



## Area Planning Committee (Central and East)

**Date** Tuesday 9 March 2021  
**Time** 9.30 am  
**Venue** Remote Meeting - held remotely via Microsoft Teams

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### Business

#### Part A

#### Items which are open to the Public and Press

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 12 January 2021 (Pages 3 - 16)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
  - a) DM/20/03406/FPA - Hillrise House, 13 Durham Road West, Bowburn, Durham, DH6 5AU (Pages 17 - 28)

Replace conservatory with single storey extension, replace pitched roofs of rear extensions with flat roof, replace windows, apply render to ground floor front elevation, install electric gate to side, increase height of side boundary wall, replace felt hanging tiles with cladding between windows to front elevation and install security shutter (Part Retrospective) (amended description).
  - b) DM/20/03621/FPA - Former Community Health Clinic, School House, Front Street, Wheatley Hill (Pages 29 - 42)

Refurbishment into 5 individual self-contained flats.
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  
1 March 2021

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

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

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

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**DURHAM COUNTY COUNCIL**

**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held remotely via **Microsoft Teams** on **Tuesday 12 January 2021** at **9.30 am**

**Present:**

**Councillor J Clark (Chair)**

**Members of the Committee:**

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

**Also Present:**

Councillor L Brown

**1 Apologies for Absence**

Apologies for absence were received from Councillors I Cochrane, K Hawley, A Laing and J Robinson.

**2 Substitute Members**

Councillor J Blakey substituted for Councillor I Cochrane, Councillor L Pounder substituted for Councillor A Laing and Councillor I Jewell substituted for Councillor J Robinson.

**3 Minutes**

The minutes of the meeting held on 8 December 2020 were confirmed as a correct record by the Committee and would be signed by the Chair.

#### **4 Declarations of Interest**

Councillor D Freeman noted in respect of Item 5a - DM/14/03327/FPA - Fernhill, Newcastle Road, Crossgate Moor, Durham, he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not been party to their submission in objection to the application.

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

##### **a DM/14/03327/FPA - Fernhill, Newcastle Road, Crossgate Moor, Durham, DH1 4JZ**

The Chair asked the Solicitor – Planning and Development, Clare Cuskin to update Members in respect of a document circulated to the Committee by the Applicant’s Agent setting out a legal opinion they had obtained.

The Solicitor – Planning and Development noted that Members would have seen the Applicant’s legal opinion and noted it had largely rested upon “very special circumstances”, however, she reminded Members that was a judgement for the Committee to make. She noted the Applicant’s legal opinion contained three points: previous proposals by the Council within the County Durham Plan (CDP) process to delete the application site from the green belt; that the Council had previously agreed that the site made a limited contribution to the green belt purposes; and that the development might fall within one of the exceptions within Paragraph 145 of the National Planning Policy Framework (NPPF) and therefore the Applicant may not have to demonstrate very special circumstances in order for the application to be approved.

The Solicitor – Planning and Development noted the assertion that the Council had proposed the deletion of the Fernhill site from the green belt within the CDP process was not denied. She noted that, however, when the proposal to delete the site from the green belt was considered by the independent Planning Inspector, as part of the examination in public of the CDP, the Council and Applicant’s arguments in support of the proposal to remove the site from the green belt were rejected. She added that Inspector had gone so far as to indicated that the draft CDP could be unsound without a modification to delete the policy which proposed the Fernhill green belt deletion. She explained that following the adoption of the CDP, the Council had an up-to-date adopted Local Plan in which the Fernhill site remains within the green belt.

The Solicitor – Planning and Development noted the Council’s position, and that her advice to Committee, in respect of the assertions by the Applicant’s legal advisor, was that the Council did not consider the arguments put forward in a completely separate process, which were subsequently dismissed by the independent Planning Inspector, can or should be relevant to the determination of the current planning application.

In respect of the second issue, that the Council had previously acknowledged that the site makes a limited contribution to the green belt purposes, the Solicitor – Planning and Development noted it was not felt anything turned upon that point. She added she did not consider a need to go through the green belt purposes in order to identify the magnitude of harm. She noted the Officer’s report was clear that there was no harm identified to the green belt other than that which was deemed to arise due to the inherent inappropriateness of the development and the impact on the Area of High Landscape Value (AHLV).

In terms of the third main point, the Solicitor – Planning and Development noted that she did not agree with the Applicant’s assertion that the development might not amount to inappropriate development because it falls within one of the exceptions within Paragraph 145 of the NPPF. She noted that exception sets out that development on land which had previously been developed and would not have a greater impact upon the openness of the green belt than the existing development should not be considered to be inappropriate. She noted that clearly, in this instance, there would be greater impact upon the openness of the green belt as there would be buildings constructed on what currently was undeveloped land or largely undeveloped land.

The Solicitor – Planning and Development noted that for those reasons that the Officers’ position in respect of the application remained as set out within the report.

The Chair thanked the Solicitor – Planning and Development and asked the Case Officer to present his report.

The Senior Planning Officer, Barry Gavillet, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the erection of four detached dwellings with attached garages, demolition of the stable block, conservatory extension on Fernhill and erection of a car port / covered area for parking a horse box and was recommended for refusal.

The Senior Planning Officer referred Members to slides setting out aerial photographs, site plans, views of the site, house types, floor plans and proposed elevations. He explained as regards the green belt allocation, referred to plans of the extent of the green belt, and highlighted nearby buildings including Durham Johnston Comprehensive School, the University Hospital of North Durham, and County Hall.

In reference to statutory responses, the Senior Planning Officer noted no comment from Northumbrian Water Limited and no objections from the Highways Section subject to conditions. He added there were no objections from the Drainage Authority. He noted the City of Durham Parish Council had objected to the application, noting the Inspector, at the time of the inquiry into the CDP had concluded that Fernhill should remain in the green belt.

The Senior Planning Officer noted in respect of internal consultees, Spatial Policy had concluded that the proposal was likely to be inappropriate in the green belt as it would reduce openness. He explained that Design and Conservation had noted that the design of the executive homes, conservatory and carport would be acceptable, and details would be of high quality. He added that the Nuisance Action Team had offered no objection subject to the inclusion of a condition requiring a construction management plan. Members were informed that the Ecology Team had no objections subject to a condition ensuring the mitigation contained in the submitted ecology surveys. The Senior Planning Officer explained the Archaeology Team had no objections, subject to a condition requiring further investigative work being carried out. The Committee were informed that the Landscape Section had commented that the proposals would broadly conserve and enhance the contribution made by the site's vegetation to the AHLV however, would erode its open character to a degree. The Senior Planning Officer noted the Landscape Section had noted the harm would be localised, but noticeable from public vantage points in the immediate vicinity.

The Senior Planning Officer noted the Coal Authority had no objections to the proposals and a letter from the MP for the City of Durham noted that despite the apparent willingness by the Local Authority to remove the site from the green belt through the CDP process, the Planning Inspector chose not to agree and left Fernhill within the Green Belt. He added that the MP asked that all circumstances surrounding the land were considered when determining the application.

Members were asked to note 16 letters of support had been received, stating that the proposals would lead to much needed executive housing, which in turn would contribute to the local economy, and that the site made no contribution to the green belt.

It was noted there had been nine letters of objection received, with issues raised including: that the proposals would lead to a loss of privacy and light; an increase in traffic; a harmful landscape impact; flood risk; that there has been a previous refusal; and that the site should remain in the green belt.

In terms of the principle of development, the Senior Planning Officer noted that the CDP was the statutory development plan and the starting point for determining applications. He added that the Planning Inspector's report into the CDP had confirmed that the site should remain in the Durham City Green Belt. He added that the site was viewed as being located outside of the built up area and also in an AHLV. He noted that the proposal was considered to be inappropriate development in the green belt as it would reduce openness and very special circumstances had not been proven. He noted that therefore the proposal would be contrary to CDP Policy 20 (Green Belt) and 39 (Landscape) and parts 13 (Green Belt) and 15 (Natural Environment) of the NPPF.

