



## **Area Planning Committee (Central and East)**

**Date** **Tuesday 14 September 2021**

**Time** **9.30 am**

**Venue** **Council Chamber, County Hall, Durham**

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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 29 July 2021 (Pages 3 - 20)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
  - a) DM/20/03760/FPA - First to Third Floors 4 - 6 Silver Street, Durham, DH1 3RB (Pages 21 - 54)  
Partial change of use to create 58 bed Student Accommodation Facility to include the erection of a single storey extension to existing roof and associated access arrangements (amended title) (updated elevation and floor plan to south west).
  - b) DM/20/01479/FPA - Land To The North Of 28 North Terrace, Seaham, SR7 7EU (Pages 55 - 82)  
Erection of 1no. 4 storey building comprising of 3no. units (use class E (a)(b)(c) or Sui Generis (drinking establishment)) to ground floor, 1no. unit (use class E(d) to first and second floor and 4no. residential units (C3) ancillary to the commercial units to third floor (amended description).
  - c) DM/21/02279/FPA - 26 May Street, Durham, DH1 4EN (Pages 83 - 94)  
Erection of single-storey extension, conversion of flat roof to pitched roof and new window all to rear elevation and internal alterations to an existing HMO (use Class C4).

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

**Helen Lynch**

Head of Legal and Democratic Services

County Hall  
Durham  
6 September 2021

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

Councillor D Freeman (Chair)  
Councillor S Deinali (Vice-Chair)

Councillors D Brown, J Cosslett, J Elmer, L Holmes, N Jones,  
C Kay, D McKenna, R Manchester, C Marshall, E Mavin,  
K Shaw and P Taylor

**DURHAM COUNTY COUNCIL**  
**AREA PLANNING COMMITTEE (CENTRAL AND EAST)**

At a Meeting of **Area Planning Committee (Central and East)** held in the **Council Chamber, County Hall, Durham** on **Thursday 29 July 2021 at 9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors S Deinali (Vice-Chair), D Brown, L Holmes, N Jones, R Manchester, C Marshall, E Mavin and K Shaw

**Also Present:**

Councillor M McKeon

**1 Apologies for Absence**

There were no apologies for absence.

**2 Substitute Members**

No notification of substitute Members had been received.

**3 Minutes**

The minutes of the meeting held on 11 June 2021 were confirmed as a correct record by the Committee and signed by the Chair.

**4 Declarations of Interest**

The Chair, Councillor D Freeman noted in respect of Item 5c, DM/21/01918/FPA - 8 Laburnum Avenue, 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.

The Chair noted, however, that he knew the representative who would speak on behalf of the Applicant and therefore he would take no part in the consideration of that application and would withdraw from the Council Chamber during consideration thereof.

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

- a **DM/21/00911/FPA - Allotments to the west of 5 to 10 Front Street, Framwellgate Moor**

The Committee noted that the item had been withdrawn.

- b **DM/21/00011/FPA - The Paddock and Land To The Rear Of The Paddock, Station Town, Wingate, TS28 5HE**

The Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the retention of kennels in association with the keeping and breeding of dogs at the site and was recommended for approval, subject to conditions.

The Planning Officer noted the application was for the regularisation of present use, a retrospective application. She noted that the Applicant currently had 11 dogs (Dogue de Bordeaux) at the site, with there being usually two litters of dogs per year, used to replace dogs for showing and to fund the upkeep of the remaining dogs. She noted former Councillor L Pounder had requested the application be considered by Committee, with issues including noise disturbance, highway safety, traffic generation and access.

The Planning Officer noted updates to the National Planning Policy Framework (NPPF), and updated Members as regards the references to paragraphs within the NPPF, namely:

- Paragraph 40 of the report, NPPF Paragraph 213 changed to 219.
- Paragraph 52 of the report, NPPF Paragraph 122 changed to 124, NPPF Paragraph 170 changed to 174 and NPPF Paragraph 180 changed to 185.
- Paragraphs 53 and 67 of the report, NPPF Paragraph 180 changed to 185.

Members were asked to noted Condition 1 as set out within the report was no longer required as works had already started on site.

In respect of consultation, the Planning Officer noted that there had been no objections from the Highways Section, or Environmental Health subject to conditions. The Planning Officer explained that Hutton Henry Parish Council had sent two letters of objection to the application, with concerns raised including: noise having a detrimental impact of neighbouring residents and land use, in particular the adjacent cemetery when funerals were taking place; and use of the access road, with some visitors to the kennels reported to have used the incorrect access and knocked at nearby properties, disturbing neighbours. It was added there had been seven letters of objection and seven letters of support received, as summarised within the report.

The Planning Officer noted that the application was considered acceptable in terms of Policy 6 of the County Durham Plan (CDP) and added that the impact on residential amenity was not considered to be unacceptable, subject to conditions. She noted that the application was also considered acceptable in terms of highway safety, subject to conditions, and was also acceptable in terms of the impact upon the visual amenity of the area. The Planning Officer noted that the objections and concerns of residents and the Parish Council had been taken into account, however, on balance it was felt that the concerns were not of sufficient weight to justify refusal of the application and therefore the recommendation was for approval, subject to the conditions.

