



Area Planning Committee (Central and East)

Date Tuesday 10 September 2019

Time 1.00 pm

Venue Council Chamber - County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 9 July 2019 (Pages 3 - 14)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central & East Durham)
 - a) DM/19/01711/FPA - Durham Sixth Form Centre, The Sands, Durham (Pages 15 - 34)

Demolition of sections of enclosure and provision of access in association with use of a car park and associated works.
 - b) DM/19/01295/FPA - 55a The Avenue, Seaham (Pages 35 - 44)

Change of use from greengrocers (use class A1) to mixed use as a sandwich shop/hot food takeaway (sui generis).
 - c) DM/19/01457/FPA - 37 Whindyke, Blackhall Colliery (Pages 45 - 52)

Erection of 1.9m high boundary wall to South West and South East of site (Part Retrospective).
 - d) DM/19/01810/FPA - 22 Blaidwood Drive, Durham (Pages 53 - 64)

Part two storey rear extension and part single storey rear extension, raising of ridge height and loft conversion, increasing from 4 to 6 bedrooms.

- e) DM/19/01720/FPA - 77 Whinney Hill, Durham (Pages 65 - 78)

Erection of two storey side extension to C4 (House in multiple occupation) dwelling.

- f) DM/18/02118/FPA - Land to the North East of Holly Street, Durham (Pages 79 - 104)

Construction of apartment block comprising 27 No. one and two bedroom apartments.

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
2 September 2019

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

Councillor J Clark (Chair)
Councillor A Laing (Vice-Chair)

Councillors G Bleasdale, D Brown, I Cochrane, K Corrigan, B Coult, M Davinson, D Freeman, A Gardner, K Hawley, S Iveson, R Manchester, J Robinson, J Shuttleworth and P Taylor

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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 July 2019** at **1.00 pm**

Present:

Councillor I Jewell (Chair)

Members of the Committee:

Councillors G Bleasdale, D Brown, I Cochrane, B Coult, M Davinson, D Freeman, K Hawley, A Laing (Vice-Chair), R Manchester, J Maitland and L Pounder

Also Present:

Councillors J Blakey, S Dunn and M McKeon

Prior to the start of the meeting a resolution was passed for Councillor Jewell to chair the meeting. Nominated by Councillor Laing and seconded by Councillor Pounder.

1 Apologies

Apologies for absence were received from Councillors J Clark, K Corrigan, A Gardner, S Iveson and J Robinson.

2 Substitute Members

Councillor P Jopling substituted for A Gardner and Councillors I Jewell, J Maitland and L Pounder for Councillors S Iveson, J Clark and K Corrigan respectively.

3 Minutes

The minutes of the meeting held on 11 June 2019 were agreed as a correct record and signed by the Chair.

4 Declarations of Interest

Councillor I Cochrane declared a prejudicial interest in item number 5 c) on the Agenda and confirmed that he would therefore leave the Chamber before the debate and deliberation of the application.

5 Applications to be determined

a DM/19/01369/FPA - 21 Church Street, Coxhoe, Durham

The Committee considered a report of the Planning Officer which consisted of an application for the change of use from a Clinic, to a hot food takeaway at ground floor level and office at first floor level, at 21 Church Street, Coxhoe (for copy see file of minutes).

The Planning Officer confirmed that Members had visited the site earlier that day and gave a detailed presentation of the application site, including site location plans, site photographs and aerial photographs of the site.

The Planning Officer confirmed that since the report had been published two further objections had been received, one from a local resident and one from MP Blackman-Woods.

Ms K Simpson on behalf of Coxhoe Parish Council addressed the Committee in objection to the application. She confirmed that a high number of concerns had been expressed at a recent meeting and were mainly in relation to noise, highways and impact on local businesses. Coxhoe already had several takeaway establishments and an additional one would not only have an impact on other well-established hot food takeaways, but it would impact on surrounding traders. The Parish Council worked alongside businesses to improve services however it was not felt that the locality would benefit from another hot food takeaway.

Councillor Blakey, Local Member, confirmed that the area had benefitted significantly over the years with a lot of support from the AAP and investment by local businesses. Coxhoe had a high street which offered a wide range of services and a pleasant shopping experience. She had counted eleven hot food establishments within half a mile.

Councillor Blakey referred to the reference to highway safety as contravening the County Durham Local Plan and she was surprised at the lack of comments from Durham Constabulary as she was aware of 100 anti-social behaviour reports surrounding youths causing major disturbances at a hot food takeaway no more than 50 yards from the application site.

Councillor Blakey referred to the impact on the environment should the application be approved and it was clear that without rear access, waste would need to be disposed via a small passageway in between the two properties. She queried the frequency of the waste collections and wondered how long would bins be left out on the high street with decomposing food waste before being collected.

Finally, Councillor Blakey summed up that the development would be no benefit to the high street and she could only anticipate the impact it would have on other businesses in the area. She hoped the Committee would agree with her and refuse the application.

Councillor Dunn, Local Member, confirmed that this was the central part of the high street and had a different character to the other areas, and also different hours of business. Shops in this area did not go beyond late afternoon. There were already more than enough hot food takeaways on the high street, and this was not the right type of business to replace a former baby clinic.

In addition Councillor Dunn shared concern about the storage and disposal of waste. To the rear of the property was a small yard with no rear exit. The wall abutted the church yard and there was a narrow passageway in between the two properties which was not big enough for a large commercial bin. He assumed therefore that the waste would be stored in multiple domestic sized bins and this combined with the fumes from the extraction unit at the rear of the property, would affect both residential properties at either side of the application site.

Councillor McKeon, Local Member, indicated that the previous use and the proposed use demonstrated the incompatibility in this part of the high street. She fully agreed with the objections with regards to highways safety and environmental impact on neighbouring residents and businesses, however she also wished to draw attention to the abutting church yard. This was a church yard which contained common wealth war graves and the proposed development was not appropriate.

Ms McDonnell was objecting as a local resident and business owner and advised that she was at risk of losing both should the application be approved. Coxhoe had a successful high street and Ms McDonnell would normally support development that would add to the vibrancy and mix of the area, however this proposal would only have a detrimental impact. Not only would it affect the residents who live at either side of the property, but also the businesses in the immediate vicinity. There was a successful bridal boutique that would undoubtedly suffer due to the smells emitted from a hot food takeaway.

No extractor would remove all of the odour and in addition there were two other businesses which sold soft furnishings, clothes and accessories – they were also at risk of closing or relocating. This proposal would have a detrimental effect on the economy as it would drive businesses away.

Ms McDonnell added that she was aware that the applicant had already secured a tenant which had signed a 3 year lease and she queried the logic behind a change of use to a hot food establishment.

Referring to parking issues, Ms McDonnell confirmed that there were existing problems which had been well documented at public meetings. There were issues with funeral vehicles gaining access to the Church and people regularly misusing the two disabled bays. Ms McDonnell confirmed that she had personally reported antisocial behaviour and littering from large groups of youths and she added that they used appalling language and behaved in an intimidating manner. She often had to clean up waste and sweep the footpath on a morning. To approve another takeaway would increase waste, parking issues, antisocial behaviour and she envisaged three businesses being forced to close.

The Planning Officer responded to the comments first by confirming that Members had queried the issue of waste disposal on the site visit earlier that day. She had been unable to contact the Applicant however, she had contacted the Councils refuse and recycling team who confirmed that there were various size commercial waste bins and at least two of them would fit down the small passageway between the properties.

Councillor Jopling stated that she had personally experienced the issues of having a commercial property with little or no outdoor bin space and had been required to submit a waste management plan. She admitted she did not know the area well, but she sympathised with the objectors and could not see how the proposal would aid regeneration in the area.

Councillor Coult had visited the site and echoed concerns with regards to bin storage. Although it had been confirmed that a smaller size commercial waste bin could be provided, there was no information with regards to how much waste would be generated and how many bins would be required. There was no guarantee the small yard to the rear would be able to store all of the bins and she also wondered how often they would be emptied and how long they would need to be left on the high street on the day of collection.

In response to a question from Councillor Davinson the Central and East Planning Team Leader confirmed that the first floor office space would have access to the yard via the same exit door as the takeaway.

Councillor Maitland queried whether commercial waste bins containing food waste would be emptied more often than domestic bins and the Central and East Planning Team Leader replied that a bespoke arrangement which met the requirements of the business would be agreed and therefore if required, collections could be more frequent.

Councillor Freeman referred to a recent Council press release which had made reference to the emerging County Durham Plan 'getting tough on takeaways'. There was a lot of information included on why this stance was being taken but the significance was that they did not contribute to any health benefits as outlined in the CDP. He referred to Policy S5 of the City of Durham Local Plan which permitted food and drink uses providing there was no significant impact on the amenity of the nearby occupants, however he failed to agree with that on the basis there were nearby shops at risk of closure. Furthermore Policy 10 was permitted should there be no adverse effects on neighbouring properties, and for the previous use there had been very little, but a hot food takeaway would produce odour, noise and waste which had not been fully addressed, as there were outstanding issues with storage and disposal methods.

Councillor Brown considered the proposal was contrary to Policy S10 and Paragraph 127f of the NPPF and therefore proposed a motion to refuse the application.

Councillor Davinson queried the absence of a waste management plan and the Central and East Planning Team Leader confirmed that there was no condition attached, but if Members were minded to do so, a condition could be added.

The Highway Development Manager addressed the Committee with regards to the matters raised. The property had existing permission which was likely to attract parking. Upon considering the application, he had to offset the impact against the existing permission. As the Committee had heard, the majority of the businesses in this particular part of the high street did not operate beyond 5.00 p.m. whereas the vehicle increase as a result of the development would be in the evening. The parking demand associated with the existing premises when offset against the proposed change of use would not result in a significant impact.

The Planning Development Solicitor referred to the motion put forward by Councillor Brown and was provided with grounds for refusal as follows;

- The proposal would result in an unacceptable impact on the amenities of nearby occupants through noise, odour and disturbance arising from the proposed use

- The proposal made substandard provision for access and waste management
- The proposal would be out of keeping with the character of the area by the nature of the proposed external alterations.

Councillor Jopling seconded the recommendation to refuse.

Resolved

That the application be **REFUSED** for the following reasons;

- The proposal would result in an unacceptable impact on the amenities of nearby occupants through noise, odour and disturbance arising from the proposed use, makes substandard provision for access and waste management and would be out of keeping with the character of the area by the nature of the proposed external alterations thereby being contrary to policy S10 of the City of Durham Local Plan and paragraph 127f of the NPPF.

b DM/19/01234/FPA - Land to the East of Unit A, Damson Way, Dragonville, Durham, DH1 2YD

The Committee considered a report of the Planning Officer which consisted of Demolition of former garage and construction of link road (between Renny's Lane and Damson Way). Construction of new retail unit (Use Class A1 with ancillary A3) and construction of signalised junction (A181 Sherburn Road and Damson Way) (for copy see file of minutes).

the Senior Planning Officer confirmed that Members had visited both application sites earlier that day and he gave a detailed presentation of the application, including site location plans, site photographs and aerial photographs of the site.

The Senior Planning Officer reported two late representations, one from DCC regen which confirmed that the proposal would ease traffic on Dragon Lane, and provide the benefit of a further retail unit, and a second objection from a resident at Coronation Terrace with regards to the impact on the value on property.

Ms Howarth representing Belmont Parish Council confirmed that they did not oppose to the principle of a link road. The Parish Council recognised the increase in commercial and customer vehicles due to the development of the retail park, and they had welcomed financial contributions towards a relief road over the years by previous applications.

They also did not object to the additional retail and café unit that would be created and they accepted the conditions with regards to its construction.

Belmont Parish Council understood the aim of the scheme, however their concerns were centred on the proposed junction at Damson Way / A181, due to the widening of the road and its close proximity to the existing residential properties. The design required the removal of a long-established, healthy and mature tree belt, which currently provided a barrier for noise and pollution and had been a significant benefit to residents over the years. If the scheme worked as proposed, it would divert a considerable volume of traffic and encourage vehicles to use the Damson Way link road.

The Parish Council could not comprehend how the increase in vibration levels could be described in the report as insignificant. The current layout included a long bend in the road which assisted in speed reduction. This would cease to exist should the layout proposed be accepted. Ms Howarth suggested the retention of the current route with the addition of traffic signalisation, would make the junction fit for purpose.

It was a concern that in the report the adverse impact was dismissed as having slight to negligible increase in air and noise pollution from the increase in traffic flow. The report also referred to the impact on the appearance of the area following the removal of the trees, yet their protection qualities were much more significant.

The Parish Council did not oppose to improvements to the road network but they had a duty of care to local residents and they considered that banning HGV's from using this road would help mitigate some of the adverse effects. The Parish Council confirmed that in the air quality assessment, there had been an admission that air quality would improve at the Dragon Lane junction, so conversely it would increase by diverting the traffic to the Damson Way junction.

Ms Howarth accepted that there would be traffic congestion benefits with the associated relief road, but the Parish Council had a duty of care to existing residents and in conclusion, the exclusion of HGV's from using the junction would help mitigate some of the adverse effects. This was not in terms of weight limits, but in terms of reducing the amount of air pollution from standing vehicles.

The Parish Council considered the application contrary to Policy T1 of the Durham Local Plan and asked for it to be refused.

Mr Harris confirmed that as a resident of Coronation Terrace, he would be massively affected by the proposal. The report was misleading with regards to the impact of noise.

It stated that the increase would be less than 3 decibels and acceptable, but in fact it would double and be significant. There was also no mention of the noise following the removal of 34 mature trees and hedgerow, which acted as a natural barrier and he questioned whether this was deliberately omitted.

A single traffic survey had been carried out during a quiet period and was not a true representation of the noise or levels of vehicles at peak times of the day. The acoustic fence was an afterthought and at 2m high, it would have no protection from 4m high HGV's.

Mr Harris confirmed that 40 years ago there were no vehicle movements into the industrial estate as it was then a no through road. There were now 5000 vehicles per day travelling through, which he considered a result of poor planning decisions, and this would double over ten years to 10000, through a gap between residential properties which had not been designed as a road. Drivers would realise that the link road could be used as a rat run to avoid three sets of traffic lights and it would therefore rise much quicker than anticipated.

Mr Harris stated that he had been advised by Highways that the signals were designed to avoid queuing southbound, however he had questioned what mitigating measures were in place for when there were stationary vehicles adjacent to Coronation Terrace, which was unanswered.

Mr Harris believed that he would be left with stationary vehicles outside of his property, causing noise and vibration, spilling out toxic fumes, increased vehicle speeds as a result of the new road layout, street light pollution, vehicle light pollution, a severe visual impact due to the installation of the fence, and severe access difficulty. This had been deemed a slight impact on amenity, but would be severe.

Mr Harris stated that items suggested by himself and Belmont Parish Council had been dismissed without any further analysis. Assumptions had been made by the Planning Officer with no consultation with local businesses and he stressed that should the application be approved, residents would be left with a legacy that they did not choose or deserve.

Mr M Phillips objected on behalf of the City of Durham Trust on the basis that the proposal was putting vehicles before cyclists and pedestrians.

Mr Phillips gave a detailed presentation which included a suggested alternative cycle route. He confirmed that the design of the proposal put motorists first, at the cost of pedestrians or cyclists and breached Policies including the Durham City Sustainable Delivery Plan and the County Durham Strategic Cycling and Walking Delivery Plan.

The Council proposed diverting the route along the new link road to avoid Dragon Lane and Renny's Lane, however this route needed to be retained and improved for residents who lived in the Gilesgate Moor area.

Mr Phillips referred to the National Cycle Network Route and confirmed that achieving a good link to the city centre was important as the DT model suggested that the cycling could increase from 1% to 15% in future or 22% by the uptake of ebikes. This would reduce car dependency in the area.

The application had been submitted prior to the preparation of detailed drawings for the cycle route so the Committee lacked the information needed to assess the cycle and walking route. For example it was not obvious from the plans that pedestrians would have to share the footpath with cyclists. The proposed route involved three crossing points on Damson Way as there would not be a continuous pavement on either side. The City of Durham Trust had suggested the new link could be redesigned with the footway on the east side and only one crossing would be needed. This would reduce conflict between pedestrians, cyclists turning towards the A1M underpass and motor vehicles coming from McIntire Way.

Mr Phillips described the proposal as poor design and featuring a substandard shared cycle/footway of 2.24m. Although there was a land constraint, carriageways as narrow as 6m were permitted, even by use of HGV's, however the Council had chosen to compromise the pedestrian/cycle provision in order to avoid reducing the carriageway.

The A181 junction involved 2 signalised crossings although the latest design guidance recommended single stage crossings. This would require extra time allocated to the crossing phase, but under the Council's own policy, they should have considered a single stage.

He asked the Committee to defer the application in order to revise plans which complied with the Council's sustainable transport policy.

The Highway Development Manager responded to the suggestion of a signalised junction at the existing access point and confirmed that the reason for its design was to ensure a safe approach to the signalised junction, which allowed enough visibility on approach.

With regards to the prohibition of HGV's, he confirmed that due to the commercial nature of the area, a large number of vehicles would be diverted to the very congested Dragon Way, which was also a scheme which would not be supported by Durham Constabulary.

The Highway Development Manager confirmed that the reason for the design is that it gave a safe approach to the signalised junction, visibility, oversee signals ahead, to see the back of the queue. There had been a suggestion that an HGV prohibition could be applied to Damson Way, however this was a commercial area and those vehicles would be diverted to an already congested area of Dragon Lane. He had been advised that Durham Constabulary had expressed that they would not support an HGV restriction.

The Highway Development Manager then responded to Mr Harris with regards to ambiguity on the extent of queues at the junction on the A181. He confirmed that extensive modelling had been undertaken by an independent transport consultant, not just on the present but in 2029. There was an expectation that approximately 10 vehicles on Damson Way in 2029. If the queues extended beyond that, they could be controlled by the installation of traffic detectors, which would activate the green light if vehicles extended further.

Referring to the suggestion that speeds would increase due to the removal of the bend, the Highway Development Manager confirmed that there was no evidence to suggest speeds would increase, most vehicles slowed down on approach to a junction.

Finally, the Highway Development Manager confirmed that while the cycle provision was not the ideal solution due to the width restrictions, other designs had been considered and this was most efficient. Responding to the suggestion of moving the crossing to the east side, he confirmed that this would result in having to increase the size of the island and push the development further into the tree belt, creating a detrimental effect by doing so. The final design had a relatively free flow of traffic from the left turn of the roundabout on to Damson Way and therefore moving it to the east would potentially increase traffic lengths, which the Committee had heard was not desirable.

The Senior Environmental Health Officer confirmed that with regards to the Parish Councils request to retain the tree belt. He confirmed that against common perception, the trees did very little in terms of preventing noise. Calculations had been carried out to confirm that for the trees to create a noise barrier, they would have to be of significant density, which was not the case at this location. In response to the concerns about air quality on Damson Way, the assessment had confirmed that there would be a slight increase, but it was within the recognised limitation and therefore could not substantiate an objection.

In response to the concerns Mr Harris had with regards to the 3-decibel increase, the Senior Environmental Health Officer confirmed that due to the way the noise was calculated it would not be detectible to the human ear.

This was due to this being a very noisy area already. Mr Harris had also queried the methodology of the survey, however it had been carried out according to the appropriate national guidelines.

With regard to the acoustic fence, although it was not a requirement and he acknowledged that it would not reduce any impact to the first floor windows or from HGV's, a 2m fence would reduce the noise somewhere in the region of 5 decibels. He reiterated however that the assessment had confirmed the noise levels were not going to increase.

Mr Foster, spoke in support of the application and on behalf of the applicant, Durham County Council. From an economic development perspective, the provision of an additional access road at this location could be seen as a significant positive. The Dragonville Estate was very successful in both retail and commercial businesses, with many employers in the area and there were further developments in the pipeline. The proposed transport intervention was to ensure the ever increasing traffic and congestion would be addressed for the long term, for businesses in the area and for those who were considering relocating. Finally, he gave his full support to the application as it was an essential scheme for the industrial estate to continue to prosper.

Councillor Bleasdale moved the recommendation for approval, which was seconded by Councillor Laing.

Resolved:

That the application be **APPROVED** subject to the completion of an internal transfer of funds to the Council's ecology section to secure the following:

- £4,525 is required to be used towards off-setting biodiversity impacts from the development in accordance with the framework identified Durham County Council's Local Biodiversity Compensation Strategy;

and subject to the conditions outlined in the report.

Councillor Cochrane left the meeting at this point and did not return.

c DM/19/00171/FPA - Land at Mill Hill, North West Industrial Estate, Peterlee, SR8 2HR

The Committee considered a report of the Senior Planning Officer which consisted of the construction and operation of gas powered generators for the provision of flexible energy generation, on land at Mill Hill, North West Industrial Estate, Peterlee (for copy see file of minutes).

The Senior Planning Officer gave a detailed presentation of the application, which included site location plans, site photographs and aerial photographs of the site.

Councillor Laing queried the implications of operating the gas generators and the Senior Planning Officer confirmed that they did produce a noise but were contained within an acoustically sealed container.

Councillor Jopling asked how the conditions were monitored and the Senior Planning Officer confirmed that the developer would need to seek an environmental permit and any complaints would be investigated by the Environment Agency or the Councils Environmental Health Team.

In response to a query from the Chair, the Senior Planning Officer confirmed that the generators were not uncommon in County Durham but were typically situated on landfill sites.

Councillor Laing moved the recommendation for approval, which was seconded by Councillor Davinson.

Resolved:

That the application be **APPROVED** subject to the completion of a Section 106 Legal Agreement to secure the provision of;

- £40,294 for offsite biodiversity mitigation works

and subject to the conditions outlined in the report.