In reference to the impact on the green belt, the Senior Planning Officer noted the site was located within the green belt and CDP Policy 20 (Green Belt) stated that proposals would be determined in accordance with the NPPF. He added NPPF Paragraph 133 noted that the fundamental aim of green belt policy was to prevent urban sprawl by keeping land permanently open; the essential characteristics of green belts were their openness and their permanence. He explained that NPPF Paragraph 143 stated that inappropriate development was, by definition, harmful to the green belt and should not be approved except in very special circumstances. He added that the construction of four new residential dwellings was considered to be inappropriate development. He explained the benefits identified relating to the provision of executive housing and resulting economic benefits were not considered to constitute very special circumstances and therefore the proposal was contrary to Policy 20 of the CDP and NPPF part 13.

The Senior Planning Officer explained that the design of the large executive homes would be acceptable and was of a high quality. He noted the proposed layout of the site was appropriate and was of minimal harm to Fernhill, The Lodge and Club Lane. He added separation distances to existing properties could be achieved and amenity standards for future residents would be acceptable. He noted a large number of trees and shrubs around the site would be retained and an additional appropriate landscaping scheme would be introduced. The Senior Planning Officer noted that overall, the design and layout of the proposals were of high quality in accordance with Policy 31 of the CDP, part 12 of the NPPF and Policy D6 of the Durham City Neighbourhood Plan.

He explained that the Highways Section had confirmed that safe access and egress from the site could be achieved subject to an upgraded access point and a protected right hand turn on the A167 and reiterated that the Ecology Section had no objections subject to the proposed biodiversity mitigation being conditioned.

The Senior Planning Officer noted, in summary, that the proposal was considered to be inappropriate development within the green belt and therefore by definition was harmful. He noted that additional harm arose due to the impact on the openness of the Green Belt and the benefits of the proposal were restricted to a modest boost to executive housing supply and the resulting economic benefits. He added the application and supporting information failed to demonstrate very special circumstances which were required by CDP Policy 20 and Paragraph 145 of the NPPF. The Senior Planning Officer explained the contribution to housing supply was notably reduced as the Council was now able to demonstrate a housing land supply in excess of 5 years.

The Senior Planning Officer noted reference to the impact on the AHLV would need to be included and therefore it was recommended that the application be refusal as it was considered that the proposal would harm the openness of the Durham City Green Belt and constituted inappropriate development without very special circumstances to indicate otherwise and would have an adverse impact on the AHLV, contrary to Policies 20 and 39 of the CDP and Parts 13 and 15 of the NPPF.

The Chair thanked the Senior Planning Officer and asked Parish Councillor Roger Cornwell to speak on behalf of the City of Durham Parish Council in relation to the application.

Parish Councillor R Cornwell thanked the Chair and Committee for the opportunity to speak in relation to the application. He explained that Fernhill and the field next to it were Green Belt and had been so since 2004. He noted they performed the essential role of connecting Flass Vale to the broader countryside beyond.

He noted that Mr Bracewell was aggrieved that Fernhill was included in the Green Belt. It was added that County Council proposed, in the various drafts of the CDP, that it should be removed. Parish Councillor R Cornwell noted the Parish Council, and others, felt it should remain in the Green Belt and all made their case, either in writing or in person, to the Inspector at the Examination in Public which was held in October 2019.

Parish Councillor R Cornwell noted that Mr Bracewell's case had been in writing and set out why he felt Fernhill should not be in the Green Belt. Parish Councillor R Cornwell added that Mr Bracewell's arguments were essentially the same as those he advanced in favour of his planning application and were set out in paragraph 61 of the Officer's report. It was added that they were based on paragraph 134 of the NPPF and all of the arguments about the manner in which the land had been included in the Green Belt in 2004 were put to the Inspector.

Parish Councillor R Cornwell explained that the Inspector was 'clued up on the background' and considered all of those arguments and decided that Fernhill should remain in the Green Belt. He noted that on 28 October 2019 the Inspector issued an action point "Council to prepare potential main modifications to the Plan and changes to the Policies Map to reflect my finding that there are not exceptional circumstances to justify removing land at Fernhill and the former Lumley Boys School from the Green Belt." Parish Councillor R Cornwell asked Members to note that the responsibility was on the Council to come up with the wording of the main modification and they did so and the submitted Draft Policy 21, which deleted Fernhill from the Green Belt, was then removed from the Plan by the County Council.

The Committee was asked to note that after delays caused by COVID-19, the CDP was approved on 21 October 2020 by resolution of the full Council and Fernhill remained in the Green Belt.

Parish Councillor R Cornwell noted that anybody aggrieved by the Plan had six weeks to challenge it in the High Court and he explained he did not know if that had happened, adding the Solicitor may be able to advise the Committee.

Parish Councillor R Cornwell noted he would turn to the statement of case made by the Applicant and the Committee report, noting Members would need to bear in mind he had not seen the document circulated by the Applicant's legal advisors. He added that the Applicant referred to statements of common ground previously reached with County Council Officers and noted all of those had been superseded by the Inspector's findings. He noted that the Applicant stated: "the development will not impact on the five purposes of the Green Belt, which is the key consideration in the determination of this application." Parish Councillor R Cornwell noted that was wrong, adding that the Applicant had referred to a set of criteria used in plan-making, not in determining planning applications. He added that proposals affecting the Green Belt had to be assessed in accordance with paragraphs 143 to 147 of the NPPF.

He noted that they stated that “A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt.” and “Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.” Parish Councillor R Cornwell explained Paragraph 145 set out a list of exceptions, none of which had been put forward by the Applicant, unless they were within the document circulated by the Applicant’s legal advisor and the Solicitor had dealt with those issues, and as far as he could see none of them applied anyway.

Parish Councillor R Cornwell noted that Mr Bracewell’s arguments amounted to a re-running of matters that had been decided during the examination of the CDP and endorsed by the full Council when Members adopted the Plan.

Parish Councillor R Cornwell asked Members to note one final point: the planning portal had a letter from Mary Foy MP which some people had taken as expressing support for the application. He added it did not, explain that throughout it stated: “Mr Bracewell informed me” and “Mr Bracewell indicated to me” and so on. He noted that what the letter did was to outline her Constituent’s case, however, she did not say she supported it. He noted the MP’s letter ended “I very much hope that all of the circumstances surrounding this land can be considered when a determination is reached.” Parish Councillor R Cornwell noted that the Parish Council endorsed those sentiments, which he would have thought went without saying. He concluded by noting when Members reached a determination in this case, there was only one conclusion that Members could reach, which was to refuse the application and he asked them to do so.

The Chair thanked the Parish Councillor R Cornwell and asked Local Member, Councillor L Brown to speak in relation to the application.

Councillor L Brown thanked the Chair and Committee and apologised for any repetition within her address to Members. She noted she was speaking in relation to the application because her predecessor, Councillor G Holland, had, quite rightly, called it to Committee six years ago. She added that at that time, the status of the land was in dispute. She noted that in the intervening years there had been an Examination in Public for the new CDP and added that the Applicant had put his case to the Inspector then and it was found to be “unsound”. She explained that Inspector Fieldhouse recommended that “the Policies Map should be amended to retain Fernhill... in the Green Belt”, as described in Paragraph 72 of the Committee report. Councillor L Brown explained that the CDP was adopted in October 2020 and it gave the proposed application site Green Belt status and therefore protection under policies 20 and 39, supported by NPPF Part 13 and 15.

She noted the Officer had recommended the application for refusal and she asked that the Committee supported his recommendation to protect the green spaces around Durham City.

The Chair thanked Councillor L Brown and asked Mr Paul Bracewell, the Applicant, to speak in support of his application.

Mr P Bracewell thanked the Chair and Members for the opportunity to speak at Committee. He explained that, as set out within the Committee report, he purchased the site in 1994 and had been looking to develop the site since 2004. He noted that the application was submitted in 2014, with additional information being submitted as required, most recently updating ecology surveys. He explained that, working with Council Officers from the outset, he had employed notable Architects Jayne Derbyshire and David Kendall to design a scheme which made use of the natural topography of the site.

Mr P Bracewell added that the Committee report confirmed that the design was acceptable and took on board the site's level changes. He noted that all the technical issues, including highways, drainage and ecology had been considered to be acceptable. He explained that in 2016 and 2019, the Council entered into statements of common ground in which they confirmed that Fernhill did not perform any of the five green belt purposes. He noted that, within the Committee report, Officers agreed that the site should be considered as previously developed land.

