in County Durham policy states that in circumstances where the viability of a scheme is in question, the developer will be required to demonstrate that this is the case through a site-specific financial evaluation, undertaken to the Council's satisfaction at the earliest possible stage. Where a scheme is agreed to be unviable or marginal, we will review the contributions for the development and the timing or phasing of payments to assist the financial viability of the scheme.

### **Affordable Housing**

86. The NPPF states that, in order to ensure a wide choice of high-quality homes, Local Planning Authorities should “plan for a mix of housing”, “identify the size, type and tenure of housing that is required in particular locations”, and “where affordable housing is needed, set policies for meeting this need on site”.

87. The County Durham Strategic Housing Market Assessment (SHMA) report was updated in 2019 and supplies the evidence base for 25% affordable housing across this Delivery Area (on sites of 10 dwellings), while the NPPF (Para 159) makes plain the importance of the SHMA in setting targets.

88. The SHMA and the NPPF therefore provide the justification for seeking affordable housing provision on this site, which should be secured via S106 agreement.

89. Although the application proposes 100% affordable housing, the Council can only insist on 25% in this location on the basis of the evidence base noted above, therefore the remaining 75% is offered voluntarily. Subject to a S106 obligation to secure 25% affordable rented dwellings on site, , the proposals are considered to accord with the requirements of the SHMA and the NPPF.

### **Healthcare**

90. Finally, a contribution of £1,173 healthcare contribution has also been offered in accordance with the requirements of the NHS in order to mitigate pressure on services.

### **Paragraph 11 balance**

#### **Benefits**

91. The benefits of the scheme are the boost to housing supply which the proposed dwellings would provide, although the weight to be afforded to that boost is limited given the council's most recent position on 5 year housing land supply, the provision of affordable housing including bungalows; which are designed for elderly and disabled residents, the sustainable location of the development, the good quality of the scheme, and the positive economic impacts both in terms of the construction phase of the development and in the longer term economic activity of the occupiers.

## Adverse impacts

92. No adverse impacts arising from the proposed scheme have been identified.

Applying the titled balance test in paragraph 11, it is not considered that there are any adverse impacts which significantly and demonstrably outweigh the benefits and therefore planning permission ought to be granted.

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## CONCLUSION

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93. The proposals involve the development of a vacant Council owned site which is adjacent to established residential areas and there is considered to be a good range of facilities and services in the area to serve the development. The scheme is considered to be of good quality and in a sustainable location with a suitable access and layout. The scheme would provide affordable rented bungalows designed for the elderly and disabled. It is compliant with all relevant saved local plan policy and in the context of paragraph 11, there are no adverse impacts that would significantly and demonstrably outweigh the benefits and is therefore recommended for approval.

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## RECOMMENDATION

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

- i. £1,173 contribution towards healthcare in the Framwellgate and Newton Hall Electoral Division.
- ii. £11,797.50 contribution towards enhancement or provision of play facilities in the Framwellgate and Newton Hall Electoral Division.
- iii. £22,202.50 contribution towards Education provision in the Framwellgate and Newton Hall Electoral Division.
- iiii. Provision of 25% affordable housing on site for affordable rent.

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

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

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

Site Layout	2953.29.011F	25/04/19
Boundary Treatment Plan	2953.29.012	21/01/19
Type 1 Floor Plan	2953.29.30	21/01/19
Type 2 Floor Plan	2953.29.31	21/01/19
Type 3 Floor Plan	2953.29.32	21/01/19
Type 1 Elevation	2953.29.40	21/01/19
Trees shown on current site layout	ACP.AGC.NO 1	21/01/19
Retained and removed trees shown on proposed site layout - with protective measures	TPP.SGC.NO 1 2953.29.33A	21/01/19 25/04/19
Type 4 - Floor Plans	2953.29.43A	25/04/19
Type 4 - Elevations	2953.29.011F	25/04/19
Site Layout	18T2027-SG-100	04/02/19
Drainage Report	Rev P2	
Type 2 Elevation	2953.29.41	
Type 3 Elevation	2953.29.42	

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

3. No development shall continue beyond DPC level until a landscaping scheme has been submitted to and approved in writing by the local planning authority. The scheme shall identify those trees/hedges/shrubs scheduled for retention and removal; shall provide details of new and replacement trees/hedges/shrubs; detail works to existing trees; and provide details of protective measures during construction period. The development shall be carried out in accordance with the approved details. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of visual amenity and in accordance with H13 and of the City of Durham Local Plan and part 12 of the NPPF.

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

Details of delivery times in order to avoid conflict with nearby schools.

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

Details of methods and means of noise reduction

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

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

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

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

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

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

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

Routing agreements for construction traffic.

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

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

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

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

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

Reason: In the interests of residential amenity and to accord with policy H13 of the City of Durham Local Plan and part 12 of the NPPF. *This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.*

5. The development hereby permitted shall not commence until a pre-commencement scheme to deal with contamination has been submitted to and agreed in writing with the Local Planning Authority. The full scheme, both pre-commencement and completion shall include the following, unless the Local Planning Authority confirms in writing that any part of sub-sections a, b, c or d are not required.

Throughout both the pre-commencement and completion phases of the development all documents submitted relating to Phases 2 to 4 as detailed below shall be carried out by competent person(s) and shall be submitted to and agreed in writing with the Local Planning Authority.

#### Pre-Commencement

(a) A Phase 2 Site Investigation and Risk Assessment is required to fully and effectively characterise the nature and extent of any land and/or groundwater contamination and its implications.

(b) A Phase 3 Remediation Strategy detailing the proposed remediation and verification works is required. If gas protection measures are required a verification plan is required detailing the gas protection measures to be installed, the inspection regime and where necessary integrity testing programme. The installation of the gas membrane should be carried out by an appropriately qualified workforce and the verification of the installation should be carried out by an appropriately competent, experience and suitably trained person(s) (preferably independent to the installer) to ensure mitigation of the risk to the buildings and the people who occupy them. No alterations to the remediation proposals shall be carried out without the prior written agreement of the Local Planning Authority.

#### Completion

(c) During the implementation of the remedial works and/or development if any contamination is identified that has not been identified pre-commencement, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment shall be carried out in accordance with part a of the condition and where necessary a Phase 3 Remediation Strategy shall be prepared in accordance with part b of the condition. The development shall be completed in accordance with any amended specification of works.

(d) Upon completion of the remedial works, a Phase 4 Verification Report (Validation Report) confirming the objectives, methods, results and effectiveness of all remediation works detailed in the Phase 3 Remediation Strategy shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development. If integrity testing of the membrane(s) was required a verification pro forma should be included.

Reason: The site may be contaminated as a result of past or current uses and/or is within 250m of a site which has been landfilled and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with NPPF Part 15. *This is required as a pre commencement condition in order to mitigate potential contaminated land risk which needs to be considered before site works commence.*

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

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

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

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

Reason: In the interests of residential amenity and to accord with policy H13 of the City of Durham Local Plan and part 12 of the NPPF.

8. The development hereby approved shall be carried out in accordance with the tree protection measures contained within drawing TPP.SGC.NO 1 received on the 21<sup>st</sup> January 2019.

Reason: In the interests of visual amenity and to accord with policy H13 of the City of Durham Local Plan and part 12 of the NPPF.

9. No development shall take place until a detailed scheme for the disposal of foul water from the development hereby approved has been submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure effective drainage measures and sustainable principles are adhered to in accordance with part 14 of the NPPF. *Required to be pre-commencement as drainage matters must be agreed prior to development commencing.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

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## **BACKGROUND PAPERS**

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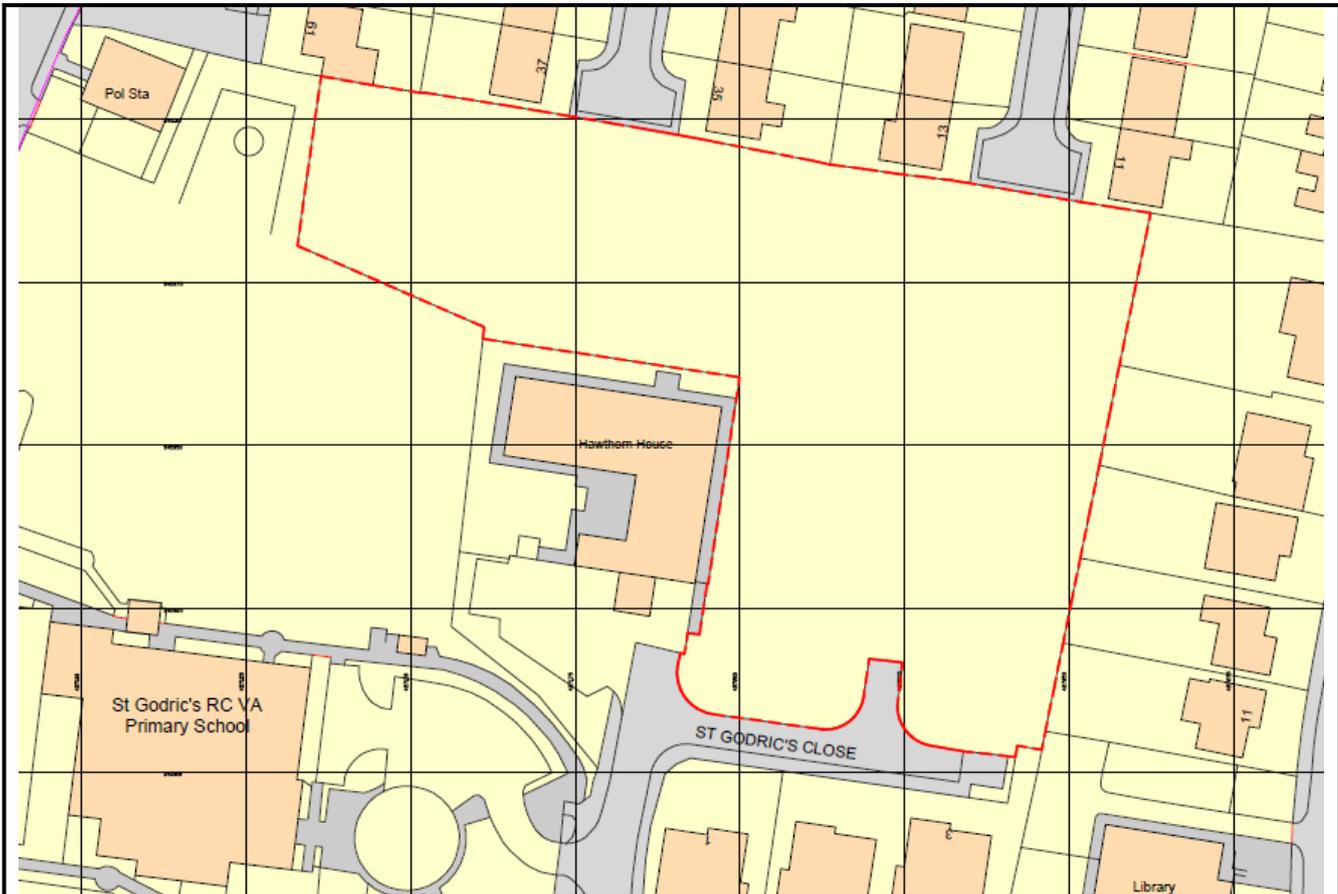
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Statutory, internal and public consultation responses

City of Durham Local Plan



 <p><b>Planning Services</b></p>	<p><b>17 bungalows, land at St Godrics Close, Newton Hall</b></p>	
<p>This map is based upon Ordnance Survey material with the permission of 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><b>Comments</b></p>	
	<p><b>Date May 2019</b></p>	

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/19/00053/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	67 dwellings and associated infrastructure
<b>NAME OF APPLICANT:</b>	GallifordTry
<b>ADDRESS:</b>	Site of former Eden Community Primary School, Robson Avenue, Peterlee
<b>ELECTORAL DIVISION:</b>	Peterlee East
<b>CASE OFFICER:</b>	Barry Gavillet, Senior Planning Officer, <a href="mailto:barry.gavillet@durham.gov.uk">barry.gavillet@durham.gov.uk</a> 03000 261958

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### Site:

1. This application site is located in the settlement boundary of Peterlee and within the Electoral Division of Peterlee East. The site measures 1.75 hectares and is located to the south of Robson Avenue in Peterlee. This brownfield site is located centrally within the town within an established housing estate on the site of the former Eden Community Primary School. Since the school was demolished in 2008 the land has remained vacant with the hardstanding remaining where the school once stood, the site also includes a grassed over area which formed part of the former school playing fields.
2. Three residential streets surround the site, Robson Avenue to the North, Galloway road to the west and south and Edenhill road to the East. There are numerous community facilities nearby including shops, schools, healthcare services and public transport provision. The existing site access is from Robson Avenue.

#### Proposal:

3. This application proposes a residential development of 67, two and three bedroomed dwellings with associated infrastructure including landscaping and a drainage basin to the south west corner of the site.
4. The development proposes a mixture of affordable housing, including 25 two-storey houses for Rent to Buy tenure whilst 42 units including 19 bungalows would be 'Affordable Rent' and would be let as traditional affordable rented dwellings via a Choice Based Lettings service based on priority need.

5. The dwellings would be constructed of traditional facing brick with slate grey or terracotta roof tiles, all of which would have private front and rear gardens and off-street parking whilst provision has also been made for visitor parking. Access to the site would remain off Robson Avenue to the north of the site.
6. This application is being reported to committee as it is classed as a major application.

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## **PLANNING HISTORY**

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7. None relevant

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

8. 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.
9. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
10. *Part 2* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and of a low carbon future.
11. *Part 5* - To boost significantly the supply of housing, applications should be considered in the context of the presumption in favour of sustainable development.
12. *Part 8* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *Part 9* - Transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives. Smarter use of technologies can reduce the need to travel. The transport system needs to be balanced in favour of sustainable transport modes, giving people a real choice about how they travel. However, the Government recognises that different policies and measures will be required in different communities and opportunities to maximise sustainable transport solutions will vary from urban to rural areas.

14. *Part 12* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. *Part 14* - Planning plays a key role in helping shape places to secure radical reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and *associated* infrastructure. This is central to the economic, social and environmental dimensions of sustainable development.
16. *Part 15* - The planning system should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests and soils; recognising the wider benefits of ecosystem services; minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures; preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of soil, air, water or noise pollution or land instability; and remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.

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

##### District of Easington Local Plan

17. *Policy 1* - Due regard will be had to the development plan when determining planning applications. Account will be taken as to whether the proposed development accords with sustainable development principles while benefiting the community and local economy. The location, design and layout will also need to accord with saved policies 3, 7, 14-18, 22 and 35-38.
18. *Policy 3* - Development limits are defined on the proposal and the inset maps. Development outside 'settlement limits' will be regarded as development within the countryside. Such development will therefore not be approved unless allowed by other policies.
19. *Policy 14* - seeks to protect Special Areas of Conservation from development which would give rise to an adverse impact, either directly or indirectly
20. *Policy 18* - 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.
21. *Policy 35* - The design and layout of development should consider energy conservation and efficient use of energy, reflect the scale and character of adjacent buildings, provide adequate open space and have no serious adverse effect on the amenity of neighbouring residents or occupiers.
22. *Policy 36* - The design and layout of development should ensure good access and encourage alternative means of travel to the private car.
23. *Policy 37* - The design and layout of development should seek to minimise the level of parking provision (other than for cyclists and disabled people).

24. *Policy 66* - Developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site.
25. *Policy 67* - Housing development will be approved on previously developed land within settlement boundaries of established towns or villages provided the proposal is of appropriate scale and character and does not conflict with other policies in the plan.

## **RELEVANT EMERGING POLICY:**

### The County Durham Plan

26. 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.
27. Although in a recent written representations appeal involving land to the south of Castlefields, Esh Winning, the Inspector took the view that supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework, the Council's view is that the Inspector applied paragraph 74 prematurely in this appeal because paragraph 74 does not allow for submission of an Annual position statement on 5 YHLS until April 2019 at the earliest. It was, therefore, impossible for the Council to have such an annual position statement in place at the time of the appeal. In addition, in three further, more recent, written representation appeals (3213596, 3215357 & 3215186), the Inspector outlined that there are also the requirements of Paragraph 73 under which councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

28. The Parish Council object to the application stating that the proposals are contrary to policy and that Easington Village is unable to cope with the additional infrastructure required.