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/01711/FPA
FULL APPLICATION DESCRIPTION:	Demolition of sections of enclosure and provision of access in association with use of a car park and associated works
NAME OF APPLICANT:	Durham Sixth Form Centre
ADDRESS:	Durham Sixth Form Centre, The Sands, Durham DH1 1SG
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Henry Jones Principal Planning Officer 03000 263960 henry.jones@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises of an irregular shaped parcel of land extending to approximately 0.4ha. The land forms part of the curtilage of Durham Sixth Form Centre (DSFC) which is located within Durham City Centre. The majority of the site consists of land once used as tennis/sports courts with associated hardsurfacing and mesh fencing enclosures. In the south of the application site is a building, formally a caretakers lodge, most recently used for cycle storage for students at DSFC. In the east of the site is an area of hardsurfacing and parking closest to the school building. To the west of the site is Freemans Place the boundary with which is formed predominantly by a low wall with piers and wrought iron railings atop but also with areas of timber fencing. In the north of the site there is a section of a further brick wall which runs on an east-west axis. Beyond this wall and north of the application site is an area of land currently used for car parking associated with the DSFC. East of the application site is other land within the curtilage of DSFC including a further area of car parking. A number of trees are located within and on the boundary of the site, this includes on land between the sports courts and the car park north of the site, between the sports courts and Freemans Place and between the sports courts and the caretakers lodge building. A footpath runs on a north-south axis between the sports courts and Freemans Place.
2. Though described as sports courts throughout this report, the courts have not been in any active use as such for a number of years. The sports courts are currently already

used for parking accessed by vehicles via an existing access point in the north-east corner of the site.

3. The site lies within the designated Durham (City Centre) Conservation Area. There are no designated Public Rights of Way (PRoW) within or abutting the site.

The Proposal and Background

4. Planning permission is sought for the demolition of a series of enclosures. Sections of brick wall and wrought iron railings adjacent to Freemans Place are sought for demolition together with an area of fencing and the mesh surrounds to the sports courts. Such works are frequently permitted development which can be undertaken without the need for planning permission. This is not the case in this instance due to a combination of their height and location within a conservation area.
5. These works are sought to facilitate the provision of a new vehicular access taken from Freemans Place in the south of the site together with a new section of footway adjacent to the Freemans Place. Freemans Place, though adopted, is not a classified road and the provision of a new access onto Freemans Place could, in some circumstances, be undertaken without the benefit of planning permission. However, it forms part of the planning application in this instance due to association with other works which do require planning permission. An area of retaining wall is proposed adjacent to this footpath on its more northerly section.
6. The use of the sports courts land for car parking itself is not a material change in use of the land as it is car parking for the purposes of the school on school land. Parking has already been occurring on the sports courts. It is proposed to lay a new hard surface atop of the existing sports court surface. Demarcation to provide 72 parking spaces is proposed. On the hardsurfaced land in the east of the site closest to the building the plans depict further parking spaces, including 5 no. accessible spaces, with 3 no. motorcycle spaces. The plans propose to remove the existing 13 no. 8m high lighting columns and provide 4 new 8m high lighting columns to serve the parking area. The application documentation explains that access to the car park is proposed to be restricted via an electronic gate with intercom system.
7. The access sought to the sports court land from Freemans Place for the purposes of parking is proposed so that replacement parking for DSFC can be provided as an alternative to the land to the north of the site which is proposed for redevelopment for a multi storey car park as part of the Council's HQ scheme. This land to the north is allocated for redevelopment under the City of Durham Local Plan (Policy CC3) and the parking has been ongoing as a use of the site in the absence of any alternative redevelopment scheme for a number of years. At any time when a redevelopment proposal were to emerge this would require DSFC pursuing alternative parking arrangements.
8. At the time of the writing of this report, works had commenced on some aspects of development within the application though these relate to aspects (surfacing works to the sports court and footpath works) that in their own right can be undertaken as permitted development and without the requirement for planning permission.
9. The application is being reported to the Central and East Area Planning Committee following a request from the City of Durham Parish Council.

PLANNING HISTORY

10. Whilst quite extensive planning application history relates to the wider DSFC site itself, this does not relate specifically to the land subject to this planning application.
11. An application for works to trees in a conservation area which includes those within this application site is pending consideration (19/01709/TCA).
12. Notable recent history at the DSFC includes the following applications;

17/02606/FPA - New multimedia facility and reconfiguration of car parking provision – Approved – January 2018
17/03143/FPA - Modifications improvement and extension of existing car parking facilities including the addition of disabled parking bays – Approved – November 2017
18/01995/FPA - Multimedia teaching block (amendments to previously approved scheme) – Approved – September 2018
13. Further planning history of significance in the immediate area includes the April 2019 grant of planning permission at the Sands car park and land at DSFC car park for the erection of an office headquarters with associated car parking (inclusive of a multi-storey car park) with associated landscaping, highway and infrastructure works and demolition of existing structures (18/02369/FPA).

PLANNING POLICY

NATIONAL POLICY

14. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). 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.
15. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
16. *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.
17. *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.

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 9 – Promoting sustainable transport* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
20. *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.
21. *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.
22. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
23. *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.
24. *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>

25. 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; determining a planning application; flood risk; light pollution; natural environment; neighbourhood planning; open space, sports

and recreation facilities, public rights of way and local green space; transport assessments and statements; use of planning conditions and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

26. *Policy E3 – World Heritage Site Protection.* Seeks to safeguard the WHS site and its setting from inappropriate development that could harm its character and appearance.
27. *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 that are sympathetic to the traditional character of the conservation area.
28. *Policy E10 – Areas of Landscape Value.* States that development which would have an unacceptable adverse impact upon areas of high landscape value will be resisted and requiring that development respects the landscape it is situated within.
29. *Policy E14 – Existing Trees and Hedgerows.* Sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
30. *Policy E16 – Nature Conservation – The Natural Environment.* This policy is aimed at protecting and enhancing nature conservation assets. Development proposals outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.
31. *Policy E18 – Site of Nature Conservation Importance.* The Council will seek to safeguard sites of nature conservation importance unless the benefits from the development outweigh the nature conservation interests of the site, there are no alternatives sites and measures are undertaken to minimise adverse effect associated with the scheme and reasonable effort is made by appropriate habitat creation or enhancement to compensate for damage.
32. *Policy E21 – The Historic Environment.* This requires consideration of buildings, open spaces and the setting of these features of our historic past that are not protected by other legislation to be taken into consideration.
33. *Policy E22 – Conservation Areas.* This policy seeks to preserve or enhance the character or appearance of conservation areas, by not permitting harmful development and protecting features which positively contribute to the conservation area.

34. *Policy E23 – Listed Buildings.* This policy seeks to safeguard Listed Buildings and their settings from unsympathetic development.
35. *Policy E24 – Ancient Monuments and Archaeological Remains.* This policy sets out that the Council will preserve scheduled ancient monuments and other nationally significant archaeological remains and their setting in situ. Development likely to damage these monuments will not be permitted. Archaeological remains of regional and local importance, which may be adversely affected by development proposals, will be protected by seeking preservation in situ or requiring investigation and evaluation where preservation in situ is not necessary.
36. *Policy T1 – Transport – General.* This policy 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.
37. *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.
38. *Policy T11 – Parking in the City Centre.* Supports a car parking strategy in the City Centre.
39. *Policy T21 – Walkers Needs.* States that existing footpaths and public rights of way should be protected.
40. *Policy R1 – Provision of Open Space.* States that the council will seek to ensure that the provision of open space for outdoor recreation within the district is evenly distributed and is maintained at a level which meets the needs of its population.
41. *Policy R3 – Protection of Open Space Used for Recreation.* States that development which would result in the loss of an area of open space currently used for recreation and leisure pursuits will not be permitted unless certain criteria are met.
42. *Policy R4 – Land Surplus to Education Requirements.* Permits the development of land within education establishment grounds, provided that the land is surplus to requirements and any loss of recreational land is acceptable.
43. *Policy Q1 – General Principles Designing for People.* Requires the layouts of developments to take into account the requirements of users including: personal safety and security; the access needs of people with disabilities and the elderly; and the provision of toilets and seating where appropriate.
44. *Policy Q2 – General Principles Designing for Accessibility.* The layout and design of all new development should take into account the requirements of users and embody the principle of sustainability.
45. *Policy Q3 – External Parking Areas.* Requires that car parks should be landscaped, adequately surfaced, demarcated, lit and signed. Large exposed areas of surface, street and rooftop parking are not considered appropriate.
46. *Policy Q4 - Pedestrian Areas.* Requires public spaces and such areas to be well designed and constructed with quality materials. Public realm and lighting to ensure community safety are referred to.

47. *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.
48. *Policy U5 – Pollution Prevention – General.* Planning permission for development that may generate pollution will not be granted if it results in; an unacceptable adverse impact upon the quality of the local environment; the amenity of nearby and adjoining land and property or; will unnecessarily constrain the development of neighbouring land.
49. *Policy U10 - Development in Flood Risk Areas.* States that proposals for new development shall not be permitted in flood risk areas or where an increased risk of flooding elsewhere would result unless; it can be demonstrated that alternative less vulnerable areas are unavailable; that no unacceptable risk would result; that no unacceptable risk would result elsewhere; or that appropriate mitigation measures can be secured.
50. *Policy U11 - Development on Contaminated Land.* Sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated will be assessed. Before development takes place it is important that the nature and extent of contamination should be fully understood.
51. *Policy U12 – Development Near Contaminated Land.* Seeks to ensure that development proposed near land which is contaminated are adequately protected.

EMERGING PLAN:

The County Durham Plan

52. 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 27 June 2019. A timetable for the Examination in Public (EiP) of the CDP has been devised with the Hearings set to commence in October 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

Durham City Neighbourhood Plan

53. 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.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

54. *City of Durham Parish Council – Raise Objections.* It is highlighted that the sports courts are being utilised for parking at present. The quantum of parking claimed to have reduced by 81 under the assessment of the Council's HQ proposal is not correct as they are now being re-provided with the 85 no spaces proposed under this application. The submitted Transport Assessment does not take into account the impacts of the proposed HQ development as a committed development. The proposed footpath needs

to link to the footpath that would be required adjacent to the MSCP and this will necessitate the narrowing of the road on a sharp blind bend.

55. *Highway Authority* – Raise no objections. The trip generation methodology deployed within the submitted Transport Assessment is considered acceptable. The increase in traffic as a result of the provision of the car parking would result in a negligible impact within the City whilst the Claypath/Providence Row Junction would continue to operate within capacity. Details of the proposed access barrier should be controlled via a condition to prevent unacceptable queuing on the highway.
56. *Environment Agency* – State that the development would result in the loss of 12m³ of floodplain as a result of the provision of the vehicular access route and this 12m³ must be compensated for with alternative floodplain storage.

INTERNAL CONSULTEE RESPONSES:

57. *Landscape and Arboriculture* – Originally considered that inadequate information in regards to the impact of the footpath and excavation to form access in relation to trees accompanied the application. However, following the receipt of clarifications from the applicant no objections are raised.
58. *Archaeology* – No objections and no requirements for conditions.
59. *Design and Conservation* – The removal of existing lighting columns, sports court and timber fencing will remove elements of visual clutter whilst landscaping is to be retained. The section of wall, piers and railings sought for demolition is a non-designated heritage asset which contributes to the historic character of the Conservation Area. Having regards to NPPF paragraph 197 the application should be weighed in the planning balance having regards to the merits of the scheme and the scale of any harm or loss of the asset.
60. *Ecology* – Raise no objections. The supplied ecological report is considered sufficient to inform this proposal despite the June 2017 report date. The report found that trees around the site were low to negligible risk for bats but found them suitable for breeding birds. Trees have been checked again by DCC Ecology earlier this year and found them to still be low/negligible risk for bats.
61. *Environment, Health and Consumer Protection (Contaminated Land)* – No objections and no requirement for conditions.
62. *Environment, Health and Consumer Protection (Air Quality)* –The submitted Air Quality Assessment (AQA) has been undertaken to an appropriate methodology. In regards to the operational phase of the development the AQA demonstrates that air quality objectives would not be exceeded. In regards to the demolition/construction phase it is advised that dust management plan measures should be deployed. It is also advised that details of the number and routing of Heavy Duty Vehicle movements during the demolition/construction phase should be provided. The emission minimisation measures presented within the AQA in relation to plant should be adhered to. Electric vehicle charging infrastructure should be encouraged in the car park.

EXTERNAL CONSULTEE RESPONSES:

63. None

PUBLIC RESPONSES:

64. The application has been publicised by way of press notice, site notice, and individual notification letters to neighbouring residents. A total of 3 letters of representation have been received which raise objections/concern. The responses received are summarised below and include comments from the World Heritage Site Coordinator and City of Durham Trust.

- Objection raised to the submission of this application in a disconnected manner from the HQ proposal. The applications are linked with the proposals under this application a result of the HQ development adjacent.
- As this site and the proposed HQ development land are Council owned doubt is cast on the ability of the Council to properly administer and promote policies which seek to protect and enhance heritage assets.
- The application fails to properly deal with the cumulative impacts it and the HQ proposal have on the Sands and river approach to the World Heritage Site and highways implications.
- Access arrangements into the site for both vehicles and pedestrians.
- It is unclear what the development will look like from Freemans Place due to an absence of adequate plans.
- Cumulative harm with the HQ proposal will occur through a further urbanising impact upon the historic edge to the historic core of the City.
- Concern is raised that further potential knock-on implications of the HQ proposal will occur.
- Increased visual impacts due to the car parking on the site and the associated lighting.
- Benefits of the proposal are lacking
- The access will isolate the caretakers lodge building negatively affecting the asset
- Loss of original school enclosure
- Loss of the sports courts and contribution to health and well-being
- The submitted ecology reports requires lighting to be ecologically sensitive
- The ecology report is considered out of date
- Consideration to potential mitigation measures and amendments should be given
- Concerns over flood with objections from the Environment Agency

The above is not intended to repeat 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/simpleSearchResults.do?action=firstPage>

APPLICANTS STATEMENT:

65. None submitted.

PLANNING CONSIDERATIONS AND ASSESSMENT

66. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. The NPPF advises that weight to local plan/development plan policies adopted prior to the publication of the NPPF (in its revised form) should be attributed according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Existing policies should

not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Equally, however, where evidence, which informed a policy, has been superseded by more up-to-date evidence or is otherwise out of date, this can also be a reason to conclude the policy itself is out of date. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to; the principle of the development; highway safety and access; air quality, heritage, visual and landscape impact; flood risk and ecology. Other relevant issues are also considered.

Principle of the Development

67. The application site is principally made up of land laid out as a sports court associated with DSFC. CDLP Policies R1, R3 and R4 relate to recreational land and land deemed surplus to education requirements and collectively seek to maintain an appropriate level of open and recreational spaces, protecting such land from development unless it is justified and would not prejudice provision for the community. These policies are considered consistent with the content of the NPPF Part 8 advice albeit the standards within Policy R1 are now outdated, replaced with more up to date evidence contained within the County Durham Open Space Needs Assessment (OSNA).
68. The use of the sports courts land for car parking in itself is not a material change in use of the land as it is car parking for the purposes of the school on school land. Parking has already been occurring on the sports courts. Notwithstanding this the sports court has not been in any active use for sports and recreational purposes for a significant length of time and as a result has clearly been surplus to requirements and as a result no conflict with the policies seeking to protected recreational land would result. The impacts of the various elements of operational development proposed under the application is discussed in sections below.
69. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development and this is detailed at paragraph 11 which states;

For decision-taking this means:

c) approving development proposals that accord with an up-to-date development plan without delay; or

d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development 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.

70. In this instance and discussed where relevant in this report, CDLP policies most important for determining the planning application, are considered out-of-date. Accordingly, the acceptability of the application should be considered under the planning balance test contained within Paragraph 11 (d) of the NPPF. Such an assessment is undertaken in the concluding sections of this report, following consideration and assessment of all the key material planning considerations.

Highway Safety and Access

71. No material change of use of the sports court land is required in order to permit parking upon the courts for DSFC purposes. A route for vehicles to access the sports court area already exists from within the curtilage of DSFC and parking has been taking place on the land. However, the current access route through the curtilage of DSFC is not the preferred long-term route of the applicant hence the submission of this application. As referenced earlier the requirement for DSFC to identify alternative parking arrangements has emerged as a result of the redevelopment of the existing car park to provide for a multi storey car park as part of the Council's HQ scheme.
72. Notwithstanding this, the application is nevertheless supported by a Transport Assessment (TA) which has been amended during the course of the determination of the application. The revised TA considers a range of transport issues including the existing site and local conditions, site accessibility and description of the development proposals. An analysis of the predicted traffic generation and distribution and impacts of vehicular movements on the highway network is also provided. This analysis includes consideration of cumulative impacts with other developments within planning permission including the recently approved proposals for the Council's HQ on neighbouring land.
73. The Highway Authority have assessed the submitted TA and raised no objections to both its methodology or the predicted impacts upon the highway network contained therein. It is highlighted within both the TA and comments of the Highway Authority that the net increase in parking spaces to be considered is 63. There is reference within the submitted documentation to a total parking space provision of 85. However, it should be noted that this number includes reference to 22 parking spaces which already have planning permission under the recent media centre development proposals at DSFC. These 22 spaces are thereby already factored into the TA as a commitment and so the additional movements for consideration emerges from the 63 spaces.
74. The Highway Authority advise that the TA presents that arrivals and departures would be concentrated in the peak hours of 07:30 to 08:30 and 16:30 to 17:30. The traffic surveys have been increased to allow for background growth up to 10 years after opening in line with standard practice. The Highway Authority have stated that the results of the TA analysis demonstrates that the proposed development would have a negligible impact across the City as a whole with the exception being the Providence Row and Claypath junction which is predicted to have a marginal increase of around 3%. The analysis of the Providence Row and Claypath junction shows that the junction would continue to operate within capacity in future years.
75. The Highway Authority have raised no objections to the safety of the proposed access arrangements. This assessment includes consideration to the committed development of the Council's HQ with its associated access on land opposite at the Sands carpark and, farther north, to the proposed multi-storey car park. The application also includes the provision of a proposed footpath, principally running adjacent to the Freemans Place carriageway. This would connect with a proposed footpath on land to the north where the multi storey car park is proposed.
76. The Highway Authority thereby conclude that there are no reasons on highway or transport grounds to object to the proposed development. It is advised, however, that details of the proposed access barrier should be controlled via a condition in the event of an approval in order to prevent unacceptable queuing on the highway.

77. The development is considered to comply with relevant CDLP Policies T1, T21, Q1 and Q2 each of these policies are considered consistent with the NPPF and can be attributed their full weight. CDLP Policy T11 advises on a parking strategy for the City Centre. The policy is considered partially consistent with the NPPF with some of the evidence which informs it being out of date. An objective of the policy is to seek to limit any increase in private non-residential parking, which through facilitating the provision of a car park for DSFC, the development would be in some conflict with. However, as discussed, no change of use of land is actually required for DSFC to park on the site and the purposes of the car park is to re-provide spaces (rather than create additional spaces for DSFC) given the Council's HQ proposals on neighbouring land.
78. CDLP Policy T10 seeks to minimise the level of provision within new development including setting maximum parking guidelines for residential development. However, this is considered contrary to the more up to date advice within NPPF Part 9, which advocates a more flexible approach and advises against maximum parking standards unless there are compelling reasons for doing so. As a result, very little weight is attributed to Policy T10.
79. The development is considered to comply with relevant advice in Part 9 of the NPPF.

Air Quality

80. Notwithstanding that parking is already being undertaken on the site the application is nevertheless supported by an Air Quality Assessment (AQA). Durham City has a declared Air Quality Management Area (AQMA) and whilst the application site is not within it, the AQMA does cover land in the vicinity of the Providence Row/Claypath junction and Walkergate through which vehicles visiting Freemans Place travel.
81. Like the submitted TA, the AQA takes into account committed development including the Council's HQ development proposals. In regard to the operational phase of the development (movements associated with the car parking) the AQA concludes that impacts at all identified receptors would be negligible.
82. In regards to the construction/demolition phase of the development the AQA sets out a series of mitigation measures that should be employed to reduce risk and so as to ensure the air pollutants from any diesel plant is minimised. Environment, Health and Consumer Protection have advised the a detailed Dust Management Plan be devised, that full details of HDV movements and routing be provided whilst emission minimisation measures presented within the AQA in relation to plant should be adhered to. The submitted AQA does include some dust management measures and states that any HDV movements are expected to be below the 25 movements over the Annual Average Daily Traffic (AADT) flow which is the level at which impacts would be of any significance. As a result and given that some of the development works proposed can and are being undertaken under permitted development rights no further control via condition in the event of an approval in respect to HDV movements or dust management measures are deemed necessary.
83. Environment, Health and Consumer Protection also encourage electric vehicle charging infrastructure within the car park. It is not detailed within the application that these would be delivered, however, the car park itself does not require planning permission and as a result it is not considered that their delivery can be necessitated.
84. As a result, no objections to the development are raised on the grounds of potential air quality pollution impacts with the proposals compliant with relevant CDLP Policy U5 (NPPF consistent) and advice contained within Part 15 of the NPPF.