Mr P Bracewell noted his Agent had submitted Counsel's opinion, adding he hoped Members had had the opportunity to review. He added that the key consideration for the assessment of the proposed development before Members was the impact on openness.

He noted that in the Officer's assessment of openness, paragraph 81 of the Committee report, no assessment of visual elements had been made. He explained that the current lockdown meant that Members were unable to visit the site and added that if they had been able, they would have found that what the site looked like on plan was not how it looked in reality.

Mr P Bracewell explained that the proposed dwelling would be entirely screened by mature landscaping on the boundary of the site and by Fernhill itself, which was situated at the top of the site, with three of the proposed dwellings sitting 'tucked-in' behind the house and with the fourth located as a replacement for the existing stables. He noted the development had been designed so that there was no impact upon the openness, which he noted was obvious if one was actually on site, and as the Planning Officers would have noted when they walked the site the previous week.

Mr P Bracewell noted in terms of the wider green belt, the Council had accepted that the development of the site would not result in a net encroachment into the green belt. He noted development of the site would not impact the Durham green belt. He respectfully requested that Members approved the application, recognising the benefits of the development, especially the economic benefits and the need for more executive housing to support the Council's aspiration for Durham City.

The Chair thanked Mr P Bracewell and asked Mr Joe Ridgeon, Agent for the Applicant, to speak in support of the application.

Mr J Ridgeon thanked the Chair and Members and noted he wished to highlight that the application site was a brownfield site within the green belt as had been mentioned already at Committee. He explained that was set out within the Committee report, however, he wished to reiterate that was a key consideration for Members to consider when assessing the site. He noted, picking up on the comments from Parish Councillor R Cornwell, that there was the principle, however, Members needed to look at the scheme that was before Committee, adding that it was not a large, volume housebuilder type scheme, rather it was four executive dwellings designed to be appropriate for the site.

Mr J Ridgeon noted the proposed development took into consideration the topography of the site so that there was no impact upon the openness of the site. He explained that it was felt there were very special circumstances, which had been set out in the opinion from Counsel that had been provided to Members, and that it was key to understand that it was different on the actual site. Mr J Ridgeon noted that Officers had visited the site, adding it was a shame Members had not been able to visit the site themselves as one had a very different understanding of how the proposed houses would sit within the landscape. He added that it was his view that there would not be any impact upon the openness of the greenbelt and therefore the application was acceptable under Paragraph 145(g) of the NPPF.

The Chair thanked Mr J Ridgeon and noted the emphasis made in respect of Members being unable to carry out site visits. She noted the Area Planning Committee (Central and East) was made up of a mix of Members and included 'local Members'. She added that the application site was also very close to County Hall and therefore she felt the Members of the Committee would be aware of the very prominent site and added that Members would have undertaken journeys passing the site in the past.

The Chair asked the Senior Planning Officer to respond to the comments made by the speakers.

The Senior Planning Officer confirmed that Officer did think that all the technical issues relating to the application were acceptable, however, there was the consideration of the principle of development. He added that Officers did consider that it was inappropriate development in the green belt and that very recently it had been deemed by the Planning Inspector, during the Examination in Public of the CDP, that the application site should remain within the green belt. He noted that it was Officers' opinion that the proposed development would substantially alter the local area and the openness of the green belt and therefore the application was recommended for refusal.

The Solicitor – Planning and Development referred to the points raised as regards impact upon the openness of the green belt and noted there were two main elements to that openness, spatial and visual. She noted that Counsel's opinion and Mr J Ridgeon both raised issues in terms of the visual element of openness. She added that, within Counsel's report, there had been no view offered in terms of spatial impact. The Solicitor – Planning and Development noted that, clearly, the impact of four dwellings in terms of spatial openness would be greater than what would arise from the existing situation, with a building to be demolished and replaced with four new dwellings. She explained that there would be quite a significant impact upon spatial openness in terms of the proposed development adding it was an inescapable conclusion that no amount of discussion on visual openness could reasonably alter.

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

Councillor M Davinson explained that on a first look the application seemed a good scheme, providing executive homes for the County. He recalled a previous application at Bournmoor, a scheme which had been deemed acceptable as it would bring executive housing into the County. He explained that the problem he felt with the application being considered was that which had been mentioned. He added that while he did not have all the history in terms of the site being included within the green belt, then being proposed for deletion from the green belt, he understood that the Planning Inspector had stated that the site should be retained within the green belt and therefore was struggling to see what the Committee could do against that. He noted that all had waited so long for the CDP to be adopted, being the Council's blueprint for the future and therefore it could not be disregarded. He noted that would wish for the executive houses, however, not within the green belt.

Councillor I Jewell noted he had looked at the application and it had looked very good, with good quality and types of housing and, in those aspects, everything had seemed very good and very positive.

However, he noted that he struggled in terms of the application site falling within the green belt. He added that was the reality of the situation and noted that the recommendation from Officers was for Members to refuse the application on that basis. He noted that he would listen to the comments from other Members, however, he felt that while he liked the development very much and he felt it had many things in its favour, he felt it was difficult for Members to accept the application as it was within the green belt.

Councillor P Taylor noted the application before Committee was to build upon the green belt. He added that Members had heard a lot of history and received good presentations, however, a lot of the history was unfortunately irrelevant. He noted that application was to build on the green belt and Members could either agree with the Inspector that it was correct for the site to be within the green belt or otherwise. Councillor P Taylor indicate he did feel the Inspector was correct and that of course development would cause harm to the green belt, that it would be inappropriate development. He added it was urban sprawl and explained he knew the area very well, as he drove past it every day, and could almost see it from his home. He noted he valued the area and would wish to keep it within the green belt and added he was in total agreement with the Senior Planning Officer and his assessment that the application was inappropriate development as it was within the green belt.

Councillor B Coult explained she felt the development looked superb, of exception quality and the proposed properties looked fantastic. However, she felt, similar to Councillor P Taylor, that she could not go against the Officer's recommendation and the fact that the Inspector had advised that the site must remain within the green belt, she felt the Committee could not allow the development on green belt land.

Councillor D Freeman noted, like his colleagues, he would have to accept the Officer's recommendation to refuse the application. He noted the site was within the green belt and when one looked to develop anything within the green belt there needed to be an exceptional circumstance. He added he did not feel there was any exceptional circumstance in respect of the application. He noted Members had spoken in relation to the merits of that type of housing for the County, however, he noted Neville's Cross did not lack that type of housing, there being no massive demand for executive housing within the Neville's Cross division. He added that perhaps if the application had been for some other form of housing that may have made it slightly more acceptable, however, he noted he did not feel that the application was in any way exceptional and therefore he felt that Members had to reject the application as it was inappropriate development within the green belt.

He noted the long history relating to the site and that at one point the Council wished to remove the site from the green belt, however, the Inspector had thought otherwise. He emphasised that it was not a decision by an Inspector made many years ago, rather it was a decision made only a few months ago, a very current decision. He reiterated that he would support the Officer's recommendation for refusal.

Councillor D Brown noted the comments of fellow Councillors and asked if examples could be given of "special circumstances" in terms of permitting development within the green belt. The Senior Planning Officer noted that in respect of the application before Members, the Applicant had put forward that executive housing would be the special circumstance, however, the Council's Strategic Housing Market Assessment (SHMA) did not mention executive housing and there was no evidence that there was a need for executive housing and it was not mentioned within the CDP. He explained that what would be considered exceptional circumstances would be if there was a need for a particular type of housing in the area, such as affordable housing. He reiterated that there was no evidence that executive housing was needed.

The Solicitor – Planning and Development noted that case law was very clear that a very wide range of issues could be considered to be very special circumstances for the purpose of assessing green belt proposals. She noted a recent example in County Durham was a scheme at Lambton for 400 houses, where the special circumstances for that application was a significant scheme of public benefit in terms of public access to the grounds amongst other benefits. She noted that had been another scheme towards the Arnison Centre which had been within the green belt and noted that scheme had secured significant financial benefits.