### **INTERNAL CONSULTEE RESPONSES:**

29. Highways officers have confirmed that no highway objections are raised.
30. Spatial Policy offers no objection to the proposal.

31. Drainage and Coastal Protection offer no objection to this proposal subject to a condition requiring compliance with the flood risk assessment.
32. Education officers confirm that school places are sufficient therefore, no contributions are required.
33. Pollution Control do not object subject to a contaminated land condition.
34. Landscape officers have no objections.
35. Ecology officers do not object subject to compliance with the submitted ecology report and appropriate mitigation given that the proposal is in close proximity to EU protected sites on the coast and that given the hedge is to be retained there would be no loss of biodiversity.

Archaeology officers have no objection and are satisfied with the content of the submitted Written Scheme of Investigation.

**PUBLIC RESPONSES:**

36. Northumbrian Water have no objections subject to a condition requiring compliance with the flood risk assessment.
37. No correspondence has been received from nearby residents.
38. NHS have requested a financial contribution toward healthcare provision in the area.

**APPLICANTS STATEMENT:**

39. The application provides 67 new dwellings of affordable tenure on a former school site at Robson Avenue in the town of Peterlee. The site is well located with good access to shops and amenities and is in close proximity to the A19 providing excellent links to the wider region. Galliford Try, as applicant, will be constructing the dwellings on behalf of its development partner, Believe Housing (formerly known as County Durham Housing Group).
40. The layout has been carefully designed with one main access point from Robson Avenue to control traffic and congestion in the area; parking has been provided to the rear of properties fronting onto Galloway Road to help minimise the impact on existing residents who park on the street. The development is formed using one main 'street' branching into two cul-de-sacs crossing the site allowing good visibility with dwellings looking onto green areas and adding to the active street frontage of Robson Avenue and Galloway Road
41. Garden areas and footpaths in north west and south west areas of development allow for pedestrian permeability through the site allowing for integration of the new houses within the surrounding area. Varying house types have been chosen in locations to provide a mixture of accommodation needs, with bungalows situated in the middle and lower half of the site reducing any impact on the surrounding houses. Corner units have been chosen in locations to provide good surveillance and street frontage to both Robson Avenue and Galloway Road. There has been careful consideration to provide suitable Sustainable Urban Drainage System (SUDS) to alleviate the pressure the development will have on the existing infrastructure.

42. The development provides an excellent mixture of affordable housing, including 25 two-storey houses for Rent to Buy tenure; this is where working residents will rent the property at an affordable rent (no more than 80% of market rent) to assist with saving for a deposit; after five years of renting they will then have an option to purchase their property. These units have been marked with a red star on the site plan.
43. The tenure for the remaining 42 units including all 19 bungalows will be 'Affordable Rent' and will be let as traditional affordable rented dwellings via a Choice Based Lettings service based on priority need.
44. Demand for all types of housing in Peterlee is very strong including existing homes and bungalows owned by Believe Housing. There's a need for all types of accommodation in the area but a particular shortage of bungalows has been identified with only 90 two-bed bungalows and no three-bed bungalows owned by Believe Housing in the town at present. The Strategic Housing Market Assessment (SHMA) 2016 indicates a net shortfall of 148 older persons' homes per year, driven by the aging population where there is expected to be a 46% increase in the number of people over 65 (compared to 2015), reaching 152,000 by 2037. The SHMA also advises a net shortfall of 585 general needs one or two bed houses each year and the affordable rented dwellings proposed will help to meet this demonstrated need.
45. Significant financial contributions relating to loss of open space, ecology under the Habitats Regulation Assessment and Healthcare have also been agreed to minimise any impact from the new development and these will be secured through a Section 106 Agreement.
46. In summary the proposed 67 new dwellings at Robson Avenue, Peterlee have been well designed and will provide much needed new affordable homes that are anticipated to be highly sought after.

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

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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47. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of development, the impact upon surrounding occupiers and character and appearance of the area, highways issues and section 106 contributions.

### **Principle of the development**

48. This application proposes a residential development of 67 dwellings on the site of the former Eden Primary school in Peterlee which was demolished in 2008 the land has remained vacant with the hardstanding remaining where the school once stood, the site also includes a grassed over area which formed part of the former school playing fields. The sites lie within the built-up area of Peterlee which is considered to support local resident's daily needs. 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 District of Easington Local Plan (DLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 11 of the NPPF. However, the NPPF advises at Paragraph 213 that to the weight to be afforded to Local Plan policy will depend upon the degree to which the policy is consistent with the NPPF.

49. The DLP was adopted in December 2001 and was intended to cover a five-year period. 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. 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 depending on the circumstances. This application proposes a scheme of 67 dwellings within the settlement boundary of Peterlee as defined in the District of Easington Local Plan and is on a former school site which is now cleared and unused. In planning terms, the development of the site for housing would not be in conflict with Saved Policy 3 of the Local Plan. However, policy 3 is considered to be out of date and therefore the application must be considered in the context of paragraph 11 of the NPPF. Whilst weight can still be afforded to this policy, the weight must be accordingly reduced. This will be discussed in more detail later in this report.
50. Saved 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, appropriate landscape features and screening (where required) and development should have no serious adverse impact on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
51. Saved Policy 36 requires the design and layout of development to provide safe, attractive and convenient footpath and cycleway links between the housing and shopping facilities, schools, public transport facilities, leisure facilities and places of employment where appropriate.
52. Saved policy 66 requires developers to provide adequate provision for children's play space and outdoor recreation open space in relation to new housing developments of 10 or more dwellings.
53. Saved policy 67 Housing development will be approved on previously developed land within settlement boundaries of established towns or villages provided the proposal is of appropriate scale and character and does not conflict with other policies in the plan.
54. Subject to matters of access and layout discussed below, the site has scope to accord with the detailed requirements of saved policy 35 related to design, saved policy 36 relating to access and means of travel, the objectives of saved policy 66 relating to the adequate provision of recreational open space and saved policy 67 relating the re-use of previously developed land.

## **The NPPF**

55. 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 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.

56. Paragraph 73 of the NPPF requires Local Planning Authorities (LPAs) to maintain a five-year supply of deliverable sites (against housing requirements) thus boosting the supply of housing.

57. The NPPF advises that housing applications should be considered in the context of the presumption in favour of sustainable development and relevant policies for the supply of housing should not be considered up-to-date if the LPA cannot demonstrate a five-year supply of deliverable housing sites. In turn where a five year supply of deliverable housing sites cannot be demonstrated then Paragraph 11 of the NPPF is engaged, and an application is to be assessed in this context.

58. However, Paragraph 11 of the NPPF is, irrespective of the position on housing land supply, relevant to this application as policies for the supply of housing within the DLP are out-of-date where outlined below.

### *Five Year Housing Land Supply*

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

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

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

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

63. On the 13<sup>th</sup> June, the ‘Preferred Options’ of the County Durham Plan (CDP) was presented to the Council’s Cabinet and endorsed for consultation. The CDP is aligned with the standardised methodology and formally endorses the use of 1,368dpa as the OAN figure. The Council is able to demonstrate in excess of 6 years supply of deliverable housing land against this figure.

64. Whilst an Inspector has recently expressed reservations over the Council’s calculation of supply in the context of appeal APP/X1355/W/17/3180108 – decision issued 10th May 2018, the Council remains of the view that a supply in excess of 5 years can be demonstrated on the evidence.

65. In a recent written representations appeal involving a site in Esh Winning, the Inspector took the view that housing supply had not been demonstrated by the Council in the terms of paragraph 74 of the Framework. However, the Planning Inspectorate have subsequently confirmed that the Inspector misapplied paragraph 74 as it was impossible for the Council to have an Annual Position Statement in place at the time of the appeal. In addition, in three further, more recent, written representation appeals, the Inspector outlined that there are also the requirements of Paragraph 73 under which Councils are required to identify annually a supply of housing sites to provide a minimum of 5YHLS, set against local housing needs where strategic policies are more than 5 years old. The Council's approach to demonstrating a 5YHLS is, therefore, considered to be appropriate in the circumstances, and in line with the requirements of the NPPF.
66. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where such a healthy land supply position could not be demonstrated. This will need to be factored into the planning balance.
67. Paragraph 11 of the NPPF is engaged because saved Policy 3 is a settlement boundary policy and the evidence which underpins it is out of date. As there are no policies which protect areas or assets of particular importance which would provide a clear reason for refusal, the application must therefore be approved unless any adverse impacts of the proposal would significantly and demonstrably outweigh the benefits. It is appropriate to carry out this balancing exercise after consideration of all other planning matters set out in this report.

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

68. Saved 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, appropriate landscape features and screening (where required) and development should have no serious adverse impact on the amenity of people living and working in the vicinity of the development site and the existing use of adjacent land or buildings in terms of privacy, visual intrusion, noise, other pollutants and traffic generation.
69. In terms of the street scene it is considered that the scheme is of a good quality. Dwellings would be a mix of two storeys in height and bungalows and all would have their own front and rear garden areas along with an appropriate level of parking spaces, additional visitor spaces would also be provided. The dwellings would be constructed from a mix of brick, render and concrete roof tiles which is considered appropriate in this location being similar to others in the area.
70. With regard to the impact on the amenity of existing residents who surround the site the distancing standards as set out in the District of Easington Local Plan are adhered to in all instances. These standards state that a minimum of 21 metres between main elevations facing each other and 13 metres between main elevations and gables should be achieved in order to ensure there are no adverse impacts in terms of overlooking, loss of privacy, loss of light or overshadowing. There are incidences within the proposed site where these distancing standards are slightly below what would normally be expected. However, these are minimal and in addition, a condition will be required which stipulates close boarded fencing between bungalows must be kept in situ and maintained.

71. Overall, it is considered that the proposals would lead to a good quality housing scheme on what is a previously developed site in a location which is considered to be sustainable. There would be little or no impact on nearby residents given the distances involved. Having regards to part 12 of the NPPF and the most applicable Policies of the District of Easington Local Plan officers raise no objections to the application having regards to the impact upon surrounding residents and character and appearance of the area.

## **Highways Issues**

72. Saved Policy 36 requires the design and layout of development to provide safe, attractive and convenient footpath and cycleway links between the housing and shopping facilities, schools, public transport facilities, leisure facilities and places of employment where appropriate. In addition to this, objections were received regarding increase in traffic and parking issues as well as the poor state of roads and footpaths.

73. Highways officers have requested and received a number of amended plans and as there were initially concerns regarding locations and level of parking provision including visitor parking. Amended plans have been received and officers have commented that the revised plans are acceptable.

74. On the basis of the above, highways officers offer no objections to the proposals and it is therefore considered that with regard to highways issues that the proposals are in accordance with part 9 of the National Planning Policy Framework and saved Policies 36 and 37 of the District of Easington Local Plan.

## **Section 106 contributions**

75. Saved policy 66 of the District of Easington Local Plan states that developers will be required to make adequate provision for children's play space and outdoor recreation in relation to housing development of 10 or more dwellings. Provision may be secured elsewhere if it is inappropriate to make provision at the development site. On this basis the applicant has agreed to make a financial contribution of £116,203.50 towards the provision or improvement of offsite recreation in the electoral division in line with the requirements of the Councils Open Space Needs Assessment.

76. Secondly, the Local Planning Authority must also consider impacts on designated wildlife sites in the vicinity of the proposed development.

77. This application site is in close proximity to Durham Coast Site of Special Scientific Interest (SSSI). and Special Area of Conservation (SAC) Natura 2000 site and the Northumbria Coast SSSI, Special Protection Area (SPA) and Ramsar site, all of which are designations of significant importance.

78. Under normal circumstances the applicant would provide a contribution toward the upgrading or provision of footpaths and walkways in the vicinity of the site in order to take pressure from additional visitors away from the coastal designations of significant importance. Given that the applicant is not in control of any suitable land nearby it has not been possible to achieve this. Therefore, the applicant has agreed to provide a financial contribution of £50,692.87 in line with the Councils "Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham" paper to be used toward capital item 3 of the Durham Coastal Management Plan which seeks to protect high tide roosts in order to directly off-set the impacts of the development on the coast, this contribution would also be secured through a S106 Agreement.

79. The proposals would deliver 100% affordable housing on site, however the affordable housing evidence base would only require 10% in this location. This would be secured by a section 106 legal agreement for 7 affordable rented dwellings.

80. Finally, a contribution of £4623 contribution toward healthcare provision in the Peterlee East Electoral Division has also been requested.

#### Paragraph 11 balance

#### Benefits

81. The benefits of the scheme are the boost to housing supply which the proposed dwellings would provide, although the weight to be afforded to that boost is limited given the council's most recent position on 5 year housing land supply, the provision of affordable housing including bungalows; some of which are designed for elderly and disabled residents, the sustainable location of the development, the good quality of the scheme, and the positive economic impacts both in terms of the construction phase of the development and in the longer term economic activity of the occupiers. It should be noted that the development will deliver 100% affordable housing, however the Council can only insist on securing 10% in this location.

#### Adverse impacts

82. No adverse impacts arising from the proposed scheme have been identified. Applying the titled balance test in paragraph 11, it is not considered that there are any adverse impacts which significantly and demonstrably outweigh the benefits and therefore planning permission ought to be granted.

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## CONCLUSION

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83. The proposals involve the redevelopment of a former school site which is adjacent to established residential areas and there is considered to be a good range of facilities and services in the town to serve the development. The scheme is considered to be good quality and in a sustainable location with a suitable access and layout. The scheme would provide affordable housing along with bungalows designed for the elderly and disabled. It is compliant with all relevant saved local plan policy and in the context of paragraph 11, there are no adverse impacts that would significantly and demonstrably outweigh the benefits and is therefore recommended for approval.

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## RECOMMENDATION

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

- i. £50,692.87 contribution towards capital item 3 (4) of the Durham Coastal Management Plan.
- ii. £116,203.50 contribution towards enhancement or provision of play facilities in the Peterlee East Electoral Division.
- iii. £4623 contribution toward healthcare provision in the Peterlee East Electoral Division.
- iv. 10% affordable housing on site in the form of 7 affordable rented dwellings.

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

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

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

RES712 -BHA-V1-ZZ-DR-A-15-00 House Type Eveleigh (8)  
RES712 BHA-V1-ZZ-DR-A-15-01 House Type A27 (8)  
RES712 BHA-V1-ZZ-DR-A-15-02 House Type A22 (7)  
RES712 -BHA-V6-ZZ-DR-A-15-05 House Type Mountford (4)  
RES712 -BHA-XX-ZZ-DR-A-05-00 Location Plan (1)  
RES712 -BHA-XX-ZZ-DR-A-05-10 Existing Site Plan (1)  
RES712 -BHA-XX-ZZ-DR-A-13-11 Proposed Site Sections (3)  
RES712- BHA-XX-ZZ-DR-A-14-00 External Finishes (7)  
RES712- BHA-XX-ZZ-DR-A-14-10 Site Boundary Treatments (5)  
RES712-BHA-V1-ZZ-DR-A-15-03 House Type M3 (9)  
RES712-BHA-V1-ZZ-DR-A-15-04- House Type A32 & A24 (5)  
RES712-BHA-XX-DR-A-12-00 Proposed Site Plan (24)  
Planting Proposals N801-ONE-ZZ-XX-DR-L-0201  
Design and Access Statement - Robson Avenue

Reason: To meet the objectives of saved Policies 1, 35 and 36 of the Easington District Local Plan.

3. All planting, seeding or turfing and habitat creation in the approved details of the planting proposals shall be carried out in the first available planting season following the practical completion of the development. No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats. Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges. Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of the amenity of the area in accordance with saved policies 1 and 35 of the District of Easington Local Plan.

4. The development shall be carried out in accordance with the submitted " Robson Avenue, Peterlee, Site Management Methodology" dated December 2018.

Reason: In the interests of residential amenity and to accord with policy 1 and 35 of the District of Easington Local Plan.

5. Remediation works shall be carried out in accordance with the approved remediation strategy and gas verification strategy. The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework.

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

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

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

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

Reason: In the interests of residential amenity and to comply with saved Policies 1 and 35 of the Easington District Local Plan and part 5 of the NPPF.

7. The development hereby approved shall be carried out in accordance with the mitigation measures contained within part 6 of the Preliminary Ecological Appraisal by Dendra Consulting Ltd dated 30.11.2018.

Reason: To conserve protected species and their habitat in accordance with saved Policy 18 of the District of Easington Local Plan and part 15 of the NPPF.