Heritage, Visual and Landscape Impact

85. The proposals would result in the demolition of sections of enclosure. This would include sections of wall, piers and railings which form part of the boundary of DSFC. These sections of wall, piers and railings to Freemans Place are understood to have been constructed at the same time as the original school in 1913. They contribute to the significance of the school and can be considered a non-designated heritage asset in NPPF terms which contribute to the character of the Conservation Area. The timber fencing, mesh surrounds to the sports courts, lighting columns and areas of footpath and kerbing to be removed/altered as part of the works are considered to make no positive contribution to the character or appearance of the area.
86. Public objection to the development includes objection to the loss of the sections of wall, piers and railings but also wider concerns relating to the cumulative harm with the HQ proposal, a further urbanising impact upon the historic edge to the historic core of the City and approaches to the World Heritage Site (WHS), visual harm caused by the parking of vehicles and lighting and a harmful impact upon the caretakers lodge caused by the introduction of the access.
87. Officers would highlight that the application site is previously developed land. The siting of vehicles on the sports courts in itself would not require planning permission. The extent of operational development proposed in the form of new extents of hardsurfacing, retaining wall and lighting columns is, officers consider, limited and impacts localised. It should also be noted that 13 existing redundant lighting columns are proposed to be removed and replaced with 4. The degree of lighting to result from 4 lighting columns would be limited. The mesh surrounds to the sports courts are also proposed to be removed as well.
88. The application proposes as part of the provision of the new footpath and access that existing trees would be retained with tree friendly construction techniques implemented as necessary to which Landscape raise no objections. It should be noted that separately under application 19/01709/TCA some pruning works trees around the sports court has been applied for. Furthermore, a sycamore at the northern extremity of the site already has consent to be felled as part of the Council's HQ redevelopment proposals.
89. In assessing an application, regard must be had to the statutory duty imposed on the Local Planning Authority at section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, section 66 imposes a statutory duty that, when considering whether to grant planning permission for a development that affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest that it possesses. If harm is found this must be given considerable importance and weight by the decision-maker.
90. Officers conclude that the development would not result in harmful impacts upon the setting of the WHS (or the individually listed buildings contained therein). No harmful impact upon Durham (City Centre) Conservation Area by reason of an urbanising impact would result and the development would not contribute to any significant degree to any cumulative visual impact with the Council's HQ proposal.

91. CDLP Policy E22 highlights the contribution that boundary walls can make to the historic fabric of a conservation area and advises that demolition of buildings which contribute to the character of the area will not be permitted.
92. Paragraph 201 of the NPPF advises that the loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or WHS should be treated either as substantial harm under paragraph 195 or less than substantial harm under paragraph 196, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area.
93. The proposal would not result in the demolition of the whole of the wall, railing and pier enclosure to the DSFC but a section of it. Design and Conservation state that the appreciation of the former County School and associated boundary as a set piece is most notable when viewed on Providence Row (which would remain unaffected by the proposals) rather than the section along Freemans Place. The conclusions of Design and Conservation are that the harm resulting from the loss of the wall would be limited to its loss as a non-designated heritage asset. It is concluded that Durham (City Centre) Conservation Area as a designated heritage asset would not be harmed and its character and appearance preserved as a result.
94. The NPPF advises at paragraph 197 that when a proposal would affect a non-designated heritage asset, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. CDLP Policy E21 also advises in regards to impacts upon a non-designated heritage asset. The policy seeks to minimise adverse impacts on features of historic interest and encourage their retention and repair and is considered consistent with the NPPF advice.
95. Overall, with no harm identified to occur to the WHS, listed buildings or the Conservation Area the proposals are considered to accord with CDLP Policies E3, E6, E22 and E26. Harm to a non-designated heritage asset would occur and as a result the proposal would be in a degree of conflict with Policy E21 whilst the NPPF advises that harm to a non-designated heritage asset is considered in the planning balance. This planning balance is undertaken in the conclusions of this report. However, aligned with the advice of Design and Conservation it should be noted that the whole of the non-designated heritage asset is not being lost through this development only a section of it and furthermore not the section where it is most significantly appreciated.
96. Archaeology have confirmed that there are no archaeological implications with no objections and no requirement for conditions with the proposal considered compliant with CDLP Policy E24 (partially consistent with the NPPF) as a result
97. The impacts of the development in more general terms are considered acceptable including having regards to potential impacts upon trees in accordance with CDLP Policies E10, E14, Q3, Q4 and Q5 all of which are considered consistent with the content of the NPPF.

Ecology

98. The application is accompanied by an ecological appraisal. The appraisal relates to the DSFC site as a whole and was devised to support previous planning proposals at the site. The appraisal is dated from July 2017.
99. Ecology have advised that despite its age and its original division to support a differing proposal it nevertheless does provide an ecological appraisal of the site and context. The report found that trees around the site were low to negligible risk for bats but found

them suitable for breeding birds. Trees have been checked again by DCC Ecology earlier this year and found them to still be low/negligible risk for bats.

100. As a result, Ecology raise no objections to the proposed development and impacts upon protected species. Originally submitted comments advised that lighting should be designed to direct light onto the car parking area, to minimise light spill onto the surrounding habitats. Further information has been supplied to demonstrate this to which ecology have raised no objections.
101. It is considered that there would be no interference with any European Protected Species (EPS) and therefore there is no requirement to assess the likelihood of an EPS license being granted set against the derogation test requirements of the Habitats Directive brought into effect by the Conservation of Habitats and Species Regulations 2017.
102. No biodiversity/habitat loss would occur on the site as a result of the proposals and no impacts upon locally or statutory designated ecology sites would occur.
103. As a result, the proposal is considered in accordance with CDLP Policies E16 and E18 (consistent with the NPPF) and Part 16 of the NPPF.

Flood Risk and drainage

104. The application site is principally located within Flood Zone 3a which is land identified as having a 1 in 100 year or greater annual probability of river flooding. Land in Flood Zone 3a is land which is therefore at a higher risk and probability of flooding.
105. The thrust of national guidance with the NPPF and PPG is where possible to steer new development to areas with the lowest risk of flooding. A sequential test, the purpose of which is to assess whether development can be located on an alternative site less prone to flooding, is a frequent requirement on development proposals. However, a sequential test is not required for minor development proposals with limited operational development occurring as is the case here. Similarly, in some instances a further exception test has to be passed for developments to be acceptable in areas prone to flooding but again is not applicable in this instance.
106. A site specific Flood Risk Assessment (FRA) is still a requirement, however, for all development proposals on land in Flood Zone 3a. An FRA accompanies the application, which has been revised during the course of determination of the application outlining that surface waters will be discharged with run-off restricted to the greenfield run-off rate. It is advised that a car park closure procedure will be implemented in a flood event and that flood risk warning signs will be erected.
107. Topographical information accompanying the planning application highlights that changes in site levels as a result of the development proposals are very minor essentially restricted to the provision of new hard surfaces and provision of a retaining wall. The FRA quantifies any loss of flood plain to be 12m³ which would be compensated for through the provision of the rain garden/drainage system.
108. The Environment Agency originally objected to the submitted FRA considering that it contained inadequate information in regards to flood risk issues. Subsequent Environment Agency comments have confirmed that there would be no objection provided that the loss of 12m³ of floodplain is adequately compensated for via an alternative scheme. The Environment Agency confirm a means to achieve this would include land lowering of another land parcel to the equivalent volume. A condition to ensure this is therefore necessary in the event of any approval.

109. As a result no objections to the development are raised on flood risk or drainage grounds with the proposals considered to comply with CDLP Policy U10 (partially consistent with the NPPF) and Part 14 of the NPPF.

Other Issues

110. Environment, Health and Consumer Protection have raised no objections to the development and confirmed that there is no requirement for conditions having regards to CDLP Policies U11 and U12 (NPPF consistent) and Part 15 of the NPPF.

CONCLUSION

111. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The National Planning Policy Framework is a material consideration in planning decisions.

112. The NPPF advises that weight to local plan/development plan policies adopted prior to the publication of the NPPF (in its revised form) should be attributed according to their degree of consistency with the NPPF (the closer the policies in the plan to the policies in the NPPF, the greater the weight that may be given). Existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Equally, however, where evidence which has informed the content of the policy is out of date this can also be a reason to conclude the policy is out of date.

113. So that sustainable development is pursued in a positive way, at the heart of the NPPF is a presumption in favour of sustainable development and this is detailed at paragraph 11.

114. In this instance policies within the CDLP most important for determining the application are out-of-date. As a result paragraph 11(d) of the NPPF applies which states;

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.

115. In respects to limb i, NPPF policies which protect assets of particular importance apply in this case in terms of policies relevant to flood risk contained within Part 14. The development is considered to comply with the policies with no increase in flood risk caused by the development proposals subject to the provision of the necessary compensatory floodplain storage.

116. In terms of limb ii there is the requirement to consider whether any adverse impacts overall would significantly and demonstrably outweigh the benefits.

117. The identified adverse impact of the proposal would result from the partial loss of a non-designated heritage asset in the form of a section of wall, piers and railings. The stretch of the enclosure on Providence Row would remain and the degree of harm as a result

of the partial demolition is considered limited. The benefits of the scheme would involve the facilitating a permanent access solution to provide parking for DSFC. Some benefit would derive from the localised demolition of more unsightly enclosures and redundant lighting columns which it is detailed in the application would occur in phases with all the features proposed for removal by the summer of 2020.

118. Overall, it is considered that the identified adverse impacts from the development would not significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole.
119. As a result, and having regard to the content of the CDLP, and on the balance of all material planning considerations, including comments raised in the public consultation exercise, it is considered that the proposals are acceptable.

RECOMMENDATION

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

Time Full

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.

Plans

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

Plans:

Location Plan (0/A) received 24 June 2019
Retaining Wall Detail received 24 June 2019
Proposed Levels received 24 June 2019
Tennis Court Lighting Site Clearance TP0147 received 24 May 2019
Proposed Car Park Lighting TP0148 received 24 May 2019
Typical Sections Engineering Layout 1360064-DCC-HE-PA-06 received 24 May 2019
Car Park Access Road Long Section 1360064-DCC-HE-PA-05 received 24 May 2019
Typical Sections Site Clearance 1360064-DCC-HE-PA-04 received 24 May 2019
Engineering Layout received 7 August 2019
Site Clearance received 7 August 2019

Documents:

Flood Risk Assessment received 24 June 2019
Air Quality Assessment by SLR received 24 June 2019
Durham Sixth Form Centre Tree Survey received 24 May 2019

Reason: To define the consent and ensure a satisfactory form of development is obtained in accordance with Policies E3, E6, E10, E14, E16, E18, E21, E22, E23, T1, T11, T21, Q1, Q2, Q3, Q4, Q5, U5 and U10 of the City of Durham Local and Parts 2, 4, 8, 11, 12, 14, 15 and 16 of the NPPF.

Tree Protection

3. Trees must be protected from the development works in accordance with the advice contained within the submitted Durham Sixth Form Centre Tree Survey and in accordance with the following requirements:
 - No development shall take place until trees on site have been protected from the development works with protective fencing installed in accordance with BS 5837:2012 specification and the protection retained until the cessation of the development works
 - Any works undertaken within the root protection areas of the trees must be undertaken via hand dug methods only
 - All exposed roots must be clean cut and immediately covered in hessian sacking which must be kept moist/wet for the duration of exposure. Backfilling with clean top soil must thereafter occur as soon as possible

Reason: In the interests of preservation of trees on site having regards to Policy E14 of the City of Durham Local Plan 2004 and Part 15 of the NPPF.

Barrier

4. No site access barrier shall be installed until full details of its precise design, location and means of operation has first been submitted to and then approved in writing by the Local Planning Authority. Thereafter the access barrier must be installed and operated in accordance with the approved details.

Reason: In the interests of highway safety having regards to City of Durham Local Plan Policy T1 and Part 9 of the NPPF.

Compensatory Flood Storage

5. Prior to the completion of the works associated with the provision of the vehicular access a scheme of compensatory floodplain storage so as to compensate for the loss of 12m³ of such storage must be submitted to the Local Planning Authority. The scheme must include details of the timescales for the provision of the compensatory storage. The compensatory flood storage scheme must thereafter be completed in accordance with agreed details.

Reason: In the interests of minimising the risks of flooding having regards to City of Durham Local Plan Policy U10 and Part 14 of the NPPF.

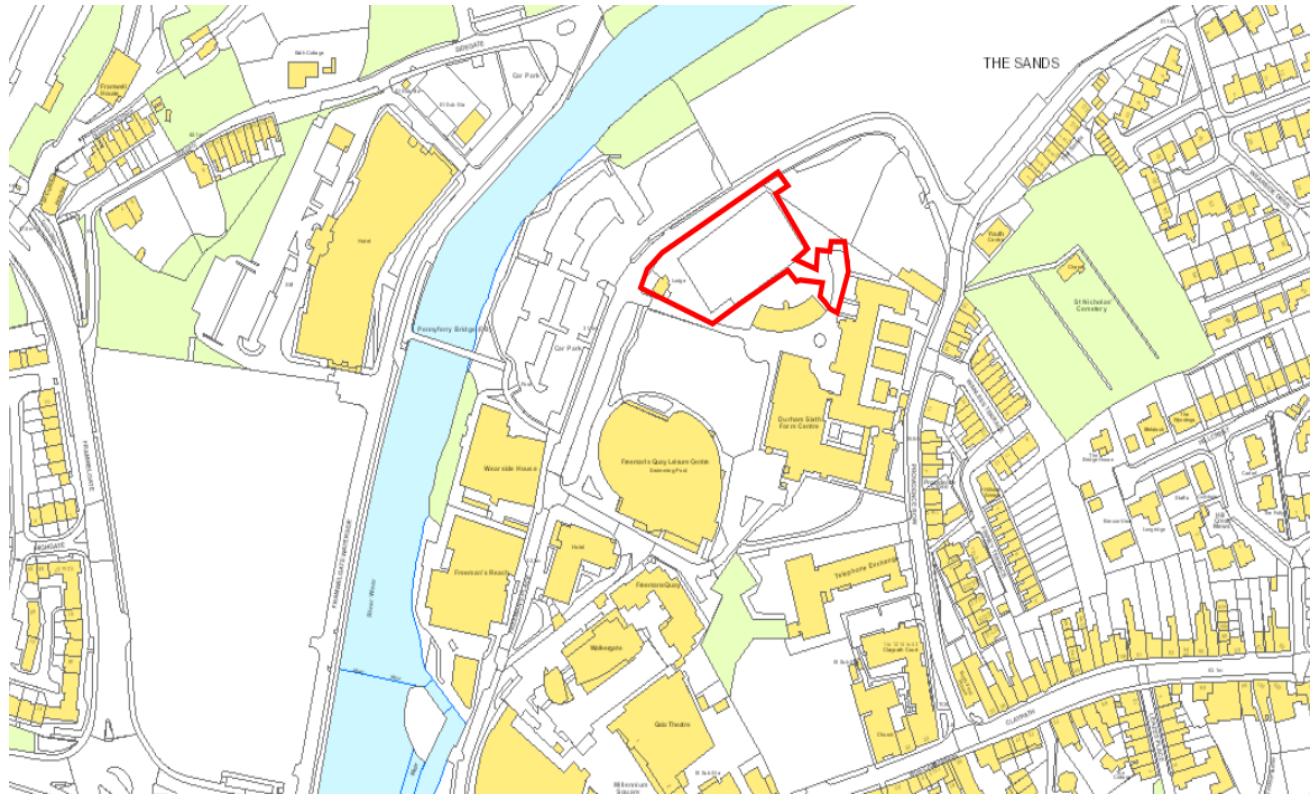
STATEMENT OF PROACTIVE ENGAGEMENT


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

BACKGROUND PAPERS

– Submitted application form, plans supporting documents

- City of Durham Local Plan 2004
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- Statutory, internal and public consultation responses



 <p>Durham County Council Planning Services</p>	<p>DM/19/01711/FPA</p> <p>Demolition of sections of enclosure and provision of access in association with use of a car park and associated works</p> <p>Durham Sixth Form Centre</p>	
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	<p>Date September 2019</p>	<p>Scale Not to Scale</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/01295/FPA
FULL APPLICATION DESCRIPTION:	Change of use from greengrocers (use class A1) to mixed use as a sandwich shop/hot food takeaway (sui generis).
NAME OF APPLICANT:	Mr Matthew Elves - Tastebuds
ADDRESS:	55A The Avenue Seaham SR7 8NS
ELECTORAL DIVISION:	Deneside
CASE OFFICER:	Lisa Morina Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a mid terraced property located within a group of commercial properties located on the Avenue, which is one of the main roads running through Seaham. Other businesses in this group include a funeral directors and post office. Residential properties are located in front and behind the property as well as to both sides of the small group of commercial premises with residential properties also located within this grouping.
2. The property in question was previously used as a greengrocers and for around the past year has been trading as Tastebuds which provides hot and cold sandwiches, hog roasts, cream cakes and hot meals, for example lasagne. A delivery service and catering service is also provided.

Proposal

3. The proposal seeks retrospective consent for full planning permission for the change of use of the property from a shop use class A1 to a mixed use as a shop/hotfood take thereby obtaining a sui generis use (a one-off use not falling fully within one of the specified use classes).
4. The application is referred to Committee at the request of Cllr Bell on the grounds of highway safety concerns.

PLANNING HISTORY

5. There is no relevant planning history on this site.

PLANNING POLICY

NATIONAL POLICY

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

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

NATIONAL PLANNING PRACTICE GUIDANCE:

10. 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 District of Easington Local Plan

11. 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.

12. 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.
13. Policy 102 – Local and neighbourhood shopping centres states that retail development will only be approved outside of the main defined town centre providing it is located within a local shopping centre and does not adversely affect the amenity of residents in respect of privacy, visual intrusion, noise , other pollutants and traffic generation.
14. Policy 111 - Hot Food Takeaways will only be approved in the town, local or neighbourhood shopping centres and on prestige and general industrial estates providing no serious problems of noise, disturbance, smell, litter and traffic hazards would arise or where the proposal would not adversely affect the vitality or character of the area.

RELEVANT EMERGING POLICY:

15. 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 28 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

16. The Highways Authority comment that the proposal is situated in a row of mainly non-residential type uses with on-street car parking to the front and as such there would be no highway objection to the change of use.
17. Durham Constabulary raise no objection to the proposal

INTERNAL CONSULTEE RESPONSES:

18. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the proposal.

PUBLIC RESPONSES:

19. The application has been advertised by means of site notice on site and by notifying neighbouring residents by letter. 3 letters of objection have been received, (two from

one neighbour) and including one from the local ward members, raising the following points:

- Traffic Problems – There has been a substantial increase in nuisance and dangerous parking since this premises opened, for example, parking in bus stops, pavement blocking etc. This happens all weekend as the shop is open Sunday also so there is no respite.
- There has been three serious road traffic accidents in two years and this proposal will only increase the dangerous and inconsiderate parking.
- The police have been called on 4 separate occasions to have vehicles removed that have blocked driveways.
- This has been reported to Strategic Traffic Department and added to the scheme list.
- Smells from the property lasts from early morning to late afternoon
- Increase in litter
- The quality of life as a direct consequence of this takeaway being allowed to operate is in sharp decline.
- There are approximately 14 takeaways in a one mile radius with the nearest being only 200m away.
- A previous application was refused reference 5/PLAN/2008/0408 only two shops away.

APPLICANT'S STATEMENT:

20. None received.

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>

PLANNING CONSIDERATIONS AND ASSESSMENT

21. 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, residential amenity and highways issues.

Principle of development

22. 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 remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plan policies will depend upon their degree of accordance with the NPPF.

23. The District of Easington Local Plan was adopted in December 2001 and was intended to cover the period 2001-2006. The NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered

that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired.

24. On this basis, given the age of the Local Plan and information provided that informed the creation of specified shopping areas, the policies are considered out-of-date, and the weight to be afforded to the policies reduced as a result and paragraph 11(d) of the NPPF also engaged. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
25. Policy 111 of the Local Plan states that hot food takeaway shops will be approved in local and neighbourhood centres providing no serious problems of noise, disturbance, smell, litter or traffic hazards would arise and they do not affect the vitality and viability of the centre.
26. Paragraph 80 of the NPPF states that significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
27. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development.
28. For decision taking this means (unless material considerations indicate otherwise):
 - approving development proposals that accord with an up to date development plan without delay; or
 - where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i. the application of policies in 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.
29. As such in this case planning permission should be granted unless the adverse impacts of doing so would significantly and demonstrably outweigh the benefits.
30. The application is for retrospective consent to change the use of the property from the previous retail use to a mixed use as a sandwich shop and a hot food takeaway. The building is located within a block of a mix of both residential and commercial properties and the site is located within a neighbourhood shopping centre. The proposal does include the loss of an existing A1 use however, it is not felt that this undermines the existing local centre given the mix of uses within the area.
31. The impacts of the use on the surrounding area are discussed in the sections below however in principle it is considered that the use of the premises as a mixed use commercial development is acceptable in this location given developments of this nature are typical of a shopping parade. In addition to this, the proposal is considered to be in a sustainable location.

Impact on visual amenity of the area

32. The proposal results in the addition of a new advert to the existing shop front and does not result in any other external alterations to the property. Advertisement consent has been applied for and granted separately. Given this, the proposal is not considered to have a detrimental impact on the character or appearance of the street scene.
33. The proposal therefore, is considered acceptable in respect of policies 1, 35 and 102 111 of the District of Easington Local Plan.