The Solicitor – Planning and Development noted that schemes had to demonstrate special circumstances, and in terms of the application before Committee, Officers had considered the benefits afforded in terms of the boost to the supply of executive housing and the economy and concluded that there was nothing that could be put forward as justification as being very special circumstances. The Chair asked if it would be that there would be a requirement for an evidence base to prove any special circumstance. The Solicitor – Planning and Development noted that it was a judgement call for Members and added that she did not feel that Members could be criticised if they felt what was being proposed did amount to special circumstances. She reiterated that, in the judgement of Officers, it was not felt that the acknowledged harm, by virtue of the inappropriateness of the proposed development, was outweighed by the provision of four homes within the green belt and the harm that would result from that.

Councillor P Taylor moved that the application be refused, on the basis of the Officer's recommendation. He noted he had listened very carefully in terms of very special circumstances, however, he felt there were none. Councillor D Freeman seconded the proposal for refusal.

The Solicitor – Planning and Development noted there would be a vote on the refusal of the application, as set out within the Officer's report, with the updated reasons for refusal.

Upon a vote being taken it was:

### **RESOLVED**

That the application be **REFUSED** for the reasons as set out within the report, updated to included reference to the adverse impact on the Area of High Landscape Value (AHLV).

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/20/03406/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Replace conservatory with single storey extension, replace pitched roofs of rear extensions with flat roof, replace windows, apply render to ground floor front elevation, install electric gate to side, increase height of side boundary wall, replace felt hanging tiles with cladding between windows to front elevation and install security shutter (Part Retrospective) (amended description)</b>
<b>NAME OF APPLICANT:</b>	<b>Miss Allison Cochrane Cochranes Funeral Directors Hillrise House</b>
<b>ADDRESS:</b>	<b>13 Durham Road West Bowburn Durham DH6 5AU</b>
<b>ELECTORAL DIVISION:</b>	<b>Coxhoe</b>
<b>CASE OFFICER:</b>	<b>Michelle Hurton <a href="mailto:michelle.hurton@durham.gov.uk">michelle.hurton@durham.gov.uk</a> 03000 261398</b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is an end terraced property on Durham Road West which faces onto the South Western part of the Bowburn Conservation Area, and is located within the town of Bowburn. The area is predominantly a residential area with various commercial premises within close proximity to the site. To the rear of the property there are two yard areas, one is fully enclosed and can only be accessed from inside the premises, the other can be accessed from the side lane adjacent the gable elevation of the site.
2. The application site has had a previous permission to change the use of the building from a guesthouse into a funeral parlour which is a satellite site with the Shotton site remaining to be the main site. This use has now commenced and is fully operational.
3. A further application has recently been approved to install signage to the front and side of the building. The sign on the side elevation of the building is a direct replacement of the previous wall mounted sign and is of similar dimensions and style, but in a less pronounced colour scheme. The projecting sign to the front elevation above the main entrance doorway to the left-hand-side again is a replacement sign of similar size and matching the appearance of the wall mounted sign.

4. The signage is a direct replica in terms of size and shape of the previous signage at the Guest House, however, it is considered that the signage is more sympathetic with a more in keeping colour scheme.

## **The Proposals**

5. Planning consent is sought to carry out some external changes to the building. The works include replacing the existing rear conservatory with a single storey extension, replace the pitched roofs of the rear single storey extensions which currently differ in style and height with a flat roof, replace the windows, install an electric gate to the side in place of the existing double timber gates, increase the height of the side boundary wall, apply render to the ground floor part of the front elevation, replace the felt hanging tiles with cladding between the windows within the front elevation and install security shutters. The proposals are part retrospective, the works already carried out include the replacement windows, application of render to the ground floor part of the front elevation, and replacing the hanging felt tiles with cladding between the ground and first floor windows on the front elevation.
6. The application is brought before members due to the applicant being a family member of County Cllr Cochrane and objections having been received relating to the external works.

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## **PLANNING HISTORY**

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4/75/742 – Change use of shop from shop to residential accommodation and alterations to windows – Approved 09<sup>th</sup> October 1975

4/84/239 – Change of use of dwelling to part B&B establishment part residential – Approved 28<sup>th</sup> June 1984

4/92/130 – Two storey pitched roof extension to rear of guesthouse to provide two lettable bedrooms and shower room – Refused 01<sup>st</sup> June 1992

4/92/804 – Single storey pitched roof extension to rear – Approved 25<sup>th</sup> January 1993

4/93/634 – Erection of conservatory to rear – Approved 22<sup>nd</sup> October 1993

4/01/00335/COL Application for a Certificate of Lawful Use for the mixed use of the property as a private residence and five bedroom Bed and Breakfast use Approved 5<sup>th</sup> June 2001

DM/20/00740/FPA Change of Use from Guest House (C1) to Funeral Directors (A1) Approved 30<sup>th</sup> June 2020

DM/20/03407/AD Erection and display of 1no illuminated fascia sign and 1no illuminated hanging sign (Part Retrospective) Approved 3<sup>rd</sup> February 2021

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## **PLANNING POLICY**

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### **NATIONAL POLICY:**

*National Planning Policy Framework*

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

8. 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.
9. 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.
10. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
11. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

*The above represents a summary of those policies considered most relevant. The full text can be accessed at: <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:**

##### County Durham Plan

13. The following policies of the County Durham Plan is considered relevant to the determination of this planning application:
14. Policy 6 (Development on Unallocated Sites) states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.

15. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
16. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where an unacceptable impact such as overlooking, visual intrusion, loss of light, noise or privacy, inappropriate odours, vibration and other sources of pollution which cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
17. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development.
18. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

*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 <https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=637424969331400000>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

19. Parish Council – Raised concerns that the works are not being treated as retrospective and whilst the works have been carried out to a high standard the Parish did not consider the works to be in keeping with the conservation area on the opposite side of the road.
20. Highways Development Management – No objections

## **INTERNAL CONSULTEE RESPONSES:**

21. Design and Conservation – No objection

## **PUBLIC RESPONSES:**

22. The application was advertised by means of a site notice, press notice and notification letters to 24 neighbouring properties within the area. 1 letter of representation and 4 letters of objection have been received. The letters of objection are in relation to:
- Objectors not being notified of the previous application being approved resulting in lack of confidence in the transparency and equity of the planning process
  - Previous concerns not been addressed including highway congestion risks within the side lane, the use of the building as function rooms for up to 35 people, operation of a mortuary and preparation room, how will odours and waste be handled, are the chapels to be used as chapels or function rooms with catering
  - Applicants intends no trade waste, does this mean the preparation of the deceased will not be taking place in the preparation space or there will be no food waste created from functions?
  - The proposed roof plan shows an access to the rear yard which is missed from the elevations, will this be used as access only of as a congregating space which may generate noise?
  - Insufficient information submitted with the application
  - The neighbour notification letters not stating the application to be part retrospective but website does.
  - Unclear which parts are retrospective, two separate applications would have indicated this
  - Originally objected on the previous application relating to parking, since approval parking has been poor.
  - Concerned with changing the pitched roofs to a flat roof
  - None of the development should overhang the highway and it appears one of the roofs fall to the highway

## **APPLICANTS STATEMENT:**

23. When we first purchased the property we only ever intended to carry out internal work to the building, however it soon became apparent that we needed to do much more work to the property than we ever originally anticipated.
24. Once we removed the plaster from the walls it unearthed a lot of structural problems, we contacted D.L.C. Structural Solutions who surveyed and carried out repairs to brickwork. It became apparent that the problem was caused by a badly corroded steel beam which was part of the old shop front and it had pushed the corner brickwork out and caused excessive cracks in the wall which needed immediate repair. (photographs are available)
25. Brickwork had to be removed from the front to expose the beam so we could cut and remove the corroded parts and the rest was cleaned and treated/painted then the brickwork was reinstated. Obviously this did not match the existing old brickwork so we had to render the exterior front lower half of the building, which we did in keeping with the exterior of Janet Maitland Hair Excellence on the opposite corner.
26. The windows were badly fitted and insecure so all windows had to be replaced which also included the roofs on the bay windows. (photographs are available)

27. All ensuite bathrooms and old pipework had to be removed, so all beams had to be repaired as they were notched out and showed weakness, (photographs are available) these were all plated and steel bar straps fitted.
28. The roof on the existing outbuildings and conservatory is in poor condition with badly water damaged beams, due to the valley between kitchen and conservatory leaking for many years. This will require a total strip down and complete new timber and covering fitted, which would be a flat roof making its appearance much better on the eye.
29. Car parking is no longer a problem as building work to front of property is complete. Any notices that were put on vehicles or displayed in our windows, was done as a duty of care to make vehicle owners aware that building work and material deliveries were taking place and we did not want any vehicles to be damaged. Please note that vehicles from residents on the adjacent street regularly park outside Hillrise House, also cars belonging to commuters are known to park from Monday to Friday. It appears they leave their cars and all travel in one to their place of work, this was also the case when it was a Guest House as I guess it provided them with a more secure parking facility.
30. We can assure you that every aspect of our business is carried out with care, dignity and respect. Since opening we have received so much support from Bowburn and surrounding villages and we look forward to meeting everyone in an open day event when it is safe to do so and restrictions allow.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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31. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
32. The main considerations in regard to this application are the principle of the development, impact upon visual amenity and setting of the conservation area, impact upon residential amenity and impact upon highway safety.

