



Area Planning Committee (Central and East)

Date **Tuesday 14 January 2020**

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 10 December 2019
(Pages 3 - 18)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee
(Central and East)
 - a) DM/19/03459/FPA - 17 Providence Row, Durham, DH1 1RS
(Pages 19 - 30)

Demolition of existing rear extension and erection of part single-storey/part two-storey extension at rear and installation of dormer windows in roofspace also to rear to an existing small HMO (use class C4).
 - b) DM/19/03494/FPA - 18 Providence Row, Durham, DH1 1RS
(Pages 31 - 42)

Demolition of existing rear extension and erection of two-storey extension at rear and installation of dormer windows in roofspace also to rear to an existing small HMO (use class C4).
 - c) DM/19/03408/FPA - 29 Lawson Terrace, Durham, DH1 4EW
(Pages 43 - 54)

Change of use from single dwelling house C3 with 2 bedrooms to HMO C4 with 4 bedrooms.

- d) DM/19/03409/AD - North Road, Durham, DH1 4PW
(Pages 55 - 66)

Advertisement consent for the display of 2 No. Externally Illuminated Hanging Signs and 1 No. Internally Illuminated Fascia Sign Revolution Bar (Formerly Bishop Langley).

- e) DM/19/02546/FPA - Site of Former Gilesgate Comprehensive School, Bradford Crescent, Gilesgate, DH1 1HN (Pages 67 - 98)

Erection of 60 dwellings with associated access, infrastructure and landscaping.

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

Helen Lynch

Head of Legal and Democratic Services

County Hall
Durham
6 January 2020

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

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 10 December 2019** at **1.00 pm**

Present:

Councillor J Clark (Chair)

Members of the Committee:

Councillors A Bell (substitute for J Shuttleworth), D Brown, I Cochrane, B Coult, M Davinson, D Freeman, I Jewell (substitute for S Iveson), A Laing (Vice-Chair), R Manchester, L Pounder (substitute for K Corrigan), J Robinson and P Taylor

1 Apologies for Absence

Apologies for absence were received from Councillors K Corrigan, K Hawley, S Iveson and J Shuttleworth.

2 Substitute Members

Councillor L Pounder substituted for Councillor K Corrigan, Councillor I Jewell substituted for Councillor S Iveson, and Councillor A Bell substituted for Councillor J Shuttleworth.

3 Minutes

The minutes of the meeting held on 12 November 2019 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

The Chair, Councillor J Clark declared a prejudicial interest in item number 5a on the Agenda as a Board Member of the Believe Housing Values Group and confirmed that she would therefore leave the Chamber before the debate and deliberation of that application.

Councillor A Laing, Vice-Chair of the Committee explained she was a Local County Councillor in relation to Item 5a and wished to make representation on the item and therefore would speak as Local Member and then leave the Chamber before the debate and deliberation of that application.

Councillor D Freeman noted for clarity he was a Member of the City of Durham Parish Council, however, was not a member of their Planning Committee and had no input into their comments on Application 5b.

Councillor J Clark left the meeting at 1.04pm

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

The Solicitor – Planning and Development, Neil Carter asked for nominations for Chair for Item 5a.

Councillor A Laing proposed that Councillor M Davinson be elected Chair, she was seconded by Councillor J Robinson.

Resolved:

That Councillor M Davinson be elected Chair, for consideration of Item 5a.

Councillor M Davinson in the Chair

a DM/19/03217/FPA - 12 Hatfield Place, Peterlee

The Planning Officer, George Spurgeon, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer, GS advised that Members of the Committee had visited the site and were familiar with the location and setting.

The application was a resubmission of DM/19/01057/FPA for new pitched roof to existing property, two storey extension and change of use of adjacent land from open space to private garden and was recommended for refusal.

The Planning Officer, GS referred to photographs showing three trees on the parcel of open space, two of which were within the application site. It was explained that the open space was part of a wider network of amenity open space, typical of the area.

He added that the applicant had offered to replace those two trees that would be removed as a consequence of construction works. Referring to elevations, the Planning Officer, GS noted red brick was proposed for the extension, with red concrete tiles to replace the existing shallow sloped roof, similar to a number of other roofs in the area.

The Planning Officer, GS noted that there had been no objections from the Highways Section, however, the Landscape and Tree Officers had both objected to the application, in terms of loss of open space and the loss of the trees. He added that as a consequence of the application an Emergency Tree Preservation Order (TPO) had been put in place to protect the three trees from the threat posed by the application. It was explained that the Tree Officer had noted the loss of the trees would impact upon the character of the area and amenity value. It was explained that the Ecology Section had raised objections, due to the loss of mature trees which would result in a net loss of biodiversity.

The Planning Officer, GS noted there had been no public responses in relation to the application.

The Committee were asked to note that Peterlee was a “New Town” and as such the various estates had been developed with large areas of open space, including areas with trees, as part of the overall design and character of the area. The Planning Officer, GS noted that the loss of open space was not considered sufficient to warrant refusal on that reason and noted the two-storey extension and roof were considered appropriate in terms of scale and design. He noted the concerns raised by Officers in terms of the loss of two trees in good condition and of high amenity value, covered by a TPO. He added that there had been insufficient justification in terms of the removal of the trees, with no arboricultural report having been submitted with the application. The Planning Officer, GS explained that it was therefore felt that the application was contrary to saved Policy 35 of the District of Easington Local Plan and was recommended to Committee for refusal.

The Chair thanked the Planning Officer, GS and asked Councillor A Laing to speak as Local Member.

Councillor A Laing thanked the Chair and Committee and noted that there had been no letters of objections from local residents. She added that the exact species of the trees was not known, the trees having been planted by either the former Easington District Council or Development Corporation for Peterlee New Town.

She noted that originally it had been acceptable to Planners for two trees to be removed and the third tree to be retained, then all three were placed under a TPO, seemingly to justify a refusal recommendation.

Councillor A Laing noted there were many packets of green spaces within the area around Hatfield Place and that the proposals by the applicant in terms of three trees running parallel to the footpath seemed to be more preferable than the existing layout. She added that the Council or Believe Housing appeared to have cut down ten or eleven trees in the area and noted that, if trees were too close to structures, they could undermine buildings. She explained that the National House Building Council guidance noted that with climate change these issues would become more prevalent. Councillor A Laing concluded by noting she would urge the Committee to approve the application.

The Chair thanked Councillor A Laing and asked the Principal Planning Officer, A Dobie to respond to the points raised.

The Principal Planning Officer noted that following the initial application being received the Tree Officer investigated further and determined that the trees were of sufficient quality to warrant a TPO, with a formal scoring process having been followed looking at tree condition, life expectancy and amenity value. He reiterated that the report set out that there was support in terms of the roof, extension and garden use, however, there was a recommendation for refusal based upon the loss of trees which were under a TPO. In relation to trees undermining buildings, he noted that while this may be possible, there had been no evidence from the applicant in this matter. The Principal Planning Officer noted the offer from the applicant in terms of replacement tree planting, however, added that the area on which the applicant wishes to plant trees was not owned by the applicant and also did not form part of the application site being considered. He noted that this would be a matter for the applicant and Believe Housing.

Councillor A Laing left the meeting at 1.20pm

The Chair thanked the Principal Planning Officer and asked Mr Darrell Harris, the applicant, to speak in support of his application.

Mr D Harris thanked the Committee for the opportunity to speak and noted he had been a builder for 24 years and in his experience tree roots, especially shallow ones, could undermine foundations of buildings. He noted the proximity of the trees to his property and added that with trees in their current location, the house would not have passed building control regulations.

Mr D Harris noted his application had the correct specification foundations and drains and he added that paving in the area was already lifting as a result of tree roots. He noted he would be happy to replace the trees as directed by the Tree Officer in order to help mitigate the loss of the trees. He reiterated previous comments that many trees had been felled in the surrounding area, in the nearby dene and town centre in addition. Mr D Harris explained that he also wished to extend his property so that it was more practical for his family and he did not wish to move as his current home was close by to his elderly parents, one of which had a disability. He added that being close to them was important and if required the extension would provide the opportunity for his parents to move in with him.

The Chair thanked Mr D Harris and asked the Principal Planning Officer for any comments.

The Principal Planning Officer noted that any trees that had been cut down in the area must not have been subject to TPOs, the trees in question themselves only attracting a TPO after the potential threat raised by the application.

The Chair thanked the Principal Planning Officer and asked the Committee for their comments and questions.

Councillor J Robinson asked for the side elevation photographs to be brought up on the projector screen. He referred to the photographs and noted in the context of the information as regards eleven trees felled in the area, and the remaining trees thereabouts, he did not feel there was a large issue. He noted much larger trees in his Electoral Division that did have TPOs which had been removed in order to accommodate applications. He added that the photographs as shown looked as if they showed damp at the bottom of the applicant's wall. He noted the Officer's report set out that the loss of open space was acceptable, and the design and scale of the roof and extension was also acceptable. He added that he felt if the refusal reason was based upon the issue of the trees on the site, the Tree Officer should have attended at Committee. He concluded by proposing that the application be approved.

Councillor I Jewell thanked the Planning Officer, GS for his presentation and the site visit organised for Committee Members earlier in the day. He added that he felt the recommendation was somewhat strange, given the support for the application within the report in terms being acceptable in relation to scale, design and loss of open space. He added that if the TPO was in addition to other reasons for refusal he could understand, however, with that being the only reason for refusal he felt the argument for refusal was weak.

Councillor I Jewell noted that while he was not an expert, looking at the trees on the site visit he did not consider them to be fine specimens and there was a large number of other trees in the area and therefore he felt that given this, and the offer in terms of replacement trees, he would support and second the proposal for approval.

Councillor A Bell noted he had been on various Planning Committees for ten years and it was the first time he had come across an “emergency TPO” and explained it did not sit comfortably with him, if trees required a TPO why would it not be in place before now. He added the applicant had noted the issue of potential undermining, with some evidence of this, and that as the trees seemed relatively young, there was potential for this to increase in the future. He also noted the issues raised by the applicant in terms of his extended family and therefore agreed with Councillors J Robinson and I Jewell in supporting the approval of the application.

Councillor D Freeman noted he disagreed with the Members that had spoken, he felt trees added to the amenity of the area, beneficial to residents. He noted comments as regards eleven trees already cut down in the area and explained that in that case it made more sense to retain those established trees that remained, with any proposed replacements unlikely to be as mature. He concluded noting he could not support approval of the application.

Councillor A Bell asked, should Councillors J Robinson and I Jewell feel acceptable as proposer and seconder, whether it would be possible to have some form of condition or advisory as regards the applicant entering into discussions with Believe Housing as regards replacement trees.

The Solicitor – Planning and Development noted that there was a motion for approval and asked if Members were saying they disagreed with the Officers in terms of the loss of those trees not being significant in terms of amenity. He added that the personal circumstances of the applicant, as mentioned by Councillor A Bell, were a material planning consideration which was for the Committee to afford weight as they saw fit. In relation to any condition as regards replacement trees, there may be an option in terms of a “Grampian condition”, a negatively worded condition that would require replacement trees to be undertaken prior to works commencing on site.

He explained that in this particular case that he understood the applicant did not own the land where the replacement trees were proposed and noted Members may wish to take a view based upon any discussions that may have taken place to date, to judge the likelihood of such replacement trees being agreed. He added that should the application be approved there would be a need for a suite of the usual conditions, such as time-limits for implementation.

The Chair asked if the applicant wished to respond in relation to any discussions that may have taken place. Mr D Harris noted he had not yet spoke to Believe Housing, however was happy to do so.

Councillor P Taylor noted the Committee did not have the authority to impose such replacement of trees. The Solicitor – Planning and Development noted that while it was not possible to impose, the suggestion was that a Grampian condition could be used to require the tree works as a pre-requisite to the development commencing. Councillor I Jewell asked as regards a condition in terms of replacing trees in the wider area to mitigate against the amenity and ecological loss. The Principal Planning Officer noted that the issue of land ownership would still remain and added that if such replacement planting was on the land adjoining the subject land there was still the potential for undermining as stated by the applicant.

Councillor A Bell noted in order to help progress the matter he would withdraw his suggestion in relation to a condition or advisory in relation to replacement trees.

The Principal Planning Officer noted as regards the usual standard conditions relating to such extension applications including: materials, plans, three-year time limit in terms of commencing works; and type of fencing.

RESOLVED

That the application be **APPROVED** subject to a suite of conditions the details of which to be delegated to the Planning Officer.

Councillors J Clark and A Laing entered the meeting at 1.40pm

Councillor J Clark in the Chair

b DM/19/03257/FPA - 32 Whinney Hill, Durham

The Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use from small HMO (Use Class C4) to 9 bed large HMO (Use Class Sui Generis) including erection of part two-storey/part single-storey extension to rear and was recommended for approval.

The Planning Officer, LM noted that the property was in the east of Durham City and within the Durham City Conservation Area. She explained that the property had previously had approval for a two-storey extension to the side with a flat roof. Members were shown proposed elevations and floorplans, and the Planning Officer, LM noted that the previous approval had commenced and therefore that application could be built out should the application before Committee be refused with up to six residents living therefore, however the change of use to nine would not be able to be implemented.

The Planning Officer, LM noted no objections from the Highway Section, Durham Constabulary, Environmental Health, HMO Officers or Design and Conservation. She added that the Spatial Policy Team had noted 57.6 percent of properties with 100 metres being student properties.

The Planning Officer, LM noted there were three letters of objection from residents and objections from the City of Durham Parish Council, who had representation at Committee, and the City of Durham Trust. She noted the reasons for objection were summarised within the report and included: increase in student numbers; the proposal not being in keeping with the scale and character of the area, contrary to Policy H9; not promoting healthy, safe and sustainable communities; more noise and disturbance; being against the interim policy of student accommodation; and potentially setting a precedent which would open the floodgates for similar applications.

The Planning Officer, LM noted that the application would not result in an increase in the number of HMOs, the housing mix being unaltered, however there would be an increase in the number of bed spaces. She referred to previous appeals decisions in this regard and with it being considered that there would be no harm to the heritage assets, the recommendation was for approval, subject to the conditions as set out within the report.

The Chair thanked the Planning Officer, LM and asked Parish Councillor Grenville Holland, representing the City of Durham Parish Council, to speak in objection to the application.

Parish Councillor G Holland thanked the Chair and Committee for the opportunity to speak and noted that application represented a familiar circumstance, one that Members had met on previous occasions. He added that the fact that the Parish Council and the local Community Association objected to this application for good reason would therefore come as no surprise to the Committee.

Parish Councillor G Holland noted that if Members lived in Durham City, they would understand the concerns raised and even if they did not, he felt that they may well be vexed by their repetitious appearance at planning.

Parish Councillor G Holland noted the reality was that in order to fund its ambitious business plans, the University now needed to increase its student numbers to 22,000 without adequate accommodation. He continued noting that as a result the City faced a surge of students coming into the City, seeking accommodation in the private sector. He explained that in turn this offered a lucrative and attractive opportunity for the private landlords who, every week, were submitting applications for C3 to C4 conversions or the expansion of C4 properties in order to squeeze in extra bodies. Parish Councillor G Holland noted this was an endless trail, and 22,000 students may well not be the end of it.

Parish Councillor G Holland noted that Durham City was a market town with limited family housing and the overload of students had created an unacceptable imbalance, with adverse social and commercial consequences. He explained that the imbalance was in fact the worst in the UK, with other cities having far greater capacity to absorb their student population. He added that in Durham there was simply not that capacity, and the City was ceasing to be residential, progressively becoming instead a student dormitory. Parish Councillor G Holland reminded the Committee that in response to this, in 2016, the Council introduced an Article 4 Direction that was carefully designed to provide a healthy balance between students and the local community. He added that the Direction built upon the saved 2004 Local Plan Policies and reflected the underpinning requirements of the National Planning Policy Framework (NPPF). Parish Councillor G Holland reminded Members that those tools were available and were there to be used by the Planning Committee.

Parish Councillor G Holland noted that time and again the issue was ducked, with concern in case an appeal was lost should Committee decide to prevent a C3 going to C4, or a C4 being expanded to increase the student take. He noted that the issue had been ducked again in this case. He added that the Officer's report pivoted on paragraphs 47 and 48 of the report which dwelt on an individual appeal decision for a C4 extension in Hawthorn Terrace, which was upheld.

He noted that was a single decision which, in the opinion of the Parish Council, was misguided and should not determine all future applications for C4 extensions in Durham City, for those extensions were contrary to the Article 4 Direction and the Interim Policy, NPPF guidance and Policies H9 and Q9 of the Local Plan.

Parish Councillor G Holland explained that the policies designed to protect the integrity of the City and so preserve the belief in the value of a balanced community should not be set aside and that by allowing the landlords, and their agents, to have a free reign in converting the city centre into one huge dormitory represented a disregard for the City's heritage.

Parish Councillor G Holland reminded Members that the Interim Policy on Student Accommodation, which was carefully designed and agreed, clearly stated:

"In order to promote the creation of sustainable, inclusive and mixed communities for new build HMOs (both C4 and sui generis), extensions that result in additional bed spaces where planning permission is required.....will not be allowed if more than 10% of the total number of properties within 100 metres of the application site are already in use as HMOs or student accommodation exempt from council tax charges."

He noted that the policy related both to new builds, or extensions, or an increase in student occupancy in such localities and it covered all of these eventualities and the Officer wrongly advised that it related only to new builds. He added that this interpretation accords with several chapters of the NPPF, none of which were mentioned in the Officer's report. Parish Councillor G Holland explained that those chapters encouraged the development of healthy and safe communities and promoted social interaction through mixed use development to enable and support healthy lifestyles and well-being. He added that it was about mixed, balanced and sustainable communities and most certainly did not support the wholesale conversion of any community into a single purpose ghetto.

Parish Councillor G Holland referred to Policy H9 of the Saved Local Plan and noted that it placed important and relevant restraints on the development and expansion of HMOs, including parking restrictions; adverse impact on the neighbours; scale and character with the surroundings; adverse concentration of a sub-divided dwelling; and avoidance of significant extensions to the property altering the character or scale of the original building. He noted that those limitations were confirmed in Policy Q9 which considered the quality of the proposed development and limitations imposed. Parish Councillor G Holland stated that the present application for the Whinney Hill residential area was a typical over-massing of a C4 conversion and was wilfully exploiting the site.

He noted it was felt that it failed the test of H9 and Q9; and it was contrary to the broad intentions of NPPF sections 2, 5 and 8. He added that furthermore, it certainly failed the important test of the Interim Policy which was not just about new C4s, it was about increasing bed spaces in an already over-concentrated area of HMOs.

Parish Councillor G Holland noted that, using Council Tax criteria the property already has 58 percent of properties within 100 metres of it defined as HMOs, well above the 10 percent threshold, however, still well below the 90% margin that lead some people to conclude “all is lost, so let’s give up”.

He noted that the argument that a few extra beds make no difference cuts no ice with the application being contrary to the Direction and Policy for a good reason, to simply carry on with that fallacious and sterile argument, you end up at 100 percent HMOs.

Parish Councillor G Holland noted that the Parish Council urged the Committee to reject the application with the sound and proven criteria already available and concluded by stating that using the prospect of an appeal was surely not an option and we must use and sustain our policies with confidence.

The Chair thanked Parish Councillor G Holland and asked the Principal Planning Officer to respond to the points raised.

The Principal Planning Officer noted many of the issues had been raised at Committee several times with regard to applications in relation to new HMOs, extension and conversions, and those for an increase in the number of bed spaces. He added that Officers had to make recommendations that were cognisant of appeal decisions and that Officers had fought a number of appeals in these types of application and several of them had been lost. He noted that the refusal of an application on an increase of the number of bed spaces alone was one that was tested at appeal very early in the Interim Policy and this appeal had been lost. He reminded Members of the costs awarded in cases of lost appeals and reiterated that the recommendation as set out within the report had been arrived at after careful thought from Officers, considering relevant policies and appeals decisions.

The Chair thanked the Principal Planning Officer and asked the Committee for their comments and questions.

Councillor D Freeman noted that the situation felt like déjà vu, with a very similar application approved at the last meeting of the Committee.

He noted his concern in terms of former family homes being converted to HMOs, further increasing the imbalance between families and students and reiterated the point that the Interim Policy was very clear in terms of not increasing the number of bed spaces should a property be within an area of greater than ten percent HMOs within a 100 metres radius. He added that to allow such applications would represent an unacceptable cumulative impact and he asked if one was to only consider the appeal decisions for properties elsewhere in the City then what was the point of our planning policies?

Councillor D Freeman explained that he felt the application seemed to be contrary to NPPF Part 8 and Local Plan Policies H9 and Q9.

He noted there were a number of reasons why he felt the application was contrary to those policies, including increase in noise and disturbance, impact on services such as refuse collection; and was not in keeping with the neighbourhood in scale or design. He concluded by noting he proposed that the Committee should refuse the application as it was contrary to saved Policies H9, Q9 and the NPPF.

The Chair asked the Principal Planning Officer to respond to the points made by the Committee.

The Principal Planning Officer noted that the report set out responses to each of the policies referred to by Councillor D Freeman, including reference to the extant permission.