Residential amenity

34. Policy 111 of the local plan states that hot food takeaways would not be granted where residential accommodation is situated above, on either side, immediately behind or immediately opposite the premises. In addition to this policy 102 states development will only be considered acceptable providing it does not have an adverse impact on neighbouring residents.
35. Residential properties are located to both the front and rear of the premises however, those to the front sit across a busy main road and those to the rear back on to the site with the rear of these properties facing the rear of the site. Therefore, it is considered that they are suitably located and orientated away from the premises so as to not be adversely affected by the activities associated with the use.
36. A flat sits above the property, however, this is within the same ownership of the applicant and is currently occupied by his son and will remain within the same ownership. A condition will, therefore, be added to require that the flat should only be occupied by a person associated with the business to prevent any conflict from arising between the business and the occupants of the flat.
37. In respect of other properties within the block, these are located within a local shopping centre and as such some noise and disturbance would be expected however this is to be discussed in more detail below.
38. Objections have been raised regarding smells, litter and general disturbance being created as a result of the proposal. In addition to this, concerns are raised over the use of the premises 7 days a week and that these issues are occurring constantly.
39. With regard to noise, the premises are open Monday – Friday 07.30- 15.00, Saturday 07.00 – 15.00 and Sundays 08.00 – 14.30. Policy 111 states that there should be no serious problems of noise. Whilst the property is open 7 days a week, it is not considered that the proposal would have a significant detrimental impact on the residential amenity of neighbouring properties in respect of noise issues given the proposal is only open during day time hours and a condition can be added to restrict the hours of operation to these times to prevent a night time use occurring in the future. This shopping parade is located on a busy traffic route with other commercial uses operating nearby, so it is not considered that the activity generated by the current use is significantly above what occurs overall in the vicinity.
40. In addition to this, the previous use of the property as an A1 use had no restrictions over opening hours, therefore the previous use potentially could give rise to longer opening hours to that which is currently advised on this application. The proposal is for a mixed use development constituting a sui generis use, therefore, the use of the property cannot be changed unless a further planning permission is submitted. On this basis, the planning department will have control over future changes of use

taking place on this site. In addition to this, the environmental health team are not aware of any complaints being received regarding noise issues.

41. Regarding odour, the use is already running, and the impact of odour can be considered on site. An appropriate system has been installed at the property and although not directly compliant with the guidance (due to its low level discharge point) it appears generally sufficient to manage odour based on the current operation of the site. This is supported by the 15 months that the site has been operating and the fact that there is no record of any complaints or concerns having been raised by neighbouring properties. Furthermore, should the system be upgraded so as to be fully compliant with guidance, this would require external plant which, although reducing the risk associated with fugitive odour, is likely to change the acoustic climate to some extent and as such lead to an increased noise level.
42. Therefore, based on the information above, in respect of the type of food served, the operational hours and existing extraction systems, it is not considered that the proposal would result in a significant detrimental impact on the residential amenity of surrounding neighbours that would warrant a refusal of this application. A condition will be added regarding opening hours to prevent a night time use from occurring.
43. As stated above the proposal is for a mixed used development, therefore, is not fully a hot food takeaway and the associated issues which usually occur with a hot food takeaway are not considered to occur in this instance. On this basis the proposal is considered acceptable in respect of residential amenity as referenced in policy 111 and 102 of the Local Plan.
44. Concerns have been raised that a neighbouring property had been refused and this was refused on the basis of impact on residential amenity. Having checked the details of that case, it was particularly related to the night time element which is not proposed in this instance due to the opening hours proposed therefore, it is not felt that a refusal based on the impact on neighbouring properties could be sustained in this instance.

Highway Issues

45. The county highway officer has confirmed that they have no objection to the proposal from a highways view point. Objections have been raised that the proposal has resulted in disturbance to local residents through the blocking of driveways and footpaths and inconsiderate parking as well as serious accidents occurring outside the property and that the proposal would only increase this danger.
46. In respect of the 3 'serious' road traffic collisions, or RTCs, there have been 4 no. recorded 'Slight' personal injury road traffic collisions in the last 5 years, which is the timescale the Highways Team would use to assess the highway safety characteristics of a particular location in relation to a planning application.
47. From those recorded with Durham Constabulary, there would only appear to be RTC No. 2 above that may have had any direct link with the shops and possibly the existing hot food takeaway at no. 49a and the cause of the RTC was presumably driver error not an issue with the design of the on-street car parking.
48. Given this and on the basis of a single RTC that could be linked to the existing shops in the last 5 years there would not be a highway safety issue in the vicinity of these shops that would flag up requiring some intervention by the Highway Authority.

49. The indiscriminate parking of motor vehicles in the vicinity of the site is not considered to be a material planning consideration. The Council is not able to control how people park and this would be a matter for Durham Constabulary. Durham Constabulary have raised no objection to this proposal however and it is not felt that there is sufficient evidence for the proposal to be refused on highway grounds.
50. In respect of the request for a car parking restrictions scheme, the Major Traffic Projects Team Leader has confirmed that he is aware of the request but due to lack of funding this has not been progressed.
51. It has been suggested that the applicant should fund this scheme however, given there is no highway objection raised to the proposal, it is considered unreasonable to ask the applicant to fund these works.
52. Taking all the above into account, the property is situated in a row of mainly non-residential type uses with on-street car parking to the front and as such there would be no highway objections to the change of use in accordance with Policies 1, 35 and 36 of the District of Easington Local Plan.

Other Issues

53. Appropriate space is available within the yard area to the rear of the site for bin storage.

Planning Balance

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

Benefits

55. The development would provide direct and indirect economic benefits within the locality in the form of expenditure in the local economy and will provide 3 full time jobs. Such benefits can be afforded some limited weight.

Adverse Impacts

56. Notwithstanding the objections received, it is not considered that any significant adverse impacts have been demonstrated.

CONCLUSION

57. When applying the planning balance contained in paragraph 11 of the NPPF it is considered that the adverse impacts of the development would not significantly and demonstrably outweigh the benefits and as such planning permission should be granted.
58. The site occupies a sustainable location within an established local centre and subject to conditions, is considered acceptable in land use terms, and in terms of the impact on the residential amenity of the neighbouring properties. The proposal is also considered to be acceptable in terms of highways safety and parking. This

application is therefore considered to satisfy the requirements of the NPPF and Local Plan Policies 35, 102 and 111.

RECOMMENDATION

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

1. The development shall not be open for business outside the hours of 07:30 to 15:00 Monday to Friday, 07.00 to 15.00 Saturday and 08:00 - 14:30 on Sundays and Bank Holidays.

Reason: In order to protect neighbouring amenities in accordance with policies 102, 111 and 112 of the District of Easington Local Plan.

2. The residential flat above the sandwich bar/hot food takeaway located at 55a The Avenue, Seaham shall only be occupied by a person/s associated with the business, and by any resident dependents.

Reason: In the interests of residential amenity in accordance with Policy 35, 102 and 111 of the District of Easington Local Plan and Parts 9 and 15 National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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.)

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

District of Easington Local Plan

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Change of use from greengrocers (use class A1) to mixed use as a sandwich shop/hot food takeaway (sui generis).</p> <p>Application Number DM/19/01295/FPA</p>	
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<p>Date September 2019</p>		<p>Scale NTS</p>

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/01457/FPA
FULL APPLICATION DESCRIPTION:	Erection of 1.9m high boundary wall to South West and South East of site (Part Retrospective)
NAME OF APPLICANT:	Mr John Bownas
ADDRESS:	37 Whindyke Blackhall Colliery Hartlepool TS27 4JZ
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Michelle Hurton Michelle.Hurton@durham.gov.uk 03000 261398

DESCRIPTION OF THE SITE AND PROPOSALS

SITE:

1. The application site relates to a residential property located within Whindyke, Blackhall Colliery. The property is located within a highly prominent location with the rear of the site facing onto the mini-roundabout located on the entrance into the residential estate.
2. The application site is a single storey property which prior to carrying out the unauthorised works was open plan to the front and enclosed with a 1.8m high open boarded timber fence to the rear of the site. In 2018 a planning application was submitted for the erection of a single storey extension to the side and rear of the property which was granted planning permission.
3. The character and appearance of the surrounding streetscene has a uniform appearance depending on the house type, these being of either single storey or two storey properties of a detached or semi-detached nature. The two storey properties are constructed with facing brickwork at ground floor, render at first floor and pantile roofs. The single storey properties are constructed from facing brickwork only and pantile roof.

PROPOSAL:

4. Full planning permission is sought for the erection of a 1.9m high boundary wall to South West and South East of the site which is part retrospective. To the north and north east of the site the height of the wall reduces in height to 1m, as permitted development rights have not been removed then planning permission is not required for a 1m high boundary enclosure which is adjacent to a highway. Currently some of the brick piers exceed 1 metre in height, but a revised plan indicates that the height of these will be reduced so as to ensure the front wall benefits from permitted development rights.

5. The development was brought to the attention of the Local Planning Authority via a complaint to the Planning Enforcement Section from a resident within the local area who was concerned about the overall height of the wall and its impact blocking the visibility of the highway junction.
6. The application is brought before members of the planning committee at the request of the local councillors because the proposed development is in a prominent location and both local members would like it to be heard at planning committee due to the visual impact the proposed development could have on the area.

PLANNING HISTORY

7. DM/18/02301/FPA – Single storey extension to rear and side - Approved

PLANNING POLICY

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 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.

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:

12. 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:

District of Easington Local Plan

13. Policy 1- Due regard will be given 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.
14. 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.
15. Policy 73 - Extensions or alterations to existing dwellings, requiring planning permission, will be approved provided that there are no serious adverse effects on neighbouring residents, the proposal is in keeping with the scale and character of the building and the proposal does not prejudice road safety or result in the loss of off street parking.

EMERGING POLICY:

16. 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 28 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it 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>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

Highways – No objection due to the 1.9m high brick wall replacing a 1.8m high wooden fence and as such it is not considered that the wall would impact upon the junction sight visibility at the junction of Whindyke and Brockwell.

INTERNAL CONSULTEE RESPONSES:

17. None

PUBLIC RESPONSES:

18. The application was advertised by means of site notice and by neighbour notification to 11 properties.
19. At the time of preparing this report, 3 letters of support have been received and 1 letter of representation.

20. The letter of representation states that they do not deny anyone who wishes to improve their property provided that the improvement is carried out in the correct and prescribed manner. The visual appearance of such a high wall is out of keeping with the area. The applicants previously applied for planning permission for the single storey extensions and prior to commencing works received their planning approval, it is not understood why they neglected to do so in regards to this wall, and there are no other examples of such boundary treatments within the area. There was previously a fence of similar height to those shown by neighbouring properties.
21. The letters of support state that the wall has been constructed to a good standard and everyone has a right to their own privacy.

APPLICANTS STATEMENT:

22. On behalf of my wife and myself I would like to explain our reasons for building a wall around our garden. The unique position of our garden, unlike any other in the area means we have our back garden facing directly onto a busy mini roundabout that at peak times has a huge volume of vans and large SUVs entering and leaving the estate. The design of the entrance to the estate is such that 2-way traffic is extremely difficult and at times dangerous. When our original garden fence was blown down in strong winds, we thought there was a real risk to us and passers by of injury. After much discussion we decided that the best long-term plan would be to build a wall, this we believed would offer the best protection in terms of safety, security and privacy to us and our property.
23. We were totally unaware that we would require planning permission to do this. Approximately 75 per cent of the wall had been constructed when we were informed of our mistake. We were told to stop building and either reduce the height of the wall, fit wood panels or railings or apply for retrospective planning permission which we duly did. The council planning officer believed the garden wall was not in keeping with the local area, our response to this was to disagree believing this to be a subjective opinion and not reflecting the views of our ourselves or our fellow residents who have shown great support to the building of the wall.
24. Our overriding ambition is to create something special, a wall that, in time would be covered with climbing plants and flowers providing a colourful and attractive entrance to our estate for years to come.

PLANNING CONSIDERATIONS AND ASSESSMENT

25. 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.
26. The main considerations in regard to this application are the principle of the development, residential amenity, impact on the character and appearance of the area and highway safety.

Principle of Development

27. The application site is a residential property located within the settlement boundary of Blackhall. The residential estate includes two storey and single storey properties which are either detached or semi-detached in nature. The application site is a detached bungalow, the properties within the street have a uniform appearance.

28. Policy 73 of the District of Easington Local Plan relates to alterations and extensions to dwellinghouses which is considered to be up to date when considered against the NPPF and therefore paragraph 11 is not engaged when considering this application. In turn, it is considered that extensions and alterations to existing properties are acceptable in principle. However, acceptability of the impacts of the proposal will be dealt with within the remainder of the report.

Impact upon character and appearance of the Area

29. Policy 73 of the District of Easington Local Plan states that alterations to existing dwellings need to have no serious effect on the amenities of residents in terms of visual intrusion, and that the proposal is in keeping with the scale and character of the building itself and the area generally in terms of height, design and materials. It is considered that the proposal does not comply with policy 73 given that the 1.9m high boundary wall is not considered to be in keeping with the surrounding area and has a detrimental impact upon the visual amenity of the host dwelling and wider streetscene.

30. The application site is located in a very prominent location which is adjacent to a public footpath and a mini round-about which is located at the residential estate's entrance and is regularly used.

31. The previous boundary treatment at the site included a 1.8m height open boarded timber fence at the rear and was open plan to the front of the site. Prior to the submission of this application part of the enclosure had already been erected, particularly the 1.9m high brick wall located adjacent to the mini-roundabout and part of the 1m high wall to the front.

32. It is considered that the addition of a 1.9m high brick wall in such a prominent location is an incongruous addition within the streetscene which is visually obtrusive in nature and would create an unwanted precedent within the streetscene. Although the brick has been chosen to match the house, the solid construction is out of keeping with other enclosures which are predominantly timber fencing. As such, it presents a harsh appearance, particularly adjacent to the footpath. Officers would recommend that the application be amended to reduce the visual impact upon the wider area by removing sections of the wall and replacing with either railings, similar to the property on the opposite side of the road or with vertical fencing, as it is considered that this would be of a better design and help to harmonise and soften the appearance of the wall which would in turn reduce the adverse impact upon the visual appearance within the streetscene.

33. Paragraph 130 of the NPPF states that planning 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.

34. Comments have been received from a neighbouring resident regarding the visual appearance of the 1.9m high boundary wall not being in keeping with the surrounding area.

35. It is considered that the development would have a detrimental impact upon the visual amenity of the area and does not comply with Policy 73 of the District of Easington Local Plan or paragraph 130 of the NPPF.

Impact upon residential amenity

36. The boundary wall encloses the rear garden area along the rear and the side adjacent to the public footpath at 1.9m then reduces in height to 1m adjacent to the rear of the single storey extension and continues around to the front garden curtilage. Along the shared boundary with the neighbouring property number 36 Whindyke the existing 1.3m high boundary enclosure remains in place. Therefore, given the nature and location of the proposal, it is not considered that the wall would result in a direct loss of residential amenity to the adjacent neighbours of the site.
37. Comments have been received in support of the application stating that the boundary wall would provide privacy for the applicants. There is no dispute that a boundary enclosure of this nature would provide adequate privacy for the applicants, however, the introduction of a replacement boundary fence similar to the one previously at the site would also provide the applicants with the required adequate amenity space and privacy required.

Highways

38. The General Permitted Development Order sets a height limit of 1 metre for boundary treatments adjacent to a vehicular highway in order to ensure that if vehicular crossings of the highway are made within the boundary treatment that drivers emerging/entering can see over them in order not to endanger other road users/pedestrians and themselves.
39. The proposed development would be a replacement of a 1.8m high open boarded timber fence, therefore given that the wall would replace a boundary fence of a similar height the Highways officer has raised no objection on highway safety grounds.
40. In this respect no concerns are raised in relation to highway matters at the site, and therefore it is considered that the proposals are acceptable from a highway point of view.

CONCLUSION

41. It is considered that the principle of enclosing the garden curtilage of the property is acceptable should the enclosure be in keeping with the host dwelling and surrounding area. Given the prominent location, height and materials of the unauthorised wall, however, it is considered that the development constitutes an incongruous addition which adversely affects the character and appearance of the area.
42. As the proposal is partially retrospective, for the reasons outlined above, it is considered expedient to ensure that the provisions of the District of Easington Local Plan are upheld. Consideration should therefore be given to the authorisation of further planning enforcement action. This action would seek to secure the removal of the means of enclosure or amendments to it so as to enable a more suitable boundary treatment to be erected in its place.
43. Therefore, it is considered that the application should be refused as the proposal is of unacceptable appearance within the streetscene and as such, does not comply with policy 1, 35 and 73 of the District of Easington Local Plan or Section 12 of the NPPF.

RECOMMENDATION

Recommendation that the application is:

REFUSED

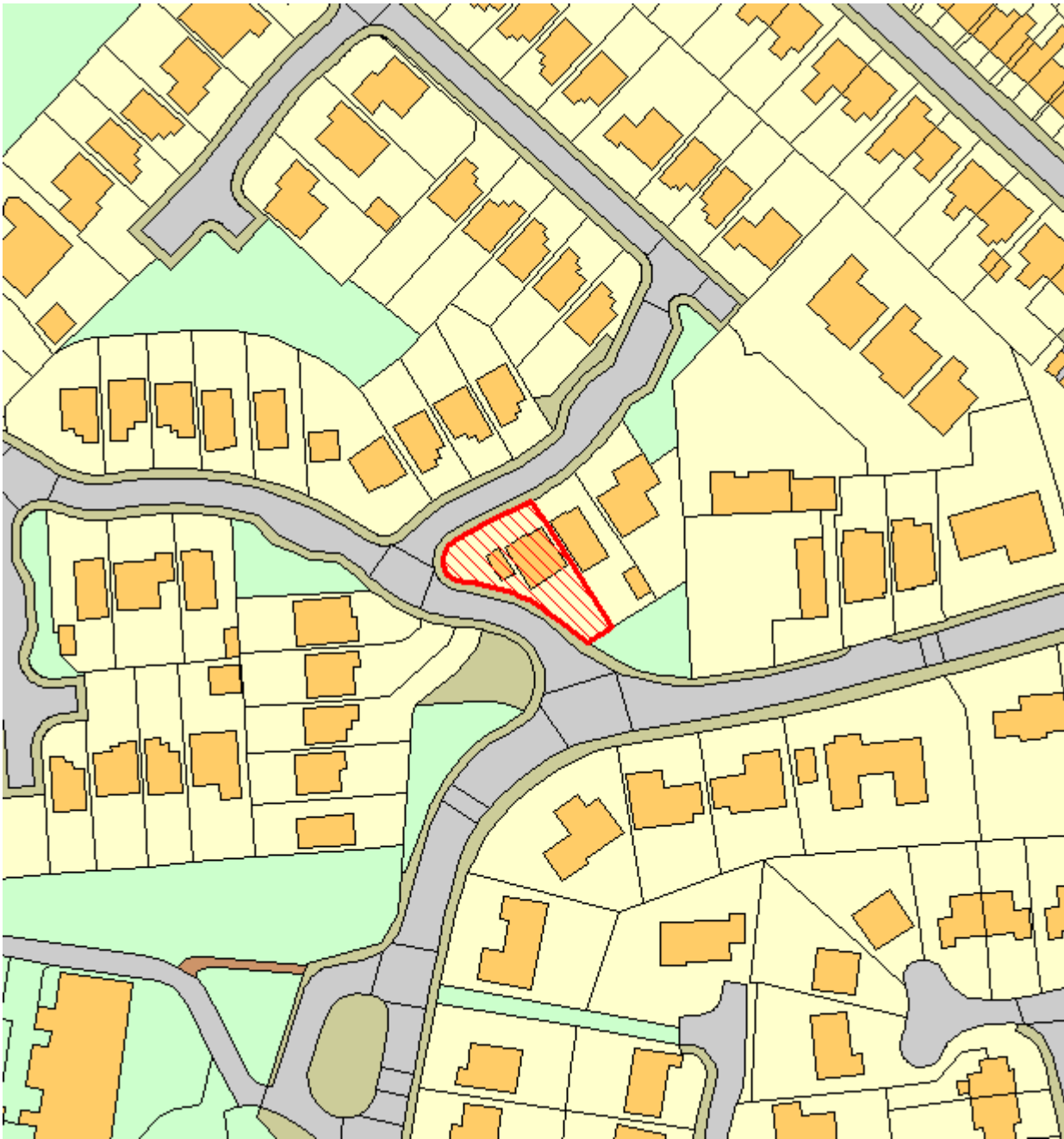
1. The 1.9m high brick wall, by reason of its materials, design and prominent location, constitutes a development that is not in keeping with the host property and wider streetscene and creates an adverse impact upon the character and appearance of the area. This would be contrary to Policy 1, 35 and 73 of the District of Easington Local Plan and Section 12 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted Application Forms and Plans.
- District of Easington Local Plan 2001
- National Planning Policy Framework
- National Planning Practice Guidance
- Consultation Responses
- Objection Letters
- Representation Letter



Planning Services

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Erection of 1.9m high boundary wall to South West and South East of site (Part Retrospective) at 37 Whindyke, Blackhall Colliery, Hartlepool, TS27 4JZ

Comments

Date. 10 September 2019

Scale 1:1250

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/01810/FPA
FULL APPLICATION DESCRIPTION:	Part two storey rear extension and part single storey rear extension, raising of ridge height and loft conversion, increasing from 4 to 6 bedrooms.
NAME OF APPLICANT:	Mr Geoffrey Thompson
ADDRESS:	22 Blaidwood Drive Durham
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Jennifer Jennings Planning Officer Telephone: 03000 261057 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. Blaidwood Drive forms part of an established residential estate located some 2.5 kilometres south of Durham City. The estate is made up of a mix of single and two storey properties, with the southern end of Blaidwood Drive consisting of large two storey detached properties of varying designs. The application site is situated at this part of the estate at the end of the cul de sac, with properties located to its north, east and south, and the A167 to its west.
2. The site consists of a large brick and tile dwelling house, previously benefiting from a large extension over the attached double garage. The property has garden area to the side of the property along with a large rear garden measuring just under 23 metres in length. A large block paved drive exists to the front, with access to it directly from the adopted highway.