### **Principle of development**

33. The main theme of the NPPF is a presumption in favour of sustainable development. Part 1 the NPPF notes that planning should operate to encourage and not act as an impediment to sustainable growth.
34. Policy 6 of the CDP states that development on sites which are not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built-up area but well related to a settlement will be permitted provided it does not result in the loss of heritage value; is appropriate in scale, design and character and is not prejudicial to highway safety. In turn, Policy 29 of the CDP provides support in principle to alter or extend properties and requires all development proposals to achieve well designed buildings and places which make a positive contribution to an areas character and identity, provide high standards of amenity and privacy; and contribute to healthy neighbourhoods.

35. The application site is located within the town of Bowburn and is an end terraced property located within a predominantly residential area with various commercial properties in close vicinity of the site. The site is located on the A177 a busy highway which leads to Durham City and has bus stops in close proximity with regular public transport.
36. The proposal is considered acceptable in principle, being for external works to a commercial property. It is considered that the proposed development is in line with both National and Local policies, subject to the consideration of the detailed issues below.

### **Impact upon visual amenity and setting of the conservation area**

37. In respect of the design of the development, the proposed development is considered to be of a scale and design that would be appropriate to the host property and the character of the area.
38. Concerns have been raised regarding the pitched roofs of the single storey extensions being replaced with flat roofs. Comments have also been made that those extensions were probably requested to have pitched roofs from the planning officer dealing with the application and therefore should remain. It is acknowledged that officers do request pitch roofs on extensions where appropriate, however, the Councils Residential Amenity Standards SPD states that the design of an extension should be sympathetic to and in keeping with the host property but also the character and appearance of its surroundings. It goes on to say that the roof design is an important feature which should normally match that of the existing property and mixing roof designs should be avoided as it can create unbalanced designs. Therefore, while pitched roofs are usually encouraged, this is not to say flat roofs are unacceptable. The roofs at present appear as a mixed and unbalanced design given the differing styles and roof heights, it is therefore considered that by removing the pitched roofs and replacing with a flat roof that this would appear more in keeping with the host dwelling and wider streetscene than the current design and when viewed from the side would line through smoothly with the electric gate and slight increase in wall height.
39. In turn, the Design and Conservation officer has raised no objection to the proposed demolition of the conservatory to the rear of the building and replacement with a single storey extension as it would maintain the scale, dominance and legibility of the original building, with the modified boundary wall height lining through, and that due to the works being to the rear of the site, the work would be shielded in views from the main street along Durham Road West by the existing built development. The Design and Conservation officer acknowledges that it would result in the loss of the existing mono pitched roofed elements that is often discouraged. However, one element to the rear of the Victorian terraced property is modern built from a modern engineering brick work that contrasts poorly and its general aesthetic quality is low. The other element, that appears to be of an older construction, has been altered in modern times, evidenced by the physical fabric, and together the built amalgamation with roofs running in different directions appears contrived and is not an attractive feature within the back lane environment. The existing low quality conservatory extension introduces a further different roof-form into the mixture.
40. The proposed works to the rear would rationalise the roofs and align the visible boundaries to consolidate the existing line and height variants. This would present a general "tidying up" and ordering of the built arrangement that could be seen as beneficial. Providing a series of sufficiently steep, well integrated roofs, to cover the ground floors of different footprints and shapes, would be problematic and would raise the impact. It must also be taken into account that there is a wide variety of built forms surrounding the site to the rear, including some flat roofed structures.

41. Given the above factors, combined with the site not being statutorily protected (i.e. not listed, not within a conservation area), that the limited significance it possesses relates primarily to its frontage and form as part of the Victorian terrace, on balance it would be difficult to sustain an objection to the overall scheme based on the proposed roof aspects alone.
42. With regards to the front elevation, the Design and Conservation officer considers that the works which have already been undertaken to the property's frontage have caused some degree of harm by applying the grey coloured render to cover the ground floor red brick work, giving a non-traditional finish and a mismatched appearance to the elevation, and considers that render is out of keeping within the turn of the 20th century terrace that is dominated by traditional deep red brickwork. However, the Design and Conservation officer goes on to say that as the property is not listed and is not within the Bowburn Conservation Area, that the works have not harmed the setting of the conservation area and therefore, despite being looked upon unfavourably, there are no heritage grounds on which to sustain an objection.
43. The grey coloured render was applied to the front elevation of the host dwelling at ground floor level due to the different coloured bricks. It is acknowledged that the property is located within an area which are constructed predominantly from a red brick, however, the property across from the side road to the south of the site has a similar arrangement with a grey coloured render applied to the front and the side elevations of the ground floor level. Further south of the site, on the same side of the street, opposite the Co-op supermarket there are two two-storey cream rendered properties, a single storey pebble dash rendered building and the gable end of number 7 Durham Road West is also rendered in a cream finish. In turn, there is a property located directly opposite the site and the end terraced property of Durham Road, opposite the Coop supermarket which are within the Bowburn Conservation Area which have cream finished pebble dash render.
44. With this in mind officers therefore considered that whilst the introduction of render in this location would create some limited harm to the Victorian host property, it is not considered to be harmful to the setting of the Conservation Area. The Conservation Area's special interest derives from the early C20 colliery housings grid-iron street formation, rhythm of the terraces, and surviving uniformity. The newly rendered frontage to the building does not detract from or harm the visual experience, appreciation or understanding of the Conservation Area's heritage values meaning the heritage assets would be conserved.
45. Despite the use of the render, the completed frontage as a whole is considered to be an improvement compared to the former appearance of the building as the render has been used to cover the infill brickwork from the previous shopfront and to mark the building as a commercial property different from the residential properties in the terrace, the grey windows are considered to be of a far better quality than the previous units, the poor quality imitation felt "fish-scale" cladding between the bays has been replaced with better quality horizontal cladding, and the side elevation and upper brickwork re-pointed.
46. The render is viewed in the context of the Conservation Area along with the other rendered properties along Durham Road West. It is therefore considered that the proposals are acceptable and in accord with the relevant Policy and SPD in this respect.

## **Impact upon Highway Safety**

47. An objection has been raised regarding the previous comments regarding highway congestion risks within the side lane not being taken into consideration during the previous planning application for the change of use of the building. The Highways Development Management team have been consulted on this application and the parking provision for the site was considered previously on planning application DM/20/00740/FPA therefore, no objections have been raised from a highways safety point of view given the scope of the works proposed for the current application relating to amendments to the external appearance of the building and not to its use, which has already been approved.
48. Accordingly, it is considered the proposed works are acceptable and would not have any adverse impacts upon highway safety. As such, it is considered the proposal is an acceptable form of development.

## **Impact upon residential amenity**

49. Policy 31 of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where an unacceptable impact such as through overlooking, visual intrusion, visual dominance, loss of light, privacy, odours, noise, vibration and other sources of pollution cannot be suitably mitigated against.
50. An objection letter has been received regarding the drawings not tallying with each other. The proposed ground floor plan includes an access gate within the rear wall but is not shown on other drawings, and querying whether this would be used as an access for staff or whether the yard area would be used by the funeral party to congregate in, which would generate noise. The drawings have since been amended to remove the access gate from the proposed floor plan drawing. With regards to the potential of a funeral party congregating within the rear yard area, this would fall within the use of the building which has already been approved and commenced and does not fall within the scope of this planning application.
51. The proposed alterations to the rear of the property will reduce the overall height of the rear extensions from a height of 2.5m closest to the property and 2.8m nearest to the rear lane to a height of 2.3m nearest to the house and 2.6m nearest to the rear lane, therefore allowing more light into the rear yard area of the adjoining property and reducing overshadowing which may currently exist, and as such it is not considered that the proposed works would impact upon the amenities of neighbouring properties or significantly harm the living conditions of nearby residents in accordance with Policy 31 of the CDP.