Councillor I Jewell noted the interesting contradictions between the objectors and Officers in terms of the scale and impact of the development and noted that it was not for the Committee to decide in terms of who could apply for such HMO permissions and the increase of capacity by the University was presenting a dilemma for Members.

Councillor P Taylor noted that he was not likely to be the only Member who was sick of the number of these type of applications that were coming before Committee. He reminded all that Durham was a beautiful city and not a business opportunity to look to accommodate additional students. He noted that Parish Councillor G Holland had spoken wonderfully as did Councillor D Freeman, however, the Principal Planning Officer has also spoken well and was right in terms of where we were with our policies. Councillor P Taylor noted the risk in terms of the Government's Planning Inspectorate overturning the democratically elected Members' decision and noted that perhaps it was time to stand up for the city and perhaps lazy to blame the remote Government Planning Inspectorate in terms of allowing Durham to become a business opportunity.

Councillor M Davinson agreed with Councillor D Freeman in that there was a sense of déjà vu and asked if the recent Examination in Public of the County Durham Plan (CDP) had yielded any information that would be relevant for the Committee in making a decision. The Solicitor – Planning and Development noted that he had not been involved in the Examination in Public, do did not know the detail of what had been discussed. However, the Council's position is that the CDP could not be afforded weight until it was agreed and adopted. Councillor M Davinson asked at what point would the CDP likely come into effect. The Chair noted she understood the frustrations of Members, however, the decision on the application must be based upon the policies in effect currently and in relation to the CDP, this was a matter Officers could come back to Members with further information in due course.

Councillor J Robinson noted that the Committee was totally frustrated and that while the Highways Officer had no objections, he had his heart in his mouth whenever he drove along Whinney Hill. He noted that many applications similar to this one had been considered by Committee and that the Interim Policy had been shown not to work in these cases. Councillor J Robinson noted he reluctantly proposed the Officers recommendation for approval as he felt it would be overturned should a refusal be taken to appeal. Councillor M Davinson noted he would second the proposal, again noting it was reluctantly and with similar reasons to those he had stated at the last meeting. He added that he understood that Officers had tried to fight those appeals and currently the Members' hands were tied, and he hoped that the CDP would help in the future.

RESOLVED

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

Councillor I Jewell left the meeting at 2.12pm

c DM/19/02667/FPA - Land to the North of Robson Avenue, Peterlee

The Senior Planning Officer, Paul Hopper, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting.

The application was for construction of a new 2 and 3 storey Extra Care building (falling with Class C2) providing 71 no. Apartments, associated access and hard and soft landscaping (amended description) and was recommended for approval.

The Senior Planning Officer referred Members to aerial and site photos, and asked Members to note plans and elevations and noted the application was at Committee as it was a major development. He noted the development site was a former school site, and that development was already taking place on the opposite side of the Robson Avenue, that being for residential properties, already having planning permission granted earlier in 2019.

The Senior Planning Officer noted that there was a former community centre to the north of the site which had been granted permission for use as a hotel and that the application site itself had been vacant for a long while, as Members on the site visit had noted. He added there were a number of TPOs within the site and access was proposed to be taken from Robson Avenue, utilising the existing access with some associated improvement works.

The Senior Planning Officer noted that the care offered within the 71 units would be tailored to each tenant, with Durham County Care Academy having nomination rights, and the operator, Housing 21, to fill any vacancies after that. He referred Members to the proposed layout plans, highlighting accommodation, communal areas including facilities such as a hairdresser, mobility scooter store and offices. He noted the soft landscaping within the site and along the periphery of the site, and the car parking spaces for 36 vehicles.

The Senior Planning Officer asked the Committee to note proposed elevations, with the majority of the building being three-storey, with a two-storey element to one elevation. Members noted materials included brick, wooden cladding and tile roof, and minimum separation distances were achieved, with additional features such as Juliet balconies having been negotiated.

The Senior Planning Officer noted no objections from statutory consultees subject to conditions and informatives. He added that internal consultees had raised no objections subject to conditions and Section 106 Legal Agreements in relation to: coastal management works; allotment facilities; biodiversity enhancements; and improving healthcare access. Members noted no objections had been received from third parties or residents.

The Committee were informed that the site was in a sustainable location, the design met separation distances and the proposals were acceptable in principle.

The Senior Planning Officer explained that there was a number of trees remaining on the site, key specimens to be retained, and a slight amendment to Condition Ten was proposed, in terms of appropriate protection. He concluded by noting that in terms of the NPPF Paragraph 11 balance test, the benefits of the proposals as set out were felt to demonstrably outweigh the adverse impacts and therefore the recommendation was for approval.

The Chair thanked the Senior Planning Officer and asked Mr Alistair Mitchell, SP&A Architects, to speak on behalf of the applicant in support of the application.

Mr A Mitchell thanked the Committee and noted that the Housing 21 was one of the UK's leading not-for-profit provider of retirement housing and extra care, with around 140 similar schemes working with over 150 Councils. He added that the proposal in front of Members was for 100 percent affordable rent and Durham County Council would have 100 percent nomination rights. He explained that extra care allowed people to live in their own home, with a tailored care package for each individual, a 21st Century alternative to residential care. Mr A Mitchell added that Housing 21 had an excellent reputation, with a 100 percent "good" rating from the Care Quality Commission in the North of England. He added that in addition to the benefits of the 71 apartments themselves, there would be approximately 24 full-time equivalent jobs created and two apprenticeships for young people. Mr A Mitchell reiterated the benefits of the scheme and urged that the Committee approved the application.

The Chair thanked Mr A Mitchell and asked the Committee for their comments and questions.

Councillor A Laing noted she was a Local Member for the area and confirmed the land had been derelict for approximately 11 years, with some anti-social behaviour issues associated with the empty site. She explained she was delighted to move the recommendation for approval. Councillor A Bell noted that hearing from the Local Member was always important and that he would second the proposal for approval.

RESOLVED

That the application be **APPROVED** subject to the conditions and Section 106 Legal Agreements as set out within the report, with the amendment to Condition 10 as reported by the Senior Planning Officer.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/03459/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing rear extension and erection of part single-storey/part two-storey extension at rear and installation of dormer windows in roof space also to rear to an existing small HMO (use class C4).
NAME OF APPLICANT:	Mr N Swift
ADDRESS:	17 Providence Row Durham DH1 1RS
ELECTORAL DIVISION:	Elvet and Gilesgate
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 an unlisted two-storey mid terraced dwelling located within the north eastern part of Durham City Centre Conservation Area. The terrace consists of no 5 residential properties situated at the lower end (north) of Providence Row on the east side of the street near to the road's junction with Freemans Place and The Sands. It is bounded by St Nicholas Cemetery and a series of Victorian terraces and faces Durham Sixth Form Centre to the west.
2. The property is currently in use as 5 bed student accommodation thereby occupying a C4 use class. Evidence has been provided to show that the C4 use was implemented prior to the introduction of the article 4 therefore, a change of use is not required.

The Proposal

3. This application seeks the demolition of the existing rear single-storey extension and the erection of a new two-storey extension at the rear of the dwelling which will link into an extension proposed at no. 18 which is also being heard at this committee and is under the same ownership of this applicant. A small single-storey extension is also proposed adjoining the two-storey extension. Dormer windows are also proposed to the rear with rooflights to the front to allow internal reconfiguration to allow 6 bedrooms to be provided.

4. The application is referred to the Committee at the request of the City of Durham Parish Council who consider the proposal goes against relevant local plan policies and the proposal would result in not providing a mixed and balanced community.

PLANNING HISTORY

5. 4/03/00868/FPA- Retention of 2 no. rooflights to front elevation. Approved 20/10/03.

PLANNING POLICY

NATIONAL POLICY

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
8. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
9. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
10. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

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

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

LOCAL PLAN POLICY:

City of Durham Local Plan

12. Policy E6 (Durham City Conservation Area) sets out the Council's aim to preserve the character, appearance and setting of the Durham City Conservation Area by ensuring high quality design.
13. 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.
14. Policy E22 (conservation Areas) sets out that the authority seeks to preserve and enhance the character and appearance of the conservation area by ensuring that development proposal should be sensitive in terms of siting, scale, design and materials where appropriate reflecting existing architectural features
15. Policy H9 (Multiple Occupation / Student Households) seeks to ensure that buildings in multiple occupancy do not adversely affect the character of the area and do not require significant extensions or alterations having regard to Policy Q9.
16. 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.
17. Policy Q1 (Design) sets out that the layout and design of all new development should take into account the requirements of users including personal safety and crime prevention and the access needs of everybody including people with needs of disabilities.
18. Policy Q9 (Alterations and Extensions to Residential Properties) states that extensions will only be approved when they met a set of specific criteria for example, including impact on residential amenity of neighbours and impact on streetscene.
19. Policy Q10 (Dormer Windows) sets out the design requirements for dormer windows and advises that the proposal should not impact on a loss of privacy to surrounding properties.
20. Policy T1 (General transport Policy) requires all development to protect highway safety and/or have no significant effect on the amenity of occupiers of neighbouring properties.
21. Policy T10 (Parking - General Provision) states that vehicles parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

RELEVANT EMERGING POLICY:

22. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An Examination in Public (EiP) of the County Durham Plan (CDP) is currently in progress.

The programmed hearing sessions closed on 4th December 2019. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process at the present time. This position will be subject to review upon receipt of further correspondence from the Inspector.

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:

23. Highways – No objection, the proposal is within a controlled parking zone and no further permits would be given.

24. Durham Constabulary have raised no objection to the proposal.

INTERNAL CONSULTEE RESPONSES:

25. Environment, Health and Consumer Protection (Nuisance Action Team) – The proposal is not considered to cause a statutory nuisance.

26. HMO Officers original objection has been withdrawn, room sizes are adequate.

27. HMO Data – Within a 100m radius of 17 Providence Row, 37.3% of properties are student properties as defined by Council Tax records.

28. Design and Conservation – No objection the proposal is considered to enhance the conservation area.

PUBLIC RESPONSES:

29. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. Two letters of objection have been received from the City of Durham Parish Council and the City of Durham Trust with the following comments:

- The Parish Council is aware that the Submitted County Durham Plan policy for HMOs seeks to drop control over extensions to existing HMOs, but the County Council itself formally considers that the Submitted County Durham Plan carries no weight as yet. Accordingly, the application must be determined by the Interim Policy and by Saved Policies of the City of Durham Local Plan 2004.
- The proposal would not create a balanced and mixed community.
- The interim policy does not support the increase in bed spaces if there are more than 10% of the properties within 100m of the application site already in use as student properties. The percentage is in excess of this and therefore contrary to the Interim Policy.
- The extra bedroom in the roof space is opposed by the Councils HMO officer because it fails to provide the adequate headroom required.
- Policy H9 states that adequate parking should be provided. There is no parking provision and therefore, the application fails to meet the requirements of policy H9.

- Concern over the steady increase in the number of planning applications seeking to convert family dwellings to houses in multiple occupation or to increase the size of these.

APPLICANT'S STATEMENT:

30. This application relates to a property that is an existing student HMO and that use will remain regardless of the outcome of the application. The property is in an area where there is already a high percentage of student HMO properties (70%) and thus the proposal will not change the local demographic either way, there will be no fundamental material change under planning. With such a high concentration of HMOs minor changes to an existing HMO will not cause further detrimental harm or conspicuous concentration. The proposals would not therefore result in an adverse impact on the housing mix in the vicinity of the site.
31. The proposal merely seeks to improve and increase the accommodation provision at this property and as such could help alleviate pressure to convert other house not currently C4 by focusing efforts on already converted C4 properties. Recent HMO regulation changes have also brought about a move to improve the provision in existing C4 HMO houses to maintain licenses.
32. The introduction of 1No additional bedroom internally will retain this property as a student house with the number of bedrooms increasing to 6No. As such the overall percentage of student houses will not alter with this application. This increase in bedrooms will not give rise to a noticeable increase or intensification of student housing in the area and only a modest increase in one bed space provision is proposed. This would not change the character of the usage or have impacts on local amenity to any significant degree. This principle is reinforced by recent appeal decisions
33. Externally a very poor ill-conceived existing extension will be removed and replaced with an extension that has a more considered architectural theme commensurate with the conservation area status.

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

34. 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 visual amenity of the area including the conservation area in which the property is located, residential amenity and highways issues.

Principle of the Development

35. The property in question is currently in use as small HMO (C4). C4 HMO's are small shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom. As part of the proposal, the number of individuals would be increased to no more than 6 therefore, the property retains the C4 use.

36. Policy H9 of the local plan is relevant to this application which relates to the extension or alterations to an existing student property. It states that such development will be permitted where adequate parking, privacy and amenity areas can be provided, where it will not adversely affect the amenities of nearby residents and is of a scale and character appropriate to its surroundings and where it will not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock.
37. Policy H13 of the local plan is also relevant and states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them.
38. As saved policies most relevant in the determination of the application are considered both up to date and consistent with the NPPF, paragraph 11 is not engaged.
39. In addition to policies H9 and H13 of the local plan, the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the change of use of properties or extensions that result in additional bedspaces in instances where there is in excess of 10% of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet following a 6 week consultation period ending April 2016. The threshold of 10% was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.
40. The Council's Spatial Policy Section advises that the most recent up to date Council Tax information identifies that 37.3% of those properties within 100 metres of the site are currently occupied as student let accommodation.
41. Given this, the proposal would be contrary to the criteria as stated in the interim policy. However, the proposal involves an increase in number of bedrooms which continues to provide a C4 use and does not result in the loss of an existing C3 residential property.
42. Furthermore, 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 HMO policy in the emerging County Durham plan is likely to be subject to revision, and whilst it has now been discussed at the EIP, the Inspector's report is awaited and the Council's position is that no weight can be afforded to it at present.

43. 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.
44. In relation to the percentage figure of HMOs within 100 metres of the site, it is accepted that 37.3% is a high proportion far in excess of the ten per cent threshold within the Interim Policy.
45. However, it is considered that the proposal complies with policy H9 in that it does not result in the loss of an existing C3 use therefore, does not alter the range and variety of the local housing stock. Whilst there is conflict with the wording of the Interim Policy and breach in the threshold, this is not sufficient to justify refusal of the application especially in light of the guidance on that policy which has been provided by this appeal decision and others which have also taken this approach. Also, the interim policy is not part of the development plan and therefore where there is conflict with development plan policy, in this case policy H9, then that development plan policy must prevail.
46. In summary the principle of development could be supported, subject to proper consideration of the impact of the proposal upon the character and amenity of the area including the conservation area in which the property is located, residential amenity, highway safety and any other issues.

Visual impact of the development on the conservation area

47. The National Planning Policy Framework in part 16 requires that the impact of the development is considered against the significance of the Heritage Asset which in this case is Durham City Conservation Area. Part 12 of the NPPF deals with good design generally advising that it is a key aspect of sustainable development, indivisible from good planning that can lead to making places better for people.
48. At a local level Policy E6 and E22 of the City of Durham Local Plan are also considered to be relevant. These policies state that the special character, appearance and setting of conservation areas will be preserved or enhanced. This will be achieved by only approving development that would be sensitive in terms of its siting, scale, design and materials. Policies H9 and Q9 require any extensions to such dwellings are in scale and character with its surroundings and neighbouring residential properties.
49. The aforementioned policies and guidance requires the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and this would be entirely in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
50. The majority of the proposal is located on the rear of the site other than two rooflights proposed to the front which are considered acceptable given there are others within the street which benefit from rooflights therefore they are common place within the locale.
51. A dormer window is proposed to the rear which is similar to that which has previously been approved at no.18 in 2018 under reference DM/18/03576/FPA. Policy Q10 of the City of Durham Local Plan provides advice on the design of dormer windows and the proposal is considered to comply with the general design parameters for such roof developments.

It is considered that the size would be such that it would not fill the entire roof slope and while being quite large the massing is considered acceptable. The proposed dormer window is therefore, considered acceptable in respect of the impact on the host property.

52. In terms of the impact on the surrounding conservation area, in the location proposed it would not be unduly dominant, would not be a highly noticeable or prominent feature from the public domain as views of it from the surrounding area would be largely obscured by other dwellings and the nature of the topography. It would be more visible from the adjacent churchyard but because of the design would not be considered visually harmful. Overall the proposed dormer roof extension would not be considered as an introduction that harms the special character and appearance of the surrounding conservation area and is considered to have a neutral impact.
53. The proposed rear extension would be considered acceptable in-principle given the presence of existing double-storey extensions to the rear of the terrace and others adjacent and is therefore, considered to be an improvement compared to the current low quality flat roofed extensions currently in place. Furthermore, it would not harm the original rear elevation as this has been modified in the past and is unbalanced with inappropriate fenestration not contributing positively to the conservation area.
54. The mono-pitched roof form with the ridge and eaves levels set below those of the main property, and the single bay width, creates an acceptable subordinated relationship meaning that the original property remains legible, and it is an example of a form of rear extension commonly found to the Victorian terraces across the city centre.
55. It is considered therefore, that the development proposal would not cause any adverse harm to the sustained historic character and appearance of the property, terrace or surrounding conservation area subject to conditions regarding materials, which is considered to be in keeping with the NPPF and policies H9, E6 and E22 of the Local Plan. In relation to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal is considered overall to enhance the appearance of the Conservation Area.

Residential amenity

56. In terms of the use of property, Policy H13 states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them while Policy H9 also seeks to provide such safeguards. In this regard there is an established use of the property for a small HMO for up to 6 people.
57. The proposal is considered to represent a built form which is not considered to have a significant detrimental impact on the residential amenity of the neighbouring properties as a significant loss of light/amenity is not considered to occur to either neighbour given a neighbouring extension of a similar scale is proposed at no. 18. In respect of no.16, the proposal is considered to be sited a sufficient distance away from the habitable room windows that no significant loss of amenity would occur.
58. A window is proposed in the side elevation at first floor level however this houses a non-habitable room and therefore, a condition will be added regarding obscure glazing to prevent any overlooking issues from occurring. A further condition restricting the installation of any additional windows will also be added.

59. The neighbours to the rear would be unaffected given the proposal faces onto the side elevation where no habitable room windows are in existence.
60. The application is, therefore, considered an appropriate addition in relation to policy H9 of the Local Plan with regards to visual impact upon adjoining neighbours.
61. Objections state that the proposal would not promote a balanced and mixed community. Both the Environmental Health Team and Durham Constabulary have raised no objections to the scheme.
62. Whilst objections have been received, it is not considered that a refusal reason could be sustained in this instance. The proposal does not result in an increase in the number of properties within a C4 use however does create one additional bedroom. It is not felt that a significant detrimental impact could be demonstrated to occur as a result of this increase. As previously stated, the proposal is already in use as student accommodation therefore, the proposal does not involve the loss of an existing C3 dwelling. It is not considered that the additional activity associated with an additional 1 student would have a significant detrimental impact.
63. Inspectors decisions have considered that the change of use of a property which could accommodate up to 6 residents would not have a significant detrimental impact on the amenity of the area, therefore, it is considered that it would be difficult to refuse an additional 1 bedroom at this property given up to 5 students are already in occupation.
64. The proposal therefore, is not considered to have a significant detrimental impact on residential amenity in accordance with policy H9 and H13 of the City of Durham Local Plan.

Highways issues:

65. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate a level of traffic that would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property. This policy is not considered to conflict with the intentions of the NPPF as it too seeks to secure a good standard of amenity for residents.
66. Objections have been raised that the proposal provides no parking and therefore, is contrary to policy H9 which states that any development should provide adequate parking.
67. The development site is in a highly sustainable location with good access to public transport and within walking distance of local amenities. Providence Row lies within the Durham City Controlled Parking Zone therefore on street parking in this street is via permit parking or pay and display. Highways officers have been consulted on the proposal and raise no objection to the proposed development on this basis. They have stated that no further permits would be issued and given this any additional cars brought to the site would be subject to parking charges therefore additional demand would be limited due to this reason.
68. The proposal is therefore considered acceptable from a highways viewpoint in accordance with policy H9, T1 and T10 of the Local Plan and the NPPF.

69. Concern has been raised that the extra bedroom in the roof space is opposed by the Council's HMO officer because it fails to provide the adequate headroom required. Objections were originally raised by the HMO Officers however, discussions have taken place between the agent and the HMO Officers and the objection has now been withdrawn as it has been shown that the bedroom size is adequate.

CONCLUSION

70. The principle of development and impact upon the residential area is considered to be acceptable as it is not considered that there would be any significant additional impacts of providing 6 bedrooms at the property as opposed to the current 5-bedroom HMO.
71. The dwelling can accommodate the additional bedroom while providing sufficient levels of amenity for the occupiers and neighbouring properties. There are no highways objections or environmental health objections and the proposal does not detrimentally impact on the character or appearance of the Durham City Centre Conservation Area.
72. Accordingly, the application is considered to meet the requirements of the National Planning Policy Framework and Policies E6, E22, H9, H13, Q9 and T1 of the City of Durham Local Plan 2004, as well as satisfying the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as it is considered to enhance the character and appearance of the Conservation Area.
73. Whilst there is some conflict with the interim policy on student accommodation, it is not felt that a refusal reason could be sustained on that basis given the existing housing mix would remain unaltered.
74. 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 approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy Q9 of the City of Durham Local Plan.

3. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the walling and roofing materials as well as precise details of the new windows have been submitted to and approved in writing by the Local Planning Authority. 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, E22 and H9 of the City of Durham Local Plan and Parts 12 and 16 of the NPPF.

4. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) no further windows or other openings shall be formed at first floor level in the side elevation of the two-storey rear extension facing south towards no.16 Providence Row.

Reason: In order that the Local planning authority may exercise further control in this locality in the interests of the residential amenity of the neighbouring properties and to comply with policies H9 and Q9 of the City of Durham Local Plan and part 15 of the NPPF.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed bathroom window at first floor level in the side elevation facing south towards no. 16 Providence Row shall be obscured to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be maintained thereafter in perpetuity.

Reason: In the interests of the residential amenity of neighbouring properties in accordance with policies H9 and Q9 of the City of Durham Local Plan and part 15 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

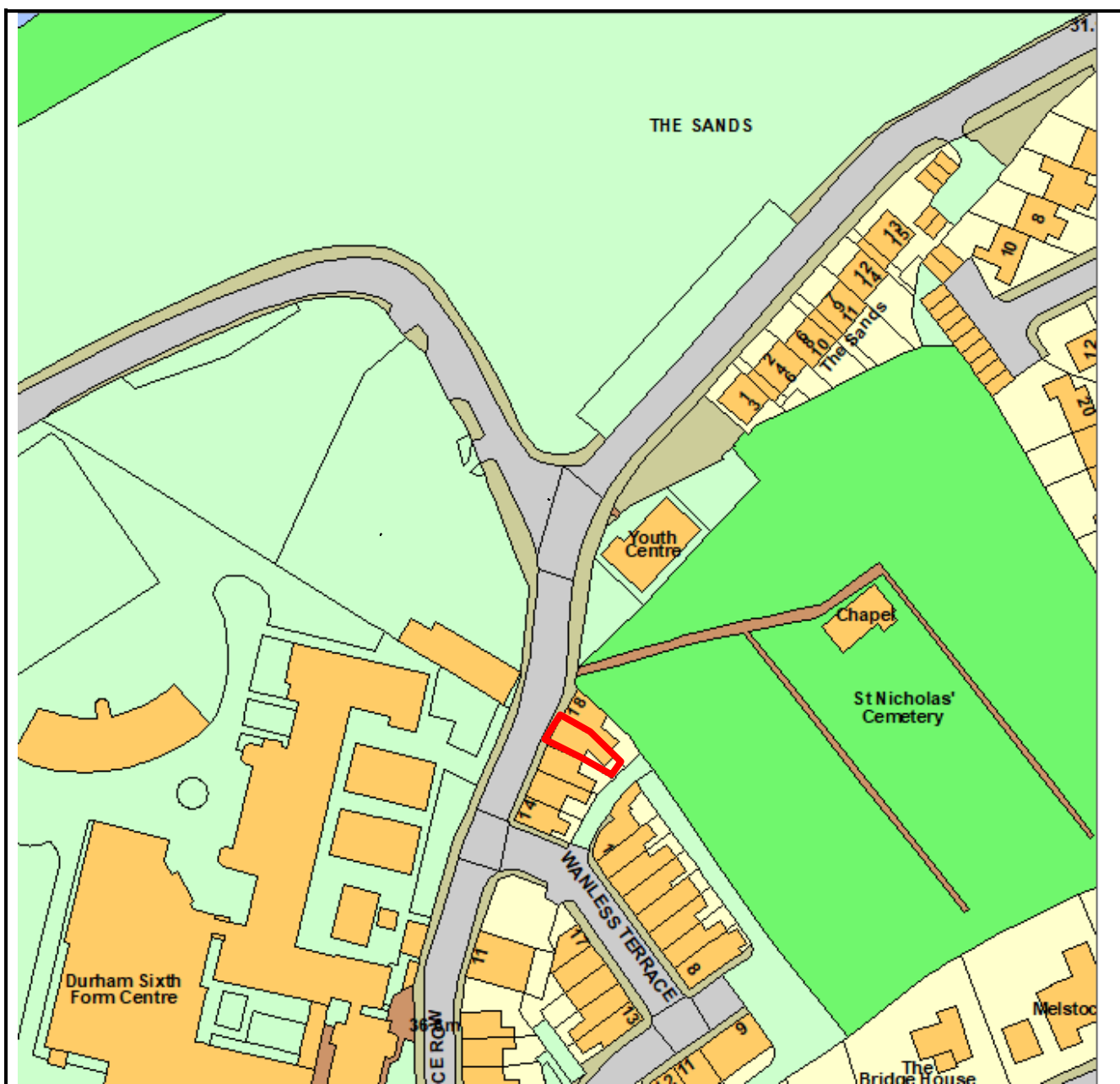
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



Planning Services

Demolition of existing rear extension and erection of part single-storey/part two-storey extension at rear and installation of dormer windows in roof space also to rear to an existing small HMO (use class C4) at 17 Providence Row, Durham, DH1 1RS

Application Reference DM/19/03459/FPA

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Date January 2020

Scale NTS

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/03494/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing rear extension and erection of two-storey extension at rear and installation of dormer windows in roof space also to rear to an existing small HMO (use class C4).
NAME OF APPLICANT:	Mr N Swift
ADDRESS:	18 Providence Row Durham DH1 1RS
ELECTORAL DIVISION:	Elvet and Gilesgate
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 an unlisted two-storey end terraced dwelling located within the north eastern part of Durham City Centre Conservation Area. The terrace consists of no 5 residential properties situated at the lower end (north) of Providence Row on the east side of the street near to the road's junction with Freemans Place and The Sands. It is bounded by St Nicholas Cemetery and a series of Victorian terraces and faces Durham Sixth Form Centre to the west.
2. The property is currently in use as 5 bed student accommodation thereby occupying a C4 use class. Evidence has been provided to show that the C4 use was implemented prior to the introduction of the article 4 therefore, a change of use is not required.

The Proposal

3. This application seeks the demolition of the existing rear single-storey extension and the erection of a new two-storey extension at the rear of the dwelling which will link into an extension proposed at no. 17 which is also being heard at this committee and is under the same ownership of this applicant. A dormer window is also proposed to allow internal reconfiguration to allow 6 bedrooms to be provided. The dormer window is of similar design to that which has previously been considered under application DM/18/03576/FPA.

4. The application is referred to the Committee at the request of the City of Durham Parish Council who consider the proposal goes against relevant local plan policies and the proposal would result in not providing a mixed and balanced community.

PLANNING HISTORY

5. DM/18/03576/FPA - Rear Dormer Windows. Approved 17/1/2019.
6. 4DM/18/03042/CPO - Certificate of Lawfulness for Proposed Development: Rear Dormer Window to C4 Dwelling. Refused 20/11/18.

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.
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19. Policy Q9 (Alterations and Extensions to Residential Properties) states that extensions will only be approved when they met a set of specific criteria for example, including impact on residential amenity of neighbours and impact on streetscene.
20. Policy Q10 (Dormer Windows) sets out the design requirements for dormer windows and advises that the proposal should not impact on a loss of privacy to surrounding properties.
21. Policy T1 (General transport Policy) requires all development to protect highway safety and/or have no significant effect on the amenity of occupiers of neighbouring properties.
22. Policy T10 (Parking - General Provision) states that vehicles parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.

RELEVANT EMERGING POLICY:

23. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An Examination in Public (EiP) of the County Durham Plan (CDP) is currently in progress. The programmed hearing sessions closed on 4th December 2019. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process at the present time. This position will be subject to review upon receipt of further correspondence from the Inspector.

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:

24. Highways – No objection, the proposal is within a controlled parking zone and no further permits would be given.

25. Durham Constabulary have raised no objection to the proposal.

INTERNAL CONSULTEE RESPONSES:

26. Environment, Health and Consumer Protection (Nuisance Action Team) – The proposal is not considered to cause a statutory nuisance.

27. HMO Officers raise no objection.

28. HMO Data – Within a 100m radius of 18 Providence Row, 48.7% of properties are student properties as defined by Council Tax records.

29. Design and Conservation – No objection the proposal is considered to enhance the conservation area.

PUBLIC RESPONSES:

30. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. Two letters of objection have been received from the City of Durham Parish Council and the City of Durham Trust with the following comments:

- The Parish Council is aware that the Submitted County Durham Plan policy for HMOs seeks to drop control over extensions to existing HMOs, but the County Council itself formally considers that the Submitted County Durham Plan carries no weight as yet. Accordingly, the application must be determined by the Interim Policy and by Saved Policies of the City of Durham Local Plan 2004.
- The proposal would not create a balanced and mixed community.
- The interim policy does not support the increase in bed spaces if there are more than 10% of the properties within 100m of the application site already in use as

student properties. The percentage is in excess of this and therefore contrary to the Interim Policy.

- The width of bedroom 2 does not meet national space standards
- Policy H9 states that adequate parking should be provided. There is no parking provision and therefore, the application fails to meet the requirements of policy H9.
- Concern over the steady increase in the number of planning applications seeking to convert family dwellings to houses in multiple occupation or to increase the size of these.

APPLICANT'S STATEMENT:

31. This application relates to a property that is an existing student HMO and that use will remain regardless of the outcome of the application. The property is in an area where there is already a high percentage of student HMO properties (70%) and thus the proposal will not change the local demographic either way, there will be no fundamental material change under planning. With such a high concentration of HMOs minor changes to an existing HMO will not cause further detrimental harm or conspicuous concentration. The proposals would not therefore result in an adverse impact on the housing mix in the vicinity of the site.
32. The proposal merely seeks to improve and increase the accommodation provision at this property and as such could help alleviate pressure to convert other house not currently C4 by focusing efforts on already converted C4 properties. Recent HMO regulation changes have also brought about a move to improve the provision in existing C4 HMO houses to maintain licenses.
33. The introduction of 1No additional bedroom internally will retain this property as a student house with the number of bedrooms increasing to 6No. As such the overall percentage of student houses will not alter with this application. This increase in bedrooms will not give rise to a noticeable increase or intensification of student housing in the area and only a modest increase in one bed space provision is proposed. This would not change the character of the usage or have impacts on local amenity to any significant degree. This principle is reinforced by recent appeal decisions
34. Externally a very poor ill-conceived existing extension will be removed and replaced with an extension that has a more considered architectural theme commensurate with the conservation area status.

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

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

36. The property in question is currently in use as small HMO (C4). C4 HMO's are small shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom. As part of the proposal, the number of individuals would be increased to no more than 6 therefore, the property would remain in C4 use and therefore there would be no material change of use.
37. Policy H9 of the local plan is relevant to this application which relates to the extension or alterations to an existing student property. It states that such development will be permitted where adequate parking, privacy and amenity areas can be provided, where it will not adversely affect the amenities of nearby residents and is of a scale and character appropriate to its surroundings and where it will not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock.
38. Policy H13 of the local plan is also relevant and states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them.
39. As saved policies most relevant in the determination of the application are considered both up to date and consistent with the NPPF, paragraph 11 is not engaged.
40. In addition to policies H9 and H13 of the local plan, the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the change of use of properties or extensions that result in additional bedspaces in instances where there is in excess of 10% of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet following a 6 week consultation period ending April 2016. The threshold of 10% was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.
41. The Council's Spatial Policy Section advises that the most recent up to date Council Tax information identifies that 48.7% of those properties within 100 metres of the site are currently occupied as student let accommodation.
42. Given this, the proposal would be contrary to the criteria as stated in the interim policy. However, the proposal involves an increase in number of bedrooms which continues to provide a C4 use and does not result in the loss of an existing C3 residential property.
43. Furthermore, 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 HMO policy in the emerging County Durham plan is likely to be subject to revision, and whilst it has now been discussed at the EIP, the Inspector's report is awaited and the Council's position is that no weight can be afforded to it at present.

44. 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.
45. In relation to the percentage figure of HMOs within 100 metres of the site, it is accepted that 48.7% is a high proportion far in excess of the ten per cent threshold within the Interim Policy.
46. However, it is considered that the proposal complies with policy H9 in that it does not result in the loss of an existing C3 use therefore, does not alter the range and variety of the local housing stock. Whilst there is conflict with the wording of the Interim Policy and breach in the threshold, this is not sufficient to justify refusal of the application especially in light of the guidance on that policy which has been provided by this appeal decision and others which have also taken this approach. Also, the interim policy is not part of the development plan and therefore where there is conflict with development plan policy, in this case policy H9, then that development plan policy must prevail.
47. In summary the principle of development could be supported, subject to proper consideration of the impact of the proposal upon the character and amenity of the area including the conservation area in which the property is located, residential amenity, highway safety and any other issues.

Visual impact of the development on the conservation area

48. The National Planning Policy Framework in part 16 requires that the impact of the development is considered against the significance of the Heritage Asset which in this case is Durham City Conservation Area. Part 12 of the NPPF deals with good design generally advising that it is a key aspect of sustainable development, indivisible from good planning that can lead to making places better for people.
49. At a local level Policy E6 and E22 of the City of Durham Local Plan are also considered to be relevant. These policies state that the special character, appearance and setting of conservation areas will be preserved or enhanced. This will be achieved by only approving development that would be sensitive in terms of its siting, scale, design and materials. Policies H9 and Q9 require any extensions to such dwellings are in scale and character with its surroundings and neighbouring residential properties.
50. The aforementioned policies and guidance requires the local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area and this would be entirely in accordance with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
51. The majority of the proposal is located on the rear of the site other than two rooflights proposed to the front which are considered acceptable given there are others within the street which benefit from rooflights therefore they are common place within the locale.

52. A dormer window is proposed to the rear which is similar to that which was previously approved at this property in 2018 under reference DM/18/03576/FPA. Policy Q10 of the City of Durham Local Plan provides advice on the design of dormer windows and the proposal is considered to comply with the general design parameters for such roof developments. It is considered that the size would be such that it would not fill the entire roof slope and while being quite large the massing is considered acceptable. The proposed dormer window is therefore, considered acceptable in respect of the impact on the host property.
53. In terms of the impact on the surrounding conservation area, in the location proposed it would not be unduly dominant, would not be a highly noticeable or prominent feature from the public domain as views of it from the surrounding area would be largely obscured by other dwellings and the nature of the topography. It would be more visible from the adjacent churchyard but because of the design would not be considered visually harmful. Overall the proposed dormer roof extension would not be considered as an introduction that harms the special character and appearance of the surrounding conservation area and is considered to have a neutral impact.
54. The proposed rear extension would be considered acceptable in-principle given the presence of existing double-storey extensions to the rear of the terrace and others adjacent and is considered to be an improvement compared to the current low quality flat roofed extensions currently in place. Furthermore, it would not harm the original rear elevation as this has been modified in the past and is unbalanced with inappropriate fenestration not contributing positively to the conservation area.
55. The mono-pitched roof form with the ridge and eaves levels set below those of the main property, and the single bay width, creates an acceptable subordinated relationship meaning that the original property remains legible, and it is an example of a form of rear extension commonly found to the Victorian terraces across the city centre.
56. It is considered therefore, that the development proposal would not cause any adverse harm to the sustained historic character and appearance of the property, terrace or surrounding conservation area subject to conditions regarding materials, which is considered to be in keeping with the NPPF and policies H9, E6 and E22 of the Local Plan. In relation to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal is considered overall to enhance the appearance of the Conservation Area.

Residential amenity

57. In terms of the use of property, Policy H13 states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas, or the amenities of residents within them while Policy H9 also seeks to provide such safeguards. In this regard there is an established use of the property for a small HMO for up to 6 people.
58. The proposal is considered to represent a built form which is not considered to have a significant detrimental impact on the residential amenity of the neighbouring properties as a significant loss of light/amenity is not considered to occur to the adjoining neighbour given a neighbouring extension of a similar scale is proposed at no. 17. There are no neighbours to the opposite side as this is an end terrace property.

59. The neighbours to the rear would be unaffected given the proposal faces onto the side elevation where no habitable room windows are in existence.
60. The application is, therefore, considered an appropriate addition in relation to policy H9 of the Local Plan with regards to visual impact upon adjoining neighbours.
61. Objections state that the proposal would not promote a balanced and mixed community. Both the Environmental Health Team and Durham Constabulary have raised no objections to the scheme.
62. Whilst objections have been received, it is not considered that a refusal reason could be sustained in this instance. The proposal does not result in an increase in the number of properties within a C4 use however does create one additional bedroom. It is not felt that a significant detrimental impact could be demonstrated to occur as a result of this increase. As previously stated, the proposal is already in use as student accommodation therefore, the proposal does not involve the loss of an existing C3 dwelling. It is not considered that the additional activity associated with an additional 1 student would have a significant detrimental impact.
63. Inspectors decisions have considered that the change of use of a property which could accommodate up to 6 residents would not have a significant detrimental impact on the amenity of the area, therefore, it is considered that it would be difficult to refuse an additional 1 bedroom at this property given up to 5 students are already in occupation.
64. The proposal therefore, is not considered to have a significant detrimental impact on residential amenity in accordance with policy H9 and H13 of the City of Durham Local Plan.

Highways issues:

65. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate a level of traffic that would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property. This policy is not considered to conflict with the intentions of the NPPF as it too seeks to secure a good standard of amenity for residents.
66. Objections have been raised that the proposal provides no parking and therefore, is contrary to policy H9 which states that any development should provide adequate parking.
67. The development site is in a highly sustainable location with good access to public transport and within walking distance of local amenities. Providence Row lies within the Durham City Controlled Parking Zone therefore on street parking in this street is via permit parking or pay and display. Highways officers have been consulted on the proposal and raise no objection to the proposed development on this basis. They have stated that no further permits would be issued and given this any additional cars brought to the site would be subject to parking charges therefore additional demand would be limited due to this reason.
68. The proposal is therefore considered acceptable from a highways viewpoint in accordance with policy H9, T1 and T10 of the Local Plan and the NPPF.

69. Concern has been raised that bedroom 2 is too narrow in accordance with national space standards. The size of the room was considered to be adequate in terms of HMO standards however, the bedroom width did fall slightly short of the 2.15m as recommended within national space standards. Whilst this is not formally adopted as the Councils policy, it has been used as guidance in respect of room sizes. Amendments have been received to slightly increase the width of the extension to accommodate this and the proposal is therefore, now considered to meet the standards.

CONCLUSION

70. The principle of development and impact upon the residential area is considered to be acceptable as it is not considered that there would be any significant additional impacts of providing 6 bedrooms at the property as opposed to the current 5-bedroom HMO.
71. The dwelling can accommodate the additional bedroom while providing sufficient levels of amenity for the occupiers and neighbouring properties. There are no highways objections or environmental health objections and the proposal does not detrimentally impact on the character or appearance of the Durham City Centre Conservation Area.
72. The application is considered to meet the requirements of the National Planning Policy Framework and Policies E6, E22, H9, H13, Q9 and T1 of the City of Durham Local Plan 2004, as well as satisfying the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as it is considered to enhance the character and appearance of the Conservation Area.
73. Whilst there is some conflict with the interim policy on student accommodation, it is not felt that a refusal reason could be sustained on that basis given the existing housing mix would remain unaltered.
74. 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 approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy Q9 of the City of Durham Local Plan.