Proposal

3. The proposal seeks full planning permission to raise the ridge and eaves height of part of the main roof of the house, along with two storey and single storey extensions to the rear. The proposal would increase the number of bedrooms from 4 to 6, with conversion of the loft providing for the additional two large bedrooms with ensuite. The existing conservatory to the rear would be demolished

4. The rear extensions would extend from the existing rear elevation by 3 metres, just short of being the full width of the main house. The two storey extension would be located to the east of the southern elevation and would hip into the new raised main roof, with the insertion of two dormers for each of the new loft rooms. The single storey extension to the west of the rear elevation would have two gable ends facing the garden area. To the front three new velux windows would be inserted. All materials would match existing.
5. The application is referred to Committee at the request of the local member Councillor Liz Brown who requested it on the grounds that the extent of the works and the general layout appear to show the property is being converted to two dwellings, contrary to policy H10, and the amount of building works proposed contrary to policy H13 of the Local Plan.

PLANNING HISTORY

6. 4/95/00485/FPA Two storey pitched roof extension to side of dwelling Approved 22nd September 1995

PLANNING POLICY

NATIONAL POLICY

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
9. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
10. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

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

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

LOCAL PLAN POLICY:

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

12. *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.
13. *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.
14. *Policy T5 – Public Transport* – The council will encourage improvements to assist public transport services including the provision of suitable facilities and ensuring new development can be conveniently and efficiently served by public transport.
15. *Policy T10 – Parking* – States that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
16. *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.
17. *Policy Q9 – Alterations and Extensions to Residential Property* - The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.

RELEVANT EMERGING POLICY:

18. 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>.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

19. Northumbrian Water have no comments to make.
20. Highways Authority raise no objections.

21. City of Durham Parish Council – objects on the basis that the proposals already benefit from a large extension and the further works proposed would mean the property would be out of scale with surrounding residences. There are further concerns that the property could be turned into a HMO, given the absence of an Article 4 direction in the area. In addition the Parish Council noted the lack of connection between the main house and the annex, making it very easy for the property to be converted to two residences. The Parish Council requested that the two conditions required by the Local Councillor be included relating to construction plan and prevention of conversion to two properties.

PUBLIC RESPONSES:

22. The application has been advertised by means of notifying neighbouring residents by letter. Five objections have been received raising the following points:
- The house has been extensively extended in the past and the current proposals are too large and too high and would create a property out of proportion to the surrounding houses.
 - Proposals would make house stand out and be significantly larger than those houses surrounding to detriment of appearance and amenity of the area.
 - Proposals are over development of plot.
 - Concerns that a second dwelling is proposed on the site
 - Concerns that the intention is to turn it into a HMO.
 - Concerns that the size of the new build would result in a different use which would be out of character of the area
 - The increase in number of bedrooms would result in more vehicles, pressure on parking, more activity in shared community space which would reduce public amenity
 - Excessive size for usual family accommodation

APPLICANT'S STATEMENT:

23. This is designed to be our “forever house” and the plans to extend reflect this. Both my wife and I are Directors of companies and we are not property developers. We have no desire to use this house to let out to students or have multiple occupancy which seems to be the real concern . It is our intention to upgrade the house to modern standards and then move in. The house has been in a state of disrepair for many years.

24. The objection and personal opinion from number 11 states the extra elevation would obstruct their view. It's worth stating that the extra elevation is 500mm. The rear of number 11 already has considerable obstructed views of our house due to the mature trees in gardens and the distance from our house would mean the 500mm extra would be barely noticeable. Given the layout of the estate where the houses are located at different angles and different elevations the extra 500mm would not be noticed by anyone.

25. The plot is one of the largest, yet most secluded on the estate and all of the work we are proposing is to the rear of the building which is not overlooked by anyone; with woodland to the side, not visible from the A167 whilst driving by at speeds of 30-40mph on the dual carriageway and will not change the front appearance of the house at all or increase the front elevation. The pleasant outward appearance of the house, the street, and the estate would be maintained and unchanged.

26. To see any of the rear elevation of the property a person would have to stand on or very close to our property. As there is no footpath to the front of the house this would be highly unusual. There is no access to the rear of the property at all as it is completely private. The mature shrubs and trees in the garden and at the side of the house also restrict visibility. We have always lived in houses with decent sized, family accommodation. Our current house is 5 bedrooms over three stories with four bathrooms. We don't consider the size excessive and there are many other similar-sized properties in the immediate vicinity, for example, Mount Oswald.

27. The annex will be used as a TV and hang out area for our children or for occasional friends visits.

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>

PLANNING CONSIDERATIONS AND ASSESSMENT

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

Principle of Development

29. 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 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.

30. In consideration of the above, saved policy Q9 relating to alterations and extensions to residential property and policy H13 relating to the character of residential areas are directly relevant to this householder development proposal. Policy Q9 requires that extensions will be permitted where the design, scale and materials are sympathetic to the main dwelling and character and appearance of the area; the extensions incorporate a pitched roof; the extension respects the privacy of adjoining occupiers and does not create a level of multiple occupation contrary to policy H9. Within the 'Justification' text relating to policy Q9 it states that extensions should remain subordinate to the main dwelling. H13 requires that new development should not have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them. Although referred to by the Local Councillor, policy H10 is not relevant in this instance as it relates to backland and tandem sites whereas the proposal relates solely to a householder extension.

31. These policies are broadly compliant with Part 12 of the NPPF relating to 'Achieving well-designed places', in particular paragraph 127b), c) and f), which requires development to be visually attractive as a result of good architecture and sympathetic to local character including the surrounding built environment, whilst not preventing appropriate innovation or change. Part 127f) states that development should create places that promote health and well-being with a high standard of amenity for existing and future users. Although it is noted the requirement for pitched roofs and subordinate design within the policy and Justification text of Q9, this is deemed over-prescriptive, as the NPPF allows for innovation and change where appropriate. In this regard less weight can be afforded to these elements of the policy, but the remainder of policy Q9 along with H13 can be afforded sufficient weight to allow an informed decision that remains compliant with the NPPF. Paragraph 11 of the NPPF is therefore not engaged.

32. In consideration of the above, the proposals are considered to accord with policy Q9 which is permissive in principle of extensions to properties. The policy does not set a limit on the extent of proposed extensions or limit the number of bedrooms created so long as the proposals are sympathetic to the host dwelling in terms of design and scale. In this regard, subject to further discussion regarding these aspects below, the principle of development is considered acceptable.

Impact on the character and appearance of the surrounding area

33. Policy requirements for new householder development, as detailed above, seek proposals to be sympathetic in design, scale and materials to the main dwelling and wider area. The main impacts from the proposed works when viewed from the street scene would relate to the heightening of the roof ridge and eaves by 0.5 metres.

34. The property is located at the furthest end of the estate within a corner site and although it would be visible when turning into the cul de sac area it is sufficiently distant from neighbouring residents for the increase in its height to not appear unacceptably out of scale or character with the area. Most of the properties at this part of the estate differ in appearance and design and have an irregular layout pattern in terms of how they relate to each other. There is therefore no uniformity of layout or design that defines a character that would be unduly interrupted by the proposals. As a further point, the change in the roof line at this part of the building would break up the existing long roof line, creating a slightly more balanced appearance to the house, as well as reinstating the primacy of the original part of the house, which has been diluted by the previous extension over the double garages .

35. The rear extension would not be readily visible from the main street, and although the extensions provide a large additional floor space, externally they are well related to the scale and design of the existing house, extending from the rear elevation by three metres which is less than half of its current width and not considered excessive in this regard. A condition can be applied requesting details of materials prior to commencement of works to ensure they appropriately match existing.

36. In consideration of the extent of the works, the 0.5 metres height increase and the rear extensions are considered to be of an appropriate and suitable scale and design, in keeping with the appearance and character of the host dwelling and wider areas. It is not considered that they would result in an overbearing impact adversely affecting the general amenities of the area. The proposals are deemed to accord with policies Q9 and H13 in this regard and Part 12 of the NPPF.

Impact on the amenities of neighbouring residents

37. Policy Q9 and H13 require developments to respect privacy of adjoining occupiers and to not have a significant adverse effect on the amenities of residents. The NPPF requires development to create places with a high standard of amenity for existing and future occupiers.
38. Nearest residents are located at no. 24 some 6.4 metres to the south east. The front elevation of their property is approximately level with the rear elevation of the application site. In this regard they would have some limited views from their front window of the proposed extension but this would be limited and it is not considered that there would be an unduly negative impact in this regard. The side elevation of this property is noted as having some obscure glazed windows and there are no concerns regarding loss of privacy and given the orientation of the properties, it is not expected that the new extensions would create loss of light to these windows in any case.
39. Whilst the majority of properties within the cul de sac have views of the house, the raising of the roof and eaves by half a metre is not considered to create negative impacts on the amenities of these residents, as it would not create issues of loss of privacy, and considering the distances from the application site, there would not be an overbearing impact on these surrounding residents. Property no. 17 to the east of the site would also have some views of the rear extensions and whilst this may fill a slight gap between nos. 22 and 24 as viewed from this property, it is not considered that this detrimentally impacts on their outlook or wider amenities at their home. It would not be possible to sustain a refusal on this basis.
40. Properties located to the rear at Roundhaven would have very limited views of the rear extensions given the distance from the application site and the intervening trees and hedges that provide good screening.
41. Overall the proposed development is considered acceptable in terms of impacts on residential amenity and accords with policy Q9 and H13 of the local plan in this regard.

Highway Safety and Access

42. 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.
43. The dwelling is currently well served by off street parking including a double garage and sizeable driveway to the front. The site can therefore comfortably accommodate additional parking associated with the increase in bedrooms at the property. The proposals meet the requirements as set out in the Parking and Accessibility Standards 2018. Highways have raised no objections in this regard.
44. In terms of access to the site, some issues were raised with regards the impact of construction works on the block paving at the access road. It was requested that the applicants state in writing that they would be responsible for any damage to the road and a condition was requested for a construction management plan. Having assessed the details, the block paving is adopted highway. Any damage to this access road would mean the applicants were liable to the Council for repairs. In this regard it would not be appropriate to request an undertaking as part of the application, as they would be legally required to rectify the damage in any case and this would be a matter highways section would pursue.

The request for a construction management plan condition is also not considered fully warranted in this case as sufficient space is provided within the curtilage of the property to cater for construction traffic and storage of materials. An informative can however be applied requesting due consideration to neighbouring residents, including limiting hours of operation.

Other issues

45. Concern has been raised that the property could potentially be converted to HMO given the creation of additional bedrooms. It is noted that the Article 4 Direction removing permitted development rights for conversion of dwellings to small 6-bed HMOs that covers Durham City does not extend to this estate. However, the layout of the property continues to read as a large family home and although additional bed space is created, the large downstairs space would not be considered typical of student accommodation. The applicants have provided an explanation of the proposals in response to the concerns raised. Given the size of the house, it appears more likely that it would cater for a 7+bed HMO, potentially bringing it into Sui Generis use, meaning that permission would be required in this scenario. It is acknowledged that a change of use to C4 small HMO would not currently require planning permission, but the proposals have been submitted as a householder development and must be considered on their merits.
46. The Council is giving consideration to the introduction of a further Article 4 Direction in Durham City which could include this estate. The introduction of any Article 4 Direction would need to be evidence based, and work is presently being undertaken to consider the evidence in this regard. Once the evidence has been considered, and should this indeed support the making of a further Article 4 Direction, the appropriate approval and implementation process would need to be followed. At this point in time, it would not be considered reasonable or appropriate to attach a condition preventing a C4 HMO use of the application property, as other properties in the vicinity are not currently subject to such restrictions. Instead, this issue will be reviewed on a comprehensive basis.
47. A further concern was raised that the annex part of the house is not connected to the main house and could potentially function as a separate dwelling. It is noted from assessing the planning history that when planning permission was granted for the annex building no condition was applied requiring its use to be ancillary to the main dwelling.
48. From assessing the drawings it is clear that a linking door does exist internally within the utility room and this would not change as a result of the development. The link provides a clear connection between the main house and the annex, although there is no link at first floor level. Having considered the information in support of the application and assessed the internal layouts, the annex section is capable of being self-contained but is noted as being a relatively small one-bed granny flat. Given its size and relationship to the main house it is deemed that the annex section can function as ancillary to the main home as before. Whilst it would be preferable to apply a condition requiring it to remain ancillary to the main house, this would not be possible given that the current application does not relate to this element of the property.

49. The request to attach a condition preventing the annex from ever becoming a separate residence has also been considered. However such a condition would not be considered reasonable or necessary, particularly as the use of the annex as a separate residence would require the submission of a full planning application and this would have to be considered on its own merits.

CONCLUSION

50. In conclusion, the proposed development is considered to be of an appropriate scale and design and would not detrimentally impact on the amenities of the surrounding area or neighbouring residents. Subject to the imposition of conditions regarding materials, the proposals are deemed to accord with relevant local policy H13 and Q9 of the Local Plan and relevant sections of the NPPF. The concerns raised with regards alternative uses have been considered but could not justify a refusal of the current application which has been presented as a householder development.

51. The proposal has generated public interest, with letters of objection submitted from residents, the City of Durham Parish Council and Local Ward Members. 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.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the following approved plans and documents received 5 June 2019:

Site location and block plans
Existing and proposed front views
Existing and proposed rear views
Existing and proposed side elevations
Existing and proposed ground floor layouts
Existing and proposed first floor layouts
Proposed loft layout

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

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

Reason: To ensure that a satisfactory form of development is obtained in the interests of visual amenity of the area in accordance with the provisions of policies Q9 and H13 of the Durham City Local Plan and Part 12 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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.)

BACKGROUND PAPERS

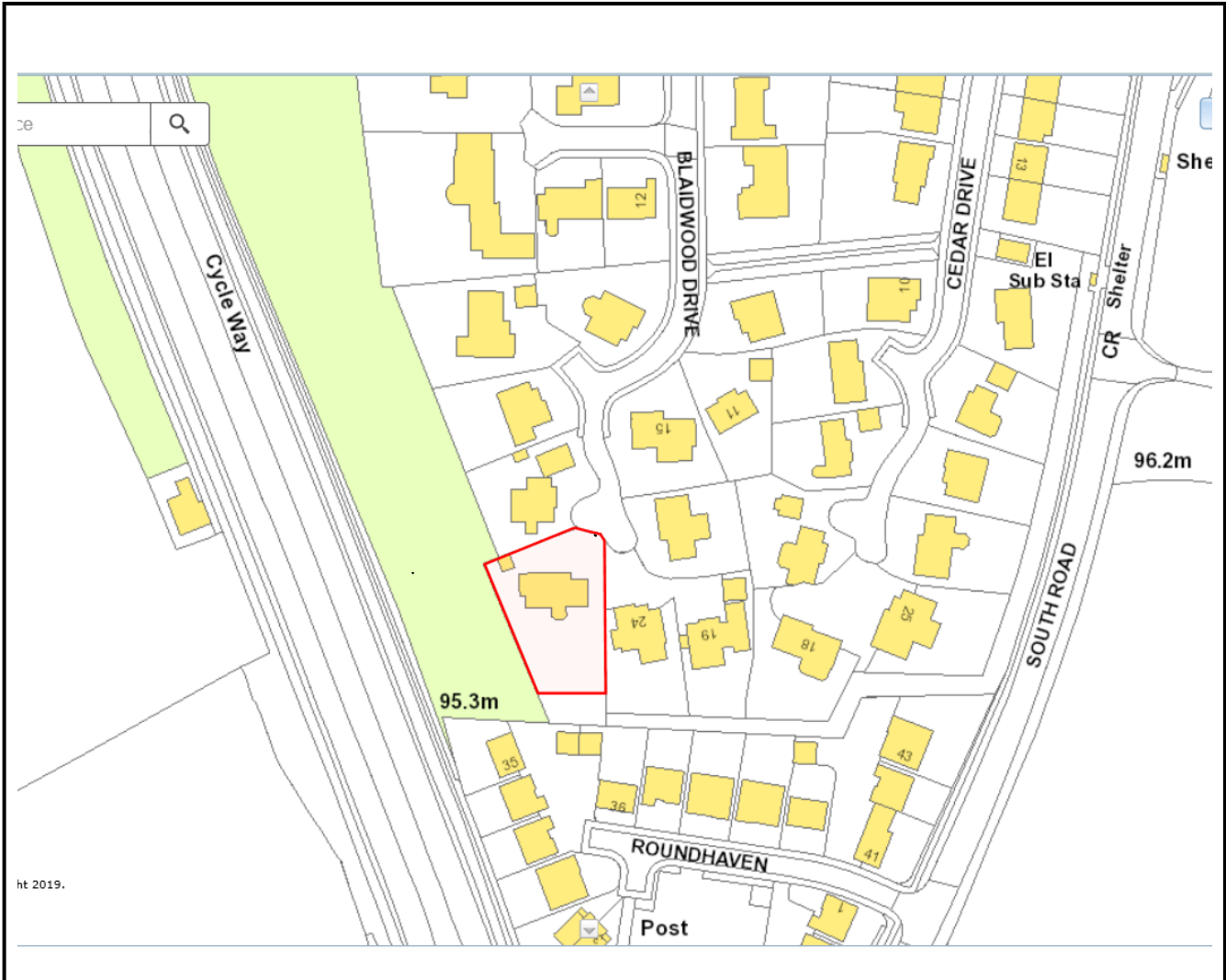
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



ht 2019.

<p>Planning Services</p>	<p>Part two storey rear extension and part single storey rear extension, raising of ridge height and loft conversion, increasing from 4 to 6 bedrooms.</p> <p>Application Number DM/19/01810/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>Comments</p>	
	<p>Date 10 September. 2019</p>	<p>Scale NTS</p>

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/19/01720/FPA
FULL APPLICATION DESCRIPTION:	Erection of two storey side extension to C4 (House in multiple occupation) dwelling.
NAME OF APPLICANT:	Mr Stephen Shaw
ADDRESS:	77 Whinney Hill Durham DH1 3BG
ELECTORAL DIVISION:	City of Durham
CASE OFFICER:	Leigh Dalby Planning Officer Telephone: 03000 261389 Leigh.Dalby@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is an end of terrace property located on Whinney Hill which is within the Durham City Conservation Area and forms part of the eastern city centre consisting of an elevated residential street that climbs steeply from its Old Elvet / Green Lane junction in the north to the roundabout in the south connecting Hallgarth Street, Stockton Road and Shincliffe Road.
2. The area is characterised by interwar houses originally local authority housing stock to provide accommodation for the prison officers at HM Prison Durham. The properties are arranged in short blocks either lining the main street or in cul-de-sacs, and are of a typical design of social housing of this era. The original regular and balanced street, varying topography with landscape features in the public realm and private gardens lining the roadsides combine to generate a distinctive suburban environment with a green character.

Proposal

3. The application seeks consent for the erection of a two-storey extension to the side of the existing dwelling (currently used as a C4 - House in multiple occupation) to provide additional bedroom space within the dwelling whilst remaining within their current use class.
4. The two-storey extension is designed to reflect the host property with brickwork, render, tiles and decorative features to match the existing property. The extension is proposed to project approx. 3.5m from the side of the dwelling with a width of approx. 7.0m and set back from the front and rear elevations by 0.5m and 0.2m respectfully. The proposal will have a maximum height of approx. 7.0m reducing to 5.0m at eaves with a hipped roof design.

5. The application is before Members at the request of 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 contrary to the adopted interim policy.

PLANNING HISTORY

6. DM/18/00549/FPA - 77 Whinney Hill - Two-bedroom two storey end terraced dwelling for C3 dwelling occupation. Refused.

PLANNING POLICY

NATIONAL POLICY

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
9. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
10. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
11. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
12. NPPF Part 16 Conserving and Enhancing the Historic Environment – Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

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

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

LOCAL PLAN POLICY:

City of Durham Local Plan

14. Policy E3 - World Heritage Site – Protection – Durham Cathedral and Castle WHS and its setting will be protected by restricting development to safeguard local and long distance views to and from the cathedral and castle and peninsula and seeking the conservation and management of buildings which make up the WHS and its setting.
15. Policy E6 - Durham City Centre Conservation Area – states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
16. Policy 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.
17. 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.
18. Policy E23 – Listed Buildings – The Council will seek to safeguard listed buildings by not permitting development which detract from their setting.
19. 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.
20. 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.
21. 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.

22. 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.
23. Policy T21 – Walking – states that existing footpaths and public rights of way should be protected.
24. 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.
25. 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.
26. Policy U8A – Disposal of Foul and Surface Water – requires all new development to have satisfactory arrangements for foul and surface water disposal.
27. Policy Q5 – Landscaping – General – requires all new development which has an impact on the visual amenity of the area in which it is located to incorporate a high level of landscaping in its overall design and layout.
28. Policy Q9 – Alterations and Extensions to Residential Property - The design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area. Wherever possible the alteration or extension incorporates a pitched roof, the alteration or extension respects the privacy of adjoining occupiers of the property and the alteration or extension will not create a level of multiple occupation.
29. Interim Policy on Student Accommodation
30. On the 13th April 2016 an Interim Policy was adopted following consultation in relation to student accommodation, as such this interim policy 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, recent case law has supported the policy and its application. This is therefore a material consideration which is looked at in more detail below.
31. The Houses in Multiple Occupation (HMO) Interim Policy states: in order to promote the creation of sustainable, inclusive and mixed communities and maintain an appropriate housing mix, applications for new build Houses in Multiple Occupation (both C4 and sui generis), extensions that result in additional bed spaces, and changes of use from any use a Class C4 (House in Multiple Occupation), where planning permission is required will not be permitted if more than 10% of the total number of properties within 100 metres of the application site are already in use as HMO or student accommodation exempt from council tax charges.