8. Development shall be implemented in line with the drainage scheme contained within the submitted documents entitled "Flood Risk Assessment" dated "December 2018" and "Drainage Strategy" dated "13.12.18". The drainage scheme shall ensure that foul flows for the majority of the site discharge to the foul sewer at manhole 9404, whilst plots 60-67 only shall discharge to the foul sewer via manhole 9301 (subject to the third party land owners approval). Surface water shall discharge to the surface water sewer at manhole 9304. The surface water discharge rate shall not exceed the available capacity of 5.0l/sec that has been identified in this sewer. The final surface water discharge rate shall be agreed by the Lead Local Flood Authority.

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

9. Notwithstanding the information submitted, rear boundary enclosures to the rear of bungalows at plots 25-36 shall be 1.8 metre high close boarded timber fencing and shall be retained and maintained as such in perpetuity.

Reason: In order to ensure adequate privacy in accordance with saved policies 1 and 35 of the District of Easington Local Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015

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## **BACKGROUND PAPERS**

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

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

Statutory, internal and public consultation responses

District of Easington Local Plan



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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/19/00371/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from C3 dwelling to HMO Sui Generis (Student Accommodation)
<b>NAME OF APPLICANT:</b>	Mr Nick Swift
<b>ADDRESS:</b>	Corner House Potters Bank Durham DH1 3PS
<b>ELECTORAL DIVISION:</b>	Neville's Cross
<b>CASE OFFICER:</b>	Jennifer Jennings Planning Officer Telephone: 03000 261057 <a href="mailto:jennifer.jennings@durham.gov.uk">jennifer.jennings@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is located to the west of Durham City Centre, at the junction between Potters Bank and the A167. It is a large property, set within a triangular shaped corner site and has a prominence overlooking this busy road junction.
2. The property is currently a four bedroom house, with the downstairs space accommodating a large lounge area, family room, kitchen/diner, study and conservatory, along with a utility room and garage offshoot. Outdoor space is located to the two side gables, with a large paved driveway adjacent to the garage on the north east side, and grassed lawn area by the conservatory to the south west side. The rear elevation overlooks a narrow paved area adjacent to the fenced south boundary, beyond which lies neighbouring property 'Russet Grey'.

#### Proposal

3. The proposal seeks full planning permission for the change of use of the property from C3 family home to a large house in multiple occupation for 7 people (sui generis use). Works to facilitate the proposed change of use would be largely internal, with downstairs rooms converted to create four bedrooms in addition to three of the four upstairs bedrooms, accommodating 7 students in all. One upstairs bedroom would be converted to a kitchen / lounge / dining room. External alterations include the removal of the balcony access and decking area and the erection of a two metres high fence along the south boundary with 'Russet Grey'.

4. The application is referred to Committee at the request of the City of Durham Parish Council who requested it on the grounds that the methodology for calculating the density of student households was flawed and the principle of making a planning decision on this needed to be considered by the Planning Committee.

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## **PLANNING HISTORY**

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5. In 1997, planning permission was granted for the change of use of the existing dwelling to a mixed use of residential and bed and breakfast.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

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

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

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

11. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

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

## **LOCAL PLAN POLICY:**

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

12. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.
13. *Policy H13 – Residential Areas – Impact upon Character and Amenity* – protects residential areas from development that would have a significant adverse effect on their character or appearance, or the amenities of residents within them.
14. *Policy T1 – Traffic Generation – General* – states that development proposals which would result in a level of traffic generation detrimental to highway safety should not be granted planning permission.
15. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
16. *Policy T10 – Parking* – States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
17. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
18. *Policies Q1 and Q2 - General Principles Designing for People and Accessibility* – states that the layout and design of all new development should take into account the requirements of all users.
19. On the 15 July 2015, Cabinet approved consultation on an Interim Policy on Student Accommodation. The consultation took place during September and October 2015. Responses received during the consultation period were considered and amendments were made to the Policy. On the 16 March 2016, Cabinet recommended that full Council adopt the revised Interim Policy. As the Interim Policy has been adopted, it can be afforded weight in the decision making process, although the weight to be afforded to it must be less than if it were part of the statutory Development Plan for the area.

## **RELEVANT EMERGING POLICY:**

20. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

21. Highways Authority comment that sufficient parking is available on the site for the number of bedrooms provided. In addition it is suitably located on a major bus route and within cycling and walking distance of local amenities. No objection to this proposal is offered on highways grounds.
22. City of Durham Parish Council – objects on the basis that the methodology for calculating the number of students within 100 metres radius is flawed and that there are circumstances where landlords pay the Council Tax even though students reside in the premises so as not to come to the attention of the Council. The Council's methodology is therefore considered to underestimate the number of houses let to students. On this basis it is requested that the methodology be revisited and the University approached for further details.

### **INTERNAL CONSULTEE RESPONSES:**

23. Environment, Health and Consumer Protection (Nuisance Action Team) – have no concerns with regards the application. The house is considered to have sufficient space to accommodate 7 people. They do not consider that the proposals would create a statutory nuisance.
24. Spatial Policy – comment that 8.8 per cent of properties within a 100 metre radius are in use as HMOs.
25. HMO Section –comment that the property would need to be licensed under the Housing Act 2004 Part 2 and provide further details on the criteria associated with this legislation.

### **PUBLIC RESPONSES:**

26. The application has been advertised by means of site notice on site and by notifying neighbouring residents by letter. 7 letters of objection have been received, including one from the local ward member, raising the following points:
  - Objects to the loss of a family home and loss of housing stock for families
  - Concerns that the change of use will impact on the social balance in the area and community spirit as students less likely to engage with neighbours
  - Concerns regarding volume of student pedestrians walking along streets to the college.
  - Observations that substantial amount of student housing being built in the area, within Sheraton Park and Mount Oswald.
  - Comments regarding large number of HMOs around the Duke of Wellington PH.
  - Observations on number of properties already in HMO use within 100 metres of application site which is considered to already exceed 10 per cent.
  - Issues raised with regards impacts on neighbouring property due to low level boundary fencing and a balcony at the rear elevation. Concerns that letting out to 7 students would impact on privacy
  - Concerns raised that insufficient parking available for 7 residents at the site.

One further comment was received following reconsultation making the following points:

- The amendments do not address the concerns raised by objectors regarding the loss of a family home

- The distribution of neighbour notification letters is too limited and puts the onus on residents to constantly check the Council's website
- The way in which the percentage figure of student housing calculated by the County Council has been achieved is unclear and does not tally with calculations undertaken by neighbouring residents themselves.

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

27. This application is for a Change of Use from an existing C3 dwelling to a 7 bed student HMO property under the Sui Generis use class for larger HMOs. The property lies in an area where the percentage of the existing properties used as student property is 0% as defined by DCC's own HMO map and thus the proposal is not contrary to the direction of the new interim policy falling below the 10% threshold. This interim policy seeks to maintain balanced and mixed use/tenure communities and housing stock.
28. *City of Durham Local Plan Policy H9 – Multiple occupation / student households* – also seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock. Policy H9 also states that proposals to extend or alter properties which are already an established HMO use class will be permitted provided that there is adequate parking, there is sufficient privacy and amenity areas for occupiers, the proposal would not adversely affect the amenities of nearby residents and the extension would be in scale and character with the host dwelling and surrounding area.
29. The Interim Policy on Student Accommodation includes similar criteria. However the Interim policy goes further than policy H9 as it states that extensions that result in additional bed spaces will not be permitted if more than 10 per cent of the total number of properties within 100 metres of the application site are already in use as HMOs.
30. The council's own HMO map shows the percentage of properties within the 100 metres radius of the application site equates to **0 (zero) per cent**. It should also be noted that no extension is proposed to the existing dwelling therefore these policies should be afforded reduced rate when examining the proposal
31. The property has a large remaining garden that will be used for external amenity, but will also have areas for the refuse bins and the provision of cycle storage as required in the garage or garden. The property has a large private drive for adequate off street parking. No additional windows are proposed and therefore the levels of privacy and amenity of local residents remains unchanged by the proposal.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=P8X9C0GDL8J00>*

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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32. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, impact on residential amenity, highway safety and concentration of students.

### Principle of Development

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

34. In consideration of the above, saved policy H9 relating to multiple occupation and student accommodation is directly relevant to the proposal as it deals with conversion of houses to HMO use. In addition, policy H13 of the Local Plan is also relevant as it relates to changes of use and seeks to minimise their impacts on the character and amenities of residential areas. The approach contained within these saved policies is considered consistent with the general aims of the NPPF which requires the planning system to support strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations. The policies are therefore deemed up to date policies and can be attributed full weight accordingly in the determination of this application. Paragraph 11 of the NPPF is therefore not engaged.

35. Policy H9 of the City of Durham Local Plan states that proposals to convert houses to HMO use will be permitted provided that there is adequate parking, there is sufficient privacy and amenity areas for occupiers, the proposal would not adversely affect the amenities of nearby residents and would not involve significant extensions that would unacceptably alter the scale and character of the host dwelling and surrounding area in compliance with Policy Q9. The policy further requires that conversion should not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock. The various points within Policy H9 are covered in the relevant sections of the report below.

36. In addition to policy H9 of the Local Plan, the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the change of use of properties in instances where there is in excess of 10 per cent of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet subject to a 6 week consultation period ending April 2016. The threshold of 10 per cent was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.

37. The Council's Spatial Policy section advises that the most recent up to date Council Tax information identifies that 8.8 per cent of those properties within 100 metres of the site are currently occupied as student let accommodation. This concentration falls below the 10 per cent threshold stated in the Interim Policy. In consideration of this, the proposals are therefore considered to accord with the Interim Policy and with policy H9 which is permissive in principle of conversion of properties to C4 use.
38. However a number of objections have been received where objectors have provided their own assessments of the number of HMOs within 100 metres of the house, citing that there appeared to be in excess of 10 per cent within this radius. However, having assessed the information provided and the properties referred to, it is noted that a number of the properties fall just outside the 100 metres radius. As part of the agreed standard methodology, in determining the 100 metres radius, the Council measures this from the central point of the dwelling house.
39. Further reference is made within objection letters with regards the large quantities of purpose-built student accommodation being constructed or completed within the wider area. However, because these residences fall outside the 100 metres radius they do not form part of the percentage figure used to determine whether proposals are in accordance with the Interim Policy. Nonetheless the concerns raised regarding the loss of a family home given the extent of new purpose-built student accommodation being made available elsewhere is acknowledged but does not render the current proposal refusible on this basis alone.
40. In terms of the City of Durham Parish Council response to the proposals, they consider the methodology to be flawed as it relies solely on Council Tax exemption data. In their view, such a methodology does not take into consideration the possibility that landlords may choose to pay Council Tax whilst renting out to students to avoid coming to the attention of the Council. On this basis the Parish Council suggest that the percentage figure determined by the Council is considered to be an under estimate and in the particular circumstances associated with this case, an under estimate of just one property would bring the percentage total above 10 per cent and in conflict with the Interim Policy. As a result the Parish Council request that this Council deploys a strengthened and more effective methodology and approaches the University for an up to date and accurate analysis of where students live, prior to making this planning decision.
41. As background, the Interim Policy on Student Accommodation was developed by the Council in response to residents' concerns in respect of concentrations of students in certain areas. The policy was developed alongside an Article 4 direction to remove permitted development rights associated with changes of use from C3 (dwelling houses) to C4 (HMOs). The draft policy included a methodology that would be used to determine student numbers within an area through use of the council tax exemption data, and was endorsed by Durham County Council Cabinet in July 2015 for consultation which subsequently took place for a period of six weeks between 17 September and 20 October 2015. The consultation was publicised through the website, and through notifying people who had previously commented on the Student Accommodation Policy as part of the former draft County Durham Plan. In addition 'drop in' events were held around the city. All representations received were carefully considered and an updated version of the Interim Policy was developed, which was finally considered and adopted by the County Council in April 2016. This process means the Interim Policy is a material consideration in decision making.

42. The Interim Policy, at Paragraph 11 of the supporting text, specifically notes the use of the Council Tax data in determining the percentage. Paragraph 11 of the Interim Policy states: *In order to assess the percentage of HMOs or student exempt properties within 100m of an application for an HMO, the Council will use Council Tax information consisting of those properties with Class N exemption mapped using the Council's GIS system.*
43. It is acknowledged that the council tax exemption data may not provide a perfect record of student occupancy. It is recognised, for instance, that there may be circumstances in which student occupied HMOs are not registered as being a Class N exemption, a situation that can occur where one tenant in a student HMO is in employment. Nonetheless, the use of council tax data provides a consistent basis upon which decisions can be made. The dataset is updated twice yearly to ensure it remains up to date and reflects term time occupancy.
44. It is also noted that the use of this dataset for determining student numbers was endorsed in a planning Appeal (reference APP/Y1110/W/15/3005030) where it was considered by the Inspector that it suitably served to provide an indicator of the presence of student populations within the housing market. Since being adopted by Durham County Council, the Interim Policy and associated methodology and use of the council tax dataset has been regularly used for every planning application and planning enquiry associated with HMOs. A review of this methodology for the purposes of determining this particular application is therefore not considered to be required or appropriate.
45. The Parish Council have noted that there are known instances where houseowners (the landlord) continue to pay council tax whilst renting out their property to students. This may constitute a change of use and in such circumstances a planning application would be required. Where such cases are brought to the council's attention, they would be investigated. The request that the Council approach the University for an up to date analysis of where students live is not considered proportionate or in line with the requirements of the Interim Policy.
46. Concerns have been raised by objectors about the loss of a family home and the effects on social balance and community spirit. Whilst these are acknowledged as broader issues in the Interim Policy, it is not considered that the change of use of one dwelling to HMO as proposed could be demonstrated to have sufficient adverse impacts to justify a refusal of planning permission, given the current housing mix in the locality.
47. As a further point of clarity, it is noted within the applicant's statement at Paragraph 30 that reference is made to the Council's Student Exemptions Map, appended to the Interim Policy, and from this map the applicant has identified the application site as being located within an area where no properties are in HMO use. On this basis, it is suggested that potentially 0 per cent of properties within the immediate area are in HMO use. For clarification, the data referred to within the Student Exemptions Map (dating from July 2015 and produced to assist the development of the Interim Policy) relates to postcode areas and is intended to provide a broad overview of student accommodation within the Durham City area. The postcode areas provide a more anonymised data set preventing individual HMOs from being identified as required by data protection laws. As discussed above the Council uses an up to date dataset that identifies specific properties falling within the 100 metre radius to inform decision making and does not make use of the more generalised Student Exemptions Map.

48. Accordingly, the principle of the development in the policy context of both local plan policy H9 and the Interim Policy is supported and deemed acceptable in principle subject to further consideration in terms of the impact on residential amenity and parking arrangements as discussed in detail below.

#### Impact on residential amenity

49. Saved policies H9 and H13 of the Local Plan both seek to protect residential amenities. These align with NPPF paragraph 180 which requires planning decisions to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions.

50. The application site is a large two storey detached property located at the corner of a busy road junction to the west of Durham City. The nearest residential property is Russet Grey located to the south of the site, whilst property Beckwood is located to its east. The Duke of Wellington Public House is located across the A167 to the west. The surrounding area is largely residential in character.

51. The objections received in relation to the proposals raised concern over the loss of a family home and the impact this has on the availability of housing stock for local families and the subsequent community imbalance this creates. A further issue was raised by neighbouring property in terms of noise and overlooking.

52. Environmental Health were consulted for their views in terms of noise impacts. The development was considered to fall outside threshold assessments associated with the Technical Advice Notes (TANS) in terms of noise nuisance, as the development constituted a continued residential use within a residential area. The property was also noted as being of sufficient size to accommodate 7 occupants. No concerns were raised and the development was considered to be unlikely to cause a statutory nuisance.