3. Notwithstanding any details of materials submitted with the application no development shall commence until samples of the walling and roofing materials as well as precise details of the new windows have been submitted to and approved in writing by the Local Planning Authority. 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, E22 and H9 of the City of Durham Local Plan and Parts 12 and 16 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

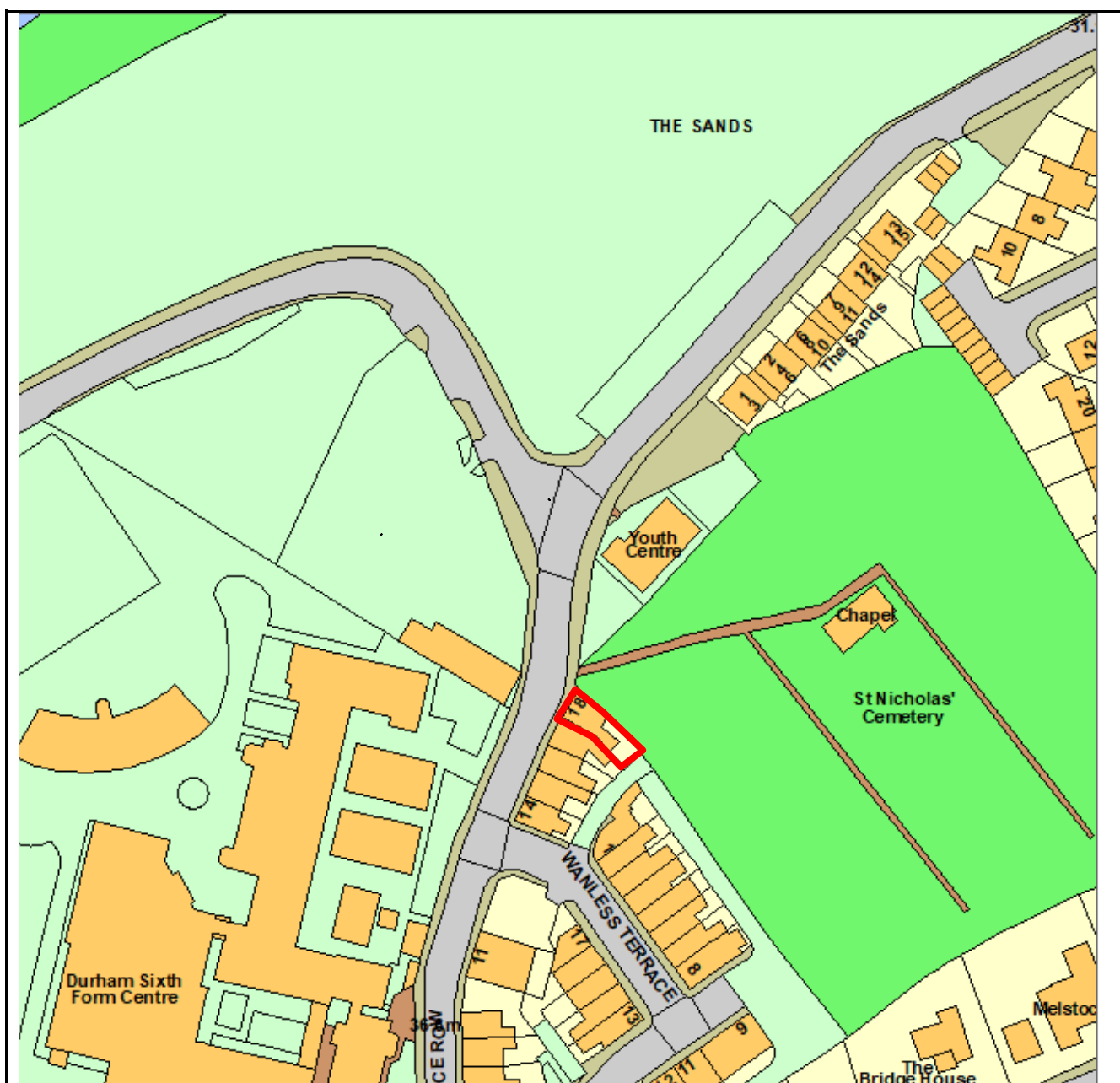
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



Planning Services

Demolition of existing rear extension and erection of two-storey extension at rear and installation of dormer windows in roof space also to rear to an existing small HMO (use class C4).at 18 Providence Row, Durham, DH1 1RS
Application Reference DM/19/03494/FPA

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Date January 2020

Scale NTS

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/03408/FPA
FULL APPLICATION DESCRIPTION:	Change of use from single dwelling house C3 with 2 bedrooms to HMO C4 with 4 bedrooms.
NAME OF APPLICANT:	Mrs Judith Thompson
ADDRESS:	29 Lawson Terrace Durham DH1 4EW
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. The application site relates to a mid terraced two-storey unlisted residential dwelling located on Lawson Terrace within Durham (City Centre) Conservation Area and in an area controlled by an Article 4 Direction removing permitted development rights relating to change of use from C3 dwelling houses to C4 Houses in Multiple Occupation (HMO).
2. Lawson Terrace, built circa.1898, is located within the western part of the designated area between the railway line to the north and Crossgate Peth to the south and Farnley Hey Ridge to the west. The locality is characterised by tightly-knit residential terraces in a grid-pattern with interconnecting back lanes. The properties in the street are of a red brick construction with narrow frontages enlivened by ground floor bay windows and stone detailing. The area is an important component of the townscape of the city representing its late 19th to early 20th century residential expansion brought about by the opening of the Durham coalfields.

The Proposal

3. This application seeks the change of use of the property from a 2-bed residential dwelling to a small 4-bed HMO (Use class C4). To facilitate this, the proposal seeks to convert the loft into two additional bedrooms with a total of 4 conservation style roof lights inserted into roof slope.

4. The application is referred to Committee at the request of the City of Durham Parish Council on the basis that the application is contrary to the requirements of policy H9 of the Local Plan and the Interim Policy on Student Accommodation which seeks to promote and preserve inclusive, mixed and balanced communities.

PLANNING HISTORY

5. DM/19/03438/FPA - Change of use from single dwelling house C3 with two bedrooms to HMO with 4 bedrooms and dormer window to rear roofslope. Withdrawn.
6. 4/97/00161/FPA – Erection of porch to rear of existing dwelling. Approved 12 May 1997.

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.
11. 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:

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:

City of Durham Local Plan

13. Policy E6 (Durham City Conservation Area) sets out the Council's aim to preserve the character, appearance and setting of the Durham City Conservation Area by ensuring high quality design.
14. Policy E21 (Conservation and Enhancement of the Historic Environment) states that the historic environment will be preserved and enhanced by minimising adverse impacts by development proposals.
15. Policy E22 (conservation Areas) sets out that the authority seeks to preserve and enhance the character and appearance of the conservation area by ensuring that development proposal should be sensitive in terms of siting, scale, design and materials where appropriate reflecting existing architectural features
16. Policy H9 (Multiple Occupation / Student Households) seeks to ensure that buildings in multiple occupancy do not adversely affect the character of the area and do not require significant extensions or alterations having regard to Policy Q9.
17. 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.
18. Policy Q1 (Design) sets out that the layout and design of all new development should take into account the requirements of users including personal safety and crime prevention and the access needs of everybody including people with needs of disabilities.
19. Policy Q9 (Alterations and Extensions to Residential Properties) states that extensions will only be approved when they met a set of specific criteria for example, including impact on residential amenity of neighbours and impact on streetscene.
20. Policy T1 (General transport Policy) requires all development to protect highway safety and/or have no significant effect on the amenity of occupiers of neighbouring properties.
21. Policy T10 (Parking - General Provision) states that vehicles parking should be limited in amount, so as to promote sustainable transport choices and reduce the land-take of development.
22. Interim Policy on Student Accommodation – adopted by Durham County Council in 2016.

RELEVANT EMERGING POLICY:

23. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An Examination in Public (EiP) of the County Durham Plan (CDP) is currently in progress. The programmed hearing sessions closed on 4th December 2019. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process at the present time. This position will be subject to review upon receipt of further correspondence from the Inspector.

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:

24. Highways – No objection, the proposal is within a controlled parking zone and no further permits would be given.
25. City of Durham Parish Council - objects on the basis that the creation of a new 4-bed student HMO capable of accommodating eight students is in direct conflict with the NPPF and Durham County Council's objectives and policies to promote the creation of, and preserve, inclusive, mixed and balanced communities and to protect residential amenity. The proposals are deemed contrary to Policy H9 and the Interim Policy on Student Accommodation.

INTERNAL CONSULTEE RESPONSES:

26. Environment, Health and Consumer Protection (Nuisance Action Team) – As this development is for residential in a residential area it is considered to fall outside of the scope of the TANS and no concerns or comments are raised in relation to this development. The proposal is not considered to cause a statutory nuisance.
27. HMO Officers have provided comments on room sizes and licensing requirements
28. HMO Data – Within a 100m radius of 29 Lawson Terrace, 68.9% of properties are student properties as defined by Council Tax records.
29. Design and Conservation – No objection to the proposal in principle however, amendments were requested to ensure that the roof lights were conservation style. An amended plan was submitted taking these comments into account and no further objections were raised.

PUBLIC RESPONSES:

30. The application has been advertised by means of site notice and by notifying neighbouring residents by letter, two letters of objection were received, with the following comments:

- One objection received from local ward member stating that proposals contravene the Interim Policy by reason of percentage of HMOs within 100 metres of site being in excess of 10 per cent threshold. The application should therefore be refused.
- City of Durham Trust states that they are concerned about the steady increase in the number of planning applications seeking to convert family dwellings to houses in multiple occupation. This is increasing the imbalance between the student population and the long-term resident population of Durham City. Instead we need to promote and preserve inclusive, mixed and balanced communities (NPPF, 8b). They object as proposals would be contrary to Interim Policy.

APPLICANT'S STATEMENT:

31. This property has been a family home for over 45 years and we wish to rent the house as a student let to make up for the daughter's lost salary as she is now a carer for her elderly mother. We appreciate the sensitivity in Durham to the creation of student rental properties, especially as we have experienced the changing nature of the area from an inside perspective. However, in support of our application we would like to highlight the following:

32. We are non-typical student landlords

- a. We are long-term Durham residents and live within close travelling distance of the house, with continuing connections in and regular visits to the city, and so will not be absentee landlords. We have contacts amongst local tradesmen, including our proposed builder (an experienced student landlord himself), meaning we will be well-equipped to oversee building work and promptly carry out repairs.
- b. We have a sentimental attachment to the house and are keen to retain its original character and provide high-quality accommodation that could revert to a family property should the area change in the future.
- c. We have offered the house to friends' children attending Durham University, subject to the planning approval being granted. Consequently, we are seeking to create a property of such a high standard that we would be happy for those close to us to live in it.
- d. Our aim is to offer a well-maintained home, renovated from top to bottom. We have conditionally appointed Bill Free Homes, a RICS regulated letting agent, to source and manage tenants. The house will therefore be updated and managed in consultation with them to ensure compliance with their standards and management plan.

33. We have no other option

- a. Expert opinion has told us that the house is not suitable for the 'normal' rental or private market, such as a young family or professionals working in the city, because of the high number of students in the street. The changes this has brought include:
 - i. Low-level but disruptive noise not conducive to family/working life late at night (e.g. doors banging closed, voices outside)
 - ii. The closure of both corner shops and a children's park
 - iii. The use of large communal bins
- b. Estate agents have advised the house is only suitable as a student let. It is therefore unsaleable as a non-student option and, were we to try to sell to a property developer, the value would be downgraded as a house that has had planning permission refused.

34. The similarity of our case to other successful applications/appeals

- a. The supporting case for 24 Mistletoe Street (APP/X1355/W/19/3220653) in the street adjacent to ours, for example, appears to be equally applicable to ours. The area already has such a high concentration of HMOs that the conversion of the remaining C3 dwellings will not have a detrimental effect.
- b. To our knowledge, our house is one of only 4 single-family homes left in the street. One of our next-door neighbours is already a student let, also with a loft conversion. Our house is literally in the centre of a street filled with students and backs onto additional student rooms. Encouraging non-student newcomers to increase diversity will be extremely difficult.

35. We hope that you will consider the case we have made above in support of our application and especially the fact that we are not typical student landlords.

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

36. 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 and appearance of the Conservation Area in which the property is located, residential amenity and highways issues.

Principle of the Development

37. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouse) to uses within C4 (houses in multiple occupation - HMOs). However, an Article 4 direction came into effect on 17 September 2016 withdrawing permitted development rights in this regard and as such planning permission is required.
38. Policy H9 of the local plan is relevant to this application which relates to the conversion of houses for multiple occupation. It states that such development will be permitted where adequate parking, privacy and amenity areas can be provided, where it will not adversely affect the amenities of nearby residents and is of a scale and character appropriate to its surroundings and where it will not result in concentrations of sub divided dwellings to the detriment of the range and variety of the local housing stock.
39. Policy H13 of the local plan is also relevant and states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents within them.
40. The approach contained within these saved policies is considered consistent with the general aims of the NPPF which requires the planning system to support strong, vibrant and healthy communities by ensuring a sufficient number and range of homes can be provided to meet the needs of present and future generations. The policies are therefore deemed up to date policies and can be attributed weight accordingly in determination of this application. Paragraph 11 of the NPPF is not engaged.

41. In addition to policies H9 and H13 of the local plan, the Council's Interim Policy relating to student accommodation is also relevant and states that the Local Planning Authority will not support the change of use of properties in instances where there is in excess of 10% of properties within 100 metres of the site already used as student accommodation. Whilst the Interim Policy has less weight than the saved policies of the City of Durham Local Plan it is nevertheless a material consideration and has been endorsed by cabinet following a 6 week consultation period ending April 2016. The threshold of 10% was derived from section 2 of the 'National HMO Lobby Balanced Communities and Studentification Problems and Solutions', 2008 and in this respect is considered up to date and accords with the aims of the NPPF.
42. The Council's Spatial Policy Section advises that the most recent up to date Council Tax information identifies that 68.9% of those properties within 100 metres of the site are currently occupied as student let accommodation.
43. Given this, the proposal would be contrary to the criteria as stated in the Interim Policy. However, the Interim Policy notes that there may be some cases where localised communities are already so imbalanced that the policy objective of protecting a balance is unlikely to be achieved. Criterion e) of the Interim Policy notes that changes of use from C3 to C4 would not be resisted, where an area already has such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm.
44. This issue has been considered by Inspectors as part of appeal decisions, and it has been indicated that a level of 61.8% or above is deemed to be the point at which an area is already imbalanced. This is a significant material consideration in the deliberation of the acceptability of the proposals, along with consideration of the context and character of the site and likely cumulative impacts of the development in this location.
45. Based on the above findings from appeal decisions, the proposal is deemed acceptable in principle falling to be considered under criterion e) of the Interim Policy, as the surrounding area is already unbalanced to an extent that would not be harmed by the introduction of a further single C4 HMO property.

Impact on the character and appearance of the Conservation Area

46. Local authorities have a duty to preserve or enhance the Conservation Area as set out in section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
47. In line with the legislative background, Part 16 of the NPPF relating to conserving and enhancing the historic environment is of direct relevance to this proposal and this states 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. This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. In line with this, local plan policy E6 requires that materials should be the same as or sympathetic to the traditional materials of the historic city or an individual street. Policy E22 further states that development should not be permitted where it would detract from the character or appearance of the conservation area or its setting and all development proposals should be sensitive in terms of design and materials, reflecting existing architectural details. Policies H9 and Q9 require any extensions or alterations to dwellings to be in scale and character with its surroundings and neighbouring residential properties.

48. To accommodate the additional two bedrooms, roof lights are proposed to be inserted into the roof resulting in minimal external alterations overall. Design and Conservation assessed the details of the proposals and accepted in principle the interventions proposed, however, requested that the drawings be amended to provide a greater vertical emphasis in keeping with the character of the host property and area in general. Amended drawings were submitted to this effect, and there are no further issues or concerns raised from heritage and design standpoint. The proposal is therefore considered to be neutral in terms of impacts upon the Conservation Area.
49. The proposal is therefore considered acceptable in respect of policies E6, E22, H9 and Q9 of the City of Durham Local Plan and to comply with section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 in that it will preserve the character and appearance of the Conservation Area.

Residential amenity

50. Policy H13 states that planning permission will not be granted for new development or changes of use which would have a significant adverse effect on the amenities of residents within them while Policy H9 also seeks to provide such safeguards.
51. It is accepted that HMO accommodation occupied by students results in differing patterns of activity to a standard family household. With the proliferation of HMOs within the Durham City area, these differing patterns of activities have resulted in some negative impacts on the amenities of residents within remaining family homes, such that the Article 4 direction along with the Interim Policy was introduced to try to stem the further loss of family homes and retain a balance in the community. The Interim Policy includes a possible exception to the restrictions, however, where an area may already have such a high concentration of HMOs that the conversion of remaining C3 dwellings will not cause further detrimental harm. An upper limit has not been specified in the policy. Guided by appeal decisions in this regard, the Council accepts that 61.8 per cent is the trigger point that allows criterion e) to be employed, and whilst it would be preferable for this upper threshold to be set at a higher percentage as put forward during the recent Examination in Public of the County Durham Plan, it would not be appropriate at this stage to apply a higher threshold in this instance, as the EIP Inspector is yet to report on this issue. Accordingly, the Council are not attributing any weight to the County Durham Plan at present. In addition, it would be difficult to demonstrate in this particular case that the addition of four students to an area already dominated by HMO's, as the viaduct area of the City is renowned for, would be materially more harmful in terms of loss of residential amenity through significant increase in noise and general disturbance, than activities associated with a family home. On this basis the potential harm associated with the change of use cannot be sufficiently demonstrated to warrant a refusal of this application.
52. The proposal would see the creation of two additional bedrooms, taking the total number of bedrooms to four. The ground floor of the property would remain largely unchanged with provision of a large lounge / kitchen / dining room space providing a good level of shared amenity space. The proposal accords with relevant space standards as decreed by Public Protection Officer for HMO Licence requirements.

53. Given the limited alterations proposed, no new issues of overlooking would occur and the application is, therefore, considered acceptable in relation to policy H9 and Q9 of the Local Plan with regards to impact upon amenity of adjoining neighbours.
54. In respect of noise and disturbance issues, the Environmental Health officers have raised no objections to the scheme.
55. The proposal therefore, has not been identified in this case as providing a significant detrimental impact on residential amenity and accords with policy H9 and H13 of the City of Durham Local Plan.

Highways issues:

56. Policy T1 of the City of Durham Local Plan states that the Council will not grant planning permission for development that would generate a level of traffic that would be detrimental to highway safety and/or have a significant effect on the amenity of occupiers of neighbouring property. This policy is not considered to conflict with the intentions of the NPPF as it too seeks to secure a good standard of amenity for residents.
57. Lawson Terrace lies within the Durham City Controlled Parking Zone therefore on street parking in this street is via permit parking or pay and display. Highways officers have been consulted on the proposal and raise no objection to the proposed development on this basis. They have stated that no further permits would be issued and given this any additional cars brought to the site would be subject to parking charges.
58. The proposal is therefore considered acceptable from a highways viewpoint in accordance with policy T1 and T10 of the Local Plan and the NPPF.

CONCLUSION

59. In conclusion, the principle of development and impact on the conservation area and surrounding residents is considered to be acceptable as, in line with findings within recent appeal decisions that have considered the Interim Policy, the addition of one further C4 HMO in this area would not cause significant additional impacts given the already high percentage in HMO use. The dwelling can accommodate the additional bedrooms while providing sufficient levels of amenity for the occupiers and neighbouring properties. There are no highways objections or environmental health objections and the proposal does not detrimentally impact on the character or appearance of the Durham City Centre Conservation Area.
60. The application is considered to meet the requirements of the National Planning Policy Framework and Policies E6, E22, H9, H13, Q9 and T1 of the City of Durham Local Plan 2004, as well as satisfying the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as it is considered to preserve the character and appearance of the Conservation Area.
61. The proposal has generated public interest, with letters of objection submitted. 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 approved plans listed in Part 3 - Approved Plans.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy Q9 of the City of Durham Local Plan.

3. The roof lights hereby approved on the front and rear elevations shall be conservation style roof lights as detailed within approved plan reference 2B Proposed Elevations received 25 November 2019.