RELEVANT EMERGING POLICY:

32. 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 28 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

33. The Highways Authority have raised no objections to the proposal given the city centre location, there is no requirement to request parking provision be provided on this occasion and noted that the majority of dwellings nearby come with no in-curtilage parking provision. The difference between this proposal, the previous proposed dwelling and those dwellings established in the street, is that any dwellings which existed before the introduction of the Controlled Parking Zone (in which this street falls) are entitled to apply for parking permits, whereas new dwellings are not entitled to apply.
34. Durham Constabulary have confirmed they have provided no comment.

INTERNAL CONSULTEE RESPONSES:

35. The Design and Conservation team have considered the proposed scheme and concluded that the proposal will have a neutral impact on the character and appearance of the conservation area, and the design of the proposal is subordinate to the host property, and as such have no objections.
36. Environment, Health and Consumer Protection (Nuisance Action Team) – Raise no objection to the proposal.
37. The Contaminated Land team have raised no objection or concern in relation to the proposal, however have requested an informative to be added should the application be deemed acceptable.
38. Planning Policy section have clarified that the interim policy for student accommodation and HMOs is still a material consideration in the decision-making process, and that the proposal is contrary to the interim policy in that there are over 10% of properties in the area which are registered as student exempt. However, given a recent appeal decision at Hawthorn Terrace whereby the Inspector concluded that where the provision of additional rooms within existing HMOs will not actually alter the overall percentage, this should not be refused on this basis alone. Therefore, the case officer will need to be satisfied that the impacts of the development on the local area is not significantly harmful and the amenity of existing and future residents is not adversely affected.

PUBLIC RESPONSES:

39. The application has been advertised by means of site notice and by neighbour notification letters (15 in total). 3no. representations were received in objection to the proposal, 2no. from the Parish Council and Whinney Hill Community Group and 1no. from a local resident. A summary of these comments are set out as follows:
40. City of Durham Parish Council - objects to the proposal on the grounds that as there are already over 10% of properties within 100m of the application site in use as HMO or student accommodation, this is therefore contrary to the Interim Policy on Student Accommodation. In addition, the creation of a six-bedroom student HMO capable of accommodating ten to twelve student occupants is in direct conflict with the NPPF and Durham County Council's objectives and policies to promote and preserve inclusive, mixed and balanced communities and to protect residential amenity, and therefore fails Saved Policy H9.

41. Furthermore the proposal by virtue of its design, scale and massing would be visually incongruous and detract from the character and appearance of the Durham City Conservation Area contrary to Policy E22.
42. Whinney Hill Community Group – objects to the proposal as it is considered that the proposal will detract from the streetscene, result in the loss of garden space and amenity for existing and additional tenants, fails to reflect the character of the area through uniformed linear blocks of housing and fails to preserve or enhance the Conservation area contrary to Policy E22.
43. In addition, the application will lead to increased noise and disturbance on neighbouring residents and conflicts with the Interim Policy on Student Accommodation and saved Policy H9.
44. A local resident objects to the proposal as it is considered to be contrary to H9, E22, Q9 and T10 along with the Interim Policy on Student Housing; insofar as, the proposal will increase the levels of noise and disturbance, anti-social behaviour and refuse, lead to a greater demand on parking and is of a size and scale that is excessive to the existing property and will not preserve or enhance the character of the area.

APPLICANT'S STATEMENT:

45. The applicant has submitted the following supporting statement.
46. The proposed extension has been carefully designed, taking into account the comments of planners and guidance given in response to our previous application on the same site.
47. Consultation with the Council's Design and Conservation Officer has resulted in a stepped design to both the front and rear elevations, which would in their view, "...appear less incongruous and harmful than the previous scheme, addressing the previous reasons for refusal and those within the inspectors appeal decision. The impact upon the character and appearance of this part of the conservation area resulting from the amended scheme would be reduced to a neutral level."
48. The revised proposal enjoys support of planners and their recommendation for approval reflects that the proposal's design and scale can be considered to not cause any undue harm to surrounding heritage assets or neighbouring amenity.
49. The proposal matches many other existing end of terrace extensions on Whinney Hill and, with its proposed pitched roof and stepped elevations, in some cases can be considered much more sympathetic in design.
50. The proposal will not result in an increase in HMO numbers in the area as the property has operated as a small C4 HMO since 2003. Consequently, the proposal does not run contrary to the principles associated with the interim policy as the housing mix in the area will remain unchanged.
51. The extension will improve the provision of accommodation and shared amenity for residents by increasing accommodation within the permitted guidelines for an existing C4 dwelling, increasing existing room sizes and adding two further full-size bathrooms. Whilst there is a degree of conflict with the interim policy on student housing, it is felt that the proposal complies with the relevant saved policies of the local plan and helps drive up the quality of housing on offer. The property will be part of the mandatory HMO licencing scheme and Durham Assured Student Housing scheme.

52. A well-planted side garden is to be re-instated as part of the proposed extension that will improve a corner of Whinney Hill presently dominated by the 3m+ high wall of HMP Durham and a large bus shelter to the east boundary of the property. 75 additional family homes are being built 100m away at the former Durham Johnston School site, which potentially overshadows the impact to the neighbourhood of two additional residents at number 77 Whinney Hill

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>

PLANNING CONSIDERATIONS AND ASSESSMENT

Material Considerations

53. 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, impact of the development on the designated heritage asset, impact on interim policy on student accommodation, the impact on the character and appearance of the existing property and streetscene, the amenity and privacy of neighbouring land users and highway safety.

Principle of development

54. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CofDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that the weight to be afforded to existing Local Plan policies will depend upon their degree of accordance with the NPPF.

55. The City of Durham Local Plan (CofDLP) was adopted in 2004 and was intended to cover the period to 2006. The NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired.

56. 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(d) of the NPPF is not engaged.

57. 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.

58. Policy H13 seeks to ensure that the character of residential areas is protected and that permission 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.

Interim Policy on Student Accommodation

59. 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.

60. 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 38.4 per cent.

61. 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 a C4 category. On this basis, the proposal would equate to two additional bedrooms creating a 6-bed (C4) HMO and in consideration of this, the proposals are not considered to be contrary to 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.

62. On this basis, the provision of the additional bed spaces to an existing C4 property does not undermine this principle. Furthermore, it must also be noted that the interim policy is not part of an adopted development plan and therefore less weight must be afforded to it as a result and in the event of conflict with saved local plan policies, those saved policies must prevail.

63. 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.

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

65. It is therefore considered that the principle of the proposal is acceptable in planning policy terms being an extension to an existing C4 dwelling, subject to the material planning considerations as set out below.

Impact on Designated & Non-Designated Heritage Assets

66. When considering any application for planning permission that affects a conservation area, the Planning (Listed Buildings and Conservation Areas) Act 1990 requires a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.

67. The National Planning Policy Framework (NPPF) goes further in seeking positive enhancement in conservation areas to better reveal the significance of an area (para. 200, NPPF), whilst requiring local planning authorities to take a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset (para. 197, NPPF). It also looks for local planning authorities to take account of the desirability of new development making a positive contribution to local character and distinctiveness (paras. 192, NPPF).

68. Policy E21 (The Protection of Historic Environment) seeks to preserve and enhance the historic environment of the district by requiring proposals to minimise the adverse impact on significant historic features and encourage the retention and re-use of buildings which are of visual or local interest.

69. Policy E22 (Conservation Areas) seeks to preserve or enhance the character or appearance of the conservation area within the City of Durham.

70. The application property is located within the Durham City Conservation Area (a designated heritage asset), the Council's Design and Conservation team have provided the following appraisal of the area and its characteristics; "The area is characterised by interwar houses originally local authority housing stock providing accommodation for the prison officers at HM Prison Durham which forms an abrupt end to the street. The properties are arranged in short blocks either lining the main street or in cul-de-sacs, and are typical designs of social housing of their time. The original regular and balanced street, varying topography with landscape features in the public realm and private gardens lining the roadsides combine to generate a distinctive suburban environment with a green character that positively contributes to the conservation area."

71. The proposed extension would utilise the triangular shaped garden to the side of the property, and is considered to be of a design, scale and massing that is complementary to the host dwelling, in providing a subordinate addition to the original dwelling that preserves a large extent of the original garden maintaining the original character of the area.

72. In terms of the detailed design, the development draws architectural cues from the locale such as the hipped roof form, the arrangement, shape and sizes of the fenestration, the use of dashed render above exposed brickwork, and the quoin detailing, that reflects the character of the existing interwar housing.

73. Finally, it is noted that the proposed extension would not intrude into or block the public view of Durham Cathedral that can be gained from certain vantage points along the main street around the site.

74. It is therefore considered that the proposed extension to the side of the application property within this location would not result in a detrimental impact on the setting, appearance or significance of the conservation area.

75. This view is supported by the Council's Design and Conservation section. Therefore, in consideration of the above guidance and the impact upon the conservation area, it is considered that the principle of the proposal will not detrimentally impact the appearance or character of the designated historical asset (Durham City Conservation Area) in line with the requirements of E21 and E22 and paragraphs 191, 197 and 200 of the NPPF.

Impact on visual amenity of the area

76. Policy Q9 of the Local Plan states that proposals for alterations and extension to residential properties will be permitted provided that the design, scale and materials are sympathetic to the main dwelling and the character and appearance of the area.

77. As discussed above the proposal is of a design and scale that respects the character and materials of the host dwelling and the character of the area, as such it is considered that the proposal will not result in a detrimental impact on the visual amenity of the area in accordance with Policy Q9 of the City of Durham Local Plan.

Impact on Residential amenity

78. The NPPF (Section 12) states that proposals should create a high standard of amenity for existing and future users. In accordance with this, policy Q8 requires that new residential development should provide adequate amenity and privacy for each dwelling and minimise the impact of the proposal upon the occupants of existing nearby and adjacent properties. To meet with these requirements, guidelines are set for privacy distances, requiring a distance of 21 metres between habitable room windows and 13 metres between blank gables and habitable windows.

79. The proposed extension is designed and orientated so that the windows within the extension do not impact the privacy or the amenity of the surrounding residential properties and provide adequate separation distances in excess of the minimum privacy distances required in Policy Q8.

80. Furthermore, it is not considered that the proposed extension by virtue of its projection, location and orientation will have a detrimental impact on the visual amenity and outlook from any surrounding residential property nor lead to any overshadowing, overbearing and oppressive effect on this neighbouring property to a sufficient level to warrant refusal.

81. The proposed bedroom space within the extension is considered to provide adequate living and amenity space for the occupiers in line with the national described space standards.

82. It is noted that the provision of two additional bedrooms will lead to an increase in the level of activity and subsequently the potential for an increase in noise and disturbance to the surrounding residential properties. However, it is considered that the addition of a further two occupants at the dwelling already in use as a HMO is unlikely to create a significant increase in activity and levels of noise or disturbance directly apportioned to this development to such a degree to warrant refusal of the application.

83. The proposal is therefore considered to accord with policy Q8 in this regard and NPPF core principle regarding ensuring a good standard of amenity is maintained for existing and future occupiers.

Highway Issues

84. The Highways Authority have raised no objections to the proposal given the city centre location and noted that the majority of dwellings nearby come with no in-curtilage parking provision. It is therefore considered that the proposal is acceptable in accordance with T1 and T10 of the City of Durham Local Plan.

Residual Matters

85. The majority of comments received in response to the publicity of the application have been addressed within the above assessment of the proposal. However, the City of Durham Parish Council have raised concerns relating to the property having the ability to accommodate 10-12 occupants. Whilst this may be technically feasible, the property is to remain within a C4 use class, which limits the total number of occupants to six. Therefore, notwithstanding the total of double bedrooms annotated on the submitted plans, a further planning permission would be required for the use of the property as a large HMO (Sui-Generis).

CONCLUSION

86. It is considered that the principle of the proposal is acceptable in line with the appropriate saved Local Plan policies, and whilst the proposal does not fully accord with the Interim Student Accommodation policy, it must also be noted that the interim policy is not part of an adopted development plan and therefore less weight must be afforded to it and it cannot override a saved policy in the event of conflict. This view is supported by a recent planning appeal decision (as detailed above).

87. The proposal is considered acceptable in respect of the aims of policies T1, T10, Q1, Q2, Q8, Q8, H9, H13, E3, E6, E21, E22 and E23 of the saved City of Durham Local Plan and the NPPF subject to appropriate conditions.

RECOMMENDATION

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 T1, T10, Q1, Q2, Q8, Q9, H9, H13, E3, E6, E21, E22 and E23 of the City of Durham Local Plan 2004.

3. Notwithstanding the details shown on the submitted application, the external building materials to be used shall match the existing building.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy E3, E6, E21, E22, E23 and Q9 of the City of Durham Local Plan 2004 and Parts 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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.)

BACKGROUND PAPERS

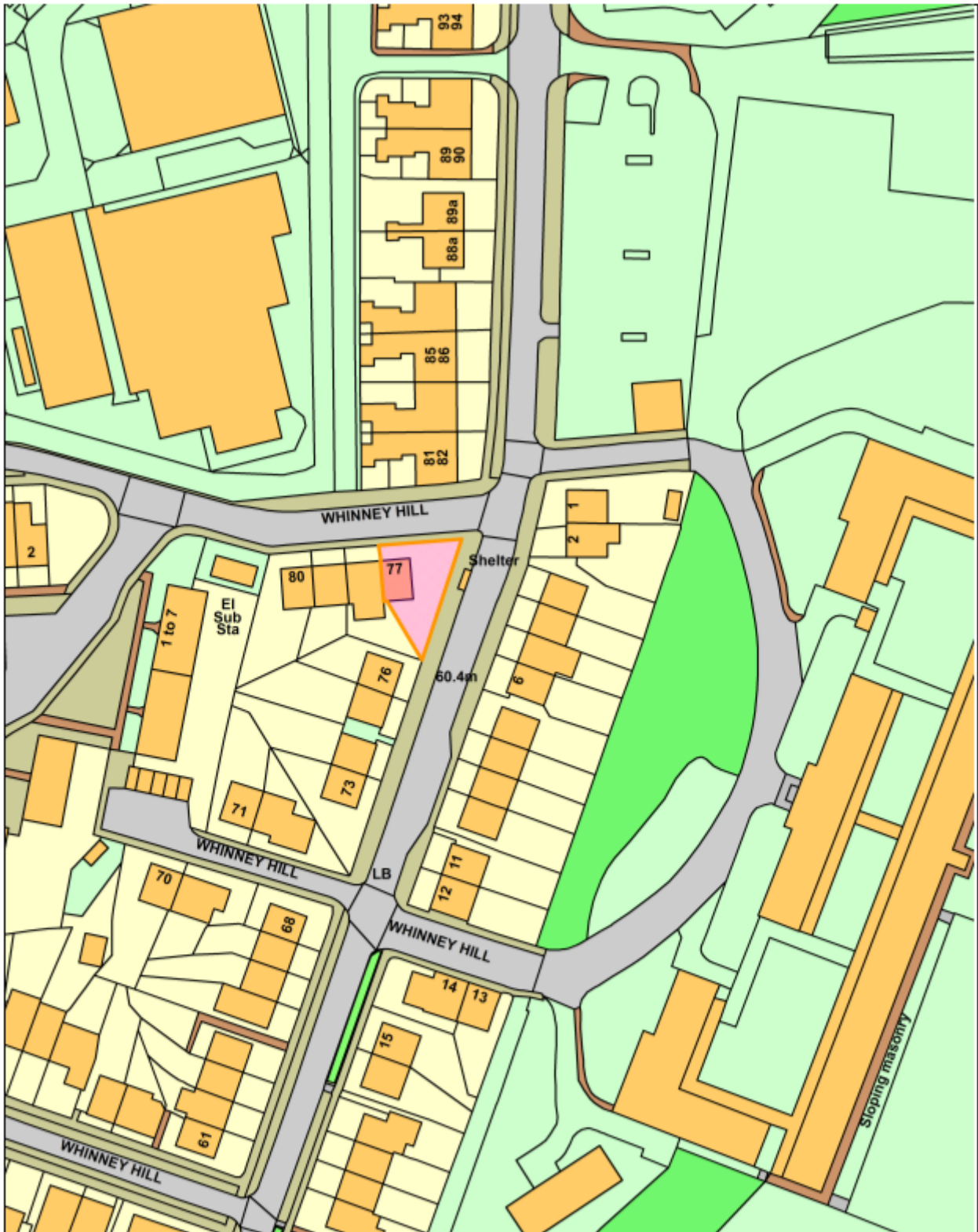
Submitted application form, plans, supporting documents and subsequent information provided by the applicant


The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



 <p>Durham County Council</p> <p>Planning Services</p>	77 Whinney Hill, Durham		
	Erection of two storey side extension to C4 (House in multiple occupation) dwelling.		
<p><small>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 proceedings. Durham County Council (Durham City Area Office) Licence No. 1000222022005.</small></p>	Comments		
	Date	28 August 2019	Scale

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/18/02118/FPA
FULL APPLICATION DESCRIPTION:	Construction of apartment block comprising 27 No. one and two bedroom apartments
NAME OF APPLICANT:	Mr Paul Thapar
ADDRESS:	Land to the North East of Holly Street, Durham DH1 4ER
ELECTORAL DIVISION:	City of Durham
CASE OFFICER:	Paul Hopper (Senior Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is an area of land located between Holly Street and John Street within Durham City Centre known locally as Nelson's Yard. The site is a redundant parcel of land broadly triangular in layout and is understood to have been vacant for some considerable time.
2. The site lies within the Durham City Centre Conservation Area and within close proximity of Durham Castle and Cathedral UNESCO World Heritage Site. The site is framed by terraced properties at Holly Street to the west and John Street to the east which is set at a lower level, although it is noted that there is also a bungalow and church set within the latter. The site is bounded by the railway line, its embankment, trees and shrubbery to the north and to the south by terraced properties at Hawthorn Terrace and Colpitts Terrace which are Grade II Listed buildings.

The Proposal

3. Planning permission is sought for the erection of a complex of 27 self-contained apartment/flats comprising a mix of 1 and 2 bedroom units on land to the north of Holly Street, Durham City.
4. The proposed building would present a principal elevation to Holly Street and a secondary elevation to John Street. When viewed from Holly Street the development would be two and half storey with dormer windows in the roof and on John Street (which is set at a lower level) the development would be three and a half storey in height. The proposed materials would predominately be red facing brick with a slate roof to match the surrounding local style. Elements of stonework and render would also be utilised on some sections of the building.
5. Each residential unit proposed would be self-contained and served by pedestrian access points from both Holly Street to the south west and John Street north east.

Whilst no in curtilage parking would be provided a single disabled space would be provided to the rear of the building.

6. This application is referred to the Planning Committee as it constitutes major development in accordance with the Council's Scheme of Delegation.

PLANNING HISTORY

7. Whilst the site was historically used as a builder's yard there is some more recent planning history relevant to the current application. This relates to planning permissions in 2007 and 2008 for residential development which although granted have since lapsed and an application in 2016 for purpose built student accommodation which was refused and an appeal against this decision dismissed.

PLANNING POLICY

NATIONAL POLICY

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

14. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change.* Planning plays a key role in helping shape places to secure Local Planning Authorities should adopt proactive strategies to mitigate and adapt to climate change. Local Planning Authorities should have a positive strategy to promote energy from renewable and low carbon sources. Inappropriate development in areas at risk of flooding should be avoided.
15. *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
16. *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.
17. *NPPF Part 15 Conserving and Enhancing the Natural Environment:* Planning policies and decisions should aim to avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
18. *NPPF Part 16 Conserving and Enhancing the Historic Environment:* Working from Local Plans that set out a positive strategy for the conservation and enjoyment of the historic environment, LPA's should require applicants to describe the significance of the heritage asset affected to allow an understanding of the impact of a proposal on its significance.

LOCAL PLAN POLICY:

City of Durham Local Plan

19. Policy E3 (World Heritage Site) Protection seeks to safeguard the site and setting from inappropriate development that could harm its character and appearance.
20. Policy E6 (Durham City Centre Conservation Area) states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced as required by section 72 of the Planning (Listed Building and Conservation Areas) Act 1990. The policy specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area.
21. Policy E14 (Trees and Hedgerows) sets out the Council's requirements for considering proposals which would affect trees and hedgerows. Development proposals will be required to retain areas of woodland, important groups of trees, copses and individual trees and hedgerows wherever possible and to replace trees and hedgerows of value which are lost. Full tree surveys are required to accompany applications when development may affect trees inside or outside the application site.
22. Policy E15 (Provision of New Trees and Hedgerows) encourages tree and hedgerow planting in urban areas. This policy is consistent with the NPPF, it is up to date and not time limited. Full weight can be given to this policy.
23. Policy E16 (Protection and Promotion of Nature Conservation) is aimed at protecting and enhancing the nature conservation assets of the district. Development proposals

outside specifically protected sites will be required to identify any significant nature conservation interests that may exist on or adjacent to the site by submitting surveys of wildlife habitats, protected species and features of ecological, geological and geomorphological interest. Unacceptable harm to nature conservation interests will be avoided, and mitigation measures to minimise adverse impacts upon nature conservation interests should be identified.