53. Notwithstanding these comments, it is accepted HMOs have an increased likelihood of leading to an increase in noise over and above a C3 use, due to differing patterns of activities to that of a standard family household. With regards this particular application, the property is a large standalone dwelling, and due to its corner plot it sits at a 45 degree angle relative to its nearest neighbours, both detached properties to the east and south. Due to this alignment, there is a degree of separation between the application site and adjacent properties, although they are still relatively close. Main windows within the property at first floor level are located on the front and two side gable elevations and there is no issue with overlooking or loss of privacy with neighbouring properties as the blank side gables of these properties overlook the application site. However a single window/doorway exists on the rear elevation at first floor level by the main stairwell in the property and provides access to an outdoor balcony which overlooks the rear garden area of the property to the south. There is no indication that planning permission was granted for this balcony and google earth imagery suggests it has been in situ for more than four years. Whilst no complaints are on record with regards this during its use as part of a family home, it is considered that the use of the balcony as part of a large HMO has a greater potential for noise and disturbance to neighbours. On this basis it would not be acceptable given its position and close proximity to the neighbour some 5 metres away. The applicant was requested to remove this element from the plans. Amended plans were received with the balcony, decking and doorway access removed and a new obscure glazed window proposed to be installed in place of the doorway. Subject to approval, this plan will form part of the approved plans and a further condition will be applied requiring that prior to occupation, the works to remove the balcony should be complete.

54. Boundary treatments around the application site were originally proposed to remain unchanged, with low brick wall, railings over and established hedgerow measuring 1.5 to 1.8 metres to the front and timber fencing along the rear boundaries up to a height of approximately 1.6-1.7 metres. One objection stated that the rear boundary was too low and would allow views into the neighbouring property to the south. The applicant has agreed to remedy this and replace this section of fencing with two metres high boundary fencing to protect mutual privacy.
55. In consideration of the details above and given the particular layout on site, any increase in noise or activity over and above current activities at the house as a C3 use is not expected to be so excessive as to have a significant adverse effect on neighbouring amenity, given the degree of separation and its location next to a busy road and junction, with regular pedestrian and vehicle traffic passing.
56. In line with policies H9 and H13, it is not considered that the proposed change of use from C3 to a HMO for 7 occupants would significantly compromise the amenities of nearby residents or result in increased activity that would materially affect the residential character of the area or amenities of the nearby neighbours. The proposal is therefore considered to accord with the aims of policy H9 and H13 of the Local Plan and relevant parts of the NPPF.
57. The submitted details also address the requirements of the Interim Policy in making satisfactory provision for cycle and car parking (discussed below), bin storage and other shared facilities.

#### Highway Safety and Access

58. Saved local plan policy T1 requires that the council should not grant planning permission for development that would generate traffic which would be detrimental to highway safety and have a significant effect on occupiers of neighbouring properties. Policy H9 and the Council's Interim Policy both require that new HMOs provide adequate parking and access.
59. The property is served by a garage and large drive to the side of the house served by a dropped kerb from Potters Bank. Objections were raised regarding the limited amount of parking that would not be sufficient to cater for the seven occupants if each had a car. The Council's Highways team assessed the site and estimated that up to five vehicles could be accommodated with suitable parking on site. This is considered acceptable for a seven-bed unit given that it is highly unlikely that each occupant would have a car, particularly as the property is well located on a major bus route and within cycling and walking distance of local amenities. No objections were raised from a highway perspective. The proposals are therefore considered to accord with Local Plan Policies T1 and H9 and the Interim Policy.

#### Other matters

60. Concerns have been raised in relation to the distribution of neighbour notification letters, which is deemed too limited. However publicity for this application has been in excess of what is required under the Town and Country Planning (Development Management Procedure) Order 2015 (as amended) and included the posting of a site notice at the site and the posting of neighbour letters to all adjoining properties and a number beyond the site boundary.

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## CONCLUSION

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61. In conclusion, the proposed change of use would accord with the requirements of the Council's Interim Policy relating to student accommodation as currently there are not more than 10 per cent of the properties within 100 metres of the site already in use as HMOs exempt from council tax charges, and the proposal needs to be considered in this context. It is not considered that the introduction of a HMO use in this area would result in any significant adverse impact on residential amenity in accordance with the aims of policy H9, H13 and T1 of the City of Durham Local Plan or conflict with the aims of the NPPF and the Council's Interim Policy.
62. The proposal has generated public interest, with letters of objection submitted from residents and the City of Durham Parish Council. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application.

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## RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 – Approved Plans.

*Reason: To define the consent and ensure a satisfactory form of development is Obtained in accordance with Policies H9, H13 and T1 of the City of Durham Local Plan 2004.*

3. Prior to the occupation of the dwelling as HMO as hereby approved, the doorway, balcony and decking area located on the south elevation at first floor level shall be completely removed in accordance with approved drawing 'Proposed Plans and Elevations' no. 1050-03A received 10 April 2019, and that area shall cease to be used as outdoor amenity space accordingly.

*Reason: In order to protect neighbouring amenities in accordance with policy H9 and H13 of the City of Durham Local Plan.*

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## STATEMENT OF PROACTIVE ENGAGEMENT

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The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

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## **BACKGROUND PAPERS**

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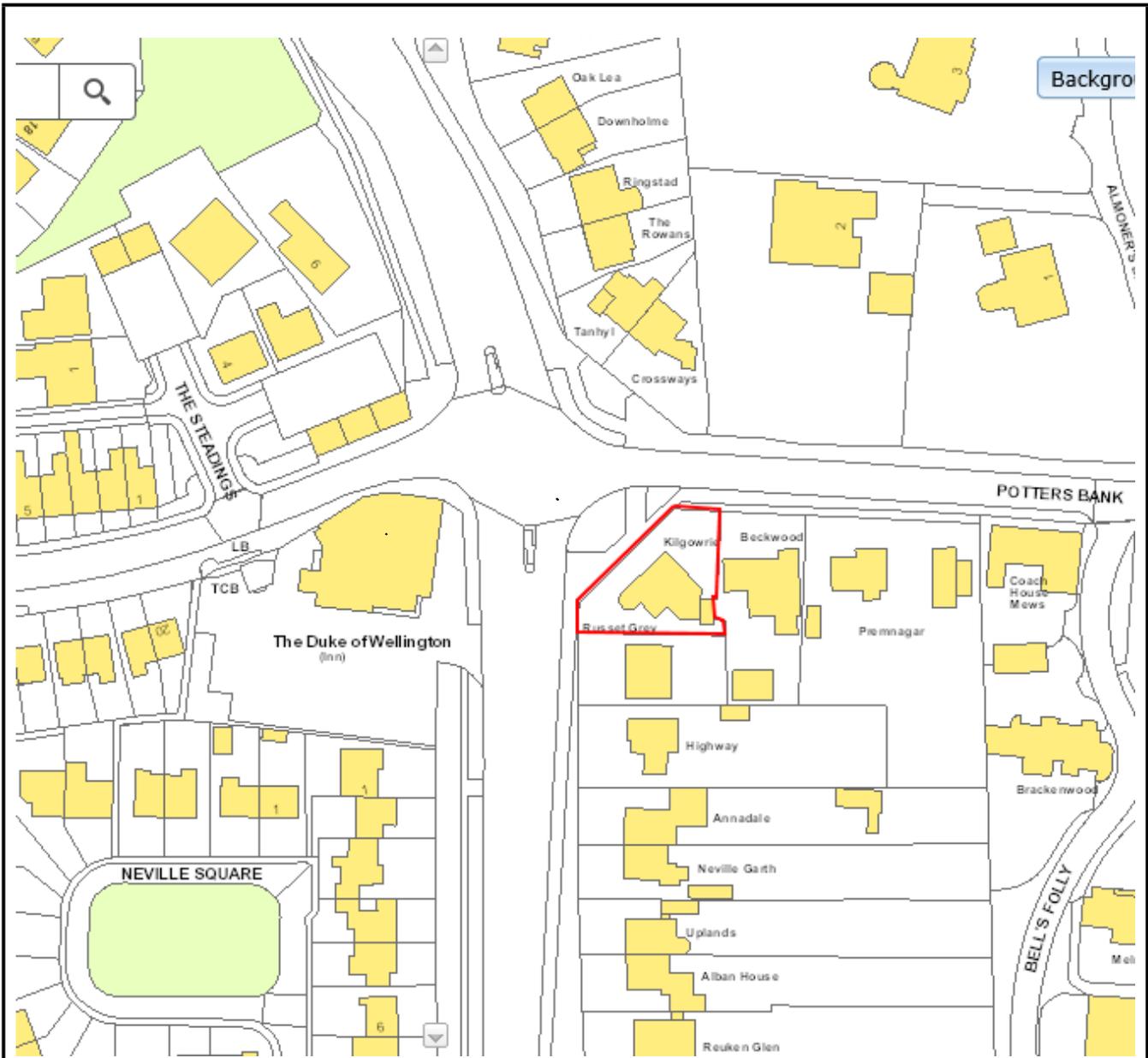
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



<p><b>Planning Services</b></p>	<p>Change of use from C3 dwellign house to HMO Sui Generis (Student Accommodation) at Corner House, Potters Bank, Durham.</p> <p>Application Number DM/19/00371/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of 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><b>Comments</b></p>	
<p><b>Date</b> 14 May 2019</p>		<p><b>Scale</b> NTS</p>

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/19/00702/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Change of use from dwelling (use class C3) to small HMO (use class C4) with 5 bedrooms and associated car parking.</b>
<b>NAME OF APPLICANT:</b>	<b>Mr Kevin McLernon</b>
<b>ADDRESS:</b>	<b>7 Dryburn Hill</b>
<b>ELECTORAL DIVISION:</b>	<b>Framwellgate and Newton Hall</b>
<b>CASE OFFICER:</b>	<b>Susan Hyde Planning Officer 03000 263961</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site forms a two storey semi detached property located to the north west of Durham City in the established residential area of Aykley Heads close to the University Hospital. The site lies within the settlement boundary of Durham City and the dwelling fronts onto a layby and the adopted highway to the north west. Other residential properties lie to the rear fronting onto the cul-de sac Dryburn Hill. The modern residential development of Barrington Close is located to the north west of the site and also to the north west is a footpath that provides a pedestrian link from Dryburn Hill to the adopted highway.
2. This application seeks consent to change the use of the property from a C3 dwelling with 3 bedrooms to a C4 house in multiple occupation with 5 bedrooms. No extensions are proposed to the building. The front garden is proposed to be altered to provide three additional car parking spaces with access being gained over open land in the applicant's ownership with one existing parking space and a garage space available in Dryburn Hill cul de sac.
3. The application is before Members at the request of Councillor Mark Wilkes as he wishes local residents' concerns about the impact of the development from the intensification of a C4 use in this location, impact on the highway, loss of garden area and impact on the street scene to be considered by members of the planning committee.

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## PLANNING HISTORY

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NONE

## NATIONAL POLICY

4. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
5. 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.
6. 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.
7. 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.
8. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

## NATIONAL PLANNING PRACTICE GUIDANCE:

9. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

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

## LOCAL PLAN POLICY:

### City of Durham Local Plan

10. *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.

11. *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.
12. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
13. *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.
14. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
15. Policies Q1 and Q2 General Principles Designing for People and Accessibility states that the layout and design of all new development should take into account the requirements of all users.
16. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.
17. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal.
18. *Policy Q5 – Landscaping – General* – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
19. *Policy Q9 – Alterations and Extensions to Residential Property* - The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.

#### Interim Policy on Student Accommodation

20. On the 15 July 2015, Cabinet approved consultation on an Interim Policy on Student Accommodation. The consultation took place during September and October 2015. Responses received during the consultation period were considered and amendments were made to the Policy. On the 16 March 2016, Cabinet recommended that full Council adopt the revised Interim Policy. As the Interim Policy has been adopted, it can be afforded weight in the decision making process, although the weight to be afforded to it must be less than if it were part of the statutory Development Plan for the area.
21. On the 16 September 2016 an Article 4 direction that removed permitted development rights to change from a C3 dwelling to a C4 house in multiple occupation in the Durham City area was confirmed.

## **RELEVANT EMERGING POLICY:**

22. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at*

<http://www.cartoplus.co.uk/durham/text/00cont.htm>.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

23. County Highway Officer – Raises no objection.

#### Consultee Responses

24. Environmental Health – Noise. Raises no objection and does not consider the proposal will create a statutory nuisance.
25. HMO officer – Awaited at the time of report preparation. Members will be updated as appropriate.
26. Durham Constabulary – Raise an objection as Dryburn Hill forms a quiet cul de sac and a C4 use where unrelated people live together in their experience leads to more anti-social behaviour and results in more complaints to the police. They clarify that there has been no police complaints in the last 12 months from Dryburn Hill. They consider the lack of garden space for the increase in number of tenants may make this situation worse and also raise concerns about the access and parking – and note any additional parking outside the curtilage may cause inconvenience to residents.

### **PUBLIC RESPONSES:**

27. The application was advertised by neighbour letters and a site notice.
28. Objections have been received from the City of Durham Civic Trust, and 10 letters of objection have been received from local residents on the following grounds:
29. Insufficient neighbour notification has occurred.
30. The adjoining semi detached dwelling strongly objects with one reason being there is a pedestrian legal right of way through her property to the cul de sac and this will detrimentally affect her residential amenity as additional people will be passing by her residential windows and garden. As the people are not related and may change frequently this will detrimentally affect her residential amenity.
31. Drainage can not cope with the increase in the number of occupants.

32. The proposed parking and vehicular access is close to a bus stop used by school children and passes a lay by which would detract from the highway safety in the area. In addition, the turning area for the vehicles is not adequate possibly leading to reversing onto the public footpath.
33. There will be more comings and goings to the property which will detract from the residential amenity of the locality particularly as the C4 house is likely to be occupied by students with the associated problems of keeping unsocial hours and noise and disturbance.
34. Concern the C4 dwelling may be occupied by alcoholics / drug dependent people and such residents would create problems for local families within the local tight knit community. There are already unlicensed C4 houses in multiple occupation in the area.
35. Concern the change of use would de value the local properties.
36. Dryburn Hill operates a resident permit system and local children play out in the cul de sac. More vehicular comings and goings will detract from the neighbourhood safety.
37. Five residents will create additional rubbish and C4 occupiers do not operate their rubbish collections responsibly.
38. The enclosure of the parking area will reduce light to local residents. In addition, the site is used for local drainage and hard surfacing the land may lead to additional localised flooding.
39. The existing property has potentially some structural issues.

#### **APPLICANTS STATEMENT:**

We are a responsible landlord, members of the National Landlords association, licensed with both Sunderland and Newcastle City Councils for these kind of properties. We will be adhering to strict licencing laws with this property and we are committed to investing significant sums in the building project. This would quite simply not be a sustainable level of investment if the rooms were to be let to the types of persons, which the local residents seem concerned about having as potential new neighbours. There are screening processes for prospective tenants in place to make sure the rooms are let to suitable professional tenants to protect our investment and ensure our business model is sustainable. Our proposals bring improvements not only to the interior of the property, but also a significant improvement to its external appearance in the street scene, and we are committed to a viable long-term maintenance strategy. We understand the concerns of immediate neighbours over parking provision and for this reason we believe our proposal will actually improve parking in the area, as we envisage a maximum of one car using parking not belonging to the property. This is assuming every tenant has a car, which in our experience is very rarely the case. As the property stands a family of 5 could very commonly have three or more cars, all parking in the communal parking areas.

We have read the comments by local residents submitted regarding our application and note that many do not live in the immediate vicinity of 7 Dryburn Hill and many of the immediate neighbours have not objected to the proposals. That said we are sympathetic to their concerns about unlicensed HMOs that some state are operating in the area, however we feel that without clear evidence to support these claims, this hearsay shouldn't factor in determining our planning application as we are committed to operating responsibly and transparently.

Additionally we note the Police have had no issues with anti social behaviour and parking in the area, which some residents seem to think come hand in hand with these kind of properties. If there are number of unlicensed HMOs in the area, as stated by some residents, they are not currently causing any of the anti social behaviour or parking problems that have been raised as a possible concern. From the outset of the project, pursuing pre application advice through to submitting planning and building regulations applications we have committed to undertaking our project within all necessary rules and regulations. Despite claims from local residents regarding restrictive covenants and the structural integrity of the building, we can confirm that no such covenant affects the building and that the structure of the building is sound and the works involve a consulting structural engineer and will be under inspection by Durham County Council building control.

We have demonstrated already that we are committed to delivering a top quality refurbishment of this property, which should attract good quality tenants. Prior to the planning application being submitted the dwelling was a rental property for a large single family who chose to leave the property of their own will and were not asked to leave by the landlord in order to pursue an HMO application, but as significant work was required to improve the property at this stage, an option appraisal was undertaken on its future configuration and offering to the rental marketplace. Records show that there isn't a problem with high concentrations of licensed HMOs in the Dryburn Hill area. We are confident that given the nearby hospital and key worker employment in the City that there is sufficient demand for this type of good quality rental accommodation for young hard working professionals who would like to live in this area, away from the more dense student population in the city centre, therefore we considered the use to be a sustainable long term proposition and as such the application should be looked on favourably.