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

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

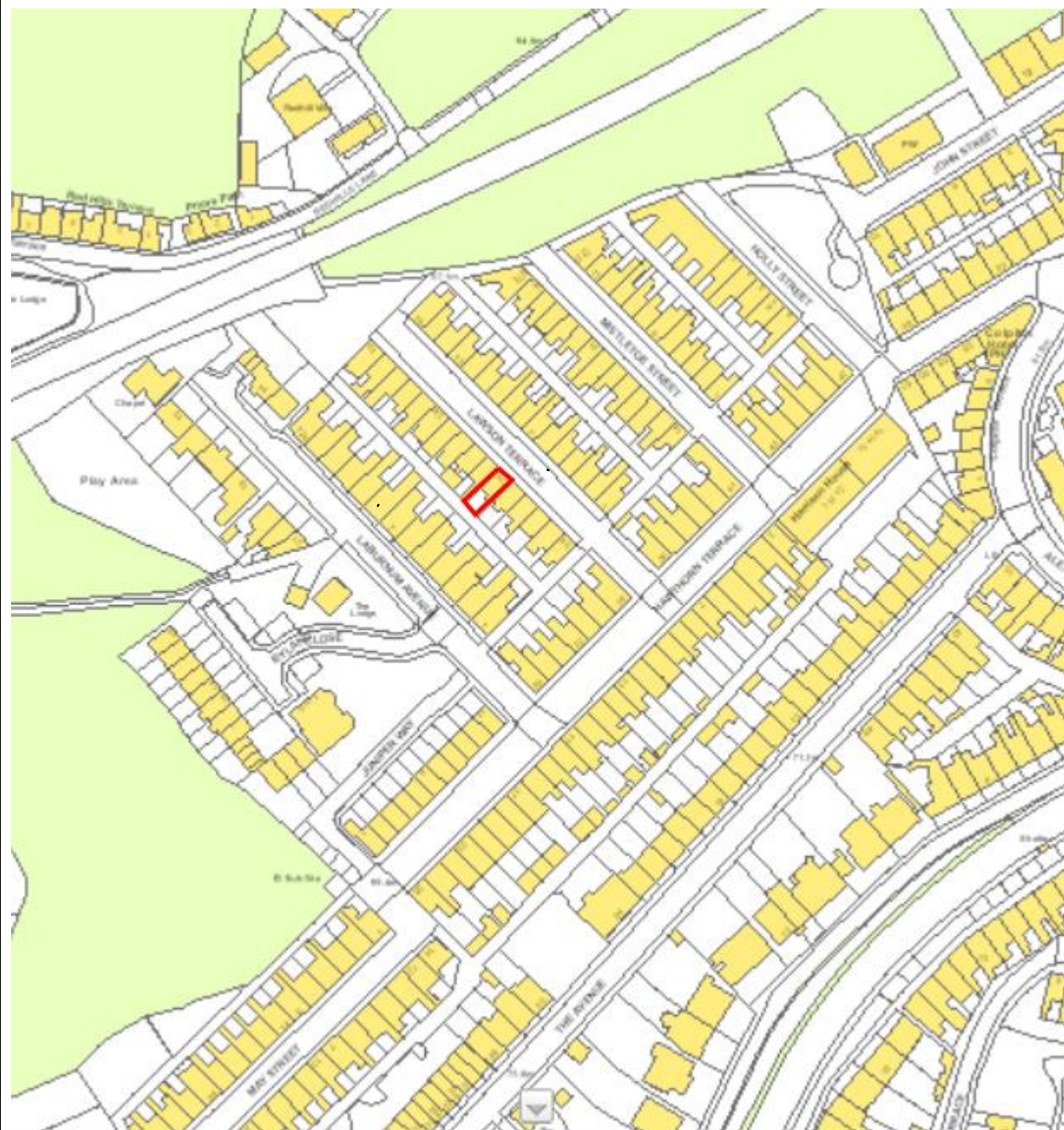
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham Local Plan

Statutory, internal and public consultation responses



Planning Services

Change of use from single dwelling house C3 with 2 bedrooms to HMO C4 with 4 bedrooms, at 29 Lawson Terrace, Durham, DH1 4EW

Application Reference DM/19/03408/FPA

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Date 14 January 2020

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/03409/AD
FULL APPLICATION DESCRIPTION:	Advertisement consent for the display of 2 No. Externally Illuminated Hanging Signs and 1 No. Internally Illuminated Fascia Sign
NAME OF APPLICANT:	Revolution Bars Limited Revolution Bar (Formerly Bishop Langley)
ADDRESS:	North Road Durham DH1 4PW
ELECTORAL DIVISION:	Elvet and Gilesgate Paul Hopper (Senior Planning Officer)
CASE 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 existing and well-established public house located at Framwellgate Bridge (Formerly the Bishop Langley) which is now occupied by the Revolution Bars Group. Planning permission was previously granted for a retractable roof at the site in 2019 and this has since been implemented.
2. The building presents a river frontage at ground floor level along with notable frontages to Framwellgate Bridge at the upper levels. It sits within Durham City Conservation Area, the setting of the UNESCO World Heritage Site at Durham Cathedral and Castle and within close proximity of a variety of listed structures. It also sits alongside Framwellgate Bridge which is a Scheduled Ancient Monument.

The Proposal

3. Advertisement consent is sought for the display of 1 No. illuminated fascia advertisement, 1 No. illuminated pole mounted hanging sign and 1 No. illuminated wall mounted hanging sign. Works to install all signage are now complete and as such this application is retrospective relating to the retention of all three items of signage as described.
4. All three items of signage were previously subject to an application for advertisement consent. However, this application was refused as the pole mounted sign was considered to have a significant detrimental impact upon the character of Durham City Centre Conservation Area the setting of the UNESCO World Heritage Site at Durham Cathedral and Castle and an enforcement notice requiring its removal issued.

5. The pole mounted sign was subsequently removed and replaced with the current sign which incorporates amended means of illumination and materials. This sign (along with the fascia sign and hanging sign) is currently unauthorised and as such this application seeks to regularise the position.
6. The fascia advertisement is located to the eastern elevation of the building immediately below the recent roof extension and is 2.6 metres wide by 295mm high with a projection of 40mm. It is internally illuminated and displays the following text on a green background 'REVOLUTION BARS'. The wall mounted hanging sign is also located on the eastern elevation of the building at a height of 5.57 metres from ground level. It is 1.2 metres tall by 900mm wide with a depth of 50mm and is externally illuminated displaying the corporate logo of Revolution Bars which comprises white, red and gold text on a black background.
7. The pole mounted hanging sign is located within the existing roof terrace immediately adjacent to Framwellgate Bridge and is situated at a height of 2.97 metres. It is 1.2 metres tall by 900mm wide and is externally illuminated displaying the corporate logo of the application comprising white, red and gold text on a black background and is of timber construction.
8. This application is being reported to Planning Committee at the request of the City of Durham Parish Council who have concerns regarding the impact of the signage upon the World Heritage Site and the character and appearance of the Durham City Centre Conservation Area.

PLANNING HISTORY

9. A previous application for the display of 1 No. illuminated fascia advertisement, 1 No. illuminated pole mounted hanging sign and 1 No. illuminated wall mounted hanging sign was refused in 2019 as it was considered the pole mounted sign would have a significant adverse impact upon the character and appearance of Durham City Conservation Area and the setting of the World Heritage Site.
10. An associated Removal Notice was subsequently served and required the removal of the sign. The applicant complied with the requirements of this notice and removed the sign although it is noted that this was replaced by the current pole mounted sign which is the subject of this application.

PLANNING POLICY

NATIONAL POLICY

11. 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.

12. 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;
13. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision taking is outlined.
14. *NPPF Part 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. Decisionmakers at every level should seek to approve applications for sustainable development where possible.
15. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - 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.

LOCAL PLAN POLICY:

17. The following policies of the City of Durham District Local Plan (CofDLP) are considered relevant to the determination of this application.
18. Policy E3 (World Heritage Site – Protection) Durham Cathedral and Castle World Heritage Site and its setting will be protected by restricting development to safeguard local and long distance views to and from the cathedral and castle and Peninsula in accordance with policies E1, E5, E6, E10, E23 and E24 and applying policies E1, E5, E6, E10, E21, E22, E23 AND E24 relating to green belt, landscape setting, conservation areas, listed buildings, and archaeological remains; and seeking the conservation and management of buildings, Archaeological remains, woodland and open spaces which make up the world heritage site and its setting.
19. Policy E6 (Durham City Centre Conservation Area) The special character, appearance and setting of the Durham (city centre) conservation area will be preserved or enhanced.

20. Policy E22 (Conservation Areas) The council will seek to preserve or enhance the character or appearance of the conservation areas within the City of Durham by not permitting development proposals which would detract from the character or appearance of the conservation area or its setting. All development proposals should be sensitive in terms of siting, scale, design and materials, reflecting, where appropriate, existing architectural details; not permitting the demolition of buildings which contribute to the area's character. Permission for the demolition of any significant building will not be granted until a detailed scheme for appropriate redevelopment of the site has been approved; protecting trees, hedgerows, landscape features, views and undeveloped areas which contribute to the character or appearance of the area and its setting; requiring a sufficient level of detail to accompany applications for development to enable an assessment to be made of its impact on the conservation area. In addition the council will also implement schemes for the enhancement of conservation areas where appropriate and as resources permit.
21. Policy E23 (Listed Buildings) seeks to safeguard listed buildings and their settings.
22. Policy Q16 (Advertisements - General Criteria) states that advertisement consent will be granted for non-illuminated and illuminated signs provided that their size, design, materials, colouring, and in the case of illuminated signs, on commercial premises for appropriate uses and particular opening hours, their form of illumination would not be detrimental to visual amenity or highway safety with particular attention paid to the impact of advertisements upon the character and setting of listed buildings and the character and appearance of conservation areas in accordance with policies E6, E22 and E23.

EMERGING COUNTY DURHAM PLAN:

The County Durham Plan

23. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An Examination in Public (EiP) of the County Durham Plan (CDP) is currently in progress. The programmed hearing sessions closed on 4th December 2019. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process at the present time. This position will be subject to review upon receipt of further correspondence from the Inspector.

Durham City Neighbourhood Plan

24. 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.

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:

25. The Highway Authority raises no objection to the application.

26. City of Durham Parish Council raise objection to the application and consider that the signage has a materially adverse impact on the World Heritage Site (Saved Policy E3), on Durham City's historic environment (Saved Policy E21), on the Durham City Conservation Area (Saved Policy E22), and on the setting of Framwellgate Bridge and other nearby Listed Buildings (Saved Policy 23); and is detrimental to visual amenity whilst showing no particular attention being paid to the impact of the signage upon the character and setting of listed buildings and the character and appearance of the Conservation Area (Saved Policy Q16).

INTERNAL CONSULTEE RESPONSES:

27. Design and Conservation Section raises no objection to the application as they consider it to have no demonstrable harm to the character, appearance or setting of the designated heritage assets.

PUBLIC RESPONSES:

28. World Heritage Site Co-Ordinator objects to the application stating that the sign is excessively distracting at night when seen in the view to key floodlit WHS buildings.
29. City of Durham Trust objects to the application echoing closely the comments of the World Heritage Co-ordinator noting that all the signage is prominent at night especially the freestanding sign when seen in the view to the key floodlit WHS buildings
30. The application has been publicised by way of site notice, press notice and notification letters sent to neighbouring properties. In addition to the responses listed above one letter of objection has been received which raises concern that the freestanding sign in particular would occupy a much more prominent position than the previous signs on this site, and that it spoils the initial view of the castle as you walk onto Framwellgate Bridge.

APPLICANTS STATEMENT:

31. This advertisement consent application is for the display of three signs to signpost and advertise this business and the Revolution brand within the street scene.
32. The signs are replacing the original Bishop Langley signs like for like. Two of the signs will be located on the front elevation, fronting the river Wear riverside footpath.
33. The other sign post pictorial adjacent Framwellgate Bridge and is visible along Silver Street. The signs are an integral part of the development's design and are an important part of directing customers to the venue and ultimately ensuring the commercial success of Revolution Bar in Durham. The design of the signs is of a high quality traditional construction and will compliment and enhance the appearance of the building. The signs will consist of individual letters, which will be internally illuminated by warm white LED's to highlight the 'REVOLUTION' name over the entrance, Whilst both the post and wall mounted pictorials will be of traditional construction with external linolite illumination typical of a traditional public house. The signs will in no way detract from the character or the appearance of the conservation area or the overall street scene.

34. The signs are of similar construction and appearance to other venues such as “Psyche” within the immediate vicinity of Framwellgate Bridge, benefiting from council approval. And when assessed against the policies of the NPPF (February 2019) and the saved policies of the Durham City Local Plan, the proposed signs comply with all relevant criteria. and therefore it is our view that this application should be approved.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

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

Amenity

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

40. As outlined the City of Durham Parish Council, City of Durham Trust and the World Heritage Site Co-Ordinator raise objection to the application with all raising fundamental concern regarding the impact of the freestanding pole mounted sign on the character and appearance of the Durham City Centre Conservation Area and the UNESCO World Heritage Site at Durham Cathedral and Castle. The main focus of concern is that the position of the sign in views towards the Cathedral and Castle, the size, design and means of illumination.
41. CDLP Policy Q16 in part advises that illuminated advertisements should be located on commercial premises for appropriate uses and particular opening hours, although it does not specify what an appropriate use comprises or provide any detailed advice with regards to particular opening hours. The development in question is an existing and well-established public house which has historically benefitted from signage in a broadly similar location previously for several years. The development to which the adverts relate is therefore commercial and operates hours similar to other comparable uses within the city centre. It is therefore considered reasonable that branding be applied to the site as is the case for other similar uses both within Durham and in other cities. Whilst the concerns of the City of Durham Trust, Parish Council and local resident are noted with regard to the pole mounted sign, it is nevertheless conceivable that visitors may wish to easily identify the property during hours of darkness and as such it is considered reasonable to allow them to do so through illuminated signage.
42. The building presents a river frontage at ground floor level and also presents notable frontages at street level to Framwellgate Bridge. It falls within part of Durham City Centre Conservation Area where it faces the riverside adjacent to Framwellgate Bridge, grade I listed and a scheduled monument. It is also within 100 metres of Durham Cathedral and Castle World Heritage Site (WHS) and falls within a significant public view that allows a clear understanding and appreciation of the visual drama and enduring relationship between the Castle, Cathedral, River Wear and the wooded gorge; such views underpin part of the WHS outstanding universal values.
43. With regard to the impact of the development upon designated heritage assets the proposed fascia and hanging sign are considered to have no unacceptable impact upon any designated heritage asset. With regard to the pole mounted sign, the pole mounting, rectangular double-sided form, and external static illumination are consistent with the design of signage previously displayed at the premises. It is also dimensionally slightly smaller, the former sign being 4320mm (total height) by 1040 (sign board width) the proposed 4170 by 900mm. While the slight reduction in depth, use of timber, and provision of a raised edge to act as a frame have been included as per officer advice.
44. The Council's Design and Conservation Section raises no objection to the fascia and hanging signs, and with regard to the pole mounted sign notes that this will inevitably feature in a significant view towards the World Heritage Site, most notably Durham Castle, and also in views along Framwellgate Bridge which is a scheduled monument. However, they note that in both day and night time views the revised design would be considered to reduce the visual impact to an acceptable level essentially equal to that of the former sign and as such offers no objection to the application.

45. Overall the design, appearance and siting of the advertisements proposed are considered acceptable in amenity terms having regards to both the general characteristics of the locality and having regards to heritage assets which include those upon which the Local Authority have statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990. The advertisements raise no issues with regards to aural amenity considerations.
46. Therefore, with regards to issues of amenity, the advertisements are considered to accord with CDLP Policies E3, E6, E21, E22, E23 and Q16 and Parts 12 and 16 of the NPPF. Policies E3, E6, E22 and E23 are partially consistent with the content of the NPPF and E21 and Q16 fully consistent and each can be attributed weight in the decision-making process.

Public Safety

47. The Town and Country Planning (Control of Advertisements) Regulations 2007 state that factors relevant to public safety include;
- i) the safety of persons using any highway, railway, waterway, dock, harbour or aerodrome (civil or military);
 - ii) whether the display of the advertisement is likely to obscure, or hinder the ready interpretation of, any traffic sign, railway signal or aid to navigation by water or air;
 - iii) whether the display of the advertisement in question is likely to hinder the operation of any device used for the purpose of security or surveillance or for measuring the speed of any vehicle
48. In addition, the advertisement NPPG notes that with regard to public safety all advertisements are intended to attract attention but that proposed advertisements at points where drivers need to take more care are more likely to affect public safety. In assessing an advertisements impact upon public safety the vital consideration is whether the advertisement itself, or the exact location proposed for its display, is likely to be distracting or confusing, that it creates a hazard to, or endanger people's lives.
49. In this regard the proposed fascia advertisements are positioned on external elevations which present to the River Wear and as such are not eminently visible in the wider locality. The freestanding pole mounted sign whilst visible in the wider locality does not appear unduly prominent and direct views are fleeting from the nearest adopted highway at Northroad/Crossgate. As such the Highway Authority offers no objection to the application.
50. All signage would therefore assimilate well into the surrounding streetscene and not endanger public safety in accordance with the requirements of policy Q16 of the CofDLP and NPPG relating to advertisements.

CONCLUSION

51. The Town and Country Planning (Control of Advertisements) Regulations 2007 state that applications for advertisement consent should be considered only in terms of their impact upon amenity and public safety.

52. With regards to amenity, it is considered that all signage would be appropriately designed and located, and despite their illumination, would not have an adverse impact upon the character of the area or either designated or non-designated heritage assets. It would therefore preserve the character and appearance of the Conservation Area and the setting of the listed buildings in accordance with sections 66 and 72 of the Listed Building Act. The Council's Design and Conservation Officers raise no objections to the proposal.

53. Turning to public safety, no objections are raised by the Highway Authority and the signage would be designed and located so as to not affect highway safety.

54. The application is therefore considered to accord with CDLP Policies E3, E6, E22, E21, E23 and Q16, as well as key advice within the NPPF most notably in Parts 12 and 16.

RECOMMENDATION

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

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

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

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

Drawing No.	Description	Date Received
	Location Plan	25/10/2019
REV 04	Signage Section Detail	25/10/2019
101 A	Plans and Elevations As Proposed	25/10/2019
	Proposed Block Plan	25/10/2019

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

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

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

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

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

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

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

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

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

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

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

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

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

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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

BACKGROUND PAPERS

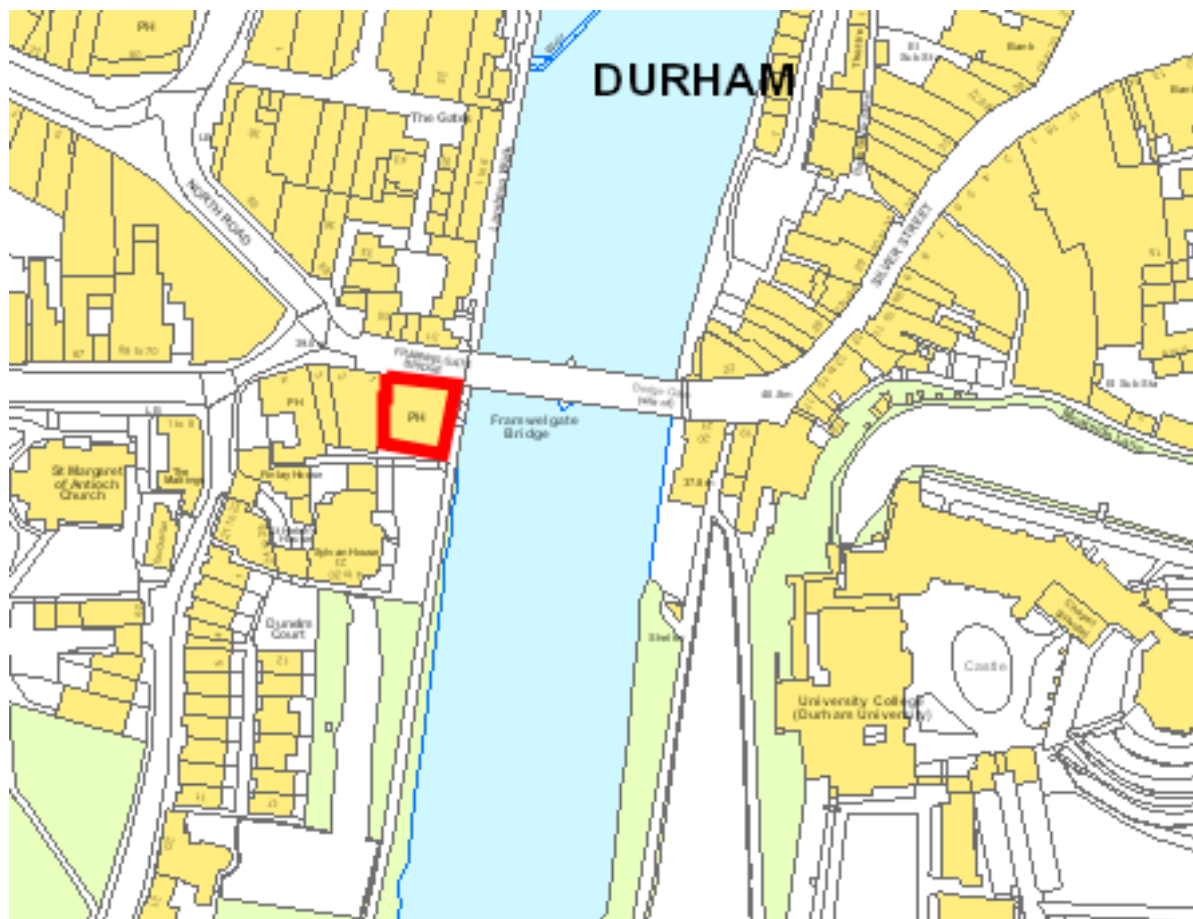
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2018)

National Planning Practice Guidance Notes

City of Durham District Local Plan

Statutory, internal and public consultation responses



Planning Services

Advertisement consent for the display of 2 No. Externally Illuminated Hanging Signs and 1 No. Internally Illuminated Fascia Sign

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Comments

Date

14 January 2019

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/19/02546/FPA
FULL APPLICATION DESCRIPTION:	Erection of 60 dwellings with associated access, infrastructure and landscaping
NAME OF APPLICANT:	Chapter Homes
ADDRESS:	Site Of Former Gilesgate Comprehensive School, Bradford Crescent, Gilesgate, DH1 1HN
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Laura Eden Senior Planning Officer 03000 263980 laura.eden@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is located off Bradford Crescent in Gilesgate. The site was formerly occupied by Durham Free School which closed in March 2015, with the buildings subsequently demolished the following year. The site is roughly square in shape and extends to approximately 2.45ha of scrubland and unmanaged grassland. Part of the site was previously used as sports pitches including tennis courts and a multi-use games area (MUGA) associated with the school. With regards to topography, the site is relatively level with only around 3m between the site's highest and lowest points.
2. Trees and hedgerows are typically restricted to the site's southern, eastern and western boundaries although there are a couple of small groups and some individual trees within the centre of the site.
3. Residential properties bound the site to the south/south-west, north-west and partially lie along its northern border. To the east lies Durham Gilesgate Primary School. There is a triangular shaped area of land to the north which accommodates the playing field/pitches associated with the former school use. A public right of way (Bridleway No.114 (Durham City)) runs between properties within Abbot's Row/Friar's Row to the north and Bradford Crescent to the south which extends into the application site before terminating partway through the retained access route into the site.
4. The site is located 400m to the south of Frankland and Kepier Woods Local Wildlife Site. Durham (City Centre) Conservation Area, containing a number of listed buildings, is located approximately 460m to the southwest. There are no landscape designations within or immediately adjacent to the site. The application site contains no watercourses, with the site lying entirely within Flood Zone 1.