24. Policy E18 (Sites of Nature Conservation Importance) seeks to safeguard such sites from development that would be detrimental to their nature conservation interest. These sites as well as being important for their wildlife and geological interest are also a valuable resource for amenity, recreation, education and research.
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.
27. Policy H2 (New Housing in Durham City) seeks to direct new development to the most sustainable locations. It states that windfall housing development of previously developed land (PDL) and conversions will be permitted within settlement boundary of Durham City.
28. Policy H7 (City Centre Housing) seeks to encourage appropriate residential development and conversions on sites conveniently located for the City Centre.
29. Policy H13 (Residential Areas - Impact upon Character and Amenity) states that planning permission will not be granted for new development or changes of use which have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them.
30. Policy T1 (Traffic - General) states that the Council will not grant planning permission for development that would generate traffic likely to be detrimental to highway safety and / or have a significant effect on the amenity of occupiers of neighbouring property.
31. Policy T10 (Parking - General Provision) states that vehicle parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
32. Policy T20 (Cycle facilities) seeks to encourage appropriately located, secure parking provision for cyclists.
33. Policy T21 (Safeguarding the Needs of Walkers) states that the Council will seek to safeguard the needs of walkers by ensuring that: existing footpaths and public rights of way are protected; a safe, attractive and convenient footpath network is established throughout the City; that the footpath network takes the most direct route possible between destinations; and the footpath network is appropriately signed. Wherever possible, footpaths should be capable of use by people with disabilities, the elderly and those with young children. Development which directly affects a public right of way will only be considered acceptable if an equivalent alternative route is provided by the developer before work on site commences.
34. 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.

35. Policy Q3 (External Parking Areas) requires all external parking areas to be adequately landscaped, surfaced, demarcated, lit and signed. Large surface car parks should be subdivided into small units. Large exposed area of surface, street and rooftop parking are not considered appropriate.
36. Policy Q5 (Landscaping General Provision) sets out that any development which has an impact on the visual amenity of an area will be required to incorporate a high standard of landscaping.
37. 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.
38. Policy U5 (Pollution Prevention) states that development that may generate pollution will not be permitted where it would have unacceptable impacts upon the local environment, amenity of adjoining land and property or cause a constraint the development of neighbouring land.
39. Policy U8a (Disposal of Foul and Surface Water) requires developments to provide satisfactory arrangements for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
40. Policy U11 (Development on Contaminated Land) sets out the criteria against which schemes for the redevelopment of sites which are known or suspected to be contaminated. Before development takes place it is important that the nature and extent of contamination should be fully understood.
41. Policy U13 (Development on Unstable Land) will only be permitted if it is proved there is no risk to the development or its intended occupiers, or users from such instability, or that satisfactory remedial measures can be undertaken.
42. Policy U14 (Energy Conservation - General) states that the energy efficient materials and construction techniques will be encouraged.

EMERGING COUNTY DURHAM PLAN:

The County Durham Plan

43. 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. Following consultation at 'Issues & Options', 'Preferred Options' and 'Pre Submission Draft' stages, the CDP was approved for submission by the Council on 19 June 2019. The CDP was submitted to the Planning Inspectorate on 28 June 2019. Although the CDP is now at a relatively advanced stage of preparation, it is considered that it is not sufficiently advanced to be afforded any weight in the decision-making process at the present time.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

44. *The Highway Authority* offers no objection to the application subject to a condition which requires the resurfacing of the lanes leading to Holy Street and Hawthorn Terrace prior to first occupation and in accordance with a scheme to be submitted to and approved by the Local Planning Authority.
45. *Northumbrian Water Limited* has no objection to the application subject to a condition which requires the development to be carried out in accordance with the requirements of the *Flood Risk and Drainage Impact Assessment* dated "April 2018".
46. *Drainage and Coastal Protection* offers no objection to the application.
47. *Coal Authority* has no objection to the application.
48. *Environment Agency* has not commented on the application.

INTERNAL CONSULTEE RESPONSES:

49. *Spatial Policy Section* confirms that the two limbed test set out in Paragraph 11 of the NPPF is, irrespective of the position on housing land supply, relevant to this application due to the fact that the local plan's housing requirement policy has expired. Paragraph 11 of the NPPF is therefore relevant and the application granted planning permission unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the NPPF taken as a whole; or specific policies in the NPPF indicate development should be restricted.

The proposals are for the redevelopment and conversion of a building within the centre of Durham City which is a highly accessible location well related to services, facilities and public transport and would support sustainable patterns of growth. The proposal would make a contribution to local housing supply, broaden housing choice and also support the local economy through construction and occupation.

In addition, it is confirmed that 25% affordable housing provision is required along with a financial contribution of £36,363 to improve open space facilities in the area. Calculated thus;

16 x 2.2 = 35 persons.

11 x 1 = 11 persons

46 x £790.50 (Table 16) resulting in the £36,363 contribution

50. Notwithstanding the above concern is raised that the proposal would also be attractive to purchasers, who would then let the apartments to students rather than the properties being used as open market housing for the general population.
51. Despite the above concern, in policy terms it is noted that the key matters which need to be considered are the suitability of the proposed site for Use Class C3 residential development.
52. *Environmental Health Section (Noise Action Team)* raises no objection to the application subject to the inclusion of a planning condition requiring the implementation of the noise mitigation measures included in the supporting noise assessment and the

submission, agreement and implementation of a noise management plan prior to the commencement of development.

53. *School Places and Admissions Manager* has advised that the development falls in the pupil place planning area of Durham Central for Primary aged pupils within which there are no spare places at these schools to accommodate pupils from this proposed development and there a financial contribution for additional teaching accommodation is required of £132,327.
54. *Contaminated Land Section* has no objections subject to a condition which states that, if during the development works any contamination is identified that has not been considered, it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must subsequently be undertaken and where remediation is necessary, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.
55. *Design and Conservation Section* offers no objection to the application noting that the proposed scheme provides an effective residential use of the derelict site with the layout, scale, bulk and design considered a significant improvement on the previous applications, taking on-board previous consultee design advice. Notwithstanding the above, conditions are advised to secure the submission and agreement of details and samples relating to external materials, windows, doors, rainwater goods, boundary treatment and external lighting.
56. *Landscape Section* has no objection to the application but notes the requirement to provide a detailed landscaping scheme to include planting to the eastern and western boundaries which could be secured through planning condition.
57. *Arborist* has no objections to the application.
58. *Public Rights of Way Section* has no objection to the application subject to a planning condition requiring details of the resurfacing of the routes, leading to Holly Street and Hawthorn Terrace, to be submitted and approved by DCC following which resurfacing must be complete prior to occupation of the development.
59. *Archaeology* has no objection to the application.
60. *Ecology* has no objection to the application but notes that as the development would result in a net loss to biodiversity value a commuted sum payment of £1334.90 would be required to be secured through Section 106 legal agreement.

NON-STATUTORY CONSULTÉES:

61. Durham Constabulary Crime & Community object to the application raising concerns that the density of the development, the lack of outside amenity space and parking provision will deter the type of occupancy suggested by the Planning Policy Statement submitted in support of the application resulting in short term tenancies which will eventually have a detrimental impact on the area.
62. City of Durham Parish Council although supporting the principle of residential redevelopment at the site suggest a range of conditions to restrict the precise nature and occupancy of the units proposed.

PUBLIC RESPONSES:

63. The application has been publicised by way of site notice, press notice and notification letters to neighbouring properties. In response 6 letters of objection have been received (including one from Durham Spiritualist Church) and 1 letter of support.

64. Objections cite the following concerns;

Design and Impact upon the Conservation Area – The proposed building would be of excessive height and depth and as such would dominate the surrounding area having an overbearing impact upon the character and appearance of the surrounding conservation area.

Parking and Highway Safety – Insufficient parking is incorporated within the development and an increase in vehicles would have an adverse affect of highway safety given the narrow and congested nature of the John Street and its junction with the A690 at Sutton Street and Alexandria Crescent.

Impact upon Residential Amenity – Adverse impact from overbearing and overshadowing and an increase in antisocial behaviour.

Impact upon an adjacent footpath – The footpath to the north of the site would be adversely affected by the development.

Likely to be Used as Student Accommodation – The development is likely to be used student accommodation despite comments made in the application and as such should be considered against the requirements of the Council's Interim Student Policy.

65. Reason for support are summarised as;

Visual Amenity – The redevelopment of the site would facilitate a considerable improvement to the visual appearance of the site and enhance its contribution to the conservation area.

Public Safety Improvement – The redevelopment of the site would present a frontage to Holly Street thereby removing a current danger of falling given the significant change in levels.

66. Comments have also been received from Roberta Blackman-Woods who raises objection to the application as it;

- Is not in keeping with the existing properties on John Street in that it would create a dominant, overbearing 3.5 storey building.
- Would have an adverse impact upon residential amenity from overbearing and overshadowing.
- Would be attractive to Students and result in an over-concentration of student accommodation in an area which already has a high concentration of student occupancy.
- Result in an increase in traffic to the detriment of highway safety.

APPLICANTS STATEMENT:

67. The scheme is for mixed residential apartments in an accessible location which is suitable for a range of occupiers. Also it will contribute towards a more balanced community in the viaduct area. It therefore meets the social thread of sustainability.

68. This site is an eyesore in the Conservation Area and has been for over 30 years. It suffers from trespass and fly tipping which attracts vermin. In its present condition it blights the appearance of Holly Avenue, John Street and Hawthorn Terrace. The design is the culmination of a detailed and iterative process with the conservation and planning officers. It reflects the tight urban grain and strong uniform rhythm of the Victorian terraces and responds well to its surroundings. Overall it will be a positive contribution to the local townscape and in wider views from the railway. The high quality materials will also enhance the appearance of the conservation area.
69. This scheme will make efficient use of a fully service site which is presently a wasted asset. The substantial retaining wall to Holly Street is damaged and will be repaired and made safe as part of this scheme with local infrastructure upgraded. The scheme includes a new hammerhead and turning area which will improve highway safety for all users of John Street including the Church and refuse collection wagon. The foul drain under the site will be upgraded as a benefit to the area and the public footpaths around the site will be reinstated.
70. This scheme is a substantial investment in the local area which will provide local construction jobs and enhance the local community. The land is already serviced and its development will contribute to economic sustainability.
71. The scheme is accessible to the town centre services / facilities and will contribute towards a cleaner city by providing bike spaces for every apartment.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

72. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development; the impact upon the character, appearance and setting of conservation area and listed buildings; impact on residential amenity; highway safety; public rights of way; drainage, ecology and contaminated land.

Principle of Development

73. 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 in this regard. The City of Durham Local Plan (CofDLP) remains the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. However, the NPPF advises at Paragraph 213 that weight to be afforded existing Local Plan policies depends upon their degree of consistency with the NPPF.
74. The City of Durham Local Plan (CofDLP) was adopted in 2004 and was intended to cover the period to 2006. The NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the

publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired.

75. On this basis, given the age of the CofDP and housing supply figures that informed it, the housing supply policies therein do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date, and the weight to be afforded to the policies reduced as a result. However, this does not make out of date policies irrelevant in the determination of a planning application. Nor do they prescribe how much weight should be given to such policies in the decision, this being a matter for the decision maker, having regard to advice at Paragraph 213 of the NPPF.
76. In the first instance a number of concerns have been raised by local residents, interested parties and statutory and non-statutory consultees as to the precise nature of the proposed use with some citing a belief that the building would be occupied wholly as Purpose Built Student Accommodation (PBSA) and as such should be assessed against the requirements of the Council's Interim Policy on Student Accommodation. This point is noted by the Council's Spatial Policy Section which has provided both a response in relation to the application being offered on the open market as C3 dwellings and also as a PBSA.
77. With regard to the latter the Council's Interim Policy relating to Student Accommodation requires proposals for new PBSAs to demonstrate that there is a need for additional student accommodation that the proposal would not result in a significant negative impact on retail, employment leisure, tourism or housing use and that consultation has been undertaken with the relevant education provider. When assessed against the requirements of this policy the application fails to include sufficient information and in particular does not include an evidence of need for additional accommodation or consultation with a relevant education provider.
78. In light of these concerns the applicant has sought to clarify the position confirming that the units would be offered as C3 dwelling houses and not wholly as Student Accommodation and as such the development should be considered on the basis that the proposed units fall within Use Class C3 as defined by the Town and Country Planning (Use Classes) Order 1987.
79. Therefore, policy H2 is relevant and seeks to direct new development to the most sustainable locations. It states that windfall housing development of previously developed land (PDL) and conversions will be permitted within settlement boundary of Durham City, subject to amongst other things, not contravening saved Policy E3 (World Heritage Site Protection), E5 (Open Spaces within Durham City) and E6 (Durham City Conservation Area) and the development accords with policies Q2 (General Principles – Designing For Accessibility), R2 (Recreational and Amenity Space in New Residential Developments), T10 (Parking) and U8A (Disposal of Foul Water).
80. Given this policies emphasis on PDL sites it is only partially consistency with the NPPF. There may be instances where a Greenfield site can be justified through NPPF. This policy should therefore not be used as a reason to refuse such sites on this basis. Notwithstanding this point, the site is Previously Developed Land and development would accord with this policy.
81. Policy H7 is also relevant and advises that the Council will encourage new housing developments and conversions to residential use on sites within or in close proximity to the city centre provided there is no conflict with any other plan policy or proposal and it is in scale and in character with its surroundings. This policy is consistent with the NPPF and it is up to date.

82. As the policies in the development plan which are most important for determining the application are out of date, then Paragraph 11 of the NPPF is engaged which establishes a presumption in favour of sustainable development. For decision taking this means;

- approving development proposals that accord with an up to date development plan without delay; or

- where there are no relevant development plan policies or the policies which are most important for determining the application are out of date, granting permission unless:

i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or

ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole

83. Having regard to the above, the policies of the Development Plan which are most important for determining the application are considered to be out of date. As a result, the acceptability of the development largely rests on planning balance of whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits there being no policies in this Framework that protect areas or assets of particular importance and which provide a clear reason for refusing the application.

Five year Housing Land Supply

84. Paragraph 73 of the NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.

85. Within County Durham all the extant development plans are more than five years old and their housing figures need revising so the starting point for calculating land supply will be local housing need using the Government's standard methodology. The 'Pre Submission Draft' County Durham Plan (CDP) -was subject to consultation in January 2019 and was submitted for Examination in June 2019. The CDP sets out that housing need in County Durham is based on the minimum assessment of Local Housing Need adjusted for recent past delivery. The housing need for County Durham is therefore **1,308 dwellings per annum (dpa)**. At this time, the Council is able to demonstrate 6.37 years supply of deliverable housing land against this figure. The Council also has commitments of an additional supply beyond the deliverable 5-year supply period.

86. 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.

87. The Government has also recently published its Housing Delivery Test (HDT) results alongside the publication of the update NPPF in February 2019. The HDT outcome for the Council indicates that housing delivery has been above the requirement over the last three years, which is evidence that delivery of housing on the ground is on track and exceeding our housing targets.
88. To summarise, the Council's position remains that in line with paragraph 60 of NPPF and national planning guidance, the Housing Need in County Durham and as set out in the emerging CDP is 1,308 dpa and a supply of 6.37 years of deliverable housing can be demonstrated. 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.

Locational Sustainability

89. Paragraph 103 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes. In this respect, it is noted that the site is located within Durham City Centre and as such has good access to a full and wide variety of shops, services and employment opportunities and is well served by public transport. As such the site is considered to represent a sustainable location.

Impact upon the character, appearance and setting of conservation area, listed buildings and surrounding area

90. The site lies in the Hawthorn Terrace sub character area of the Durham City Conservation Area, a designated asset of considerable significance and as such any proposals would need to meet the statutory tests within Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Such tests require Planning Authorities, in considering whether to grant planning permission for development which affects a listed building or conservation area, to have special regard to the desirability of preserving or enhancing its special architectural character or setting in the case of a listed building, or the character or appearance of the area in the case of a conservation area. It is characterised by tightly knit Victorian streets. The main access road Hawthorn Terrace is a wide terrace street framed by mainly two storey townhouses. Running at right angles to it, in a north south direction are Laburnum, Lawson, Mistletoe Street and Holly Street. John Street runs close by off the A690 in a westerly direction. All these streets are characterised by a tight grid of terraces with narrow frontages and strong building line. The red brick frontages feature key distinctive features, symmetrical fenestration patterns of sash windows and panelled doors and the Welsh slate roofs are punctuated by chimney stacks. The uniform character of the terraces extends to include back lanes, enclosed rear yards and brick built boundary walls. Other designated assets include the end of Hawthorn Terrace, Colpitt's Terrace dating back to 1856, this is a curving terrace of elegant two storey, two bayed properties constructed from coursed square sandstone. Their historic and architectural merit is reflected in the whole terrace being Grade II listed. At the end of the terrace is

Colpitts Hotel, a Grade II listed public house with its notable curved roof and elegant fenestration.

91. Policy E6 of the City of Durham Local Plan states that the special character, appearance and setting of the Durham (City Centre) Conservation Area will be preserved or enhanced and specifically requires proposals to use high quality design and materials which are sympathetic to the traditional character of the conservation area. In addition, policy E23 relates to Listed Buildings and seeks to safeguard listed buildings and their settings. Both display a broad level of accordance with the aims of paragraph 193 of the NPPF which notes that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
92. Both local plan policies and the aims of the NPPF as detailed display accordance with the aims of Sections 66 and 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.
93. The Council's Design and Conservation Officer has commented noting that the development would present a frontage onto Holly Street that seeks to draw influence and cues from the adjacent historic properties and others that surrounding it through the adoption a terraced affect and modest domestic scale, orientated to complement the grid pattern, reflecting the shape, proportions and patterns of the openings, the simplicity of detailing, and through material choices. It is considered that the development achieves this successfully without being a direct copy presenting a scheme that would be considered in keeping with the predominant historic grain, character and distinctive architectural qualities of the area.
94. The design has been revised in comparison to the 2016 with the principal differences comprising that the end returns have been vastly improved, the dominant stone rotundas have been removed which did not reflect the historic precedent and have been replaced within a far simpler mono-pitched style brick return to the north end and a full-height traditional bay to the south end. These are considered to be more sympathetic to the surrounding character and will provide appropriate end detailing. The former front entrance that disfigured this elevation has been replaced appropriately to provide a completed residential frontage.
95. In John Street itself the increase in scale and massing in comparison to the existing buildings is noted which has been raised in objection by local residents. However, reducing the scale to the rear would significantly compromise and undermine the quality of the Holly Street elevation. The rear elevation also appropriately continues the theme of verticality and uniformity displayed in the Holly Street elevation. The inclusion of stepped blocks, projecting elements with strong gables, a varied roofscape, and materials changes create effective articulation to help break down the perceived scale and massing while at the same time adding visual interest.
96. In terms of materials, the Design and Conservation officer raises no objection to the proposed materials pallet but notes the requirement for the submission and agreement of external sample materials which could be secured through planning conditions.
97. The site is currently redundant and has been vacant for several years. The development presents opportunity for the visual improvement of the site which at present makes no positive contribution to, and to some extent could be considered to detract from the special historic character and appearance of the surrounding conservation area. Its redevelopment in this regard would significantly enhance the character and appearance of the Durham City Conservation Area as well as the

settings of nearby listed buildings in accordance with Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, Sections 12 and 16 of the NPPF and saved local planning policies E3, E6, E22, E23 and Q8 of the City of Durham Local Plan.

Impact on residential amenity

98. Policy Q8 of the CofDLP provides detailed design advice for new residential development and policy H13 states that planning permission will not be granted for new development which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them. The former prescribes separation distances of 21 metres between windows of habitable rooms and 13 metres between gable elevations and windows to habitable rooms. These policies are considered NPPF compliant particularly with regard to paragraphs 127 and 180 which require new development to function well and add to the quality of the overall area and prevent both new and existing development from contributing to or being put at unacceptable risk from unacceptable levels of pollution respectively.
99. Policy H13 relates to CofDLP 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.
100. Objection has been received from residents of neighbouring properties who consider that the development would have an adverse impact in terms of loss of privacy, overbearing and antisocial behaviour.
101. In this regard it is noted that the surrounding area is characterised by densely populated terraced properties where the typical separation distance achieved between windows to habitable rooms is 11 metres. In this context it is considered that the 11 metre separation distance proposed at Holly Street can be considered acceptable despite falling below those stated in text supporting policy Q8 of the CofDLP.
102. It is noted that in dismissing the previous appeal against the Council's refusal of planning permission for student accommodation at the site the Planning Inspector considered the relationship between the proposed development and No. 10 John Street to be such that it would have an adverse impact upon the residential amenity for the residents of this property. Consequently, the applicant has made amendment to the proposal repositioning windows to habitable rooms which now face east and west away from No.10 which is located to the north and would protect existing privacy levels.
103. Notwithstanding the above the separation distances achieved would fall below the minimum standard stated in Policy Q8 of the CofDLP. However, it should be noted that given the position of the site in a central location and the proximity of existing dwellings which frame it to north, south and east, to stringently apply the separation distances stated in policy Q8 would significantly reduce the developable area of the site and as such make it is unlikely that the site would be positively redeveloped. With this in mind it is considered that given position of the site towards the centre of the city in a densely populated location the proposed arrangement is not considered unusual or unacceptable and whilst there would be some limited impact upon residential amenity this would not be so significant or adverse so as to sustain refusal of the application.
104. There is also an existing bungalow to the north east of the site at John Street (named the Bungalow) which has habitable windows overlooking the application site and would be positioned 8 metres from a three storey projection. However, as this three storey projection would not have any windows directly overlooking the Bungalow it is not considered that there would be any substantial or unacceptable loss of privacy. When

considering the merits of the previous scheme for student accommodation the Planning Inspector concluded that given part of the proposal would be at an angle to The Bungalow, it would not have a significant impact on the outlook from those windows nor result in any harmful loss of light. This proposal subject of this application replicates that arrangement in terms of window position, form and massing, and for this reason it is not considered that the development would have any unacceptable impact in accordance with policies H13 and Q8.