The Chair thanked the Planning Officer and asked Ms Swainston, the Applicant, to speak in support of her application.

Ms Swainston noted she had kept dogs for a long time, they were part of her life, and noted when she moved to the area with 11 dogs she had needed to have stables built to house them, it being a welfare issue for the dogs. She added that the stables had been constructed so they would look well and not impact upon views and had been placed out of the way to minimise any disruption to neighbours. She added that the pens were not visible, and the stables would not be visible unless a neighbour climbed to look over the fence at the bottom of their garden.

Ms Swainston noted the dogs were highly trained, she had been keeping dogs for 21 years and had been a veterinary nurse. She explained she had shown dogs all over Europe and noted she arguably had the most successful kennel with that breed of dog in the world. She reiterated that the breeding of the dogs was a way of life and that the dogs were not bred primarily for money. She noted she could not see how she could have done anything differently, the dogs had required a home in December.

She explained that the dogs did not bark in general, and all that had been done had been with neighbours in mind. She noted that it was always the intention to apply for planning permission as this was an essential part in terms of obtaining a breeder's licence. Ms Swainston reiterated that the design for the kennels was with the neighbours in mind, with sound monitoring equipment in place. She noted that while the dogs may bark if someone approached them, the stables and pens faced towards fields and therefore no one would be approaching them. She noted the kennels were not a boarding kennel, the dogs were not distressed coming and going, they were settled and she understood the dogs needs. She noted that the Parish Council had made reference to people knocking on neighbours' doors and reiterated their kennels were not that type of boarding kennel, the dogs were effectively pets, bred in order to pay for their upkeep and to be shown.

Ms Swainston noted that she would look to keep the best dogs from litters, and that others may be sold to pay for veterinary bills which could be quite high for Dogue de Bordeaux. She added that while recently there had only been single litters each year, there may be a need to breed more than one litter in order to help pay for such bills. She reiterated that the breeding of the dogs was her passion and that she would not wish to upset neighbours, adding that if there was ever an issue she would be there, the dogs would not be left alone.

The Chair thanked Ms Swaintson and asked the Committee for their comments and questions.

Councillor D Brown asked for advice from the Solicitor in terms of the application, in the context of a similar retrospective application previously considered by the Committee that was refused and upheld at appeal, together with another similar application having recently been considered by the Area Planning Committee (South and West) which had been approved. He noted that there was a need for consistency in decision making. The Solicitor – Planning and Development, Neil Carter noted he was not familiar with the details of the appeal, however, in general the Councillor was correct that there should be consistency in decision making as far as they could be, with each application to be determined on the basis of the material considerations before Members, contained within the report. He noted that Members would be aware that if an application was retrospective, that was not sufficient reason to refuse an application. He asked if Planning Officers could give further information relating to the other applications referred to.

The Principal Planning Officer, Paul Hopper explained that he had been the case officer for one of the applications and was familiar with the case and appeal. He noted that he was not familiar with the case from the South and West area.

He explained that in reference to the first case there were some specific differences between that application and the one before Members and, as noted by the Solicitor – Planning and Development, each application was looked at on its own merits. The Principal Planning Officer noted that this had been the case in this instance and that Planners were satisfied with the controls that would be in place via condition and that there would not be any adverse impact to residential amenity. He noted some of the differences between the applications, including that the separation distance to the nearest residential property was fundamentally different, being much closer in the other application and that the breed of dog was also different. He noted those differences were such to be able to recommend approval of the application before Committee and he noted that there had been a consistent approach taken.

Councillor D Brown noted the comments from the Solicitor – Planning and Development and Principal Planning Officer and, after looking at the application on its own merits, he would move that the application be approved as per the recommendation. Councillor C Marshall noted that a difference between an application being considered at Committee now, compared to the application from around two years ago, was that the CDP was in now in place. He explained that, upon consideration of the report and representations, he would second the proposal for approval.

Upon a vote being taken it was:

**RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report, with Condition 1 having been removed.

*Councillor D Freeman left the meeting at 9.51am*

**Councillor S Deinali, Vice-Chair in the Chair**

**c DM/21/01918/FPA - 8 Laburnum Avenue, Durham, DH1 4HA**

The Planning Officer, Lisa Morina, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use from C3 (dwellinghouse) to either C3 (dwellinghouse) or C4 (house of multiple occupation) and was recommended for refusal.