The Proposal

5. The application seeks full planning permission for the erection of 60 dwellings. The proposal includes 9no. two, 23no. three and 22no. four bedroomed two storey properties and 6 no. two bedroomed bungalows, all of which come in a mix of detached, semi-detached and terraced options. The materials palette proposed includes three different red multi bricks, a tiled roof in either red, terracotta or grey and artstone heads and cills. Windows and doors are proposed to be white UPVC and anthracite grey, respectively. The proposal includes 25% affordable housing provision comprising of 9no. two bedroomed houses and 6no. two bedroomed bungalows which would be dispersed across the site. All properties feature off-street parking and enclosed rear gardens.
6. Access into the site would be taken off Bradford Crescent through an existing access point which formerly served the school. The plan indicates that amenity open space would be provided either side of the entrance, along the western-most edge and the northern-most corner, which also incorporates the SUDS basin. A number of existing trees internal to the development would need to be removed to facilitate the development. A landscape scheme has been submitted which proposes additional tree planting.
7. The application is being reported to the Central and East Area Planning Committee as it constitutes a major residential development proposal on a site less than 4ha and comprising of less than 200 dwellings.

PLANNING HISTORY

8. A number of planning permissions were granted relating back to when the site was in use as Durham Gilesgate Comprehensive School. These include the provision of new outdoor multi-sport area together with floodlighting (4/92/0026/FP), the erection of floodlighting and replacement fencing to tennis courts and the upgrading of the playing surface (8/928/4/50(8)), the extension of the sports hall and the formation of a floodlit athletics track (8/928/4/50(9)) and the refurbishment of the school hall (4/05/00592/CM).
9. Prior notification for the demolition of the school buildings was not required (DM/16/00078/PND) with the works taking place in 2016.

PLANNING POLICY

NATIONAL POLICY

10. 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.
11. In accordance with Paragraph 213 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).

The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.

12. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
14. *NPPF Part 5 - Delivering a Sufficient Supply of Homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
15. *NPPF Part 6 – Building a strong, competitive economy.* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
16. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. *Developments* should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
17. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
18. *NPPF Part 11 – Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
19. *NPPF Part 12 – Achieving well-designed places* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

20. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
21. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
22. *NPPF Part 16 - Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

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

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

LOCAL PLAN POLICY:

City of Durham Local Plan (2004) (CDLP)

24. *Policy E6 - Durham City Conservation Area*. Sets out the Council's aim to preserve the character, appearance and setting of the Durham City Conservation Area by ensuring high quality design.
25. *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.
26. *Policy E15 – Provision of New Trees and Hedgerow*. Encourages tree and hedgerow planting including in urban fringe areas.

27. *Policy E16 – Protection and Promotion of Nature Conservation.* Seeks to protect and promote nature conservation.
28. *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.
29. *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.
30. *Policy E23 – Listed Buildings.* The Council will seek to safeguard listed buildings by not permitting development which detracts from their setting.
31. *Policy E24 – Ancient Monuments and Archaeological Remains.* Seeks to protect such heritage assets by precluding development that would damage them. Pre-application evaluation or an archaeological assessment should be carried out, and where present such assets should be either preserved in situ or investigated and recorded.
32. *Policy H2 - New Housing within Durham City.* States that new residential development comprising windfall development of previously developed land will be permitted within the settlement boundary of Durham City provided that the proposals accord with Policies E3, E5, E6, Q8, R2, T10 and U8A.
33. *Policy H12 – Affordable Housing.* States that on sites of 25 or more dwellings or 1ha or more in size a fair and reasonable proportion of affordable housing will be provided.
34. *Policy H12A – Type and Size of Housing.* States that the type and size of dwellings will be monitored and where appropriate negotiation will take place with developers to provide the right housing types and sizes to ensure balance.
35. *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.
36. *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.
37. *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.
38. *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.
39. *Policy T21 – Walking.* States that existing footpaths and public rights of way should be protected.
40. *Policy R1 – Provision of Open Space.* Seeks 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. A minimum overall standard of 2.4 ha of outdoor sports and play space per 1,000 population will be sought.

41. *Policy R2 – Recreational and Amenity Space in New Developments.* States that in new residential development of 10 or more units, open space will be required to be provided within or adjacent to the development in accordance with the Council's standards. Where there is an identified deficiency and it is considered appropriate, the Council will seek to enter into a planning agreement with developers to facilitate the provision of new or improved equipped play areas and recreational/leisure facilities to serve the development.
42. *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 it is for new or improved facilities related to the use of the existing area for outdoor recreation, or it involves a small part of a larger recreational area which by doing so will bring about the enhancement of the remainder, or an alternative area of at least equivalent community benefit/value will be provided locally, or its loss will not prejudice the overall standard of open space for outdoor recreation within the immediate area as set out in policy R1.
43. *Policy R4 – Protection of Open Space Used for Recreation.* States that development of land (including playing fields) within school or other education establishment grounds which has been declared surplus to requirements which will be permitted provided that it is not likely to be required for educational or community purposes within the future, it will not reduce the overall standard of open space for outdoor recreation in the area as set out in policy R1 and in the case of land of sport and recreational value to the community its development is in accordance with policy R3.
44. *Policy R11 – Public Rights of Way and Other Paths.* Public access to the countryside will be safeguarded by protecting the existing network of PROW's and other paths from the development which would result in their destruction or diversion.
45. *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.
46. *Policy Q4 - Pedestrian Areas.* Requires that pedestrian area should be laid out and designed with good quality materials in a manner which reflect the street scene.
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 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.
49. *Policy Q15 – Art in Design.* Encourages the provision of artistic elements within new development.
50. *Policy U5 – Pollution Prevention – General.* States that development that may generate pollution will not be granted if that pollution would have an unacceptable adverse impact upon the quality of the local environment, upon the amenity of neighbouring occupiers or would unnecessarily constrain the development of neighbouring land.

51. *Policy U7 – Pollution Prevention – Development Sensitive to Pollution.* Developments which are sensitive to pollution will not be permitted on land which is subject to unacceptable levels of contamination, pollution, noise or vibration.
52. *Policy U8A – Disposal of Foul and Surface Water.* Requires all new development to have satisfactory arrangements for foul and surface water disposal.
53. *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.
54. *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.
55. *Policy U13 - Development on Unstable Land.* This policy states that development 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.
56. *Policy U14 – Energy Conservation _ Renewable Resources.* The council will encourage the effective use of passive solar energy and the reduction of wind-chill in the layout, design and orientation of buildings, and the use of energy efficient materials and construction techniques.

EMERGING PLAN:

The County Durham Plan

57. Paragraph 48 of the NPPF states that decision-takers may give weight to relevant policies in emerging plans according to: the stage of the emerging plan; the extent to which there are unresolved objections to relevant policies; and, the degree of consistency of the policies in the emerging plan to the policies in the NPPF. An Examination in Public (EiP) of the County Durham Plan (CDP) is currently in progress. The programmed hearing sessions closed on 4th December 2019. Although the CDP is now at an advanced stage of preparation, it is considered that it should not be afforded any weight in the decision-making process at the present time. This position will be subject to review upon receipt of further correspondence from the Inspector.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

58. *Belmont Parish Council* – Whilst having no wish to oppose the approval of this application would raise comments and observations in relation to affordable housing, education provision, drainage, trees, the construction management plan, traffic and open space.
59. *Highway Authority* – The site access and traffic impacts are set out in the TS and are acceptable. The layout of the scheme has been amended to address earlier comments. Driveway lengths are difficult to check on 1:500 scale plans but that issue will be addressed at the S38 stage where adoption will not proceed if overhang of footways could occur. The lack of visitor parking distribution should be considered in the planning balance for this application.

60. *Drainage and Coastal Protection* – No objections on the basis providing a condition is imposed to ensure the development is carried out in accordance with the agreed scheme.
61. *Coal Authority* – No objections as the content and conclusions within the Phase 2 Site Investigation in conjunction with the site investigation works undertaken and the proposed layout are sufficient to demonstrate that the application site is safe and stable for the proposed development.
62. *Sport England* – Object to the development on the grounds that the proposal is contrary to Sport England's Playing Field Policy and paragraph 97 of the NPPF on the basis that it would result in the loss of playing field with no adequate mitigation. Sport England place emphasis on their statutory consultee role and the weight to be attributed to their comments. The application should therefore be referred to the Secretary of State if resolution is for approval.

INTERNAL CONSULTEE RESPONSES:

63. *Spatial Policy* – The site is located within the settlement of Durham City. The application falls to be determined in accordance with the provision of Paragraph 11d of the NPPF. The site has been assessed through the SHLAA and was deemed suitable (green – proposed allocation within the CDP) for housing. The proposal will provide help provide a wider range of housing choice for the varying ages and householder types of the local population, and re-use previously-developed land. There are, therefore, no policy objections to the principle of developing this site for housing.
64. *Archaeology* – The geophysical survey indicates that site has been heavily disturbed and no further work is required.
65. *Compliance and Monitoring* – No objection or concerns with the proposed mitigation measures contained within the Construction Management Plan.
66. *Design and Conservation* – No objections are raised in relation to heritage impacts. The proposed development responds to the existing site features and wider residential area. The proposed layout creates a sense of arrival at the site entrance and generally well-defined streets. The scheme has been amended in accordance with earlier advice most notably at the entrance so that more trees are retained, corner turning units have been introduced to the majority of prominent junctions within the site and the layout seeks to break up parking areas. No objections from a design perspective.
67. *Ecology* – Raise no objection subject to securing a financial contribution and the imposition of conditions. Biodiversity offsetting is required to ensure there is no net loss to biodiversity. Therefore, a contribution of £14,750 is required to be used by the Council towards biodiversity enhancements in accordance with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy document. Conditions relating to the adherence to the recommendations outlined within the ecology report, a detailed landscaping scheme and maintenance regime to be agreed.
68. *Environment, Health and Consumer Protection (Air Quality)* – It is considered the dust suppression measures and the monitoring (Daily visual inspections with a weekly formal inspection) set out in the Construction Management Plan are proportionate to the assessed risks identified. No concerns or objections are raised in regards to the operational phase of the development with the impact of the proposed development including its associated vehicular movements deemed insignificant.

69. *Environment, Health and Consumer Protection (Pollution Control)* – No objection subject to the imposition of conditions to ensure specific noise levels are achieved and adherence to the submitted construction management plan.
70. *Environment, Health and Consumer Protection (Contaminated Land)* – Agree with the recommendations within the Phase 2 and ground gas assessments. Raise no objection subject to conditions to secure a Phase 3 remediation strategy and Phase 4 verification report. They also recommend an informative relating to unforeseen contamination.
71. *Housing Delivery* - Advise the area has a need for more 2 bedroomed affordable properties to rent and 3 bedroomed affordable home ownership. There is a higher demand for bungalow accommodation in comparison to neighbouring areas. A quarter of those actively seeking affordable rented properties are aged over 65, therefore provision should be made which meets the demands of older persons. This site is in an area which has a very high demand for affordable rented properties in comparison to neighbouring areas. It is advised that affordable housing should be dispersed throughout the development to avoid a concentration in one area of the development. This should be in small clusters of housing rather than single units pepper potted through the development. Information will need to be provided on the open market value of all affordable properties for the price to be discounted to an affordable level. Further discussion with the team would be welcomed. The submitted plan shows the type and location of the affordable housing to be provided which meets the requirements of the local area. No objection is raised.
72. *Landscape* – Acknowledge that the revised layout improves on the original as trees now retained to the site entrance would create a suitable gateway feature. The proximity of these now retained trees to the garden of plot 60 may cause future conflict. The Tree Protection Plan must be strictly adhered to throughout the development. The loss of one or two units or their substitution elsewhere may achieve a more sustainable design. The detailed landscape scheme is considered to be acceptable although the specification of larger tree irrigation systems needs to be provided.
73. *Landscape (Arboriculture)* – A number of high and moderate including some low value trees and groups are proposed for removal to facilitate the development. The layout has been amended which allows the retention of more trees at the entrance to the site however the proximity of the trees to the garden of plot 60 may cause future conflict. The trees and hedges that are to remain should be adequately protected prior to development. The protection measures outlined in the AIA of the report are considered to be acceptable and should be secured by condition. Whilst the tree and shrub species as shown on the detailed landscaping plan are satisfactory no planting systems are in place where trees are planting close to hard standing.
74. *Public Rights of Way* – Public Bridleway no.114 Durham City lies through the south west corner of this site. The scheme has been amended so that there is no obstruction to the bridleway route.
75. *School Places Manager* – It is considered that the development is likely to produce 18 primary pupils and 8 secondary pupils. Whilst there is sufficient capacity at the local primary schools there is insufficient capacity at the local secondary schools to accommodate this need. Consequently, a contribution of £132,432 would be required for the provision of additional teaching accommodation.
76. *Sustainability* – No significant concerns pertaining to the development of this site. The Council expects this scheme to improve upon Part L 2013. The applicant will also be aware that it is a requirement of Part L Regulation 25A that consideration of high efficiency alternative systems for new buildings must be considered. This should be secured by condition.

77. *Sustainable Travel* – No comments have been received in relation to public transport, walking and cycling. Due to the scale of the development a travel plan is not required.

EXTERNAL CONSULTEE RESPONSES:

78. *North Durham Clinical Commissioning Group* – Based on a standard approach to costing the impact of additional housing growth a financial contribution of £28,980 would be sought to make the proposed housing expansion supportable from a health infrastructure perspective.
79. *Police Architectural Liaison Officer* – The development seems well designed from a designing out crime point of view, with visitor parking, natural surveillance, cul de sac layout and rear gardens backing onto other rear gardens. It is requested that the scheme is amended to either remove private shared drives or ensure that they are well lit, remove unnecessary footpaths and to ensure footpaths that are proposed are well lit and avoid hiding spaces or dense shrubbery.
80. *Northumbrian Water Limited* – No objections on the basis providing a condition is imposed to ensure the development is carried out in accordance with the agreed scheme.
81. *The Ramblers Association* – No comments received.

PUBLIC RESPONSES:

82. The application has been advertised by way of a press and site notice and individual notification letters to neighbouring residents. 1no. letter of objection has been received. 5no. letters have been received which raise queries and observations in relation to the development.
83. The main concerns and queries raised by the objector and other respondents are summarised as:
- Highway safety concerns surrounding the adequacy of the access especially as there is only one way in and out of the estate.
 - A mine shaft is present on site.
 - Due to the damage caused to the drainage system through the demolition of this site there is considerable subsidence to the adjoining resident's garden.
 - Loss of a number of well-established trees which are rated as being of either moderate or high value. These trees provide a habitat for local wildlife.
 - Queries regarding which trees are due to be removed, whether the footpath between Bradford Crescent and Monks Crescent will be kept open during the development works, the impact that the development will have on their boundary and the separation distances between the existing and proposed development.
 - Urge that utmost importance is given to improving the drainage with history of drainage issues cited.
 - The Council has declared a climate emergency therefore it is disappointing to see that this has not been addressed within the submission.
 - Concerns regarding the accuracy and carelessness of the submission as some of the supporting documents incorrectly refer to the site as the former Gilesgate Primary School.

84. *The City of Durham Trust* - supports the redevelopment of this site for housing given it is currently overgrown, it lies within a sustainable location, it will provide family homes close to the city centre and the 25% affordable provision is welcomed. They do however express some reservations about the small size of most dwellings, the loss of trees and the carelessness of some of the accompanying reports.
85. *Gilesgate Resident's Association* – It is expected that residents will be neutral towards this development, but may have environmental and transport concerns, particularly regarding the lack of parking on the proposed development. A full response will be submitted once that the application has been discussed at a Public Meeting of Gilesgate Residents Association on Saturday 14 September 2019.

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:

86. An applicant's statement has not been provided.

PLANNING CONSIDERATIONS AND ASSESSMENT

87. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development, locational sustainability of the site, playing fields, highway safety and access, landscape impact, layout and design, residential amenity, ecology, flooding and drainage, heritage and archaeology, infrastructure and public open space, affordable and accessible/adapted housing, planning obligations and other matters.

The Principle of the Development

88. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The City of Durham Local Plan (CDLP) remains the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF.
89. The CDLP was adopted in 2004 and was intended to cover the period to 2006. However, NPPF Paragraph 213 advises that Local Plan policies should not be considered out-of-date simply because they were adopted prior to the publication of the NPPF. Notwithstanding this, it is considered that a policy can be out-of-date if it is based upon evidence which is not up-to-date/is time expired depending on the circumstances. Paragraph 213 also sets out that due weight should be given to existing policies, 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).
90. Policy H2 of the CDLP supports new housing development within Durham City comprising windfall development of previously developed land provided there is no conflict with particular policies of the plan and the site is not allocated or safeguarded for an alternative use.

The site which is the subject of this planning application is located wholly within the defined settlements limits of the City of Durham, relates to a previously developed site and is not allocated. As a result, the proposal is considered to draw support in principle from Policy H2. However, being a former school site, consideration must be given to the acceptability of the loss of land previously used for sport and CDLP Policies R1, R3 and R4 relate and this matter is discussed in detail elsewhere in the report.

91. Given the age of the CDLP and housing requirement figures that informed it, several housing chapter policies including Policy H2, do not reflect an up-to-date objective assessment of need, and must now be considered out-of-date for the purposes of Paragraph 11 of the NPPF, and the weight to be afforded to these policies reduced as a result.
92. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:-
 - c) approving development proposals that accord with an up to date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development 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.
93. The site has been considered within the Council's Strategic Plan Availability Assessment (SHLAA) (ref:4/DU/157) and has a suitable (green classification) on account that the site is considered to well contained within the settlement and has good link to services and facilities. The outcome of the assessment makes reference to the fact that the site has been declared surplus to educational requirements. Durham Free School which formerly occupied the site closed in March 2015 and the buildings were demolished the following year. The requirements of CDLP Policy R4 are, therefore, considered to have been satisfied with regards to the loss of the school building. The implications for playing fields will be addressed later within the report.
94. As set out above, it is considered that there are saved policies within the CDLP which provide a framework to assess the principle of the development, and that the proposals would accord with. For the purposes of Paragraph 11(d), there are considered to be policies most important for determining the application which are out of date and, therefore, the acceptability of the development must be considered in the context of Paragraph 11(d) of the NPPF, as above.
95. The acceptability of the proposed development rests on whether any adverse impacts of approving the development would significantly and demonstrably outweigh the benefits or whether there are any specific policies in the NPPF that indicate development should be restricted. Clearly, this former assessment can only be considered following an examination of all of the issues within the planning balance.

96. 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.
97. 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.
98. In a 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 NPPF. 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.
99. 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.
100. To summarise, the Council's position is 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 of the Site

101. CDLP Policies Q2 and T5 advises that the council 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. These policies are considered consistent with the NPPF, which also seeks to promote accessibility by a range of methods, and accordingly, they can be given full weight in considering the application. Specifically, the NPPF at Paragraph 103, sets out that the planning system should actively manage patterns of growth including, to promote walking, cycling and public transport use. Significant development should be focused in locations which are, or can be made, sustainable, through limiting the need to travel and offering a genuine choice of transport modes.

Further to this, Paragraph 110 of the NPPF sets out that applications for development should give priority to pedestrian and cycle movements and facilitate access to high quality public transport. Decisions should address the connections between people and places and the integration of new development into the natural and built environment.

102. The County Durham Settlement Study 2018 is an evidence-based document which seeks to provide an understanding of the number and range of services available within the settlements of County Durham. The site lies within Gilesgate which forms part of the Durham City Cluster comprising of seven named areas. The Durham City Cluster is the highest ranking settlement within the County based on the services and facilities within the area and is, therefore, considered capable of accommodating appropriate housing growth.
103. Durham Gilesgate Primary School adjoins the site. Within 300m of the site there is a public house and four premises including a convenience store, two takeaways and a hairdressers. The site lies within approximately 0.6km of Dragon Lane District Centre, 0.8km of the Durham City Retail Park and 0.8km of Dragonville Industrial Estate which contain a vast array of shopping and employment opportunities. In terms of distances to services and amenities, these are generally considered acceptable as set out in the Chartered Institute of Highways and Transportation (CIHT) documents including 'Guidelines for Providing for Journeys on Foot' and 'Planning for Walking', The Department for Transport's 'Manual for Streets', along with work undertaken by independent consultants. In general, a walking distance of 1650-2000m or a 20-minute walk is considered at the upper end of what future residents could be expected to walk, taking into account topography and desirability of routes. The walking routes to the amenities and services in the surrounding area are on adopted well-lit highways with no significant topographical restrictions. In terms of cycle access, the site performs well, with services being within a short cycle ride.
104. Bus stops lie within close proximity of the site on Bradford Crescent which provides a regular service between the Arncliffe Centre and Sherburn Village calling at Durham City Centre and operating throughout the week and into the evenings. All areas of the site would lie within the recommended 400m walking distance criteria to bus stops. More services are available on along Sunderland Road although these would be approximately 550m from the site boundary.
105. Paragraph 98 of the NPPF outlines that decisions should protect and enhance public rights of way and access including taking opportunities to provide better facilities for users. Policies R11 and T21 of the CDLP sets out that public rights and other paths will be protected therefore are considered consistent with the NPPF.
106. In this regard a public right of way (Bridleway No.114 (Durham City)) passes through the south west corner of this site before terminating partway through the retained access route into the site. The Council's Public Rights of Way Officer (PROW) has raised no objection to the scheme following the submission of amended plans which now show there will be no obstruction to the bridleway route. An informative is, however, recommended to be imposed relating to the protection of public rights of way. As such, the proposal would be in compliance with CDLP Policies R11 and T21.
107. Overall, it is considered that the site has access to a large array of services and facilities, to serve the development proposed and that these are within relatively easy reach of the site. Walking distances and established bus services would give future residents alternative options to the private motor car to access services. No objections are raised having regards to the locational sustainability of the site.