105. With regards to noise the application has been accompanied by an Apex Acoustic noise assessment which assesses the impact of rail and road noise concluding that this should not cause an adverse impact on the residential amenity subject to mitigation. The Council's Environmental Health Section has reviewed the assessment and offers no objection subject to the implementation of the mitigation listed in the noise assessment being secured through planning condition along with the submission and agreement of a construction management plan. Subject to the inclusion of planning conditions in this regard the development would not have any adverse impact in terms of noise or disturbance.

Parking, Access, Highway Safety and Public Rights of Way

106. Policies T1 and R11 relate to access, parking and public rights of way respectively with policies T1 and T10 stating 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 affect on the amenity of occupiers of neighbouring property. With regard to public rights of way policy R11 seeks to safeguard and protect the existing network of public rights of way and other paths from development which would result in their destruction unless a suitable alternative route is provided. This is considered to display a broad level of accordance with the aims of paragraph 108 of the NPPF.
107. The development is supported by a transport statement which sets out accessibility of the site and concludes that the site has good accessibility. The proposed development is within an accessible location being close for pedestrians, cyclist and public transport users to city centre transport hubs and facilities. No parking spaces are to be provided for residents other than the provision of a disabled parking.
108. The Highway Authority has indicated that the development is within the City's controlled parking zone and that as such it is highly unlikely that residents would choose to own a car and meet charges or only park in adjacent streets outside the controlled periods vehicular impact would be minimal in the surrounding area.
109. With regard to refuse collection it is noted that this takes place with vehicles reversing from the A690 into John Street. An autotrack plan has been submitted with the application which shows that a refuse collection truck would be able to turn round at the end of John Street and therefore leave John Street in a forward motion. The Highway Authority is satisfied with this arrangement.
110. The developer has also offered as part of the scheme to improve the footpath areas around the development site which include the footway links from Holly Street to John Street at the north of the site and the footway link from Hawthorn Terrace to John Street to the south east of the site. Both these footways are unrecorded paths. The Highway Authority and the Council's Public Rights of Way Officer has commented indicating that the upgrade of these footway links are welcomed to be secured through planning condition. As such a planning condition is recommended for further details of the footway improvements to be submitted for agreement prior to development commencing.

111. Subject to the inclusion of a planning condition as described, the proposal would not result in any adverse impact in terms of highway safety or the adjacent public right of way and as such the proposal would accord with the aims of policies T1, T10 and R11 of the CofDLP and paragraph 108 of the NPPF.

Ecology

112. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2017 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
113. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and where the proposed development is likely to result in an interference with an EPS must consider these tests when deciding whether to grant permission. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
114. An Ecology Survey has been submitted with the application which concludes that the risk to protected species and habitat is low to which the Council Ecologist objections. Subsequently it is not considered that the proposed development would have an adverse impact on protected species or their habitats and therefore there is no need to consider whether an EPS licence would be granted. The development would be in accordance with part 15 of the NPPF.
115. Notwithstanding the above, there would be some net loss to biodiversity which could not be offset by on site mitigation. As such the applicant has agreed to provide a commuted sum of £1,334.90 for offsite mitigation in accordance with the requirements of paragraph 175 of the NPPF which requires that if significant harm to biodiversity resulting from a development cannot be avoided through locating on an alternative site with less harmful impacts, adequately mitigated, or as a last resort, compensated for, then planning permission should be refused.

Land Contamination and Drainage

116. Paragraph 178 of the NPPF requires that planning decisions should ensure that the site is suitable for its new use taking account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.
117. The applicant has provided a Phase 1 Desk Top Study and a Phase 2 Ground Investigation Report in relation to Land Contamination in support of the application which concludes that any risk from previous contamination is considered low. The Council's Environmental Health Section offers no objection to the application subject to a condition which requires investigation, risk assessment, remediation and verification should contamination be identified which has not been considered and that if soil is to be imported to the site a Phase 4 Verification Report (Validation Report) be submitted and approved within 2 months of completion of the development.

118. Subject to the conditions stated the application is considered to accord with the requirements of paragraph 178 of the NPPF and policy U11 of the CofDLP.
119. Policy U8A of the CofDLP states that development proposals will only be approved if they include satisfactory arrangement for disposing foul and surface water discharges. Where satisfactory arrangements are not available, then proposals may be approved subject to the submission of a satisfactory scheme and its implementation before the development is brought into use.
120. The development proposes disposal of foul and surface water to existing mains sewer to which NWL and the Council's Drainage Section raise no objection to the application subject to a condition which requires that the development be carried out in accordance with the Flood Risk and Drainage Impact Assessment April 2018, and that the scheme shall ensure foul and surface water flows discharge to the combined sewer at Manhole 7404 with surface water discharge rate not exceeding the available capacity of 5.0l/sec. The submission and precise detail of a scheme in this regard could be satisfactorily secured through planning condition.
121. Subject to the inclusion of a planning condition in this regard the application is considered to accord with the requirements of policy U8A of the CofDLP in this regard.

Planning Obligations

Affordable Housing

122. In order to deliver a suitable amount and variety of homes, local need should identify, among other things, affordable housing requirements for their area, whereby Paragraph 60 of the NPPF encourages the provision of affordable housing based on evidenced need. A Strategic Housing Market Assessment (SHMA) should identify full housing need including affordable housing and in this respect the up-to-date evidence in the SHMA establishes a requirement for 25% affordable housing provision in perpetuity for development in this location. For sites where it is not possible to provide affordable units within the development then a commuted sum should be sort for off-site provision, which in this case is calculated as a commuted sum of £214,822.
123. The applicant has contested that the viability of the development in relation to the affordable housing requirement of 25% and considers that this cannot be delivered. The required payments for open space, education and ecology as stated below however are not contested and the applicant has agreed to secure appropriate payment through Section 106 Agreement.
124. Development appraisals to demonstrate the various costs and revenues of the development have been submitted by the applicant in order to demonstrate their case in this regard. These appraisals have been scrutinised with the benefit of advice from the Council's Valuation Officers and Spatial Policy Section and have, where appropriate been amended to reflect adjustments to the inputs in line with requests from officers to ensure that revenues from sales prices and the costs associated with the development appear to officers as accurate as is practicable.
125. In terms of guidance Planning Practice Guidance (PPG) includes a chapter dedicated to matters of viability in both plan making and decision taking. Within the PPG local planning authorities are advised that where an applicant is able to demonstrate to the satisfaction of the local planning authority that the planning obligation would cause the development to be unviable, the local planning authority should be flexible in seeking planning obligations. Specific reference is made to affordable housing within the PPG

chapter where it is stated that affordable housing often represents the single most significant obligation within a development and that affordable housing contributions should not be sought without regard to individual scheme viability. Similarly, within the chapter on planning obligations, the PPG states that where affordable housing contributions are being sought, planning obligations should not prevent development from going forward. The PPG does state, however, that the NPPF makes it clear that where safeguards are necessary to make a particular development acceptable in planning terms, and these safeguards cannot be secured, planning permission should not be granted for unacceptable development.

126. For the developer to be incentivised to develop the site the applicant therefore considers that the planning obligation offer in relation to affordable housing (in this case a commuted sum of £214,822) must be removed in its entirety.
127. Various “rules of thumb” are widely quoted to inform the assessment of the viability of a development, including profit margins for developers which generally range just either side of 20% and build costs for which BCIS provide a benchmark.
128. Notwithstanding the above, this proposal appears unique in as much as the applicant is a private bespoke developer who acquired the site some time ago and has, since this time, explored a variety of possibility developments at the site to reintroduce a positive use, most recently student accommodation which was refused and subsequently dismissed at appeal. In order to positively develop the site which remains vacant, the applicant has sought to progress the private market housing which is the subject of this application. The viability assessment and subsequent updates and amendments satisfactorily demonstrate that the scheme is not viable in the first instance, even before the financial contribution planning obligations are applied and it is this element of the proposal which is considered unique in that respect, in that most cases developers would not seek to advance a scheme which was fundamentally not viable.
129. The applicant has therefore sought to provide additional information and explanation around this point and why there are particular reasons in this instance as to why he is willing to undertake the scheme. Firstly, he has already invested a substantial amount into the site comprising fees, planning applications and appeals which significantly reduces any future yields and secondly, that whilst it will be some time before the scheme is likely to break even (he intends to retain the development to generate a rental yield), he is willing to build the scheme and retain it as a long term capital investment for a number of personal reasons. It is noted that as a bespoke developer he can elect to take a low yield over a number of years as opposed to an outright loss.
130. In addition, evidence has been submitted to demonstrate that this scheme has relatively high abnormal costs, and unusually high build costs due to several site specific constraints including confined access and laydown space, specialised construction requirements given its split level nature, the requirement to underpin retaining walls, the use of pile foundations and the cost of materials given its position in a conservation area. It is also noted that the viability assessment provided does not include any loan interest payments and is therefore considered a conservative estimate of overall cost and yield.
131. National guidance to local planning authorities in respect to planning obligations and viability is to be as flexible as possible and essentially presents a presumption in favour of such flexibility of the planning obligations except in those circumstances where the safeguards of the planning obligations are necessary to make the development acceptable. The planning balance and conclusion sections to this report conclude on whether the reduced planning obligation offer is acceptable.

Education Contributions

132. The NPPF at Paragraph 72 sets out that the Government attaches great importance to ensuring sufficient availability of school places to meet the needs of existing and new communities. The School Places and Admissions Manager advises that a development of 16 No.2 bedroom apartments and 11 one bedroom apartments could produce additional primary school pupils and that based on projected school rolls, taking into account the likely implementation timeframe of the development there are insufficient primary school places to accommodate the development in this regard. Whilst originally it was advised that a commuted sum of £132,327 was required this has been revised to exclude the 11 one bedroom flats from the calculation noting that these are unlikely to generate any demand for school places given their tenure. Consequently, a commuted sum of £70,574.40 is required to mitigate the impact of the development to which the applicant has agreed and could be secured through section 106 Agreement.

Open Space

133. Policies R1 and R2 of the local plan seek to ensure that the provision of open space for outdoor recreation is evenly distributed and is maintained at a level which meets the needs of its population. While this policy is consistent with the general aims of NPPF, the NPPF requires standards to be based on up to date assessments, therefore the last published OSNA (2018) will need to be taken into consideration rather than the standards set out in this policy. The OSNA sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site-specific basis. This is a relevant material consideration in conjunction with Policy R2 of the CofDLP and paragraph 96 of NPPF.
134. Based on the OSNA and an average occupancy of 2.2 people per 2 bed dwelling and single occupancy per one bed dwelling (Co. Durham average household size, 2011 Census), a development of the type proposed would generate a population of 46 people. A Section106 contribution to improving existing facilities would amount to £36,363 (46 x £790.50) to be secured by legal agreement and the applicant has agreed to this requirement.
135. These contributions would be in accordance with policies R1 and R2 of the City of Durham Local Plan.

Public Art

136. CDLP Policy Q15 seeks to ensure that public art is secured with development schemes wherever possible. This policy is considered to be only partially consistent with NPPF as it makes no allowance for how such installations would impact upon the viability of developments. As a result, it can only be afforded reduced weight.
137. In this instance, whilst it has not been claimed by the developer that the viability of the proposed development would be likely to be unreasonably reduced as a result of providing public art within the development no details are available at the present time as to how public art could be incorporated within the overall development. However, the submission and assessment of precise detail in this regard could be secured through appropriately worded planning condition.

Planning Balance

138. As the relevant policies of the City of Durham Local Plan are considered to be out of date, the presumption in favour of sustainable development as contained in paragraph

11 of the NPPF is engaged and in this regard a summary of the benefits and adverse impacts of the proposal are considered below;

Benefits

139. Enhancement of the Character and Appearance of the City of Durham Conservation Area - Redevelopment of the site would represent a positive impact in redeveloping a site which has little likelihood of redevelopment and currently detracts from the character and appearance of City of Durham Conservation Area.
140. Highways - The development also brings highway benefits as surrounding footways would be improved and John Street would be reconfigured at the development site end to allow refuse trucks to turn and exit John Street more safely in a forward direction.
141. Contribution to housing land supply - The provision of the 27 apartments would boost housing supply. However, the weight to be afforded to the boost to housing supply as a benefit of the development is clearly less than in instances where a shortfall in supply could not be demonstrated.
142. Broadening housing choice - The proposal would increase the supply and range of housing in the area and help rebalance the housing stock in an area which is dominated by student housing in the form of Houses of Multiple Accommodation.
143. Contribution to the local economy - Paragraph 8 of the revised NPPF considers the three dimensions of sustainability and in this application, the development of the site would contribute to the economy through the delivery of the apartments, both during its construction but also via new residents supporting local services.
144. Supporting sustainable patterns of growth - The location of this site near to the centre of Durham, and Durham Bus and Rail Station is such that it provides opportunities for residents to access services and travel by modes other than the private car, thereby contributing positively to the locational sustainability of the scheme. This can be considered as a benefit.

Adverse Impacts

145. In terms of adverse impacts the development is not providing the full suite of planning obligations that would be expected in relation to the development. Most notably no affordable housing is being provided in area where 25% affordable housing provision is normally required on viability grounds. Paragraph 61 of the NPPF requires authorities to deliver a wide choice of high quality homes, creating sustainable, mixed communities and identifying the size, type, tenure and range of housing required in particular locations. The application is proposing less affordable housing delivery than the SHMA identifies is required and is therefore deficient in this regard, accepting however the need to consider viability.
146. Impact upon Residential Amenity - There is a separation distance between a habitable window in No. 10 John Street and the proposed development which falls short of the minimum required by policy Q8 of the CofDLP. Whilst this arrangement would not compromise privacy levels it would have some impact on residential amenity in terms of overbearing and overshadowing to which weight should be attached.

CONCLUSION

147. As the CofDLP is silent in relation to the development the presumption in favour of sustainable development is engaged. The development is therefore required to be considered in the context of paragraph 11 of the NPPF, which states that the development be granted planning permission, the application of policies in the NPPF that protect areas or assets of particular importance provides a clear reason for refusing the development or any adverse impacts of doing so would significantly or demonstrably outweigh the benefits when assessed against the policies in the Framework when taken as a whole.
148. The acceptability of the proposed scheme requires careful consideration and needs to be a balanced decision taking account of all the benefits and adverse impacts of the scheme.
149. In terms of those adverse impacts it is noted that the key impact in his respect would be the absence of planning obligation provision in relation to affordable housing and that there would be some detrimental impact upon residential amenity given the 6 metres and 8 metre separation distance to properties from at John Street this would not be significant.
150. With regard to planning obligations and viability national guidance to local planning authorities is to be as flexible as possible with the exception being in certain circumstances where the safeguards of the planning obligations are necessary to make the development acceptable. The acceptability of the development in the absence of any affordable housing centres on whether in the planning balance the obligations are such an essential prerequisite to enable the site to be developed, that a scheme without them would result a development where the adverse impacts significantly and demonstrably outweigh the benefits.
151. The proposal presents some significant benefits such as the positive redevelopment of a locally important and centrally located site within the city which is currently vacant and has been so for some time. The redevelopment of the site therefore represents an enhancement to the character and appearance of Durham City Centre Conservation Area to which weight can be afforded in the planning balance. The scheme also proposes several highway improvements including the upgrading of footways surrounding the site which are benefits to which weight can be attached.
152. Other benefits include contribution housing land supply and to the range of housing available within the city centre, associated contribution to the local economy and its support of sustainable patterns of growth.
153. Therefore, in a finely balanced proposal, officers consider that the adverse impacts do not significantly and demonstrably outweigh the benefits of the scheme as detailed above. Furthermore, there are no specific policies within the NPPF which indicate that the development should be restricted.
154. The proposal has generated public interest with representations reflecting the issues and concerns of local residents affected by the proposed development. Whilst mindful of the nature and weight of public concerns it is considered that these are insufficient to outweigh the planning judgement in favour of the proposed scheme.

RECOMMENDATION

That the application be APPROVED subject to the following conditions and to the completion of a Section 106 Legal Agreement to secure the provision of:

- i) ££36,363 contribution towards enhancement or provision of play provision in the Neville's Cross Electoral Division.
- ii) £70,574.40 contribution towards the provision of school places within the Neville's Cross Electoral Division.
- iii) £1,334.90 contribution towards biodiversity enhancements in line with the framework identified in Durham County Council's Biodiversity Compensation Strategy document.

1. The development hereby approved 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:

Drawing No	Description	Date Received
(9-)03	Proposed Site Block Plan	13 July 2018
(9-)01	Location Plan	13 July 2018
(2-)01 PB	Lower Ground Floor Plan	13 July 2018
(2-)02 PA	Ground and First Floor Plans	13 July 2018
(2-)03 PA	Second Floor and Roof Plan	13 July 2018
(2-)04	Elevations	13 July 2018
(2-)05	Sections	13 July 2018
(2-)06	Lower Ground	13 July 2018

Reason: To define the consent and ensure that a satisfactory form of development is obtained and to meet the objectives of saved Policies Q1 and Q2 of the City of Durham Local Plan.

3. No development above damp proof course level shall take place until details of a scheme for the resurfacing of the lanes to the east and west of the application site linking Holly Street and John Street has been submitted to and approved in writing by the local planning authority. The building shall not be occupied until the completion of approved scheme.

Reason: In the interests of highway safety and to accord with policy T1 of the City of Durham Local Plan.

4. No development shall take place unless in full accordance with all sound attenuation measures detailed in the noise assessment [Apex Acoustic noise assessment ref 6560.1 dated 12/7/18 Version E]. The measures stated shall be fully installed prior to the first occupation of the development hereby approved and permanently retained thereafter.

Reason: In the interests of residential amenity in accordance with the requirements of policies H7 and H13 of the City of Durham District Local Plan and part 15 of the NPPF.

5. The development shall not be occupied until precise details of boundary treatment has been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policies E6 and E22 of the City of Durham Local Plan.

6. Notwithstanding any details of materials submitted with the application no development (except demolition, groundworks and levelling) shall commence until details of the external walling, roofing materials, windows details and hardsurfacing have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with policies E6 and E22 of the City of Durham Local Plan.

7. Notwithstanding the details submitted with the application:

- (a) If during the development works any contamination is identified that has not been considered it must be reported in writing immediately to the Local Planning Authority. An investigation and risk assessment must be undertaken and where remediation is necessary, then remediation proposals for this material shall be agreed in writing with the Local Planning Authority and the development completed in accordance with any amended specification of works.
- (b) If soil is to be imported to site for landscaping for example, a Phase 4 Verification Report (Validation Report) shall be submitted to and agreed in writing with the Local Planning Authority within 2 months of completion of the development.

Reason: To ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems, and to ensure that the development can be carried out safely without unacceptable risk to workers, neighbours and other offsite receptors in accordance with NPPF Part 14.

8. No development hereby approved shall take place unless in accordance with the drainage scheme detailed within the "Flood Risk and Drainage Impact Assessment Revision A" by Portland Consulting Engineers Ltd dated April 2018.

Reason: To prevent the increased risk of flooding from any sources in accordance with criteria within the NPPF

9. Prior to the commencement of development above damp proof course level a detailed landscaping scheme shall submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details.

Reason: In the interests of the amenity of the area and to comply with policies Q5 and H13 of the City of Durham Local Plan.

10. All planting, seeding or turfing shall be carried out in the first planting and seeding seasons following the completion of the development and any trees or plants which within a period of 5 years from the completion die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.

Reason: In the interests of the appearance of the area and to comply with policy H13 of the City of Durham Local Plan.

11. No development above damp proof course level shall commence until a scheme of public art to be incorporated within the development has been submitted to and agreed in writing by the Local Planning Authority, and installed in accordance with the approved details.

Reason in the interest of the character and appearance of the development and to comply with Policy Q15 of the City of Durham Local Plan.

12. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the local planning authority.

The agreed plan shall include as a minimum (but not necessarily be restricted to) the following:

- An assessment of the potential for dust emissions from the site and the mitigation measures that will be used to minimise any emission taking into account relevant guidance such as the Institute of Air Quality Management “Guidance on the assessment of dust from demolition and construction” February 2014.
- An assessment of the likely noise (including vibration) emissions from the site and the mitigation measures that will be taken to minimise noise disturbance taking into account relevant guidance such as BS5228 ‘Code of practice for noise and vibration control on construction sites’ 2014.
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of the operating hours during which construction/demolition works are to be undertaken. Durham County Council’s accepted hours for construction/demolition activities that generate noise are 8am – 6pm Monday – Friday, 8am – 1pm Saturday and no noisy working on a Sunday or Bank Holiday.
- Detail of any planned measures for liaison with the local community and any procedures to deal with any complaints received.
- Details of whether there will be any crushing/screening of materials on site using a mobile crusher/screen and the measures that will be taken to minimise any environmental impact.

The management plan 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(s) shall also be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works.

Reason: To protect the residential amenity of existing residents from the development and to comply with policy C8 of the CofDLP and Part 15 of the NPPF. This is required as a pre commencement condition in order to mitigate potential impact on residential amenity which needs to be considered before site works commence.

13. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or

commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

Reason: In the interests of residential amenity in accordance with requirements of policy Q8 of the City of Durham Local Plan as amended by Saved and Expired Policies September 2007.

STATEMENT OF PROACTIVE ENGAGEMENT

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.

BACKGROUND PAPERS

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

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan 2007

Statutory, internal and public consultation responses



Planning Services

Construction of apartment block comprising 27 No. one and two bedroom apartments

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Comments

Date 10 September 2019