The Planning Officer noted the property was a mid-terraced property, set out over three floors, within the viaduct area of Durham city centre. She explained that the property was within the Conservation Area and was also in an area subject to an Article 4 Direction which operated to remove permitted development rights for changes of use from C3 dwellinghouse to use as a C4 House in Multiple Occupation (HMO). It was explained that the proposal would allow for the property to have either use, C3 dwellinghouse or C4 HMO over a 10 year period, with the flexibility to change between those uses over the 10 year period without the need for further permission. The Planning Officer noted the application had been referred to Committee by Councillor L Brown, who considered that Policy 16.3 required clarification in view of the outcome of a recent appeal decision.

Members were referred to photographs of the property and street, and floorplan showing the existing and proposed layouts, with the main dining area proposed to become a bedroom and the existing utility room proposed to be a dining area.

The Planning Officer noted updates to the National Planning Policy Framework (NPPF), and updated Members as regards the references to paragraphs within the NPPF, namely:

- Refusal Reason 1, amended from Paragraph 127(f) to read Paragraph 130(f) – also referenced in paragraphs 62 and 68 of the report and within the City of Durham Trust comments at paragraph 35 of the report.
- Paragraph 70 of the report, NPPF Paragraph 108 changed to 110.
- Paragraph 73 of the report, NPPF Paragraph 91 changed to 92.
- Paragraphs 40 of the report, NPPF Paragraph 213 changed to 219.

Members were asked to note that, subsequent to the publication of the Committee report, videos had been submitted by the Applicant in respect of evidence of noise implications. The Planning Officer noted they had been viewed, however, it had not resulted in a change of recommendation for the application. She added that one of the videos did show an instance which could be construed as anti-social behaviour, however, it was not felt sufficient to change the recommendation.

In respect of consultation, the Planning Officer noted that there had been no objections from the Highways Section or Environmental Health as regards the application subject to conditions. She added that the City of Durham Parish Council had objected to the application on the basis of the application being contrary to CDP Policy 16 and as insufficient evidence had been provided in terms of hardship the Applicant was claiming. It was explained that two letters of objection had been received, together with an objection from the City of Durham Trust.

It was noted that four letters of support had been received, with a summary of the representations being set out within the report.

The Planning Officer noted that the principle of the development could not be supported as it was contrary to CDP Policy 16 and insufficient information had been received to demonstrate that any of the exception criteria listed in Policy 16 applied. She noted that the application was considered acceptable in terms of residential amenity and highway safety. The Planning Officer noted that in respect of other issues, devaluation was not a material planning consideration.

The Planning Officer noted that while the proposals were satisfactory in terms of residential amenity and highway safety, the Applicant had failed to demonstrate compliance with CDP Policy 16, specifically that the percentage of HMOs already present in the area was greater than 10 percent whilst below 90 percent, and that the change of use of an existing C3 dwelling to HMO would add to the imbalance of the existing community towards being dominated by HMOs. She added that whilst the Applicant's concerns in relation to the ability of the property to be used for the current permitted use as a C3 dwelling were noted, based on the limited information supporting the application to demonstrate that, Officers considered that the development would present significant conflict with the requirements of Policy 16 of the CDP. The Planning Officer noted that therefore the recommendation was for refusal.

The Chair thanked the Planning Officer and asked Parish Councillor S Walker to speak on behalf of the City of Durham Parish Council, in objection to the application.

Parish Councillor S Walker thanked the Committee for the opportunity to speak in relation to the application. She explained the Parish Council objected to the application and fully supported the Officer's recommendation to refuse the application without delay. She noted that the application had been called to Committee because of the dilemma it has caused to the Members of the City of Durham Parish Council and the concerns that it had raised about the future development of the city. She noted that the overpowering presence of the University in the city centre was taking its toll, with thousands of former residential properties, affordable houses whose families had sustained the city for many generations, had been consumed by landlords and converted into C4 HMOs. Parish Councillor S Walker noted that those residents that had remained had become marginalised and isolated in streets that had lost their residential identity. She explained that the Parish Council knew, from the many letters it received, that the conduct of students, with few responsibilities and no viable constraints from the University or the Police, was causing great distress to many of the few remaining residents.

She noted that to arrest the clear impact that the studentification of the city was having on local residents there was a string of policies within the CDP and Neighbourhood Plan that had been designed to ensure harmonious and balanced neighbourhoods for the city, as far as that was now possible. She added that those plans and policies had been hard-won and now could not be forfeit.