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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40. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, the impact on residential amenity and highway safety.

### **Principle of Development**

41. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation HMOs). HMO's are classified as small shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom. The proposed floor plans submitted with the application indicate that the proposal is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 direction came into effect on the 13 May 2017 withdrawing permitted development rights in this regard and as such planning permission is required.

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

43. In consideration of the above, saved policy H9 relating to multiple occupation and student accommodation is directly relevant to the proposal as it deals with conversion of houses to HMO use. In addition, policy H13 of the Local Plan is also relevant as it relates to changes of use and seeks to minimise their impacts on the character and amenities of residential areas. The approach contained within these saved policies is considered consistent with the general aims of the NPPF which requires the planning system to support strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations. The policies are therefore deemed up to date and consistent policies which can be attributed weight accordingly in the determination of this application. Paragraph 11 of the NPPF is therefore not engaged.

44. Policy H9 of the City of Durham Local Plan states that proposals to convert houses to HMO use will be permitted provided that there is adequate parking, there is sufficient privacy and amenity areas for occupiers, the proposal would not adversely affect the amenities of nearby residents and would not involve significant extensions that would unacceptably alter the scale and character of the host dwelling and surrounding area in compliance with Policy Q9. The policy further requires that conversion should not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock. The various points within Policy H9 are covered in the relevant sections of the report below.

45. In addition to policy H9 of the Local Plan, the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the change of use of properties in instances where there is in excess of 10 per cent of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet following a 6 week consultation period. The threshold of 10 per cent was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.

46. The Council's Spatial Policy section advises that the most recent up to date Council Tax information identifies that 4.8 per cent of those properties within 100 metres of the site are currently occupied as student let accommodation. This concentration clearly falls well below the 10 per cent threshold stated in the Interim Policy. In consideration of this, and subject to detailed assessment of material issues, the proposals are therefore considered to accord with the Interim Policy and with policy H9 which is permissive in principle of conversion of properties to HMO use.

47. The combination of the Interim Policy and Article 4 Notice, along with Policies H9 and H13 of the Local Plan, provide the policy framework for determining the acceptability of development and changes of use to HMO and student accommodation. In consideration of the details of the proposals against this policy context it is considered that the change of use from C3 to C4 can be supported in principle given the relatively low numbers of student HMOs in the area. However further consideration on the potential impacts are detailed below.

### **Impact on residential amenity**

48. Saved policies H9 and H13 of the Local Plan both seek to protect residential amenities. These align with NPPF paragraph 180 which requires planning decisions to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions.

49. The application site is a two storey semi-detached property located at the end of a quiet cul de sac within a residential area. The nearest residential property adjoins the application site at no. 6 Dryburn Hill to the north west, whilst to the north east is the proposed access to the parking area, a footpath and then further residential town houses on Barrington Close. To the south west is a further residential pair of semi detached dwellings fronting onto Dryburn Hill.

50. The dwelling is currently vacant, and the proposal seeks to change the use of the property to a 5 bedroom C4 house in multiple occupation. The objections received from the Civic Trust, Durham Constabulary and local residents raise concerns that the HMO use will generate more noise and disturbance at unsocial hours than average family homes that exist within the cul de sac. Durham Constabulary also confirmed from their statistics that streets containing HMOs can create a higher likelihood of police call outs to deal with incidents of anti-social behaviour. There is a view that overall amenity for surrounding residents would be adversely affected should the change of use be approved and regret over the loss of a family house that would be more suited for the area.

51. The Council's Environmental Health (Nuisance Action Team) has carefully considered the application and has commented that the development falls outside the scope of their Technical Advice Notes (TANS) due to being a potential residential noise generating development affecting residential amenity, the nature of the development cannot be assessed against the thresholds contained within the TANS. They confirm overall that they do not believe the development would cause a statutory nuisance.

52. It is accepted that the proposed occupation of the building by 5 unrelated individuals may result in different patterns of behaviour which may generate a greater level of noise when compared to that of a single family unit. However, the change of use of a single property in this regard is unlikely to result in an increase so significant as to warrant refusal of this application and it is noted that the property would be managed by the agent who also has responsibility for the management of other HMO properties.

53. Officers also note that the siting of the dwelling fronts the highway and the main access door and most of the car parking is proposed to the front of the property. Access to the rear is via a right of way through a neighbour's garden. Given the convenience of access to the front elevation officers would expect most comings and goings associated with the property to be from the front elevation.

54. The Council's Interim Policy for Student Accommodation includes a requirement to ensure that adequate bin storage provision is provided and that other shared facilities are adequate and it is noted that this is also raised as an objection to the application by local residents. Residents raise a concern that bin collection arrangements would not be sufficient to dispose of the amount of refuse generated by 5 individuals. Refuse storage containers should be provided of sufficient size for the needs of the house, of a type acceptable to the LPA and that these should be located on a hard standing within the curtilage of the dwelling. It is considered that sufficient space exists within the curtilage of the property to provide adequate bin storage and means of collection.

55. With regard to the amount of residential amenity space available, it is considered that the property and its curtilage are sufficient to accommodate adequate provision in accordance with the requirements of the Council's Interim Policy and policy H13 of the CofDLP. In particular each of the 5 bedrooms (2 downstairs and 3 upstairs) would exceed the minimum 6.5sq metres in floor space required by the HMO Licencing regime as would the kitchen and lounge.

In light of the above considerations it is accepted that HMO accommodation occupied as a C4 dwelling does result in differing patterns of activity to a standard family household, however, in this case it would be difficult to demonstrate that this would be materially more harmful in terms of loss of residential amenity through significant increase in noise and general disturbance, than activities associated with a family home. On this basis the potential harm associated with the change of use cannot be sufficiently demonstrated to warrant a refusal of this application.

### **Parking, Access and Highway Safety**

56. The agent has provided details that the property benefits from a garage space and parking space on the cul de sac on Dryburn Hill and the proposal is to form an additional 3 parking spaces to the front of the dwelling served by a dropped kerb from the existing highway. Policy H9 and the Council's Interim Policy both require that new HMOs provide adequate parking and access.

57. Several residents have raised objection to the application and consider that the parking area to the front with the associated internal turning is not safe particularly with regard to the proximity to the bus stop and that the turning area is not adequate. This concern is also raised by Durham Constabulary Crime & Prevent Team.

58. Whilst it is noted that all residents of the proposed HMO could potentially have their own private vehicle this is unlikely to be the case and the Highway Authority raises no objection to the application and raise no safety concerns about the vehicular access and internal turning area. Officers also note another dwelling to the north west of the site has a drive to the front of the property from the adopted highway.

59. The surfacing for the car parking area is proposed to be conditioned to be a porous sustainable drainage solution so the parking area should not detrimentally affect the surface water drainage in the area.

60. In light of the above the proposal is considered to accord with the requirements of Policy H9, T1 and T10 and the Council's Interim Policy in that it would provide safe access and adequate parking.

#### **Impact on the street scene**

61. The existing street frontages include a brick wall and hedging creating a pleasant green street scene. The proposal is to replace the existing wall and shrubs with a 1.8 metre fence which officers consider is out of keeping with the street scene. As such a condition is proposed for the retention of the boundary wall to visually relate to the neighbouring properties with a 1.8 metre fence to the rear of the wall. Officers note that other properties to the north west of the site have a mixture of hedges and fences behind the boundary wall to a height of around 1.8 metres.

62. The remainder of the parking area is proposed to include a 1.2-metre-high boundary fence which is considered to be an appropriate height adjacent to the footpath to allow people to see and be seen using the path. This height is not considered to detrimentally affect neighbouring gardens.

### **Other Matters**

63. Residents have raised objection to the application citing concern that the introduction of 5 individuals within the property would put excessive pressure upon the existing foul water arrangement which could not accommodate increased flows. However, notwithstanding these concerns it is considered that the existing drainage arrangements could accommodate the increase in occupants proposed, which would not be subject to any control as part of the existing C3 use.

64. Whilst residents have raised objection to the application citing concerns regarding a perceived negative impact upon the value of other properties within the street it is noted that the impact upon property values is not a material consideration to which weight can be attached in determination of this application.

65. Several residents raise objection to the application citing concerns regarding the way in which the application has been publicised. In this regard it is noted that the application has been advertised by way of site notice and neighbour notification letters have been sent to 19 close neighbours and that this exceeds the minimum statutory requirements as defined by the Town and Country Planning (General Development Procedure) Order 2014.

66. The adjoining semi detached property has raised a concern that there is a legal right of access from the application site over her rear garden for the host property to access the cul de sac. She has expressed concern about the impact from residents walking over this land impacting her residential amenity. Officers note that the occupation of the C4 house is likely to be by adults only and the access to the cul de sac is likely to be for access to a car or a walking route to a set destination. Although officers note that a change in occupation will be perceived and may result in some increased coming and goings over the right of way, this is not considered to be sufficient to form a sustainable reason to refuse the planning application.

## CONCLUSION

67. In conclusion, the proposed change of use would accord with the requirements of the Council's Interim Policy relating to student accommodation and would not result in more than 10 per cent of the properties within 100 metres of the site being used as HMOs. Whilst the objections and concerns raised by local residents and the Durham Constabulary in relation to the impact of the development upon residential amenity and parking are noted, it is not considered that the introduction of a HMO use in this locale would result in any unacceptable impact in this regard in accordance with the aims of policy H9, H13 and T1 of the City of Durham Local Plan or conflict with the aims of the NPPF and the Council's Interim Policy.

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## RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the approved plans listed in Part 3 – Approved Plans.

Reason: To define the consent and ensure a satisfactory form of development is Obtained in accordance with Policies H9, H13 and T1 of the City of Durham Local Plan 2004.

3. Notwithstanding the details on the submitted plan the boundary wall on the front elevation shall be retained and the 1.8 metre high fence shall be erected to the rear of the existing brick boundary wall.

Reason: In the interest of visual amenity so the boundary treatment is in keeping with the street scene in accordance with Policy H9 of the City of Durham Local Plan 2004.

4. The surfacing for the parking and manoeuvring space shown on the submitted plan shall be constructed of porous material.

Reason: To ensure the parking and manoeuvring space can adequately drain from the site in accordance with Policy H9 from the City of Durham Local Plan 2004.

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#### STATEMENT OF PROACTIVE ENGAGEMENT

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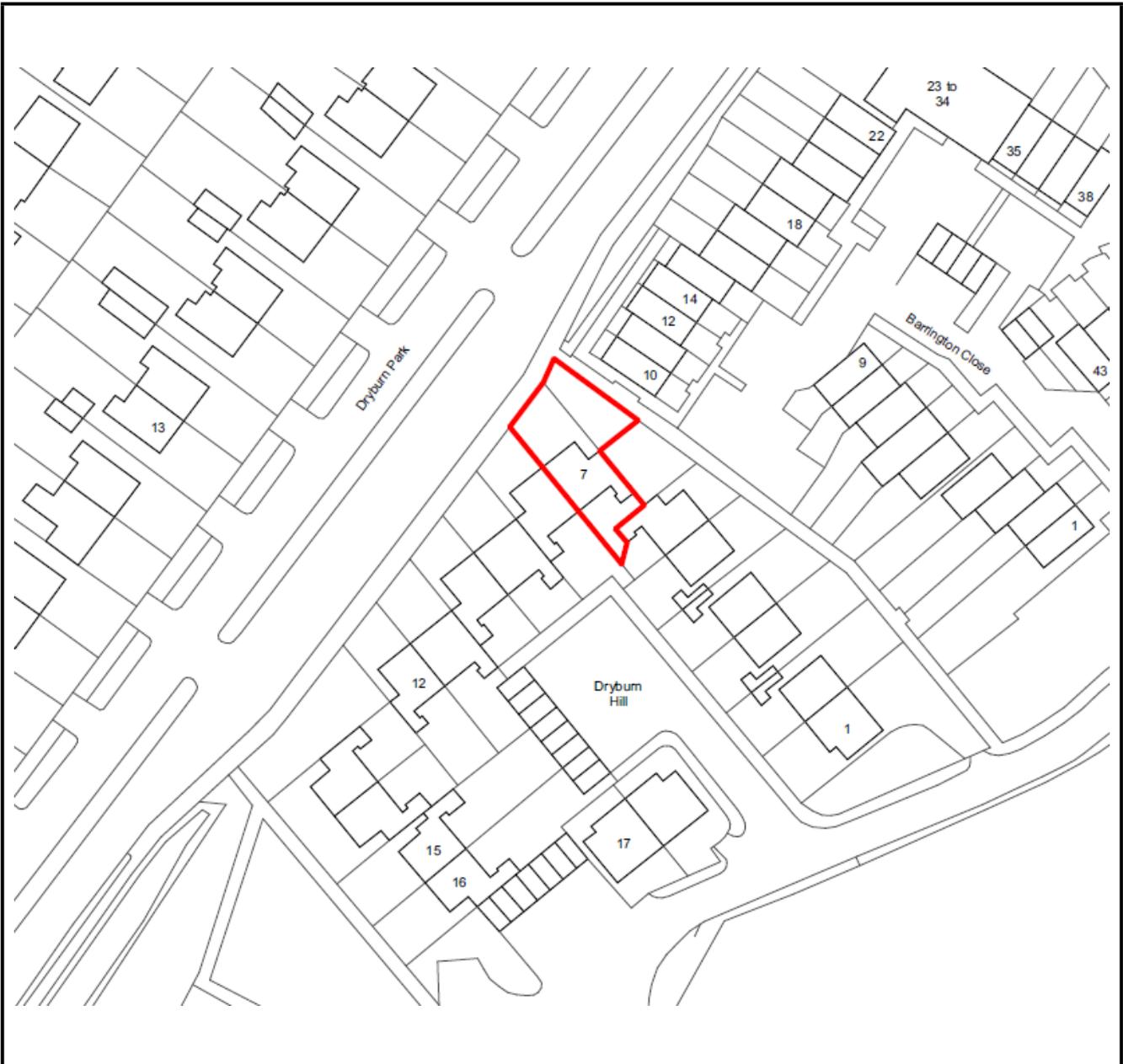
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

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#### BACKGROUND PAPERS

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



 <p><b>Durham</b> County Council</p> <p><b>Planning Services</b></p>	<p><b>Change of use from dwelling (use class C3) to small HMO (use class C4) with 5 bedrooms and associated car parking.</b></p>		
<p>This map is based upon Ordnance Survey material with the permission of 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>	<table border="1"> <tr> <td data-bbox="845 1747 1165 1899"> <p><b>Date</b> <b>May 2019</b></p> </td> <td data-bbox="1165 1747 1460 1899"></td> </tr> </table>	<p><b>Date</b> <b>May 2019</b></p>	
<p><b>Date</b> <b>May 2019</b></p>			

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/19/00649/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Change of use from a C4 house in multiple occupation to a 7 bedroom HMO with a wrap round single and 2 storey extension and external alterations (sui generis use).</b>
<b>NAME OF APPLICANT:</b>	<b>Hope Estates Ltd</b>
<b>ADDRESS:</b>	<b>51 Whinney Hill, Durham. DH1 3BD</b>
<b>ELECTORAL DIVISION:</b>	<b>Elvet and Gilesgate</b>
<b>CASE OFFICER:</b>	<b>Susan Hyde Planning Officer 03000 263961</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site forms a two storey end terraced property of a group of 4 properties to the east of Durham City in the residential area of Whinney Hill. The site lies within the settlement boundary and the City of Durham Conservation Area. Whinney Hill is an elevated street rising from the north at its junction with Old Elvet and Green Lane. It is characterised by inter-war houses originally local authority stock providing accommodation for prison officers at Durham Prison. They are arranged in groups of four either lining the main street or in short cul-de-sacs which is the case on this application. No. 51 is located at the head of a cul de sac with the front elevation facing the road, the side facing a footpath and the rear elevation facing onto an unmade track. The property is currently occupied as a C4 house in multiple occupation and benefits from gardens on three sides. A pedestrian right of way is located adjacent to the side garden linking the cul de sac with the track to the rear and Hallgarth to the north. Impressive views of Durham Cathedral can be gained from the rear elevation of the property.