## **Other issues**

52. Objections have been received relating to the objectors not being notified of the previous application being approved which has resulted in their lack of confidence in the transparency and equity of the planning process. The process of notifying neighbours of a decision being determined changed a number of years ago in 2015. The neighbour notification letter was updated to say 'Your correspondence will not be acknowledged but you can track the application's progress, including the decision by clicking the public access link included within the letter'. Notification letters advising on the outcome of an application are no longer sent out to neighbours and contributors, and it is their responsibility to keep a check on this, in accordance with current procedures.

53. Other matters related to the previous concerns raised during the course of the previous planning application not being addressed including the use of the building as function rooms for up to 35 people, operation of a mortuary and preparation room, how odours and waste will be handled, whether the chapels are to be used as chapels or function rooms with catering, the applicants intending no trade waste, does this mean the preparation of the deceased will not be taking place in the preparation space or there will be no food waste created from functions? and that they originally objected on the previous application relating to parking, and since the approval parking has been poor.
54. All of these concerns were raised and assessed during the course of the previous planning application under reference number DM/20/00740/FPA for the change of use of the site from a guest house into a funeral parlour. These concerns are not relevant to consideration of the proposed works subject of this application and cannot be taken into consideration as this application is for external changes to the building only.
55. Other concerns raised were in relation to the neighbour notification letters not stating that the application was being dealt with as part retrospective but when the website was viewed it did and that it was unclear which parts of the development are retrospective and which parts are not. It was suggested that two separate applications could have been submitted one for the retrospective works and one for the proposed development which have not been carried out.
56. The description of the proposal was amended after the neighbour notification letters were sent out to clearly indicate that part of the works were indeed retrospective. Planning applications can be for developments which are part retrospective. It is not reasonable to expect applicants to incur additional application costs when all of the works can be dealt with under one application. In the case of any doubt, the case officer can be contacted to provide clarification.
57. Comments were received relating to the proposed flat roof above the single storey rear extension, and in particular the fall of the flat roof being towards the public highway, noting that none of the proposed development should overhang the boundary of the site and given the proposed fall of the roof, the objector pointed out that any rainwater goods would need to overhang the highway. Amended plans have been submitted to show the fall of the roof altered which now leans in towards the yard area, with the rainwater goods also being relocated into the yard which is welcomed.

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## **CONCLUSION**

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58. It is considered that after taking into consideration all material considerations including representations received, that the external changes proposed would not have an adverse impact upon the host building or the setting of Bowburn Conservation Area, the current levels of residential and visual amenity enjoyed at the site, nor would it have a detrimental impact upon highway safety.
59. Taking all relevant planning matters into account it is considered that the proposed development is acceptable given that it accords with both national and local plan policy.

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## **RECOMMENDATION**

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the 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(ies) 6, 29, 31, 35 and 44 of the County Durham Plan and Parts 12 and 16 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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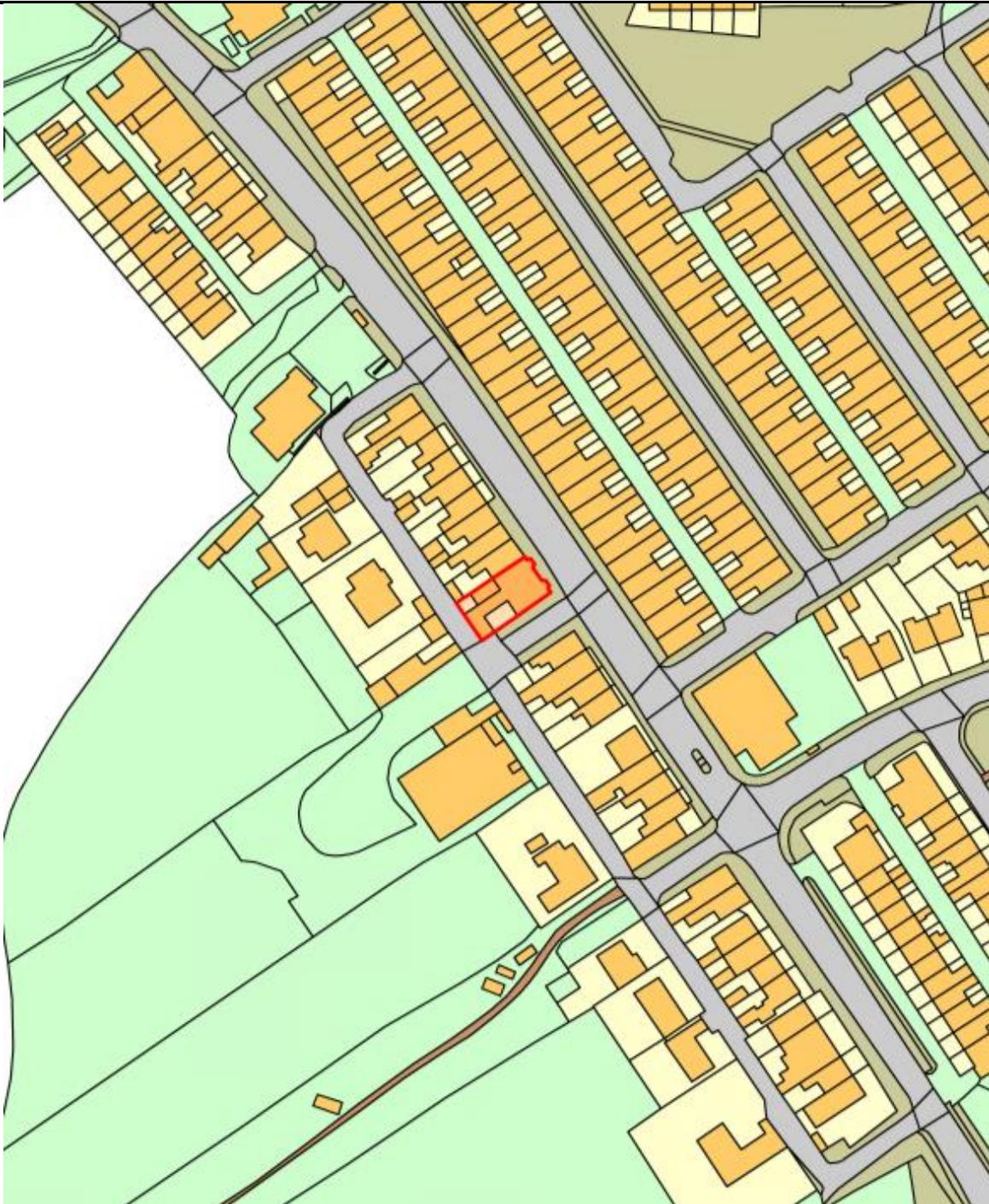
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant 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.

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## **BACKGROUND PAPERS**

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



**Planning Services**

**Replace conservatory with single storey extension, replace pitched roofs of rear extensions with flat roof, replace windows, apply render to ground floor front elevation, install electric gate to side, increase height of side boundary wall, replace felt hanging tiles with cladding between windows to front elevation and install security shutter (Part Retrospective) (amended description) at Cochranes Funeral Directors, Hillrise House, 13 Durham Road West, Bowburn, Durham, DH6 5AU**

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**Comments**

**Date. 09 March 2021**

**Scale 1:1250**

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/20/03621/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Refurbishment into 5 individual self-contained flats
<b>NAME OF APPLICANT:</b>	Durham County Council
<b>ADDRESS:</b>	Former Community Health Clinic School House Front Street Wheatley Hill
<b>ELECTORAL DIVISION:</b>	Trimdon and Thornley
<b>CASE OFFICER:</b>	Jennifer Jennings Planning Officer Telephone: 03000 261057 <a href="mailto:jennifer.jennings@durham.gov.uk">jennifer.jennings@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site consists of a detached property located on a rectangular plot of land at Front Street, Wheatley Hill. Formerly operating as a community health clinic, it is a two-storey rendered building with a flat roof forward extension along its frontage abutting the main street, containing curtain walling and a central door area. The two-storey element consists of a dual pitched slate roof and domestic style windows. To the rear are two two-storey extensions.
2. The land to the rear of the building consists of a hardstanding area, providing parking facilities and bin store, and a grassed area beyond. A low level brick boundary wall surrounds the perimeter of the land, with access into the parking area taken from Dennis Street to the west.
3. The site is located within the local commercial centre of Wheatley Hill (as defined by Policy 9 of the CDP), but is surrounded by residential properties to the west of the site, a small industrial park with small workshop units to the north east and east and commercial properties across the Front Street to the south. A wooded area exists to the north of the site.