Parish Councillor S Walker explained that as the proposals were for the conversion of a C3 dwelling into a C4 HMO, it must be considered under part three of Policy 16 of the CDP. She noted that part of the policy sought to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity. She added that it made clear that change of use to a C4 HMO would not be permitted if, including the proposed development, there were fewer than 90 percent or greater than 10 percent of the total number of residential units within 100 metres of the application site that were exempt from Council Tax charges. She noted in this particular case within 100 metres, and including 8 Laburnum Avenue, 72 percent of properties were Class-N exempt student properties. She added there were 143 properties within 100 metres of the application site, with 102 currently benefiting from Class-N exemption and therefore it was abundantly clear that the application was contrary to Policy 16, as the Officer had rightly highlighted, and must be refused. She noted that Policy 16 did make exceptions to those measurable criteria and clarifies that a change of use to an HMO would not be resisted if, for instance, there was evidence of unsuccessful active marketing of a property as a class C3 dwelling with at least one recognised Estate Agent, at local market levels over a continuous period of at least 12 months, or where an Applicant can provide evidence that the policy restriction was causing severe personal hardship. Parish Councillor S Walker noted that in this case the Applicant had only been able to demonstrate that active marketing of the property had begun three months ago and whilst the Applicant had stated that anti-social behaviour relating to nearby students HMOs had created an intolerable situation, the Parish Council did not believe that the evidence that had been brought forward to convince the Committee sufficiently met the requirements as set out in Policy 16, as evidence which confirms policy restriction was causing severe personal hardship. She noted that advice from the Council's own Planning Development Manager made it clear that sufficient evidence, as per the terms of the Policy, would constitute something similar to a registered Doctor's medical note or otherwise, none of which had been provided by the Applicant.

Parish Councillor S Walker noted it was therefore an especially delicate situation and while every application needed to be judged on its own merits, approval of the application, without the necessary evidence to support and exception under Policy 16, would set an extremely dangerous precedent in the city offering landlords and developers alike a loophole that could further exacerbate the issues already described for permanent residents. She concluded that therefore it was of the upmost importance that the Committee supported its own Officer's recommendation and refuse the application.

The Chair thanked Parish Councillor S Walker and asked Mr Smith to speak on behalf of the Applicant in support of the application.

Mr Smith explained that Mike and Caroline Costello had lived at 8 Laburnum Avenue for 33 years and had raised four children there. He noted that the street in 1987 was very different to how it was today and explained that Mr Costello had campaigned tirelessly for the control of HMOs in the area and was now hoist by his own petard. He noted that the Applicant's Statement at Appendix 2 to the Design and Access Statement supported the application, however, the Applicant wished to thank the Committee for enabling him to emphasise some key points.

Mr Smith explained that historic, unrelated, uncontrolled HMOs in proximity to the property had eroded the area's residential amenity, with many of the Applicant's friends having moved from the street due to the difficulties they had endured. He added that, for the Applicant, living in the property had become intolerable and regrettably he had decided to move away. Mr Smith added that it was highly unlikely the Applicant would be able to sell the property for market value for use as a family home, with those enquiring having been investors looking to buy the property to let as an HMO. He informed Members that there had been absolutely no interest from families, which was unsurprising as Officers set out that 72.7 percent of the residential properties in the area were Council Tax exempt and therefore HMOs. Mr Smith added that the Applicant's home was adjacent to HMOs on all sides.

Mr Smith noted that at the Parish Council's meeting about the application, it appeared that the Parish Council could not support the application under the rigorous application of Policy 16. He added there did seem to be acknowledgement that the Policy could trap families, like the Applicant's, in areas where there was already a high percentage of HMOs within a 100 metre radius of a property and where the 90 percent threshold was not exceeded. He continued that this was why the Applicant felt that the policy had an inherent inflexibility allowing the Council to grant consent for changes to use as an HMO in such circumstances.

Mr Smith noted that regrettably the Applicant did not have the time or the finances, being 76 years old, to be able to show a full year's active marketing that he is unable to sell the property as a family home, however, it was clear from the marketing exercise to date that there was no interest whatsoever, at market value or not, to purchase the property as such. Mr Smith explained that accordingly, it was perfectly reasonable that the Applicant to ask for a change of use for the property to sell as a dual use as a family home or an HMO.

He explained that strategy would give the Applicant the flexibility to sell and also allowed the Council to impose controls that would minimise the potential for proposed use of the property to compound the problems caused by high concentration of HMOs in the area. Mr Smith noted that was very important to the Applicant to ensure the remaining families' amenity was not harmed further. He added that there was no area of the City where the 90 percent threshold of the policy was exceeded. Mr Smith noted that if the Council robustly defended that threshold without exception, there would be families trapped in areas of high concentration, unable to sell their homes, financially disadvantaged, and where there was severe detriment to everyday family life.

Mr Smith noted Planners had done their duty by following policy to the letter and recommending refusal, and he explained he was in attendance today to ask, on the Applicant's behalf, the Planning Committee to show some leadership and compassion. He noted that if Members believed Policy 16 was designed to trap elderly residents in their home against their will and prevent their heirs from collecting their inheritance to the point that those houses degrade to the point of dereliction then they must refuse the application. He added, however, that he would respectfully request that the Committee could accept that the Council's HMO policy does not provide exemptions in the commentary, as explained in the supporting documents that would allow it to grant consent, or that the policy was flawed in its drafting and material considerations should dictate that the Council should approve the application as a departure from the Development Plan.