### The Proposal

2. This application seeks consent to change the use of the property from a C4 house in multiple occupation with 6 bedrooms to a 7 bedroom house in multiple occupation that falls within a sui generis use class. Extensions are proposed with a side extension that is single and two storey that wraps round the property and a further single storey extension to the rear. Bedroom accommodation is proposed to be provided with three bedrooms on the ground floor and four bedrooms on the first floor

3. This application is a re submission of planning application DM/18/03552/FPA that was withdrawn from consideration prior to the February planning committee and although the number of bedrooms has remained the same the scale of the extensions has been reduced in size.
4. The application is before Members at the request of Councillor Freeman and the City of Durham Parish Council as they are concerned about the impact of the development on the locality from the intensification of student use and from the scale, design and appearance of the extension in the Conservation Area.

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## PLANNING HISTORY

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4/06/00528/FPA -Land at 50 – 51 Whinney Hill – Erection of 2 no. dwellings refused planning permission.

DM/18/03552/FPA – 51 Whinney Hill - Change of use from a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap round extension and internal alterations to existing dwelling. Application was withdrawn prior to planning committee.

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## PLANNING POLICY

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### NATIONAL POLICY

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. 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.
7. 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.
8. 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.
9. 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.

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

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

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

11. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

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

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

##### City of Durham Local Plan

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

13. *Policy E6 Durham City Centre Conservation Area* – states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.

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

15. *Policy E22 – Conservation Areas* – seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.

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

17. *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.

18. *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.

19. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
20. *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.
21. *Policy T21 – Walking* – states that existing footpaths and public rights of way should be protected.
22. Policies Q1 and Q2 General Principles Designing for People and Accessibility states that the layout and design of all new development should take into account the requirements of all users.
23. *Policy H9 – Multiple occupation / student households* - seeks to ensure that where houses are sub divided or converted to flats, bedsits or multiple occupancy, they do not adversely affect the character of the area, the amenity of nearby residents and the concentration of sub-divided dwellings to the detriment of the range and variety of the local housing stock.
24. *Policy U8A – Disposal of Foul and Surface Water* – requires all new development to have satisfactory arrangements for foul and surface water disposal.
25. *Policy Q5 – Landscaping – General* – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
26. *Policy Q9 – Alterations and Extensions to Residential Property* - The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.

#### Interim Policy on Student Accommodation

27. On the 17<sup>th</sup> September 2016 an Article 4 direction that removed permitted development rights to change from a C3 dwelling to a C4 house in multiple occupation in the Durham City Area was confirmed and adopted. As the Interim Policy has been adopted, it can be afforded weight in the decision-making process, although the weight to be afforded to it must be less than if it were part of the statutory Development Plan for the area.

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

28. Paragraph 48 of the NPPF says that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An 'Issues & Options' consultation was completed in 2016 on the emerging the County Durham Plan (CDP) and the 'Preferred Options' was approved for consultation at Cabinet in June 2018. However, the CDP is not sufficiently advanced to be afforded any weight in the decision making process at the present time.

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at*

<http://www.cartoplus.co.uk/durham/text/00cont.htm>.

**STATUTORY RESPONSES:**

29. County Highway Officer – The development sits within the Council's Controlled parking zone and no additional parking permits would be issued to permit residents to park on street within the zone. It is therefore unlikely any increase in car ownership will result from the increase in size. I would not object to the proposal from a highways perspective.

30. City of Durham Parish Council – Raise concerns about the increase in the number of bed spaces being contrary to the Interim Policy on Student Accommodation as the % of students in the area is over 50%. They raise concerns about the impact on local residents, bin storage and cycle storage.

Consultee Responses

31. Environmental Health – Noise. Considers the site is located in a residential area and although the proposal is not likely to create a statutory nuisance and he does not raise an objection he does raise concerns that the increase in number of 'additional households' with the separate bedrooms will lead to additional noise and disturbance through the party wall and more comings and goings to the property, and increased congregation outside the property which will have an increased impact in this location as the property is sited at the head of a cul de sac.

32. HMO officer – Provided details of the standards of rooms required for a HMO.

33. Durham Constabulary – Raise no objection

34. Conservation Officer – Raises no objection to the extension element of the proposals on the setting and appearance of the City of Durham Conservation Area.

**PUBLIC RESPONSES:**

35. The application was advertised in the local newspaper by neighbour letters and a site notice.

36. Objections have been received from the City of Durham Civic Trust, Whinney Hill Residents Group and received from 8 local residents on the following grounds:

36. Adjoining neighbouring property at no. 52 objects as they are C3 occupants and the level of noise and disturbance is already high and this proposal will make the situation worse. The extensions will block light into his property, affect a private right of access to his rear yard and detract from his residential amenity.

37. Parking is already difficult in the area and additional people will make this worse with more supermarket and other deliveries even if the students do not have a car which will add to congestion in the cul de sac location. In addition the rear access track is not suitable for any additional traffic or construction traffic. Concern construction traffic may block the rear lane.

38. The extensions are out of keeping with the property and will detract from the appearance of the conservation area.

39. The addition of further student bedrooms – even if it is one additional bedroom – impacts on residents from more comings and goings especially late at night, more students congregating, more noise and disturbance, more impact on parking and deliveries.
40. Vehicular access into the site is from a private narrow rear lane and is not suitable for construction traffic or any additional comings and goings.
41. The resident's association and local residents have raised concerns that the applicant is flouting planning legislation in the locality advertising a C4 house in multiple occupation for 7 students (evidence provided). They therefore raise concerns that such a large extension is likely to lead to more bedrooms than that shown on the submitted plan as the internal floorspace can accommodate more than one additional bedroom. A resident has also noted an earlier submitted plan was annotated to show 2 additional bedrooms are proposed in the sui generis property.

#### **APPLICANTS STATEMENT:**

This application is for an extension to an existing 6 bed student HMO property. The property has been used for student accommodation for some time before the article 4 deadline was introduced and that has been established by the supply of previous tenancy agreements. The application will take the unit from 6 beds to 7 beds and thus comes under a Change of Use from C4 to Sui Generis. The application will also address the minimum area requirements under the student HMO regulations and provide improved accommodation standards for the residents.

Recent New Licensing requirements for two storey HMO units have brought about a re-inspection of existing HMO's that previously did not need licences and Environmental Health Inspections by the HMO teams. This coupled with the desire of students for higher quality accommodation has brought a number of Landlords to consider their existing housing stock rather than look to convert new units.

To improve the provision of accommodation given to the occupants the client looks to expand the bedroom sizes beyond the minimum required and provide better shared amenity within the dwelling and thus an extension is proposed that raises the unit from currently 6 bedrooms to 7 bedrooms, a modest increase. Objectors to the initial application noted an illogical layout and a large extension and expense to create 1 extra bedroom. However the existing drawing (1043 – 01 Existing Plans Elevations and Section) shows that bedrooms 1, 2 and 3 are below the minimum requirement of 6.5sqm and can only be expanded by the alteration and expansion of the property. Alongside this, regulations state that a HMO holding this amount of shared rooms should have a combined kitchen/lounge/dining room area minimum of 21.5sqm and at least 2 bathrooms or shower room provisions, the existing drawing shows that the dwelling falls short of these requirements and hence the need for the application.

Thus the proposed scheme brings the property up to HMO spatial and building standards (which as it stands is undersized in 3 bedrooms, the kitchen/lounge/dining room and down an extra bathroom). The original proposed two storey extension to the rear along the boundary to 52 Whinney Hill has been reduced to single storey at this location to avoid overbearing on this property and reduce the apparent mass of the proposed extensions with a setback in the two storey element. The bin and garden access gate between 51 and 52 will be maintained albeit relocated maintaining the rights of access through the application site. We also note that 52 Whinney has its own independent access onto the rear track now shown on drawing 1043-03. The proposed side extension has been further reduced to the front elevation and the extended element has been set further back at ground floor and a further set back included first floor.

Therefore the appearance of the extended property will match that of other extended properties in Whinney Hill and the materials proposed will match of the current property.

Due to comments to the previous application the neighbouring house has asking about shared access to the front of the property, a new walk path has been added to the current proposal. This path follows from the rear of the property around the side to the front and allows space for bins to be taken from the rear to the front.

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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42. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues are the principle of development, the impact on residential amenity, impact on interim policy on student accommodation, design, impact of the development on the conservation area, and highway safety.

### *The Development Plan*

43. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. However, the CDLP was adopted in 2004 and was intended to cover the period to 2006 and, whilst the NPPF advises at Paragraph 213 that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF, it is considered nonetheless that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. In such circumstances the weight to be afforded to existing Local Plan policies should depend upon their degree of consistency with policies of the NPPF.
44. In consideration of the above, saved policy H9 relating to multiple occupation and student accommodation is directly relevant to the proposal as it deals with alterations and extensions to existing properties already in HMO use. This policy is considered consistent with the NPPF, as it is up to date and not time limited and can therefore be afforded full weight in the decision-making process. Paragraph 11 of the NPPF is not engaged.
45. Policy H9 of the City of Durham Local Plan states that proposals to extend or alter properties which are already in an established HMO use class will be permitted provided that there is adequate parking, there is sufficient privacy and amenity areas for occupiers, the proposal would not adversely affect the amenities of nearby residents and the extension would be in scale and character with the host dwelling and surrounding area. Policy H13 seeks to ensure that the character of residential areas are protected and that new development is not granted for development that adversely affects the character or appearance of residential areas, or the amenities of residents within them. The approach contained within policy H13 of the City of Durham Local Plan is considered consistent with the general aim of the NPPF in paragraph 62 to create mixed and balanced communities and as such it remains a relevant policy of the current development plan and as such can be attributed weight accordingly in determination of this application. The various points within Policy H9 and H13 are covered in the relevant sections of the report below.

### Residential amenity

46. In terms of the use of property Policy H13 states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them while Policy H9 also seeks to provide such safeguards. Paragraph 91 of the NPPF states that planning decisions should aim to achieve, healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In this case the application site has an established use for the property to be used as a small HMO for up to 6 people. Although the proposed floorspace has been reduced from the earlier submission residents have raised a concern that the amount of floorspace proposed to be added to the property is still larger than would be required for the addition of one bedroom and have noted that the applicant has amended the internal floor plan on other properties in his ownership to gain additional bed spaces. Residents noted that the earlier plan on the current application was annotated to read a room schedule of 4 bedrooms on the ground floor and 5 bedrooms on the first floor. Officers acknowledge that residents have raised a valid point and note that the floor area for the communal rooms is greater than the minimum HMO guidance, such that an altered first floor layout could provide an additional bedroom. Officers consider that the internal floor plan could be altered to provide additional bedrooms with the fenestrations as proposed and that such an alteration may not require any additional planning consent as the works would potentially be internal only and the proposal would be retained in the same use class. As such officers consider the floor space created by the proposed extension is a material consideration and it is material that the property can be occupied by more than 7 people once planning permission has been granted within the sui generis use class.
47. It is accepted that occupants of HMOs differ in their activities and general movements from that expected of family homes, and depending on individuals involved, these activities can cause levels of disturbance that create negative impacts on non-HMO residents. This is particularly from late night noise and more comings and goings and large groups of people congregating outside and within the property. In addition, the HMO properties are often left vacant for long periods of time over the holiday periods – particularly over the summer months when Durham University students have a break of over 3 months which impacts on the sense of community in the locality.
48. Environmental Health Officers were consulted on the application with regard to noise and they did raise concerns as they considered the proposal relates to a significant intensification of the use of the property. The more 'separate households' within a single property the greater the likelihood of noise arising. This relates to noise from occupiers using the property breaking through the party wall, noise from occupiers and visitors attending/leaving the property and an increased potential of noise break out from increased activities associated with larger groups. Due to the demographic of likely occupiers the likelihood of late night noise is also increased.
49. The property is located in a constrained location in close proximity to other properties at the end of a cul-de-sac as such any noise from certain activities is likely to impact on others. Officers consider this is particularly the case with having a C3 dwelling attached to the application site at no. 52 Whinney Hill.
50. The layout of the extensions provides one external door only on the front elevation of the property making access to the side and rear garden inconvenient at best. Officers are concerned that this is likely to lead to bin storage occurring on the front elevation to the detriment of the visual amenity of the street scene and a garden area that is awkward and difficult to use whilst the number of occupants within the property increases.

51. The Environmental Health Officer has assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990. He would raise significant concerns regarding the potential increase in the likelihood of noise, this is mainly based on the 'anti-social' use of the premises. He considers the property could, dependant on users, operate without raising significant noise, however the likelihood of noise is increased significantly by virtue of the use with additional people who are not related to each other
52. Officers consider that this location at the head of a cul de sac where it is a quiet location with a non student property joined onto the application site would be detrimentally affected by the property being extended to fall within a sui generis use for the above reasons. Officers consider that the limit on size of the number of people occupying the property to a C4 use of up to 6 people who are not related represents a reasonable maximum number of people in this residential area. As noted earlier a sui generis use class does not limit the number of people and so although 7 bedrooms are shown additional bedrooms could be created without the need for further planning permission. As the neighbour representation letters have explained the existing student property creates noise and disturbance for residents now and any increase in the number of occupants will increase the comings and goings and noise and disturbance. Officers consider the proposed increase in the floor area of the property provides space with potential for more than 7 occupants – which is on a property that originally had 2/3 bedrooms. Additional unrelated people are likely to lead to more noise through the party wall with the C3 dwelling, and more comings and goings – which is often noticed late at night by residents, with more people congregating etc in this cul de sac location. In addition, the reduction in the size and availability of use of the garden is considered out of keeping with the locality and is likely to lead to bin storage at the front of the property to the detriment of residential amenity. The proposed layout of the property has one external door to the front elevation only and so all comings and goings will be concentrated from the front elevation in the cul de sac. Officers therefore consider the sui generis use would have a detrimental impact on residential amenity contrary to Policy H9 and H13 of the Local Plan and paragraph 91 of the NPPF.
53. In terms of the impact of the proposed built development upon neighbouring amenity, from assessing the site, it appears that no. 52 is the adjoining terraced house that would be most directly impacted by the extension due to the proposed single storey extension to the rear of no. 51. It is noted that no. 52 has habitable room windows in the rear elevation at both the ground floor and first floor. However, as the single storey extension is 3 metres in depth this is commensurate with the scale of permitted development extensions, and a refusal of planning permission could not be justified on this basis alone.
54. The impact of the proposed side extension on no. 50 is more limited as the dwelling is detached from the application site and located at right angles to the host property. Number 50 appears to have a conventional floor plan with the main habitable rooms located on the front and rear of the dwelling. The submitted layout for the host property no. 51 shows the extension that forms the side elevation has no habitable room windows at the first floor. The residential amenity of the neighbour's property and garden (50) is therefore considered to be protected. The windows on the ground floor of the host property (no. 51) are into habitable rooms and assessed to be screened from views of the neighbouring garden by existing boundary treatment.

55. In terms of separation distance, Policy Q8 of the Local Plan provides details of separation distances for new dwellings. This policy indicates that a separation distances of 21 metres should be achieved between windows of habitable rooms. No alterations are proposed to the fenestrations in the existing property on the front elevation and the proposal meets the minimum standards specified in the justification in Policy Q8 of the local plan.

#### Interim Policy on Student Accommodation

56. The Interim Policy on Student Accommodation goes further than policy H9 as it states that extensions that result in additional bed spaces will not be permitted if more than 10 per cent of the total number of properties within 100 metres of the application site are already in use as HMOs.

57. When assessed against the Interim Policy, which seeks to curtail extensions and creation of bed spaces, the proposals are contrary, particularly as the percentage of properties within the 100 metres radius of the application site equates to 49.2 per cent. It must be noted however that the proposed extension would not impact on the percentage of properties in HMO use as the application site already falls within this category, albeit as a C4 rather than a sui generis larger HMO. On this basis, the proposal would equate to one additional bedroom creating a 7-bed HMO over a 6-bed HMO and in consideration of this, the proposals do not offend against the aims and objectives of the interim policy which seeks to maintain an appropriate housing mix by assessing the change in the percentage of housing in student accommodation within a 100 metres radius. This would still be the case if the number of bedrooms was to be increased beyond 7 as discussed above. On this basis, the addition of one or more additional bed spaces to an existing C4 property does not undermine this principle. It must also be noted that the interim policy is not part of the adopted development plan and therefore less weight must be afforded to it as a result and in the event of conflict with save local plan policies, those policies must prevail.