### The Proposal

4. This application seeks planning permission to convert the building into five individual self-contained dwellings on behalf of Housing Solutions, with two of the flats being DDA compliant. The majority of the works would be internal but some amendments would be made to the external appearance through addition of new windows and doorways and the land to the rear would be upgraded with new tarmac and concrete paving.

5. This application is being considered by Committee at the request of a Local County Councillor and Parish Council.

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## **PLANNING HISTORY**

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6. None relevant.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. *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.
9. *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.
10. *NPPF Part 5 – Delivering a wide choice of high quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
11. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
12. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

13. *NPPF Part 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.
14. *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.
15. *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.
16. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.

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

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

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

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

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

##### The County Durham Plan

26. *Policy 6 Development on Unallocated Sites* states that the development of sites within the built up area that are not allocated in the plan or in a neighbourhood plan will be permitted provided they accord with all relevant development plan policies and meet specific criteria in relation to existing permitted uses, coalescence of settlements, loss of land with identified value such as in relation to ecology or recreation, is appropriate, is not prejudicial to highway safety, has good access to sustainable modes of transport to relevant services and facilities, does not result in the loss of the settlements last community building, minimises vulnerability and provides resilience to impacts resulting from climate change, maximises the effective of previously developed land and where appropriate reflects priorities for urban regeneration.

27. *Policy 15 Addressing Housing Need* notes the need to increase the range and quality of housing provision within the County and with regard to meeting the needs of older people and people with disabilities states that 66% of dwellings on sites of 5 dwellings or more must be built to Building Regulations M4(2) (accessible and adoptable dwellings) standard.
28. *Policy 19 Type and Mix of Housing*. Advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self build or custom build schemes.
29. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
30. *Policy 25 Developer Contributions*. Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
31. *Policy 29 Sustainable Design* details general design principles for all development stating that new development should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
32. *Policy 31 Amenity and Pollution* states that new development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and should be integrated effectively with any existing business and community facilities.
33. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
34. *Policy 36 Water Infrastructure*. Advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

35. *Wheatley Hill Parish Council* objects to the application. They state that the Front Street of Wheatley Hill is not an appropriate location to house the homeless, as the street is a mix of residential and commercial and attracts congregations of local youth causing persistent problems with anti-social behaviour. Vulnerable people living in this area in the past have been targeted by local youths making them more vulnerable to these issues. Further concern is raised that homeless people have complex needs and there are no proper services or assistance to offer support to future occupiers.
36. Issues are raised regarding safeguarding given the close proximity of primary schools and elderly. It is further noted that Wheatley Hill has limited public amenities to be of any support to future occupiers. There is additional concern over the transparency of the application as the supporting documents were not clear as to the intentions and no prior consultation with the Parish or community took place. In addition consultation letters were sent to addresses which are known to be empty properties.
37. *The Highway Authority* raise no objections to the proposals.

### **INTERNAL CONSULTEE RESPONSES:**

38. *Ecology* officers have raised no objections, noting that the building has been recently surveyed and is a low risk for bats.
39. *Environment, Health and Consumer Protection (Nuisance Action Team)* have raised no objections. The details submitted identified noise issues from the road and commercial properties. No concerns were raised regarding odour. A condition for details in relation to noise mitigation measures is advised.

### **EXTERNAL CONSULTEE RESPONSES:**

40. *Durham Constabulary* – no response received at time of writing.

### **PUBLIC RESPONSES:**

41. One letter of objection was received from the Wheatley Hill Community Association and a letter of concern was received from the local ward member.
42. The local ward member raised concerns regarding the level of consultation undertaken and noted that neighbour notification letters had been sent to known empty properties neighbouring the site.
43. The Community Association considered that wider consultation should have taken place. Concern has been raised over the impacts of this development on the Greenhills Centre which already has a high level of service users. Assurances are sought that proper safeguarding policies and procedures will be in place for the new homes with effective management on a day-to-day basis. Further concern was raised that the intended use of the building may have negative effects on service user footfall at the Greenhills Centre, as some may be concerned about attending. There is also concern raised in regards to ongoing anti social behaviour in the area which could be exacerbated by the new use.

## APPLICANT'S STATEMENT:

44. There appear to be a number of misconceptions regarding this planning application. Firstly, it is not a specialist housing scheme as set out in the County Durham Plan. This accommodation is 5 individual flats to be reserved for homeless clients or those at risk of homelessness as defined under the Housing Act 1985. This is a very wide area in terms of provision not just homeless or rough sleepers. This also does not mean that clients likely to be placed there will have complex needs or a criminal record.
45. Wheatley Hill flats will be managed by County Durham Lettings Agency (CDLA), a department within Housing Solutions that provides housing to a wide range of clients. In order to qualify for a property clients must meet strict criteria and properties are visited on a regular basis, tenants offered housing management support in terms of paying bills, maintaining property standards as necessary and linking clients into employability and job search opportunities. This provision goes above and beyond what clients would receive if they were housed into mainstream housing. CDLA already have a number of properties dispersed across the County within local communities. CDLA are happy to give named contacts and contact details to local residents if they feel they need to arise any concerns when the properties are occupied.
46. As with any housing application within the private or social rented sector, for those subject to probation supervision, address checking is carried out prior to a client being offered a property. This takes into account offences, and locations of certain sites, such as schools and vulnerable clients and accommodation is then managed by the appropriate services.
47. Wheatley Hill flats are being developed as part of the Government's response to the Coronavirus pandemic under Next Steps Accommodation Programme (NSAP) funding. During this time the supply of housing available to those who find themselves in housing need has been limited due to the evictions embargo and the usual flow of available properties being disturbed. This coupled with the governments Everybody In response, where local authorities were requested to house all rough sleepers, has led to high numbers of individuals living in temporary accommodation and becoming street homeless.
48. Options for homeless clients are social or private rented sector or if they cannot access this for whatever reason, such as no previous tenancy history or insufficient finances the client faces rough sleeping.
49. Wheatley Hill does offer access to local shops and transport routes to access other facilities across the County. Comments that there are a lack of facilities could be replicated across and County Durham village but access to shops, food, and a transport network are available. As this provision is 5 general needs flats there is no evidence that clients will need additional assistance.
50. NSAP funding must be fully spent by 30<sup>th</sup> June 2021 and work must start on site by 31<sup>st</sup> March 2021 or the Council risk losing this pot of funding, having to repay this to central government. There will be similar further funding in 2021/22 that Durham will apply for but if this scheme does not go ahead it is likely we will be unsuccessful as been classed as undeliverable. This will therefore leave a large gap in necessary provision.

51. This provision is also providing 2 fully compliant DDA flats an area of huge need, as a single person accommodation. CDLA intends to prioritise clients that are more local to Wheatley Hill for these flats to they can continue to access family/friends support and maintain necessary links within the community.
52. Meetings did occur with local councillors last year prior to the planning application but as these flats are not specialist provision appropriate consultation has taken place.

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

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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53. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on the appearance and character of the area and impact on amenity of nearby and future residents and the wider community.

### Principle of the Development

54. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up to date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP.
55. The NPPF is a material planning consideration. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay.
56. The application site is located within the settlement of Wheatley Hill. It is not allocated for housing within Policy 4 of the County Durham Plan (CDP). Development of housing on unallocated sites within the built-up area should be assessed and determined against Policy 6. This policy sets out the following criteria:

The development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:

- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
- b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;

- c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
- d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
- e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
- f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
- g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
- h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
- i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
- j. where appropriate, it reflects priorities for urban regeneration.