108. In conclusion, the development would promote accessibility by a range of methods in accordance with Policies Q2, R11, T5 and T21 of the CDLP and Paragraphs 103 and 110 of the NPPF.

Playing Fields

109. Paragraph 97 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.
110. CDLP Policies R1 and R3 seek to provide and protect recreational open space to the minimum level of 2.4ha per 1000 population. Policy R3 states the loss of open space currently used for recreation may only be permitted where the development: is for new or improved facilities relating to the existing recreational use; or it involves a small part of a larger recreational area which would bring about the enhancement of the remainder; or an alternative area of at least equivalent value will be provided locally; or its loss will not prejudice the overall standard of open space for outdoor recreation within the immediate area in accordance with Policy R1.
111. Policy R4 sets out that the development of land that has been declared surplus to educational requirements will be permitted provided that: it is not likely to be required for educational or community purposes in the future; and the scheme is in accordance with policies R1 and R3. Policies R1 and R3 are only partially consistent with the NPPF as they set open space provision levels that are no longer up to date.
112. The proposed redevelopment of the former Durham Free School includes areas of land used previously as sports pitches including tennis courts and a Multi Use Games Area (MUGA) associated with the former school, although it excludes the grassed pitches that lie to the north. The redevelopment proposals for this site do not include any direct replacement of the facilities to be lost. Sport England have been consulted on the proposal and advise that the proposal would result in the loss of 0.7ha of playing field and they estimate the cost of replacing the floodlit tennis courts at £275,000 and the small-side floodlit artificial grass pitch at £258,000. However, Sport England have also provided a range of costs for replacement provision. The maximum cost is cited as £533,000 whereas, at the other end of the scale, the cost of replacing the lost amount of playing field would be £100,000.
113. The Council's Playing Pitch Strategy (PPS) (2019) has recently been approved by the steering group. This document outlines there is a net undersupply of playing pitches across the County, therefore, the proposals would not satisfy criteria a) of paragraph 97 of the NPPF or Policy R4 of the City of Durham Local Plan in the sense that on a strategic level it has not been proven that the facilities are surplus to requirements. Criteria c) of this paragraph is not relevant as alternative sports provision is not being proposed. This only leaves part b) which sets out that the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location. As no direct replacement of the lost facilities is proposed, consideration needs to be given to what is an appropriate financial contribution to secure.

114. Policy R3 is applicable to open spaces currently used recreation. In this instance the open space to be lost has not been used for almost 5 years and as a result CDLP Policy R3 is not strictly applicable. The site was inspected when the school closed and the photographs taken at that time show that both the tennis courts and especially the MUGA were in a poor state of repair thereby significantly limiting their benefit to sport. Furthermore, the school has been closed for almost 5 years which in itself indicates that these facilities are not providing a key recreational function at present. The site has also been viability tested and the overall conclusions accepted. To ensure the development mitigates its impacts, is policy compliant and acceptable in planning terms this report will outline that the developer is required to make significant other contributions and obligations. Being a brownfield site there are also higher remedial costs to consider. Even if the lower figure of £100k is secured the site would return significantly lower profits than what would be expected. Notwithstanding this, the developer is happy to accept this return. On the basis of the aforementioned, a £100,000 contribution is considered to be a reasonable and justified approach (albeit Sport England do not consider this amount would provide replacement facilities to their current standard).
115. In terms of considering schemes which would provide equivalent or better provision in terms of quantity and quality in a suitable location it is noted that the PPS puts forward a series of recommendations across the five planning delivery areas. The application site lies within the 'Central' planning area and one of the recommendations relates to pitches within close proximity of the site. The Strategy indicates that the pitches (1 x adult, 1 x mini) associated with Durham Free School (the areas that lies to the north of the development site) are poor quality and currently unused following the closure of the school. It is also noted that the adjacent Gilesgate Primary school has interest in the pitches for community use and that their existing pitch is 'overplayed'. The two sites are linked within the PPS and there is a recommendation to 'improve the pitch quality in line with the Local Football Facility Plan' (LFFP). The LFFP for County Durham has recently been approved by the Football Foundation/FA. The former Durham Free School playing fields site is identified along with 28 other sites as priority projects for potential investment in grass pitch quality improvements. Improving existing pitch quality and providing additional pitches at the site would alleviate capacity issues across County Durham. The Council's Asset Management Section, in partnership with others interested parties, including the developer and headmaster of the adjacent school, have been working towards progressing a scheme which would help to realise this recommendation within the PPS.
116. Whilst the aforementioned appears to be a promising option it is considered advisable to allow a wider spending remit for the contribution to ensure the maximum level of flexibility. The applicant has agreed to provide a financial contribution of £100,000 prior to the commencement of development to be used towards the implementation of the recommendations within the Central Planning Area as contained in the Council's Playing Pitch Strategy. This contribution would be secured by means of a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). On this basis of the condition of the facilities, that they are not currently accessible to the public, and that there are known potential schemes which could deliver equivalent or better provision in terms of quantity and quality in a suitable location, the requirements of Paragraph 97 of the NPPF can be met.
117. Sport England have however objected to the proposal on the grounds that they consider that the proposal is contrary to their Playing Field Policy and paragraph 97 of the NPPF on the basis that it would result in the loss of playing field with no adequate mitigation. Sport England place emphasis on their statutory consultee role and the weight to be attributed to their comments. The Town and Country Planning (Consultation) (England) Direction 2009 advises that in situations where Sport England have objected to a development it must be referred to the Secretary of State for consideration. It is therefore not possible for Members to approve this application at the Committee Meeting.

118. CDLP Policy T1 precludes development proposals that would result in a level of traffic detrimental to highway safety or which would have a significant effect on the amenity of occupiers of neighbouring property. Policy T1 is considered consistent with the NPPF, which also seeks to ensure that a safe and suitable access can be achieved and, therefore, it can be given full weight in considering the application. The NPPF, at Paragraphs 108 and 109, also sets out that when considering development proposals, it should be ensured any significant impacts from the development on the transport network (in terms of capacity and congestion), can be cost effectively mitigated to an acceptable degree. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
119. Paragraph 111 sets out that all developments that would generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed. In this respect, the application is accompanied by a Transport Statement (TS) and a Travel Plan (TP). Collectively the submitted documentation considers the potential impacts of the development and the adequacy of the site for the development with respect to a range of highways and transport related issues.
120. CDLP Policy Q2 outlines that the layout and design of all new development should take account the requirements of all users including ensuring a satisfactory means of access and manoeuvring of vehicles. Policy Q2 is considered consistent with the NPPF and can be afforded weight. Though CDLP Policy T10, advising on parking provision, is a policy relevant to the proposal it is considered inconsistent with the NPPF in-so-far as limiting parking spaces within development and, therefore, attributed no weight in the decision-making process. Car parking standards are now outlined in the Council's Residential Car Parking Standards.
121. The development would utilise the existing access of Bradford Crescent which formerly served the school. The site access and traffic impacts are set out in the TS and the Highway Authority consider them to be acceptable. Following some amendments, the internal road layout has also been agreed and car parking would be provided in compliance with the minimum requirements outlined in the Residential Car Parking Standards. The Highway Authority, whilst noting that the required levels of visitor parking spaces are accommodated within the development, express concerns that these spaces are not evenly distributed throughout the scheme. They also note driveway lengths are difficult to check on submitted 1:500 scale. The agent has advised that they are confident that the layout shows the correct driveway lengths however if alterations are required this can be dealt with through the Section 38 adoptions process. The developer has, however, satisfactorily addressed all the other comments raised by the Highway Authority.
122. Overall, the highways impacts of the proposed development are considered to be acceptable in accordance with CDLP Policies T1 and Q2 as well as Part 9 of the NPPF. In the event of an approval two informatives relating to the Traffic Regulation Order and adoption would be added to the decision notice.

123. CDLP Policy Q8 requires that developments relate well to their built environment surrounds and seek to retain existing landscape features of the area. The Policy also requires adequate provision of open space and the establishment of a clear and defined road hierarchy. CDLP Policy H13 seeks to resist development that would have a significant adverse effect on the character or appearance of residential areas or the amenities of residents. CDLP Policies E14 and E15 seek to safeguard existing trees and hedges and provide new trees and hedgerows as part of new development proposals. CDLP Policy Q5 require a high standard of landscaping where a new development proposal would have an impact on the visual amenity of the area, and peripheral structural landscaping where the site lies on the outer edge of a settlement. Part 12 of the NPPF also seeks to promote good design, while protecting and enhancing local environments. Paragraph 127 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit. Due to their compliance with the NPPF significant weight can be afforded to CDLP Policies Q5, Q8, H13, E14 and E15 in this respect.
124. The development is well screened given it is largely surrounded by existing development and landscaping therefore would be more readily seen in views from the existing public right of way and footpath link between Friar's Row and Bradford Crescent. The proposed dwellings are considered commensurate in scale and design with the surrounding area. The proposed layout allows for natural surveillance of the public open spaces, SUDS basin and vehicular and pedestrian routes through the site and there are feature plots on the corners. Some areas of the site were considered to be dominated by parked cars however the layout has since been amended and a landscaping scheme has been developed to help soften this impact. The materials palette proposed includes three different red multi bricks, a tiled roof in either red, terracotta or grey and artstone heads and cills. Windows and doors are proposed to be white UPVC and anthracite grey respectively. The boundary treatment plan shows the proposed location and appearance of the proposed high close boarded timber fencing. Overall it is considered that this design approach would be adequately in keeping with the surrounding area.
125. The site relates to a former school site which closed in 2015 and was demolished the following year. The site consists of scrubland and unmanaged grassland with only some walls relating to the former use remaining. Paragraph 118 of the NPPF indicates that substantial weight should be given to the value of using suitable brownfield land within settlements for homes. The proposal meets these criteria being located within Gilesgate and entails the re-development of previously developed land. Development of the site would result in environmental improvement in terms of the overall appearance of the site. These benefits should be afforded substantial weight in the planning balance.
126. Both the arboriculture and landscape officer have raised concerns that a number of trees (and groups), the majority of these being of higher and moderate value, are required to be removed to facilitate the development proposal. To address these concerns the developer has amended the site layout around the entrance to the estate which retains a higher proportion of trees whilst still providing an acceptable gateway feature. Landscape and tree officers welcome these amendments although note that the proximity of the now retained trees to the garden of plot 60 may cause future conflict through overshadowing, proximity to their dwelling, falling leaves. A detailed landscaping scheme has been submitted in support of this application which seeks to partially address this loss and provide an attractive environment.

Furthermore, a tree protection plan has been prepared to ensure that the trees and hedges that do remain are protected throughout the construction period. Whilst the loss of trees is regrettable it is to a large degree unavoidable in respects to any housing proposal as a number of the trees to be removed lay internal to the site rather than around its boundary. Furthermore, the trees are not protected by any designation. The landscaping scheme proposed would provide additional tree planting. As will be outlined later in this report adequate levels of open space are considered to be provided within the site. Conditions would, however, be imposed to secure the scheme of landscaping, its future management and maintenance and tree protection measures. Overall, it is considered that there would be no significant adverse landscape impacts and the proposals would be compliant with policies Q5, Q8, H13, E14 and E15 of the CDLP and Part 12 of the NPPF.

127. A Building for Life Supplementary Planning Document (2019) (BfL SPD) has recently been adopted. In recognition of national planning advice (outlined above) and to achieve high quality housing developments DCC has adopted an in-house review process to assess schemes against the Building for Life 12 (BfL 12) Standards. The BfL SPD formalises the review process and establishes the guidelines and standards for its operation. It is linked to the Sustainable Design Policy (30) in the emerging County Durham Plan. Policy 30 of the County Durham Plan is not yet adopted. Full weight to the BfL SPD and how it operates in tandem with Policy 30 cannot therefore be provided. However, the SPD is still an adopted Council document and, therefore, weight can be attributed to it in the decision-making process.
128. At the start of the application process the scheme was considered against the BfL standard through a series of 12 questions. The scoring is based on a traffic light system with the aim of the proposed new development to secure as many “greens” as possible, minimise the number of “ambers” and avoid “reds”. The more “greens” achieved the better the development will be, “ambers” are usually concerns that can be raised to “green” with revisions, whereas a “red” gives a warning that a particular aspect needs strong reconsideration. The scheme scored relatively positively, achieving 6 green and 6 ambers. Since this assessment there has been amendments to the scheme to try and positively address areas of concern. The development now retains a higher proportion of trees, includes corner turning plots and the dominance of parked cars has been reduced. The scheme has not been referred back through the in-house review process as the scheme scored relatively positively to begin with and the amendments to the scheme have successfully addressed previous areas of concern.
129. Policy Q15 sets out that the Council will encourage the provision of artistic elements in the design and layout of the development. Although the NPPF is silent on public art, it is supportive of ensuring that development makes places better for people and the policy can be afforded some weight as a result. However, as the overall layout and design of the development is considered to be acceptable and due to viability concerns surrounding the site it is considered that it would not be reasonable or necessary to impose a condition in this regard.
130. With regards to landscape impact, layout and design the development would be compliant with policies Q5, Q8, H13, E14 and E15 of the CDLP and Part 12 of the NPPF.

Residential Amenity

131. CDLP Policy H13 of the states that planning permission will not be granted for new development that would have a significant adverse effect on the amenities of residents within them. CDLP Policy Q8 seeks to provide adequate amenity and privacy for each dwelling and minimise the impact on the proposal on existing residents.

These policies are considered consistent with Parts 12 and 15 of the NPPF, which require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.

132. The submitted site layout indicates that generally separation distances between dwellings in the development are in excess of 21m between facing principal elevations or 13m between principal and gable elevations as advocated in the Local Plan. There are a few instances where distances fall slightly short although not to an unacceptable extent. These all relate to relationships between the proposed dwellings. Distances standards with properties external to the development are comfortably achieved. As such it is not considered that any significant issues in terms of overlooking, overshadowing or overbearing impact would arise and as such that there would be no significant adverse residential amenity impacts.
133. In support of the application a boundary treatment plan has been provided which specifies the appearance, height and location of any proposed new fencing. The developer acknowledges that in cases where fencing is proposed adjacent to existing properties (which benefit from their own boundary fence) and trees an on-site assessment will be required. They would however generally prefer to install their own fence so as to define the new edge of the development. The approach outlined on the boundary treatment plan is considered to be acceptable and would not give rise to any significantly adverse residential amenity impacts.
134. Some of the proposed housing would be in close proximity of the existing school, therefore, the noise arising from this use and the impact to future occupants needs to be considered. Environment, Health and Consumer Protection (Nuisance) Officers advise a condition is imposed to ensure that the recommended internal and external noise levels can be achieved in the interest of the amenity of future occupiers. There is the potential for disturbance during the construction period, therefore, a Construction Management Plan (CMP) has been submitted in support of the application. Officers in both Environment, Health and Consumer Protection (Nuisance) and Compliance and Monitoring considered sufficient mitigation in this case would be provided subject to conditions to secure adherence to this and hours of working.
135. Similarly, Environment, Health and Consumer Protection consider that the development will not have a significant effect on air quality and there is no requirement to undertake further assessment. The dust suppression measures and the monitoring inspections as set out in the CMP are considered to be proportionate to the risks identified during the construction phase. As such, there would not be an adverse impact on the environment having regard to paragraph 181 of the NPPF.
136. The development would not lead to a significant reduction in residential amenity for existing or future residents, subject to appropriate conditions. Overall, the scheme would comply with CDLP Policies H13, Q1, Q2, Q4 and Q8 and Parts 12 and 15 of the NPPF.

Ecology

137. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. Policy E16 of the CDLP states that development proposals should take account of any nature conservation interest within the site by providing appropriate surveys, avoid any unacceptable harm and provide mitigation measures where appropriate. The advice contained within Policy E16 is considered consistent with that within the NPPF and can be afforded weight.

138. The site is located 400m to the south of Frankland and Kepier Woods Local Wildlife Site. An ecological impact assessment has been submitted in support of the planning application which contains the necessary data to assess the direct and indirect impacts of the development and potential impacts on protected species. The preliminary appraisal concluded that there may be a loss and severance of potential bat foraging areas and commuting routes, increased disturbance to bats through increased lighting on the site, harm and disturbance to nesting birds should tree felling take place during the bird breeding season, loss of areas suitable for nesting and foraging habitat to a range of species including birds, bats and hedgehogs and harm to species including hedgehog and common toad through entrapment if excavations are left open overnight. These species are afforded special legal protection under the Conservation of Habitats and Species Regulations 2017 and/or the Wildlife and Countryside Act 1981 (as amended).
139. Having regard to this information and based on the likely impacts of the development upon ecological interests Section H of the report outlines a series of recommendations, including carrying out of works at times of the year where disturbance will be minimised, ensuring excavations left overnight will have a means of escape for mammals, protecting the roots and crowns of trees during construction, implementation of a sensitive lighting scheme, the installation of bat and bird nesting boxes and additional planting. The mitigation strategy can be secured by condition.
140. Ecology officers have, however, raised concerns that in its current form the development would result in a loss of biodiversity without sufficient on-site mitigation to offset this. An assessment of these biodiversity losses has been undertaken which calculates the level of required compensation. The applicant has agreed to provide a financial contribution of £14,750, to be used towards offsite biodiversity enhancements in accordance with the framework identified in Durham County Council's Durham Biodiversity Compensation Strategy document, which would ensure that there is no net loss of biodiversity in regard to Paragraph 175 of the NPPF. This contribution would be secured by means of a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended).
141. No interference with protected species is identified as a result of the development. A European Protected Species Licence is therefore not considered to be required as a result of the development having regards to the requirements of the Habitats Directive brought into effect by the Conservation of Habitats and Species Regulations 2017. Therefore, subject to securing a financial contribution to deliver biodiversity offsetting and conditions relating to securing the mitigation strategy, a detailed landscaping scheme and a management plan for habitats to be created including an appropriate monitoring programme, the proposal would comply with CDLP Policy E16 and Part 15 of the NPPF in this respect. The Council's Ecologist offers no objection to the scheme on this basis.

Flooding and Drainage

142. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where, informed by a site-specific flood risk assessment. CDLP Policy U8A requires satisfactory arrangements to be made for the disposing of foul and surface water discharges. This policy is considered fully consistent with the content of the NPPF and can be attributed weight in the decision-making process.

143. The application is accompanied by a Flood Risk Assessment which highlights that the application site is within Flood Zone 1 with a low flood risk probability. Further information has been provided during the course of the application, including a drainage strategy and plan, indicating that SuDS are to be included in the form of a detention basin. Drainage and Coastal Protection Officers advise that this approach would be in compliance with the Council's adopted SuDS Adoption Guide. A conditional approach can be applied to secure the development takes place in accordance with the agreed scheme.
144. In relation to foul water, it is proposed to connect to the existing sewerage network, to which Northumbrian Water raise no objections.
145. On this basis no objections to the development on the grounds of flood risk or drainage are raised having regards to CDLP Policy U8A and Part 14 of the NPPF.

Heritage and Archaeology

146. A geophysical survey has been submitted which indicates that the site has been heavily disturbed which accords with the known history of the site having formerly been occupied by a school. Based on the level of disturbance shown, any remains are likely to have been severely truncated. On this basis the Council's Archaeologist confirms no further work is required. The proposal is therefore considered to comply with CDLP Policies E21 and E24 and Paragraph 128 of the NPPF. These Policies are considered partially consistent with the content of the NPPF and can be attributed weight in the decision making process.
147. There are no designated or non-designated heritage assets within close proximity of the development site. Durham (City Centre) Conservation Area, containing a number of listed buildings, is located approximately 460m to the southwest of the proposed built development. The nearest listed buildings to the site lie along Gilesgate where multiple Grade II listed buildings line the highway. The Planning (Listed Buildings and Conservation Areas) Act imposes a statutory duty that, when considering whether to grant planning permission for a development which 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 which it possesses. Any such harm must be given considerable importance and weight by the decision maker.
148. It is considered that there would be no intervisibility between the site and the aforementioned designated heritage assets due to the distances involved, intervening buildings, topography and landscaping. Design and Conservation officers have raised no objections to the proposal on heritage grounds. Paragraph 196 of the NPPF states that where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use. In this case it is considered that there would be no harm. The proposals would, therefore, accord with Part 16 of the NPPF and the requirements of CDLP Policies E6, E21, E22 and E23. These Policies are considered partially consistent with the content of the NPPF and can be attributed weight in the decision-making process.