Mr Smith explained that Planners were very concerned about creating precedents, and that was a worry, however there were dozens of people in Durham in a similar position to the Applicant. He added the policy was flawed, one street judged upon the makeup of others and that in the Applicant's case a street that did not exist until 10 years ago. Mr Smith noted that he was not proposing that Members changed the policy, but that each and every similar case comes before Committee for scrutiny. He added that it was the job of the Committee to see through the charlatans posing as residents and examine the history of those applicants.

Mr Smith noted many would have as good a case as the Applicant, but none would have better. He asked that the Committee grant the application, not to create a precedent, but to right a wrong.

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

Councillor K Shaw moved the Officer recommendation for refusal, he was seconded by Councillor E Mavin.

Upon a vote being taken it was:

**RESOLVED**

That the application be **REFUSED**.

*Councillor D Freeman entered the meeting at 10.10am*

**Councillor D Freeman in the Chair**

**d DM/21/01351/FPA - Land to the South of Bradyll Street, Kelloe, DH6 4PL**

The Planning Officer, George Spurgeon, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was to restore land to agricultural by removal of old house foundation, planting, hard standing and temporary demountable pens, and was recommended for approval, subject to conditions.

The Planning Officer noted the proposals included temporary demountable pens, however, as they were temporary features that would regularly be removed they were not considered to amount to development. He noted that the report, at Condition 6 contained a typographical error with a start time for works of no earlier than 8000, which should have read 0800.

Members were referred to site plans and asked to note the site was within the countryside, outside of the settlement boundary, with the village of Kelloe to the north. It was explained to the north, south and east there were open fields, with the Applicant's existing agricultural business to the west, which had been approved as part of a scheme submitted in 2014.

The Planning Officer explained that a similar application for the site was refused earlier in the year, however, that application had also proposed the addition of an agricultural building and Officers had been concerned that there was no justification for the new building on the site.

With reference to aerial photographs, the Planning Officer explained the site sloped up quite significantly from the north to the south of the site, and while the photographs showed the site to be covered in vegetation, the Applicant had removed all vegetation and modified site levels across the site to create three plateaus, although not to an engineering level that amounted to development. Members were also asked to note Raisby Quarry to the edge of the aerial photographs.

The Planning Officer referred to photographs of the site, showing the access, adjacent existing agricultural business and proximity to existing housing, the nearest properties being 1 and 2 Bradyll Street, the latter approximately 50 metres away. Members noted other photographs taken from the site, including looking towards the Applicant's existing agricultural enterprise and downhill and north towards Kelloe.

The Planning Officer noted updates to the National Planning Policy Framework (NPPF), and updated Members as regards the references to paragraphs within the NPPF, namely:

- Paragraphs 42 and 46 of the report, NPPF Paragraph 127 changed to 130.
- Paragraph 50 of the report, NPPF Paragraph 180 changed to 185.
- Paragraphs 54 of the report, NPPF Paragraph 108 changed to 110.
- Paragraph 59 of the report, NPPF Paragraph 174 changed to 179.
- Paragraph 60 of the report, NPPF Paragraph 178 changed to 183.
- Paragraphs 66 of the report, NPPF Paragraph 175 changed to 180.

Members were asked to note a site plan showing the existing agricultural business, application site and cross-section showing the slope of the site. The Planning Officer noted that initially it had been proposed that the entire middle plateau of the site would be covered by hardstanding, however, Officers had sought an amendment to reduce the amount. It was explained there were two public rights of way across the site, namely Footpath 13 and Footpath 14. It was noted a proposed cross-section showed that the site would be excavated to a depth of 750mm and topsoil would be imported to the same depth.

In respect of consultation, the Planning Officer noted that the Coal Authority had confirmed that the application site fell within the defined Development High Risk Area and their records indicated that fissures, associated with past coal mining activity, were present on the site and they posed a potential risk to surface stability and users of the site. It was noted the Coal Authority requested pre-commencement conditions requiring a scheme of intrusive site investigations and remedial work as a consequence.

The Planning Officer noted the Highway Section and Environmental Health offered no objections to the application, with the Contaminated Land Section recommending a suitably worded informative to be included as regards unforeseen contamination. He explained Officers from the Landscape Section had noted the site was in a prominent elevated position and added that, if the principle of proposals were deemed acceptable, a suitable landscaping scheme should be secured by condition in order to assimilate the hardstanding into the surroundings.

Members were asked to note that the Public Rights of Way Team had offered no objections as the amended site plans showed the positions of the two public rights of way and they would be protected during the works by harris fencing and stiles would be installed at both ends to allow continued access along Footpath 13. The Planning Officer noted the application had been advertised by way of a site notice, with no objections having been received. He added the application had been reported to Committee by request of Councillor M McKeon, a Local Member, due to concerns as regards highway safety and residential amenity.