57. The proposal is within the built up area and therefore is acceptable in principle, subject to assessment against the various criteria in a) – J) above. The proposal would not result in inappropriate ribbon or backland development. The site is noted as being highly sustainable, being central to a small range of facilities and with ready access to sustainable modes of transport. Although a former health clinic building, its loss to become housing would not impact on essential neighbourhood facilities in the area as a new clinic has been established further west of the site some four years ago. The re-use of this derelict building, is therefore considered to be an improvement to the amenities of the area, contributing to a degree to urban regeneration, particularly as the current structure has been prone to vandalism and attracting anti-social behaviour.
58. However, the objections raised consider the re-use of the building to house homeless clients as inappropriate in its current location. The concerns raised relate to the potential for this use to exacerbate problems of anti-social behaviour, already considered to be of significant issue in this location. In addition concerns are raised that insufficient support services exist in this area for the potential complex needs of future occupiers of the flats.
59. The applicant was notified of the issues raised and provided clarity in terms of likely tenancy at the flats, confirming that the accommodation was to meet needs of people at risk of homelessness, as defined under the Housing Act 1985 which has a broader definition than just rough sleepers. On this basis, there is no greater likelihood that clients would have complex needs or a criminal record than any other tenancy. It was further clarified that the properties would be managed by County Durham Lettings Agency, a department within Housing Solutions in Durham County Council, who vet and manage all future tenants as well as provide a range of support services.

60. It should be noted the proposals are presented as a scheme for the creation of five dwellings and fall to be considered under the remit of policy 6. The proposals are identified as meeting the criteria listed within this policy with the proposed C3 use class deemed acceptable. Although there are concerns over the potential tenancy, there are limits to the extent of control that can be afforded through the planning system in respect of this as the planning system cannot control the type or identity of residential occupiers. Given the number of dwellings to be created, there is no requirement for an affordable housing contribution, but the dwellings are nonetheless intended to meet an identified housing need. In addition whilst the M(4) building control requirements for disabled access to all new properties does not apply in this case, as conversion works are exempt from this requirement, the proposals are seeking to provide two units as fully DDA compliant.
61. Subject to other considerations below the proposals are considered to be in accordance with policy 6 of the CDP.

#### Impact on the character and appearance of the area

62. Policy 6 of the CDP requires that development be appropriate in terms of scale, design, layout and location to the character, function, form and setting of, the settlement. It also states that development would not be approved where it would result in the loss of open land that has recreational, ecological or heritage value or contributes to the character of the locality which cannot be adequately mitigated or compensated for.
63. The proposals intend to reinstate the existing building on site, making good existing external render and roof materials where required. The existing curtain walling to the front would be replaced with matching render and would include two new windows and doors to serve the new dwellings. A new external door to the rear is proposed along with two new windows on the side elevation facing Dennis Street. The rear tarmac yard area would be renewed with removal of spiked security fencing.
64. Overall the proposed works to renew the disused building would be a visual improvement, with works considered appropriate to the existing design and appearance and in keeping with the wider area, in accordance with policy requirements.

#### Impact on amenities of existing and future residents

65. Policy 29 requires that all development achieves well designed buildings and places having regard to supplementary planning documents and: e) provide high standards of amenity and privacy and minimises the impact of development upon the occupants or existing adjacent and nearby properties.
66. Policy 30 states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance, or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and / or community facilities do not have any unreasonable restrictions placed upon them as a result.

67. The proposals are located within a mix of commercial and residential uses. Directly east of the site are a range of industrial / workshop units, whilst a number of shops are located across the road, south of the site. To the west are a number of residential properties, some of which are noted as empty and boarded up.
68. In terms of impacts on neighbouring residents, the new use is not expected to create impacts that are out of keeping with the existing residential use in the area. Alterations to the building are limited, with the main potential impact relating to two new side gable windows looking out onto Dennis Street. However these windows at ground floor level would overlook the largely blank gable of no. 1 Alexandra Terrace. There are therefore no concerns regarding loss of privacy or overlooking to any existing residents or occupiers.
69. In terms of amenities of future occupiers at the properties, it is noted that the properties all meet the nationally described space standard for one bed flats, two of which would also be DDA compliant.
70. A noise assessment was submitted with the proposals, and this identified that the source of noise that could potentially be most problematic for future occupiers would be from the nearby garages east of the site, but only during business / daytime hours. Based on this, sound insulation measures would be required to mitigate these impacts. Environmental Health assessed the recommendations and requested that a condition be applied to any permission requiring a detailed scheme of noise mitigation be submitted. No issues were raised regarding odour from nearby businesses.
71. In consideration of the above, subject to a condition for details on noise mitigation, the proposals are considered to accord with policy 29 and 31 of the CDP.

#### Highway Safety and Access

72. Policy 6 requires that development will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. Policy 21 states that development should: c) ensure that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. In relation to parking the policy states that car parking at residential development should ensure that a sufficient level is provided for both occupants and visitors, to minimise potential harm to amenity from footway parking.
73. A large hardstanding area exists to the rear of the building that can suitably accommodate car parking as required. Suitable access can also be attained onto the main roads and the addition of five dwellings in this location would not be considered to create any significant notable difference to existing traffic in the area. In any case the site is well located in terms of access to sustainable transport modes with a regular bus service passing in front the property linking to a number of main towns.
74. Highways assessed the proposals and raised no objections. The proposals are therefore considered compliant with the relevant parts of policy 6 and 21 of the County Durham Plan.

## Other issues

75. A number of concerns were raised regarding the extent to which the application had been publicised by the Local Planning Authority, in particular that a number of neighbour notification letters were sent to nearby properties that are known to be empty. It is advised that the extent of notification letters sent fully accords with the LPA's consultation policy and extended beyond the usual extent of notification to properties directly adjoining the site. In addition a site notice was posted adjacent to the site.
76. These two measures undertaken to publicise the proposals exceed the statutory minimum which requires either notification letters or a site notice to be posted and in this respect the LPA has fulfilled its responsibilities with regards to the publicity of the application in accordance with The Town and Country Planning (Development Management Procedure) (England) Order 2015 as amended.
77. Further concerns were raised with regards the potential for the new occupancy of the flats to create safe-guarding issues for school children and other vulnerable adults in the area, as well as the impact on users of the existing Greenhills Centre. However there are limits to the extent that planning can control this, particularly as the scheme is considered against its acceptability as a C3 use class, which, as noted above, is in adherence with relevant policy. Notwithstanding this, further information from the applicant has clarified the extent to which future tenants are assessed and provided with support, and this does provide some assurance that negative impacts on the wider community should not arise. Accordingly, there is no evidence that the proposed use would give rise to the issues feared by residents.
78. Overall, the concerns of objectors have been taken into account, however, it is not considered that the concerns raised would warrant refusal of planning permission. The proposals have been identified as being policy compliant and the issues raised do not indicate any policy conflict in this case.

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## **CONCLUSION**

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79. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
80. In summary, policy 6 of the CDP sets out a number of criteria for development at unallocated sites within the CDP. In this instance, and for the reasons set out in this report, it is considered that on balance the proposed development complies with the criteria of policy 6. Paragraph 11 of the NPPF states that development proposals that accord with an up to date development plan should be approved without delay.

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## **RECOMMENDATION**

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the 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(ies) 6 and 29 of the County Durham Plan and Parts 12 of the National Planning Policy Framework.

3. No development shall commence until a scheme of noise mitigation measures has been submitted to and approved in writing by the Local Planning Authority. The aim of the scheme shall be to protect future occupiers from road traffic/commercial noise and should ensure the following noise levels are achieved.

o35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)

o30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)

o45 dB LAm<sub>ax</sub> in bedrooms during the night-time

o55dB LAeq 16hr in outdoor living areas

The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: In the interest of the amenity of existing and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required as a pre commencement condition to ensure that an appropriate scheme is agreed and can be implemented.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

Statutory, internal and public consultation responses

The National Planning Policy Framework (2019)

National Planning Practice Guidance Notes

County Durham Plan

Residential Amenity Standards SPD (2020)



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