149. CDLP Policy R2 seeks to ensure adequate recreational and amenity space in new residential developments. These targets have been revised under the Council's Open Space Needs Assessment (OSNA) 2018, which is considered the most up to date assessment of need for the purposes of Paragraph 96 of the NPPF. Therefore, whilst the general thrust of Policy R2 is consistent with the content of the NPPF, the evidence base in respects to open space requirements has changed and, in that sense, the policy is not fully up to date.
150. The OSNA sets out the requirements for public open space on a population pro rata basis, and this development would be expected to provide provision for five typologies, either within the site, or through a financial contribution towards offsite provision, in lieu.
151. Having regard to the scale of the development it is considered that play space (children's), amenity open space and natural green space should be provided on-site. Given the scale of the development the children's play space would comprise of a non-equipped play area. As there is an existing play area in close proximity of the development on land to the rear/west of Wakenshaw Road, (within approximately 500m to the south west of the site) it is considered more appropriate to secure an off-site contribution towards the enhancement of existing facilities. The required levels of on-site amenity open space and natural green space (1,980sqm) are provided for and indeed are exceeded on site. The development would generate a required contribution of £94,446 for those typologies not provided for on site, which would be secured through a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended). This would satisfy the OSNA requirements and Paragraph 96 of the NPPF with regards to the provision of public open space.
152. Paragraph 94 of NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities. The School Places and Admissions Manager advises that a development of 60 houses could produce an additional 18 primary pupils and 8 additional secondary pupils. Whilst there is sufficient capacity at the local primary schools therefore is insufficient capacity at secondary level at Belmont Community College. A contribution of £132,432 to be used towards education provision is therefore required. This would be secured as a planning obligation under Section 106 of the Town and Country Planning Act 1990 (as amended).
153. Paragraph 92 of NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. This provides policy justification to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal. The North Durham Clinical Commissioning Group (ND CCG) has advised that Dunelm Medical Practice, the surgery most likely to be impacted by the development, is undersized for their practice size. Based on the additional population likely to be generated by the development there is a requirement for a financial contribution of £28,980 to mitigate the impacts of the development. Notwithstanding this it is anticipated that the Council's 'Developer Contributions to Mitigate Impacts on Health Policy' will be progressed to Cabinet shortly for endorsement and the application of this policy would likely reduce the contribution sought. Given the potential for impending adoption of this policy the developer has requested a review clause in any Section 106 Agreement that would permit the contribution to reflect this policy should it indeed be adopted prior to its requirement to be paid. In either event the contribution sought would improve access to healthcare provision in Gilesgate and therefore make the proposed housing expansion supportable from a health infrastructure perspective.

154. Paragraph 62 of the NPPF sets out that, where a need has been established, an appropriate level of affordable housing should be provided. CDLP Policy H12 also encourages developers to provide for a fair and reasonable proportion of affordable housing, and for an appropriate variety of house types and sizes. The Council's Strategic Housing Market Assessment (SHMA) (January 2019) is the evidence base used to inform the need for affordable housing. This document confirms that there is a net shortfall of affordable homes per annum and also provides evidence to inform the tenure split for affordable housing (70% affordable rented housing to 30% intermediate products).
155. The site falls within the highest viability area. This means that 25% of the properties within the scheme would need to be affordable equating to 15 units. The first 10% (6no.) of the scheme should be provided in the form of affordable home ownership as directed by paragraph 64 of the NPPF and the remaining 15% should be in line with the SHMA (6no. affordable rented housing and 3no. intermediate products). The applicant has indicated that this level of provision would be delivered to be secured in perpetuity through a planning obligation under S106 of the Town and County Planning Act 1990 (as amended).
156. Paragraphs 59 and 61 is supportive of ensuring that the needs of groups with specific housing requirements are addressed including that of older persons. Policy H12a of the CDLP outlines similar requirements. The SHMA outlines there is a need to provide 10% of the private and intermediate properties for older person including level access bungalows or Building for Life provision. The scheme also includes the provision of 6no. semi-detached older persons bungalows which is equivalent to 10% of the overall site accommodation in accordance with these requirements.
157. In terms of housing mix, the development would provide a range of 2, 3, and 4 bedroomed properties and 2 bedroomed bungalows which would provide a mix of housing in compliance with CDLP Policy H12A and Part 5 of the NPPF.

Planning Obligations

158. Paragraph 56 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contributions towards ensuring net biodiversity gains are achieved, providing additional teaching accommodation, improving access to healthcare provision, the implementation of the PPS recommendations for the Central planning delivery area and off-site open space provision are considered to be in accordance with these tests, as is the securing of affordable housing.

Other Issues

159. Given the sensitive end use of the site a Preliminary Appraisal Report, Phase II Geo-Environmental Site Assessment and Ground Gas Risk Assessment has been submitted in support of the application. Environmental Health Officers agree with the recommendations and that conditions to secure a Phase 3 remediation strategy and Phase 4 verification report are required. They also recommend an informative relating to unforeseen contamination is applied. On this basis would ensure the site and the surrounding area would be safe from contamination risks the proposed development therefore complies with Policy U11 of the CDLP and Paragraph 178 of the NPPF which. This policy is considered fully consistent with the content of the NPPF and can be attributed weight in the decision making process.

160. The Coal Authority records indicate that there is a coal outcrop running through the site which may have been subject to historic unrecorded workings at shallow depth. There is also the presence of a recorded mine entry within the north west corner of the site. The application is supported by a number of desk-based assessments and intrusive site investigations have been undertaken. No evidence of coal seams or the mine shaft were encountered during the ground investigations. It was established that there is sufficient competent rock to mitigate possible risks from shallow mine workings at greater depths. The risk to this development from shallow mine workings is therefore considered to be low. As no evidence of the recorded mine entry was encountered a 36m easement from the recorded position of the mine shaft has been incorporated into the layout meaning no built development will take place within this part of the site.
161. The Coal Authority raises no objection to the proposal on the basis of the conclusions reached within the Phase II report and the proposed site layout. They also confirm no specific mitigation measures are required as part of this development proposal to address coal mining legacy issues. The proposal therefore complies with Policy U13 of the CDLP and Part 15 of the NPPF in demonstrating that the site is safe and stable for future development. This Policy is considered fully consistent with the content of the NPPF and can be attributed weight in the decision making process.
162. Part 14 of the NPPF advises that the planning system should support the transition to a low carbon future. CDLP Policy U14 encourages that the design of a building minimises energy consumption and includes energy efficiency measures therefore the policy is considered consistent with the NPPF. This requirement currently falls to be secured through Building Regulation requirements although moving forward the emerging County Durham Plan has a specific policy in this regard.
163. The proposal has generated some public interest. The majority of responses received raise queries in relation to the development with only one letter of objection having been received. The objections, queries and concerns raised have been taken account and addressed within the report, where appropriate. Any damage caused to neighbouring properties through the current condition of the site would be a private civil matter between the interested parties. The footpath between Bradford Crescent and Monks Crescent lies outside the development site therefore it should be unaffected by the development works. The information submitted in support of the application was consider sufficient to allow a full and proper assessment of the development proposals.

Planning Balance

164. The acceptability of the development should be considered in the context of Paragraph 11(d) of the NPPF as there are no relevant policies within the Local Plan which inform on housing. Furthermore, there are no NPPF policies that protect areas or assets of particular importance provide a clear reason to refuse the application and therefore in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.

Benefits

165. The development would assist in maintaining housing land supply including the provision of affordable housing whilst acknowledging that the Council can demonstrate in excess of 6 years housing land supply against an objectively assessed need. Accordingly, the weight to be afforded to the boost to housing supply as a benefit of the development is reduced.
166. To a degree the development would provide direct and indirect economic benefits within the locality and from further afield in the form of expenditure in the local economy. This would include the creation of construction jobs, as well as further indirect jobs over the lifetime of the development. A temporary economic uplift would be expected to result from the development and expenditure benefits to the area.

167. The development would provide an increased range of house types including 25% affordable housing provision and older persons accommodation which would meet an identified short fall within the County.
168. The development would result in the positive re-use of previously developed resulting in environmental improvements to the area.
169. Overall, based upon the ecological works proposed in addition to the financial contribution to be secured through a planning obligation under S106 of the Town and Country Planning Act 1990, it is considered that the development would lead to net gain in terms of biodiversity.

Adverse Impacts

170. No significant adverse impacts have been identified. The loss of a number of trees is regrettable but considered inevitable through the redevelopment of this site. Tree loss has been minimised where possible through amendments to the site layout, retained trees will be protected throughout the construction period and a detailed landscaping scheme will be secured. There is a Sport England objection although the Council do not consider there is a conflict with paragraph 97 of the NPPF subject to a S106 contribution being secured. The Highway Authority note that whilst the requisite number of visitor car parking spaces have been provided, they are not evenly dispersed throughout the site. Overall, whilst it is acknowledged that some limited harm would arise as a result of the aforementioned, this harm would not, it is considered, be significantly adverse.

CONCLUSION

171. The acceptability of the application should be considered in the context of the planning balance test contained within Paragraph 11d of the NPPF. Therefore, in order to justify the refusal of planning permission any adverse impacts of a proposed development must significantly and demonstrably outweigh any benefits.
172. Overall, the proposal is considered to represent a sustainable form of development which offers significant socio-economic benefits in a sustainable location with easy access to a wide range of services and via sustainable modes of transport. The scheme would relate well to the character and appearance of the area and is acceptable in all other respects.
173. No significant adverse impacts have been identified. Overall whilst it is acknowledged that some limited harm would arise, this harm would not, it considered, be significantly adverse. For the purposes of Paragraph 11d ii, this harm would not significantly and demonstrably outweigh the recognised, social and economic benefits of new housing even when considering the Council's housing land supply position. Therefore, in accordance with Paragraph 11 of the NPPF, the proposed development should be granted planning permission.
174. Paragraph 56 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The proposed contributions towards ensuring net biodiversity gains are achieved, providing additional teaching accommodation, improving access to healthcare provision, towards the implementation of the recommendations within the PPS and off-site open space provision are considered to be in accordance with these tests, as is the securing of affordable housing.

175. The proposal has generated some limited public interest. Of the eight letters received only one was a formal objection with the others raising concerns and queries. 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 in light of the benefits of the scheme and the ability to impose conditions and secure planning obligations under S106 of The Town and Country Planning Act 1990 (as amended).

RECOMMENDATION

That the Committee is **MINDED TO APPROVE** the application subject to the referral of the application to the Secretary of State; and, in the event of the application not being called in, the Head of Planning be authorised to determine the application subject to the completion of a Section 106 Legal Agreement to secure the following:

- provision of 25% affordable housing units on site comprising of 15 units (6no. for affordable home ownership, 6no. affordable rented housing and 3no. intermediate products);
- £132,432 towards providing additional secondary teaching accommodation at Belmont Community School;
- £94,446 towards improving offsite open space and recreational provision within Belmont Electoral Division;
- £28,980 for improving access to healthcare provision in the vicinity of the development but including a final sum review clause given potential adoption of Council's 'Developer Contributions to Mitigate Impacts on Health Policy'
- £14,750 is required to be used by the Council towards biodiversity enhancements in accordance with the framework identified in Durham County Council's Local Biodiversity Compensation Strategy
- £100,000 to be used towards the implementation of the recommendations within the Central Planning Area as contained in the Council's Playing Pitch Strategy

And subject to the following conditions:

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

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

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

Drg. no. PL01 Site Location Plan received 07/08/2019
Drg. no. PL15 Single Garage Plans and Elevations received 07/08/2019
Drg. no. PL16 Twin Garage Plans and Elevations received 07/08/2019
Drg. no. PL17 Double Garage Plans and Elevations received 07/08/2019
Drg. no. PL05 Rev. A Boundary Treatment Plan received 16/10/2019
Drg. no. PL18 Materials Distribution Layout received 16/10/2019
Drg. no. PL06 Rev. A The Chad – CH received 16/10/2019
Drg. no. PL07 Rev. A The Aiden – A received 16/10/2019
Drg. no. PL09 Rev. A The Mason – MA received 16/10/2019
Drg. no. PL10 Rev. A The Cuthbert – CU received 16/10/2019
Drg. no. PL11 Rev. A The Hild – HL received 16/10/2019
Drg. no. PL12 Rev. A The Desmene Variant – DV received 16/10/2019
Drg. no. PL13 Rev. A Bungalow received 16/10/2019

Drg. no. PL02 Rev. F Site Layout received 15/11/2019

Drg. no. 003-01 Rev. A Engineering Layout received 15/11/2019

Drg. no. AIA TPP Rev. B Arboricultural Impact Assessment Tree Protection Plan received 04/12/2019

Drg. no. AMS TPP Rev. C Arboricultural Method Statement Tree Protection Plan received 04/12/2019

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies E15, H2, H12, H12A, H13, T1, Q1, Q2, Q5 and Q8 of the City of Durham Local Plan and Parts 1, 4, 6, 7, 8, 10, 11, 12 and 15 of the National Planning Policy Framework.

3. No development shall take place until a Phase 3 remediation strategy based upon the findings of the submitted Phase 1 and Phase 2 reports (Preliminary Appraisal Report C8146, Phase II Geo-Environmental Site Assessment 19-329-r1 and Ground Gas Risk Assessment 18-329-GRA) have been submitted to and approved in writing by the Local Planning Authority. The Phase 3 remediation strategy shall, as necessary, include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use, in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

4. Remediation works shall be carried out in accordance with the approved remediation strategy (required by condition 3). The development shall not be brought into use until such time a Phase 4 verification report related to that part of the development has been submitted to and approved in writing by the Local Planning Authority.

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

5. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges scheduled for retention, have been protected in accordance with the details contained within the Arboricultural Method Statement (AMS TPP Rev. C) dated 22/11/19 by All About Trees Ltd and BS 5837:2012. Protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: In the interests of the visual amenity of the area having regards to Policy E14 of the City of Durham Local Plan and Parts 12 and 15 of the NPPF.

6. Notwithstanding the submitted information, prior to the occupation of the first dwelling a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include the following.

- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision.
- Seeded or turf areas, habitat creation areas and details etc.
- The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The approved landscaping scheme shall be implemented and completed in accordance with the approved details in the first planning season following the substantial completion of the development. Any trees or plants which die, fail to flourish or are removed within 5 years of completion of the development shall be replaced in the next planting season with others of similar size and species. Replacements will be subject to the same conditions.

Reason: In the interests of appearance of the area in accordance with Policies Q8 and Q15 of the City of Durham Local Plan and Parts 12 and 15 of the NPPF.

7. No dwellings shall be occupied until a scheme for the ongoing maintenance of the areas of public open space within the development hereby approved have been submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance and cutting schedule in perpetuity.

Reason: In the interests of appearance of the area in accordance with Policies Q8 and Q15 of the City of Durham Local Plan and Parts 12 and 15 of the NPPF.

8. The development shall be carried out in accordance with the recommendations outlined within Section H of the Ecological Appraisal R01 by E3 Ecology Ltd dated June 2019.

Reason: In the interests of ensuring no protected species are affected by the development in accordance with Part 15 of the National Planning Policy Framework.

9. The development shall be carried out in line with the drainage scheme detailed in the Flood Risk and Drainage Strategy dated June 2019 and drawing no. 003-01 Rev. A.

Reason: In the interest of the adequate disposal of foul and surface water in accordance with Policy U8A of the City of Durham and Part 14 of the NPPF.

10. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0800 to 1300 on Saturday.

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

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

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

Reason: To protect the residential amenity of existing and future residents from the development to comply with Policy Q8 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

11. The Construction Management Plan outlined within the Construction Management Plan dated 18/11/2019 shall 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 and future residents from the development to comply with Policy Q8 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

12. To protect future occupiers from nearby noise sources it must be ensured that the following noise levels are achieved

- 35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)
- 30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
- 45 dB LAmax in bedrooms during the night-time
- 55dB LAeq 16hr in outdoor living areas

Any noise mitigation measures required shall be first submitted to and approved in writing by the Local Planning Authority and thereafter installed prior to the beneficial occupation of the development in accordance with the approved details and shall be permanently retained thereafter.

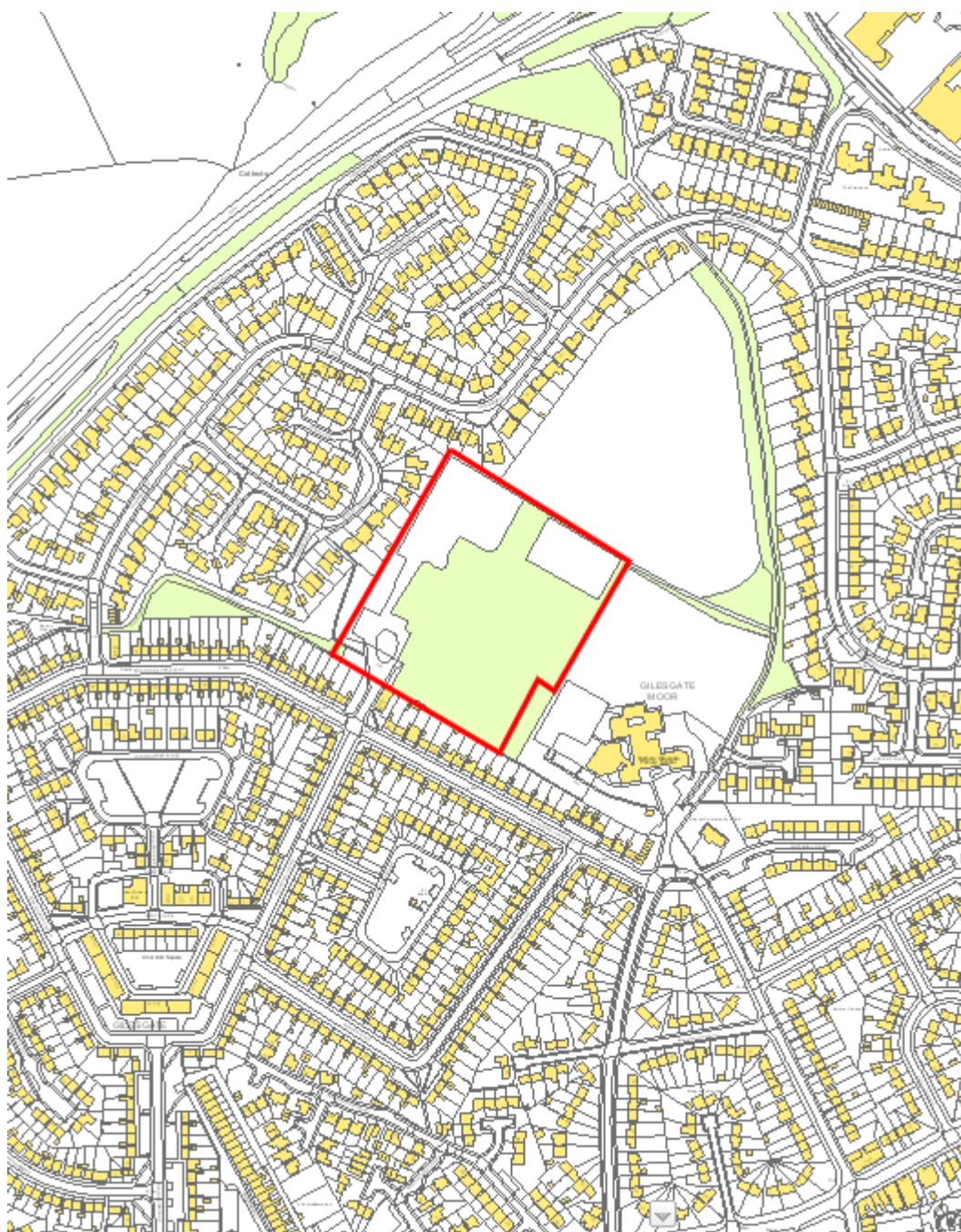
Reason: In the interest of the amenity of existing and future occupants in accordance with Policy Q8 of the City of Durham Local Plan and Part 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority 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.

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2019)
- National Planning Practice Guidance notes.
- City of Durham Local Plan
- County Durham Strategic Housing Land Assessment
- County Durham Strategic Housing Market Assessment
- DCC Sustainable Urban Drainage Systems Adoption Guide 2016
- Statutory, internal and public consultation response



Planning Services

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Erection of 60 dwellings with associated access, infrastructure and landscaping
 Chapter Homes
 Site Of Former Gilesgate Comprehensive School,
 Bradford Crescent, Gilesgate, DH1 1HN
 Ref: DM/19/02546/FPA

Comments

Date 14th January 2020

Scale Not to Scale

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