58. Furthermore, a recent appeal decision (reference APP/X1355/W/16/3160444) for a two-storey rear extension of a class C4 HMO to provide 3 additional bedrooms at 40 Hawthorn Terrace, Durham, considered the issues associated with the creation of additional bedrooms within established HMOs and whether such development is considered to conflict with the Interim Policy. The Inspector found that within the Interim Policy there is no explicit reference made on how to address extensions to existing HMOs against the 10 per cent tipping point. This would suggest that the Council has essentially sought a moratorium on extensions to HMO properties within the Durham City area where the majority of residential areas are in excess of 10 per cent HMOs. The Inspector considered that such a stance would be at odds with the more permissive approach of saved Policy H9 of the local plan. The Inspector further commented that the provision of additional bed spaces to an existing HMO in an area where more than 10 per cent of properties within 100 metres of the appeal site are in use as HMOs would not result in an adverse impact on the overall range and variety of local housing stock in the area. On this basis, the Inspector allowed the appeal.

59. In these circumstances, Officers are of the view that it would be very difficult to sustain a refusal reason based on conflict with the Interim Policy.

## Design of the extension

60. In terms of policy Q9, this states in point 1) the design, scale and materials should be sympathetic to the main dwelling and the character and appearance of the area. In addition, the justification for the policy also requires extensions to appear subordinate to the host dwelling and incorporate pitched roofs wherever possible. Officers note that the scale of the extension has been reduced from the former submission and that the flat roofs have been removed from the extensions and pitched roofs are now proposed. However the proposed extension would result in an enlarged property which increases the floorspace of the host property by over 60 % and includes a two storey extension that wraps round the rear elevation. Officers consider that although the front elevation has incorporated appropriate acceptable design characteristics, the development overall would still appear overly dominant and out of character with the host dwelling.
61. It is noted that whilst a number of properties have been extended in the locality officers do raise concerns over the scale and appearance of this proposed wrap around two storey rear and side extension relative to the host property. Officers consider the front elevation of the extension appears subservient in nature resulting from the in-step in the front building line and lower ridge level. The side and rear return elements are less successful as they combine to create a wrap-around two storey extension of high density that officers consider overpowers the original building. Both the side elevation and the rear elevation are visible from public vantage points with a footpath providing pedestrian access adjacent to the side elevation of the host property and an access track to the rear linking Whinney Hill to Hallgarth. The design of the extension from the side and rear provides an extension that both overwhelms the host property from the mass of the extension that is contrary to Policy Q9 and is also out of character with the host property and the neighbouring properties. The scale of the extensions visually moves the building away from appearing 'domestic' to having more of a 'commercial' appearance reflecting the sui generis house in multiple occupation use proposed. This is considered to be contrary to Policy H9 which requires extensions to be 'in scale and character with its surroundings and with any neighbouring residential property', and 'not involve significant extensions having regard to Policy Q9, alteration or rebuilding which would unacceptably alter the character or scale of the original building'. The proposal is also considered contrary to Para 130 of the NPPF which states, 'Permission should be refused for development of poor design that fails to take the opportunities available for improving the character and quality of an area and the way it functions, taking into account any local design standards or style guides in plans.'

## Visual impact of the development on the conservation area

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

63. Policies E22 and E23 of the Local Plan reflect these legislative requirements and are also deemed to be consistent with the NPPF. Within the policies there is a requirement that development be refused where it would detract from the character of the area and that all development should be sensitive in terms of siting, scale, design and materials, reflecting where appropriate existing architectural details. In addition, the policy requires that trees, hedgerows, views and undeveloped areas which contribute to the character or appearance of the area should be protected.
64. Whinney Hill is located within the eastern part of the designated conservation area and is an elevated street rising from the north at its junction with Old Elvet and Green Lane. It is characterized by inter-war houses originally local authority stock providing accommodation for prison officers at Durham Prison. They are arranged in groups of four either lining the main street or in short cul-de-sacs, and are typical of designs of the social housing of their time. As such they themselves are of little historic interest or merit architecturally but the plan arrangement and streetscape of the area is positive deriving from the varying topography and layout of housing blocks, the wide verges, street trees, green open spaces, and mature front gardens. These elements combine to great effect to create a public realm of high quality with a distinctly suburban character. Furthermore, impressive views of Durham Cathedral can be gained between the houses and above from the rising land to the east.
65. Design and Conservation officers provided comments on the proposals, stating that the proposed front extension is set back and set down on the roof and is subservient to the host property. The side and rear elevation are less successful as they combine to create a wrap-around extension and would still represent a fairly large extension of high density, which would be visible from the adjacent public footpath. However, the location of the extensions in the setting of the conservation area, and the views of the world heritage site beyond are not detrimentally affected. As such the Conservation Officer has not raised an objection with regard to the impact of the extension on the character/appearance of the Conservation Area as the proposal would only impact at a localised level being visible from within the cul-de-sac and from a very small area within The Hallgarth, both modern estates neutral in character. It would therefore not be considered harmful to the special historic and architectural interest, character or appearance of the area underpinning its conservation area status. Due to the property's location at the south end of the block, the extension would not intrude into or harm the fine view of Durham Cathedral attainable from the public realm along the main street. As a consequence of the above the development proposal would be considered to have a neutral and thus preserving impact on the character and appearance of the Conservation Area in accordance with the principles of NPPF Section 16 and local policy E3, E6 and E22.
66. The National Planning Policy Framework in part 16 requires that the impact of the development is considered against the significance of the Heritage Asset which in this case is Durham City Centre Conservation Area. Part 12 of the NPPF deals with good design generally advising that it is a key aspect of sustainable development, indivisible from good planning that can lead to making places better for people. At a local level Policy E6 and E22 of the City of Durham Local Plan are also considered to be relevant. These policies state that the special character, appearance and setting of conservation areas will be preserved or enhanced. This will be achieved by only approving development that would be sensitive in terms of its siting, scale, design and materials. Policies H9 and Q9 require any extensions to such dwellings are in scale and character with its surroundings and neighbouring residential properties.

67. The aforementioned policies and guidance require the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area. In this case the extensions to the property are considered to have a neutral impact on the Conservation Area and the proposal is therefore considered to be in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

#### Highway and access issues

68. The County Highway Officer has raised no objection to the proposal as the site is located in a controlled parking area and no additional parking permits will be provided. The site is located in a sustainable location close to a range of services and public transport and no objection is raised on this sustainable site. The proposal is therefore considered to be in accordance with Policy T1 and T10 of the Local Plan.

#### Comments on the objector's concerns

69. Residents' concerns about the impact of additional noise and disturbance is discussed above in the report.

70. The neighbouring property at no. 52 raised an objection about an access from his property over the rear garden of no. 51 being blocked by the proposed development. Officers consider this is a private legal matter with regard to whether the neighbour has a legal right of access that falls outside planning legislation. It is noted that an amended plan now includes an access round the property for the neighbouring property for the removal of bins.

71. Residents made comments about parking being difficult in the narrow cul de sac area, the existing garden being used for parking and additional people making the situation worse and more supermarket and other deliveries occurring even if the students do not have a car. As explained above as the site is located in a sustainable location the highway officer does not require the existing parking areas to be retained and as the area is a controlled parking area and no additional parking permits will be provided officers consider that the impact on parking will be minimal. With regard to shopping being delivered to the premises officers consider that whilst this is a temporary occurrence it adds to the impacts on disturbance to residential amenity explained above in the report.

72. Residents concerns about the additional use of the rear access track are noted and concerns relating to this track being used for construction work if planning permission is granted is also noted. However, these concerns would not form the basis of a justification to refuse planning permission.

73. Comments about the design and appearance of the property and its impact on the conservation area are discussed above in the report.

74. The possibility of the large floor plan for the extension leading to more than one additional bedroom is also discussed above.

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## CONCLUSION

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74. This application has been fully assessed and considered in relation to the relevant policies including H9, H13, Q9, T1, and T10, of the City of Durham Local Plan and criteria detailed in the NPPF. In reaching a recommendation on this application, supporting information submitted with the application has been fully considered along with comments received from consultees and the objectors.

75. The application is submitted for the change of use from a C4 house in multiple occupation to a sui generis 7 bedroom HIMO with a wrap round 2 storey extension and single storey extension to the side and rear. Officers conclude that the scale and character of the extension is not subordinate to the host property and would involve significant extensions out of keeping with the host property, and the remaining garden is restricted and difficult to access from the front door only. In addition, the change to a sui generis use class with seven or more occupants in the dwelling within this cul de sac location would have a detrimental impact on residential amenity from noise and disturbance from additional comings and goings particularly at unsocial hours, and disturbance through the party wall to the adjoining C3 dwelling. For these reasons officers consider the application is not acceptable and is contrary to Policy H9 and H13 of the City of Durham Local Plan 2004.

76. The application is therefore recommended for refusal.

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## RECOMMENDATION

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That the application be refused for the following reason:

1. The proposed wrap around two storey extension on the side and rear elevation is considered to unacceptably alter the character and scale of the host property contrary to Policy H9 and Q9 of the City of Durham Local Plan 2004 and Part 12 of the NPPF.
2. The change of use of the property from a C4 dwelling to a sui generis house in multiple occupation will result in 7 or more unrelated people occupying a terraced property in a constrained cul de sac location to the detriment of residential amenity from additional comings and goings, and noise and disturbance contrary to Policy H9 and H13 of the City of Durham Local Plan 2004 and Paragraph 91 of the NPPF.

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## STATEMENT OF PROACTIVE ENGAGEMENT

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The Local Planning Authority in arriving at its decision to refuse the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. Unfortunately, a positive outcome was not achieved on this application. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

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## BACKGROUND PAPERS

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



**Planning Services**

**Change of use from a C4 house in multiple occupation to a 7 bedroom HIMO with a wrap round extension and internal alterations to existing dwelling (sui generis).**

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**Date**  
**May 2019**

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/19/00459/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Erection of timber structure on practice range and AstroTurf area</b>
<b>NAME OF APPLICANT:</b>	<b>Mr Steve Rose Brancepeth Castle Golf Club Club House</b>
<b>ADDRESS:</b>	<b>Brancepeth Durham DH7 8EA Brancepeth</b>
<b>ELECTORAL DIVISION:</b>	<b>Brancepeth</b>
<b>CASE OFFICER:</b>	<b>Michelle Hurton Michelle.Hurton@durham.gov.uk 03000 261398</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### SITE:

1. The application site relates to a long-established golf course located within the Brancepeth Castle estate. The site is currently used as a practice area on an informal basis. The application site is located to the north of the golf course, on the opposite side of the access road.
2. Brancepeth Castle Golf Club is sited within the Brancepeth Conservation Area and the Historic Park and Gardens which was designated in 1967 and is one of the top 100 courses within Britain and Ireland.
3. The golf club has five practice areas around the golf course, the long game practice area is the one relevant for this proposal which is sited within its own field and stretches well over 300 yards from the teeing area to the end of the field.

### PROPOSAL:

4. Full planning permission is sought for the erection of a single storey timber framed mono pitched structure with an overall height of 4050mm which reduces in height towards the back of the structure to a height of 3175mm. The teaching bay has a floor area of 5000mm by 5000mm and each of the practice areas measure 3150mm by 5000mm giving an overall floor area of 5000mm by 14000mm.
5. The structure incorporates 2no practice bays and 1no teaching bay and to the side of the timber structure is an area of AstroTurf measuring 30m<sup>2</sup> which will be used as an additional practice area.

6. The application is brought before members of the planning committee at the request of the Parish Council, based on concerns regarding the impact on traffic, the development is considered to be harmful to the character and appearance of the historic parkland, is out of character, and does not preserve or enhance the character and appearance of the conservation area. Confirmation has been received from the Parish Council regarding Parish Councillors addressing the planning committee.

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## **PLANNING HISTORY**

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7. 4/08/01046/FPA – Erection of bridge within golf course - Approved

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

#### *National Planning Policy Framework*

8. A revised National Planning Policy Framework (NPPF) was published in February 2019. 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.
9. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
10. 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.
11. *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.
12. 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.
13. NPPF Part 15 - 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.

14. 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.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <http://www.communities.gov.uk/planningandbuilding/planning/planningpolicyguidance/planningpolicystatements>*

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

15. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; conserving and enhancing the historic environment; design; and use of planning conditions.

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

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

*City of Durham Local Plan 2004*

16. Policy E10 (Areas of Landscape Value) is aimed at protecting the landscape value of the district's designated Areas of Landscape Value.
17. Policy E19 (Wildlife Corridors) sets out criteria for ensuring that key habitats maintain their quality and range of species, and the council will seek to ensure that the integrity of wildlife corridors and the type of species are taken into account.
18. Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of conservation areas, by not permitting development which would detract from its setting, while ensuring that proposals are sensitive in terms of scale, design and materials reflective of existing architectural details.
19. Policy E23 (Listed Buildings) seeks to safeguard Listed Buildings and their settings from unsympathetic development
20. Policy E26 (Historic Parks and Gardens) sets out criteria for development at parks and gardens of historic or landscape value, by not permitting development which would detract from the enjoyment, layout, design, character, appearance or setting of the park or garden; or involve the loss of features considered to form an integral part of the special character or appearance of the park or garden.
21. Policy R18 (Golf Courses) states that the development of new golf courses or golf driving ranges, or improvements to existing courses, will be permitted provided it can be demonstrated that they would not have an adverse impact on: the openness of the Green Belt or the character and appearance of the countryside; or the natural or historic environment; or existing flora and fauna; or the agricultural viability of the best and most versatile agricultural land; or public rights of way; or residential amenity; or traffic and highway safety. All proposals for golf courses should be accompanied by full details of the design and its impact upon these interests.

22. Policy T1 (Traffic Generation – General) The council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.
23. Policies Q1 and Q2 (General Principles Designing for People and Accessibility) states that the layout and design of all new development should take into account the requirements of all users.

#### **EMERGING POLICY:**

24. 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.durham.gov.uk/media/3396/City-of-Durham-local-plan-saved-policies/pdf/CityOfDurhamLocalPlanSavedPolicies.pdf>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

25. Parish Council – requested the application be reported to planning committee, objections raised in relation to the impact on traffic, development harmful to the character and appearance of the historic parkland, out of character, and does not preserve or enhance the character and appearance of the conservation area.

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

26. Highways Section - raises no objections
27. Design and Conservation – raises no objections
28. Ecology – raises no objections
29. Landscape – raises no objections

#### **PUBLIC RESPONSES:**

30. The application was advertised by means of site notice, press notice and by neighbour notification to 4 properties.
31. At the time of preparing this report, 26 letters of support have been received, 10 letters of objection and 4 letters of representation.
32. The letters of objection relate to impact on traffic, increased noise, detrimental impact upon the character and appearance of the conservation area, the timber structure would be the first commercial development in the village creating a precedent for other commercial activities, would have an adverse impact upon living conditions of adjoining properties, risk of injury from stray balls, could facility be sited within an industrial estate, development fails to preserve or enhance the quality of the area, proposal will be an unnecessary intrusion into the heart of the Brancepeth Conservation Area and National Parkland, access to the golf club is via a narrow road, in time further applications to increase opening hours and install floodlights will be submitted.

33. Further comments have been received regarding whether the site is suitable for the intended use, closeness to A690 and neighbouring properties, the area identified is too small for proposed facility, as proposal will increase usage of the golf course should the plans include toilet facilities and areas for collection of waste. There is no noise assessment submitted with the application, there is no traffic assessment submitted with the application.
34. The letters of support state that the addition of the practice facilities would be welcomed as it will help to recruit and retain members. The area is already being used as a driving range, therefore there would not be any additional noise within the day time hours any more than the existing arrangements, there are no flood lights proposed meaning there would be no additional noise within night time hours. There is plenty of car parking provision, and there would be barely any difference in the volume of traffic entering the site. The timber structure is to allow members to practice in all weather conditions. The golf club has speed restrictions in place to encourage drivers to drive carefully. The continued existence of the club is a valuable asset to Brancepeth and to the County.