The Planning Officer noted that CDP Policy 10a permitted development within the countryside provided it was necessary to support an existing agricultural enterprise, the Applicant having an existing agricultural enterprise directly to the west of the application site. He added that the Applicant had explained as regards the lack of progress with the existing business, with grass seed not having taken up as anticipated due to poor weather, and therefore was not yet suitable for grazing for animals. He reiterated that Officers had sought amendments to reduce the size of the proposed hardstanding from 350 square metres to 160 square metres, to greater reflect the storage needs of the Applicant. Members were asked to note that, taking those matters into account, the application was felt to be broadly in accordance with Policy 10 of the CDP. The Planning Officer noted that as the proposals were considered acceptable in principle, a condition was proposed to secure details of a landscaping scheme and that with such a condition it was not felt the proposals would have an adverse impact on the character and appearance of the landscape.

In terms of residential amenity, the Planning Officer noted that the earthworks would likely generate additional traffic movement and it was explained that those movements would be for a limited duration and there were two conditions, one to restrict the hours of work, and a second to secure details of a Construction Management Plan (CMP) that would reduce any potential disruption to acceptable levels that would not warrant refusal of the application. It was reiterated that the Highways Section had offered no objections and the Public Rights of Way Team offered no objections subject to the conditions within the report. It was noted that the Ecology Team had expressed disappointment that the site had been cleared of vegetation, however, they offered no objection as the proposed use for grazing and creation of a wildflower meadow constituted a net biodiversity gain. The Planning Officer concluded by reiterating the comments from the Coal Authority in terms of conditions, noting a proposed condition referring to surface water drainage and asked Members to note the recommendation was for approval, subject to the conditions as set out within the report.

The Chair thanked the Planning Officer and asked Local Member, Councillor M McKeon to speak in relation to the application.

Councillor M McKeon thanked the Chair and Committee and noted she was disappointed with the Planning Officer's presentation, while well given, as it had not mentioned the enforcement history on the site, which was quite substantial. She noted that a few years ago a Stop Notice had been put on the site in respect of the previous application as while it had been allocated for agricultural use it had been used for tipping. She noted the activity had been undertaken under the guise of agricultural use, however, thousands of tonnes of soils had been imported and aggregates removed to the land the Applicant was now applying for planning permission for. She explained those activities had caused considerable disruption to the villages of Kelloe and Coxhoe, with dozens of dumper truck movements per day for a period of months. She added that had destroyed the road surface and drainage to the remaining properties in Old Kelloe and made the properties hellish to live in. She noted families had moved out of the village, some of those families having lived in the village since before the original Kelloe had become Old Kelloe and explained that gave an impression of the atmosphere the site had created.

Councillor M McKeon noted the extant permissions had been abused time and time again, and other businesses operating from the site included a waste transfer station immediately behind two of the properties. She added that with waste being dumped, stockpiled and burnt, it had caused a nuisance for the villages. She explained another business selling paving had been operating from the site and that people had also been living in caravans on the site without planning permission.

Councillor Mc Keon explained that the existing applications had been a blight on the villages of Kelloe and Old Kelloe and had been the cause of constant noise, nuisance and detritus. She added it would be totally unfair and unreasonable to have an impact upon the highways and residential amenity for existing residents if the application before Committee were granted. She noted that, in relation to the highways access, she had some real concerns as regards how the conclusion had been made. She reiterated that the last time the Applicant used the site there had been dozens, if not hundreds, of trips of heavy goods vehicles (HGVs) going through Kelloe and Coxhoe and this had caused mayhem for those living there.

Councillor M McKeon noted she wished it had been possible to have a site visit so that she could have shown Members the roads in the area. She explained that Kelloe was similar to many of the villages between the coast and Durham City, in that it was well populated, however, difficult to get to being remote, a product of the mining heritage of the area. She noted the village was hard to get to from the east or the south, where the application site was, and it was causing her concern. Councillor M McKeon added that the roads on that side of the village were old country roads, many effectively single-track, and the approach to the site was on the bus route for the 57, 57a and 58 services. She noted that, as many Members of the Committee would know, she was one of the most vocal bus users in the County and she could tell Members that those routes were one of the most hair-raising experiences, with winding country roads and the relatively high levels of traffic. She added the roads themselves were bumpy, not in a great condition and explained that if more HGVs were placed on those roads, to the volume that she assured Members there would be, it would be completely inappropriate and irresponsible.

She explained it was the main route between Kelloe and Cassop, Quarrington Hill, Trimdon, Thornley, Peterlee, Wingate and Wheatley Hill. She added a number of those villages shared a GP Group with Kelloe, with the surgery at Kelloe only operating half of the time, so many residents from Kelloe needed to attend their appointments at those other villages. She added that a number of children from Kelloe attended schools in the other villages and that therefore the volume of traffic was greater than one might expect on a typical country road. She suggested not to add any further HGVs on to those roads. She noted that the route she had described was one of the routes, with there being two other potential routes. She explained one, from the east, through Quarrington Hill, which would pass another hamlet, Church Kelloe, a thin, single-track, unadopted road which had dangerous turns that frequently saw accidents.