#### **APPLICANTS STATEMENT:**

35. This statement has been prepared on behalf of the Applicant in response to objections received to the proposals.
36. The Proposal and Context
37. The proposal for a small timber structure and associated AstroTurf bays are for a site that has been in use as a practice area for over 48 years, therefore this application is not for any change of use. The application is simply to improve facilities for the users of the space. There is no intention for any floodlights or electricity to serve the proposal.
38. The design of this development has been considered within the wider historic context; as such the scale, positioning, massing and traditional material choices have been carefully selected to mitigate harm to the historic and natural surroundings. The appearance of the building is traditional agricultural (timber with open fronted bays) to remain sensitive to and in keeping with the character of the surroundings. The massing is minimal to provide adequate recreational space yet remaining subservient to the natural and historic context.
39. Any neighbouring historic assets will not be visible from the new structure, and therefore the structure will not be within view from the properties. It is some 150 yards into the practice area before any neighbouring houses are viewed. Furthermore, the building has been situated at the furthest point of the site away from the neighbouring properties in order to minimise visual and audio impact.
40. Transport and Parking
41. The facilities are designed to be accessed on foot from the nearby Golf Club, where ample parking is available following the recent construction of additional parking. It is envisaged that the facilities will be mainly used by members of the club during a visit to play the course. Any addition in traffic for the facilities will be minimal, the practice area can only cater for less than 10 people at any one time, therefore it is unlikely that there would be any significant impact on vehicle volume through the village centre.
42. Supporting Planning Policy

43. Paragraph 185 of the NPPF states a positive strategy for the conservation and enjoyment of the historic environment should be sought. As the site lies within Brancepeth Conservation Area, a sensitive design which will provide facilities within the historic environment which will be well cared for and maintained is a positive solution to ensuring conservation and enjoyment of the area for all.
44. Paragraph 196 of the NPPF states that any development leading to less than substantial harm to the significance of heritage assets should be weighed up against the public benefits of the proposal. It has been argued that the proposal will be of the detriment to the character of neighbouring designated properties, despite not being within eyeline of them. In this instance it is urged that the public benefit this small development could bring to the neighbouring communities and longevity of the Golf Club is considered.
45. The application supports Paragraph 91 and 92 of the NPPF in improving facilities that promote social interaction, enable and support healthy lifestyles and create opportunities for community and public use. The nearest weather proof practice facilities are some 8 miles away, thus creating a much-needed facility for the members of the club but also convenient facilities to encourage the local community to engage in the sport. This further supports clause 8.13 of City of Durham Local Plan indicating that the council will favour the improvement of existing recreational facilities and to further encourage a wider range of recreational facilities available.
46. Policy R18 of the City of Durham Local Plan also indicates that support would be given to the improvement of existing golf courses; through the sensitive consideration of the proposals it is sought that the design is not of detriment to any section within the policy and therefore should be permitted.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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47. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
48. The main considerations in regard to this application are the principle of the development, residential amenity, impact on the character and appearance of the surrounding landscape, conservation area, listed building, and highway safety.

### **Principle of Development**

49. Policy R18 of the City of Durham Local Plan states that the improvement to existing golf courses will be permitted provided that the proposed development can demonstrate that it will not have a detrimental impact upon the character and appearance of the natural or historic environment, residential amenity or highway safety and this is considered to display broad level of accord with the general aims of the NPPF. Therefore, subject to satisfactory consideration of the criteria listed, the proposed development will be considered to comply with Policy R18 and thus be acceptable in principle.
50. The application site forms part of a well-established golf course located within the Brancepeth Castle Estate which is sited within the Brancepeth Village Conservation Area, Historic Park and Gardens and Area of High Landscape Value. The principle of introducing a timber structure on an existing practice range is therefore considered to be acceptable in principle subject to proper consideration of the impact of the development upon the character and appearance of the historic environment and AHLV and other factors as identified.

## **Impact upon residential amenity**

51. The proposed timber structure is to be sited within an existing practice range, located to the north west of the club house. Objections have been raised regarding the proposed development having an adverse impact upon living conditions of adjoining properties, noise and risk of injury from stray balls.
52. The nearest residential property is Hoppy Acres which is approximately 185m to the west of where the timber structure is to be located within the application site. Given the distance between the nearest neighbouring property and how the proposed structure is orientated, facing north, it is considered that there would not be any adverse impacts upon the neighbouring residents anymore than the current arrangements on site.
53. At present it appears that the practice area is currently “multi-directional” and does not have any structure, therefore preventing a number of users to operate simultaneously. This therefore is likely to limit the use of the practice area and as such the potential for noise arising from golf ball/club impact.
54. The proposed structure allows for what is in essence a driving range type operation. This may lead to an increased frequency of use, i.e. can be used for a number of individuals simultaneously for longer shots and is also likely to be more attractive for use and as such may be used to a greater extent. This therefore has the potential of leading to an increase in noise.
55. However, in planning terms the use of the land is well established and as such only the timber structure is subject to this application. It is considered that the structure in its own right is unlikely to have a perceptible effect on existing noise levels given the separation distances achieved, and in this regard, it is noted that the current use of the site could intensify without any planning control. As such, based solely on the proposed structure, it is considered that the development is unlikely to significantly alter the noise levels arising from site or have any unacceptable impact upon residential amenity in this regard in accordance with policy R18 of the City of Durham Local Plan and paragraph 180 of the NPPF
56. In regards to stray balls, whilst this is predominantly a site management issue for the Applicants, it is important to note that the site is already in use as a practice area and therefore the proposal does not alter the existing risk of stray golf balls entering neighbouring properties. This application gives the Local Planning Authority an opportunity to ensure that there is no additional impact on nearby residents. Therefore, it is considered that a management plan condition should be submitted to the Local Planning Authority prior to the development being brought into use to manage how the practice ground is operated.

## **Impact upon character and appearance of the Conservation Area, Historic Park and Gardens and Area of High Landscape Value (AHLV)**

57. Policy E22 of the City of Durham Local Plan states that the Council will seek to preserve or enhance the character and appearance of Conservation Areas. This is achieved by not permitting development which would detract from the character or appearance of a conservation area or its setting by ensuring that the proposed development is sensitive in terms of siting, scale, design and materials. This is considered to display a broad level of accordance with paragraph 193 of the NPPF and the requirements of Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990 to preserve or enhance the character and setting of Listed Buildings and conservation areas.

58. Objections have been raised regarding the proposal creating an unnecessary intrusion into the heart of the Brancepeth Conservation Area and National Parkland, having a detrimental impact upon the character and appearance of the Conservation Area, and being a box on the landscape.
59. Policy E10 of the City of Durham Local Plan states that the Council will protect the landscape value of the district by resisting development which would have an unacceptable adverse impact upon the landscape quality or appearance of the area of high landscape value, and requiring development to respect the character of its landscape setting in terms of its siting, design, scale and materials.
60. The Landscape officer has raised no objections to the proposed development. The primary receptor is the bridleway that passes adjacent to the South East end of the Practice Range at a distance of approximately 70m, which is screened by Mature trees which divide the range from the lane.
61. While the site and its immediate surrounds are of high sensitivity to the effects of any development, it is considered that the scale, nature and materials of the proposed timber structure do not represent a significant threat to the visual amenity value and character of the landscape, Conservation Area and AHLV.
62. Therefore, the proposed development would have only minimal adverse landscape and visual effects and would not be in substantial conflict with the saved policy E10 of the City of Durham Local Plan
63. It is considered that the timber structure has been sympathetically sited within the practice range, and is a limited sized structure which would not create any unacceptable adverse impacts upon the quality of the landscape setting or the character and appearance of this part of the conservation area. It is therefore of neutral impact in this regard.
64. The Design and Conservation officer has raised no objections to the proposed development given that it is a modest proposal in an area which is already operating as part of the existing practice facilities for the golf club. It is acknowledged that the application site is located within the Brancepeth Village Conservation Area, the Registered Park and Gardens as well as the setting of various listed buildings, however, it is relatively well contained and screened from the trees which bound the site to the north and west. Therefore, it is considered that there would be no demonstrable harm to the setting of any of the identified heritage assets given the above. Hence, it is considered that the proposal would preserve the character and appearance of the Conservation Area, in accordance with local plan policies and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and would not adversely affect the listed buildings/their setting/any features of special architectural or historic significance, in accordance with Section 66 of that Act.
65. The Design and Conservation officer requested that the final colour of the timber structure be conditioned. However, details of the final colour (Ronseal Woodstain, Satin Antique Pine) were submitted to the Local Planning Authority (LPA) which were considered to be an acceptable choice of colour for the structure, removing the need for any additional conditions.

## **Highways**

66. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate traffic which would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property.

67. The Highways officer has raised no objection to the proposed development. The Golf Course is an existing leisure facility and users of these types of leisure facilities are generated primarily out of the AM and PM peak traffic periods. Vehicular access to the site can be provided from the A690, within land under the control of Brancepeth Golf Club and/or the adopted public highway. Given the modest level of development at the golf course it is considered that this will not cause any material queuing or delay. The site is located near an established residential area and is well located in relation to existing public transport services, being approximately 400m from a bus stop on A690.
68. Given the form and capacity of the A690 which is the main road junction serving the site, and the relatively minor increases in traffic demand as a result of the proposed leisure development, the traffic demand associated with the proposed development is expected to be below the threshold of 30 two-way peak hour vehicle trips during the weekday AM and PM peak hours. The proposed development would therefore not be considered to have a material traffic impact on the operation of the wider road network.
69. The driving range is sited within a position which will not have any adverse impacts upon the private shared access road the Golf Course shares with the adjacent residents. In terms of vehicle trip generation to the site it would be reasonable to assume members of the Golf Club would mainly use this facility, and any new vehicle trips into the site would be very modest from the A690. The Golf Course has an existing car park which would be large enough for the car parking requirements of the intended use.
70. In this respect no concerns are raised in relation to highway matters at the site, and therefore it is considered that the proposals comply with saved policy T1 of the City of Durham Local Plan.

### **Other Matters**

71. Objections have been received regarding further applications being submitted in the future should this application be approved to increase the opening hours and install floodlights. The timber structure would be the first commercial development in the village creating a precedent for other commercial activities.
72. Further comments have been received regarding whether the site is suitable for the intended use, the area identified is too small for proposed facility, as proposal will increase usage of the golf course should the plans include toilet facilities and areas for collection of waste.
73. In response to these points, the use of the land is not changing, the only addition is the proposed timber structure, therefore, whether the site is suitable for the intended use is not something which can be taken into consideration because the use of the land is already in operation. In turn, in relation to comments regarding the timber structure being the first commercial development in the village creating a precedent for other commercial activities, again the use has already been established and the addition of any further structures would be subject to planning control and would be assessed on their own merits if and when proposed.
74. The planning application is for a timber structure to allow golfers to practice their 'tee off'. The structure includes space for four golfers to use the facility at the same time, this is not considered to be an excessive number of additional users to request plans indicating where bin storage and toilet facilities are located in and around the golf course. This is a matter for the applicants, and they have not considered it necessary to apply for additional facilities of this nature.

75. In regards to future applications being submitted for extended opening hours and flood lighting, these do not form part of this application and each application has to be assessed on its own merits. Any future proposal to install any equipment in this regard would be subject to planning control.

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## CONCLUSION

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1. In conclusion it is considered that the proposed development due to its location, orientation, size and materials would not have a detrimental impact upon the character and appearance of the Conservation Area, Historic Park and Gardens and Area of High Landscape Value. In relation to impact upon the current levels of residential amenity, it is considered that the proposed development would not have any significant adverse impacts to warrant refusal of the application. The development would therefore accord with the aims of policies R18, E10, E19, E22, E23, E26, T1, Q1 and Q2 of the City of Durham Local Plan, Parts 4, 8, 12, 15 and 16 of the NPPF and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

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## RECOMMENDATION

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Recommendation that the application is:

### APPROVED subject to the following conditions

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

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

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

Plan	Drawing No.	Date Received
Plans, Elevations and Sections	2018/09/105	06/03/19
Boundary Plan Land Ownership	2018/09/102	06/03/19
Proposed Site Layout	2018-09-103 Rev A	06/03/19
Proposed Site plan	2018-09-104 Rev A	06/03/19
Location Plan	2018009/03 Rev A	12/02/19
Make and colour of finish Ronseal Woodstain Satin Antique Pine		04/05/19

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E22 E23 E26 R18 T1 Q1 & Q2 of the City of Durham Local Plan

3. The development hereby approved shall not be brought into use until a management plan has been submitted to and agreed in writing by the local planning authority. The practice ground shall be operated in accordance with the approved management plan in perpetuity.

Reason: In the interest of residential amenity in accordance with R18, Q1 & Q2 of the City of Durham Local Plan

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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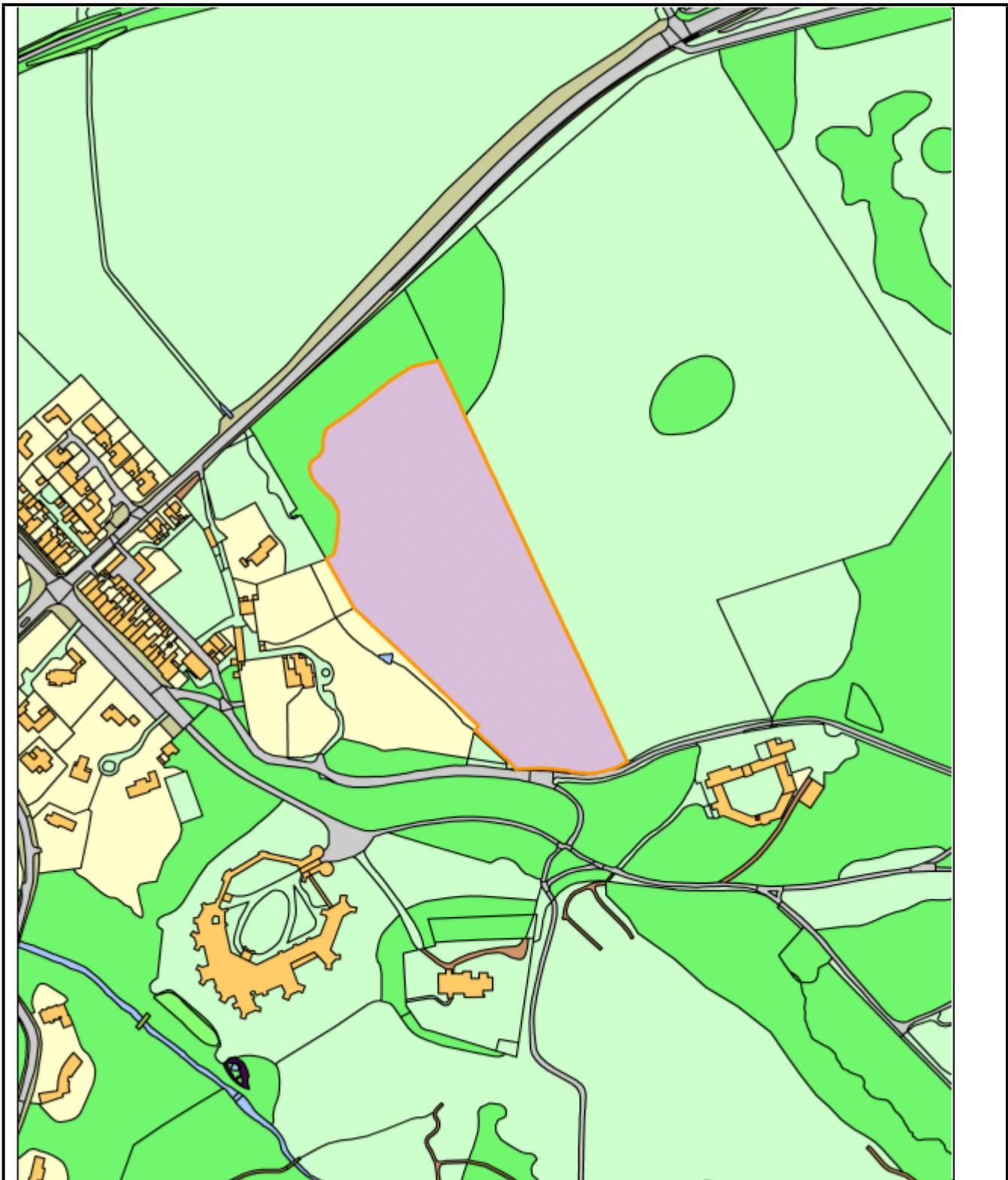
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.

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## **BACKGROUND PAPERS**

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- Submitted Application Forms and Plans.
- Durham City Local Plan 2004
- National Planning Policy Framework
- National Planning Practice Guidance
- Consultation Responses
- Objection Letters
- Support Letters



**Planning Services**

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Erection of timber structure on practice range and AstroTurf area at Brancepeth Castle Golf Club, Brancepeth, Durham, DH7 8EA

**Comments**

**Date. 11 September 2018**

**Scale 1:1250**