She added that she, together with former Councillor S Dunn had worked to secure improvements and safety features to that road, it was nowhere near good enough or safe enough for HGVs from out of the area to use, the improvements being to reduce the risk of accidents for those that lived in the area and knew the roads well. Councillor M McKeon noted that both of those routes would still take the bend past The Davy Lamp public house, which was right next to the entrance to the school. She noted, like with many schools, there was a parking problem outside of the school and HGVs coming through the village at those times would cause chaos and mayhem.

She noted the third route would take HGVs through the whole of the Front Street in the village, which had been used previously, and that would cause further traffic chaos, air pollution and resentment. She explained that the Committee would be imposing on Kelloe the type of activity that would earn another community a relief road, adding she felt the application would turn the Front Street into a motorway.

Councillor M McKeon noted there was another planning application in Kelloe for a café, and residents of the village were very excited for it, there not being many service businesses in the village. She added that there was no community centre, and while there was the church, club and school, there was not a community hub and she hoped that the café could become such a community hub, in the way Claypath Deli had become for their local residents in Durham City. She noted that the café would not only be impacted upon from the application in terms of the view, which was currently spectacular, but also in terms of the HGVs going past all the time.

She explained that every Councillor would have a site like the application site in their area, with a number of applications being submitted, causing a lot of enforcement concerns, with many e-mails from residents being received. Councillor M McKeon concluded by noting that she hoped the Committee would not impose upon the people of Kelloe something they would not wish for their own residents and reject the application.

The Chair thanked Councillor M McKeon and asked Officers to respond to the points raised.

The Planning Officer noted that the Local Member was quite correct, there had been a number of enforcement complaints on the site that the Enforcement Team had investigated previously. He noted the latest related to an existing agricultural building where it had been claimed that a paving manufacturing business was operating, with investigations ongoing in that regard. He noted that, in respect of the current application being considered, it would not be refused on the assumption that the Applicant would not comply with the conditions, the Authority would work on the basis that there were the controls to secure details of the construction working times.

He noted the appropriate route would be to investigate, and take enforcement action as appropriate, if the Applicant was to not comply with conditions.

The Principal DM Engineer, David Battensby explained that when looking at road safety, Officers carried out a risk assessment with all such applications and was the basis on which Highways put forward their comments in relation to how an objection could be sustained if an application was taken to appeal. In terms of the highways network, the Principal DM Engineer noted the roads were capable of taking HGVs. He noted that the roads through Kelloe were rural roads, however, he noted they were lightly trafficked currently and had relatively low levels of HGV usage. He added therefore an increase in HGV usage would seem quite high in proportion to what was there at present, however, it would still be low in terms of what was considered the proportion of HGVs to normal traffic. The Principal DM Engineer noted that next to Bradyll Street there was an existing sewage works which generated HGV traffic and added that in order to sustain an objection to the application, Officers would have to be confident that there would be a significant road safety issue generated from the HGV traffic from the application site. He explained Officers did not feel there would be a significant road safety issue and there were conditions required in terms of the movement of vehicles, limiting them to certain periods during the day, and the CMP would also be utilised in order to control which directions those vehicles would be using the highway network. He explained that through that mechanism, HGVs would be directed through the most appropriate routes, minimising the risk in terms of road safety.

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

Councillor E Mavin noted that while he did have sympathy with the Local Member, he did not feel there were any grounds to refuse the application and therefore he would move approval. He was seconded by Councillor L Holmes.

Upon a vote being taken it was:

**RESOLVED**

That the application be **APPROVED** subject to the conditions as set out within the report, and the amendment to the typographical error relating to start time of no earlier than 0800 at Condition 6.

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**Planning Services****COMMITTEE REPORT****APPLICATION DETAILS**

<b>APPLICATION No:</b>	DM/20/03760/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Partial change of use to create 58 bed Student Accommodation Facility to include the erection of a single storey extension to existing roof and associated access arrangements (amended title) (updated elevation and floor plan to south west)
<b>NAME OF APPLICANT:</b>	Metropolis Land and Property Developments Limited
<b>ADDRESS:</b>	First to Third Floors 4-6 Silver Street Durham DH1 3RB
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	Jennifer Jennings Senior Planning Officer Telephone: 03000 261057 <a href="mailto:jennifer.jennings@durham.gov.uk">jennifer.jennings@durham.gov.uk</a>

**DESCRIPTION OF THE SITE AND PROPOSALS****The Site**

1. The application site is located within Durham city centre, along the main shopping thoroughfare between Market Place to the north east and Framwelgate Bridge to the south west, within the defined primary retail shopping area. The site is located within the Conservation Area, with the rear of the building abutting the boundary of the World Heritage Site to the south. The building is not listed. Public rights of way nos. 66 and 67, known as Moatside Lane, abut the west and south of the site.
2. The building is relatively modern, built in the 1930s, with subsequent extensions up until the 1970s, including an attached annex building to the rear. It has a large footprint that covers the whole of the plot, and measures some 60 metres in length stretching from Silver Street to Moatside Lane to the rear. It is three storeys in height with a wide modern shop front, consisting of six large, glazed panels and two quadruple door entrance points, and dominates a large section of this part of Silver Street. The upper two floors have a brick façade, with a regular placement of sash windows, some set within surrounds at first floor level. The building has a parapet and flat roof behind, upon which lie numerous air conditioning units and fans, ducting, steps, railings and service buildings.
3. Formerly occupied by Marks and Spencer and M&Co, the building has been used at ground and first floor level for retail purposes, with the second floor in use for offices and staff facilities. Yorkshire Trading Co. currently operate retail from the ground floor

only. Rear access to the property is achieved through Saddler Lane, within a gated courtyard area, access to which is taken off Saddler Street to the east. It is understood that some deliveries and servicing of the premises is achieved at this point.

## The Proposal

4. The application seeks planning permission to create a 58 bed student accommodation facility through conversion of the first and second floors and addition of a mansard roof extension to create a third floor. This is an amendment from the original proposal which had originally sought to create a 70 bed student accommodation facility with addition of two floors.
5. Along with the additional single storey, a stair / lift extension building is also proposed to the rear along with conversion of the rear annex building for further student accommodation and service areas for the building. The ground floor retail shop unit is to remain, and no external amendments are proposed to the shop front at this point.
6. Externally, the main changes to the front of the building relate to the addition of the mansard roof, 2.6 metres high, set back behind the existing parapet. The roof would be finished in natural slate with lead flashings, with inset dormer windows, aligned with windows on the lower floors and finished with lead clad capping and cheeks. The remainder of this elevation would see renewal of existing windows on the first and second floor. The existing ancillary entrance, that formerly provided stepped access to the first floor retail space, is to be repurposed as a dedicated entrance point to the student accommodation. The doors are also to be renewed with access control and powered entry.
7. The south west elevation overlooking Moatside Lane would see the existing bricked up windows reinstated at first and second floor level, with further dormer windows added to the mansard roof on the new third floor. Where the existing building drops in height from front to rear, the external wall materials used to build up the height to the third floor would be clad in lead with standing seams, with a stair / lift extension finished in the same cladding and matching the final height of the mansard roof. The south and east elevations, consisting of the Annex building, would see the addition of a number of new windows and dormer windows in matching configuration and layout. A new secondary entrance point would be introduced on this side, taken from Saddler Lane and providing access to the internal bike store area.
8. At first floor level, a large reception and common room area would exist with a seating and games area, along with a shared laundry and gymnasium space for use by all residents residing at the block. From the reception area, private access would be gained to two separate apartments, each with 5 / 6 ensuite bedrooms and a shared living room / dining / kitchen space. At second floor, there would be three apartments, with 6/7 ensuite bedrooms and shared living space, with the third floor having a similar configuration. The annex building to the rear would be converted into a large apartment, consisting of 10 bedrooms over two floors and a shared living/dining/kitchen space, with direct access to the shared common room and gymnasium spaces.
9. The application has been called to Committee by the City of Durham Parish Council who raise concerns that the proposal is excessive, unjustified and harmful to the Conservation Area and the World Heritage Site.

## **PLANNING HISTORY**

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10. Planning history at the site largely consists of applications for advert consent and installation of CCTV cameras. In 2001 and 2003, permission was granted for the addition of roller shutters and security bars to the rear elevation of the building as well as refrigeration units to the roof space.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

11. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
12. *NPPF Part 2 - Achieving sustainable development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
14. *NPPF Part 5 – Delivering a 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.
15. *NPPF Part 7 – Ensuring the Vitality of Town Centres.* Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.
16. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
17. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

18. *NPPF Part 11 - Making Effective Use of Land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
19. *NPPF Part 12 – Achieving Well-Designed Places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
20. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
21. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.
22. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

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

23. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; historic environment; design process and tools; determining a planning application; flood risk; 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

24. *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.

25. *Policy 9 Retail Hierarchy and Town Centre Development* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county
26. *Policy 16 Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation* seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
27. *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.
28. *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.
29. *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.
30. *Policy 29 Sustainable Design* details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
31. *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.
32. *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.
33. *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.

34. *Policy 43 Protected Species and Nationally and Locally Protected Sites* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
35. *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.
36. *Policy 45 Durham Castle and Cathedral World Heritage Site* seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value (OUV) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.

## Neighbourhood Plan

37. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
38. Policy S1: Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
39. Policy T1 Sustainable Transport Accessibility and Design seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.
40. Policy H1 Protection and Enhancement of the World Heritage Site requires development proposals within the Neighbourhood to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views. its Outstanding Universal Value and to support the current adopted management plan.
41. Policy H2 The Conservation Areas expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and

roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.

42. Policy E3 Retail Development states that development will be supported where it contributes to the lively and vibrant City Centre and enhance the character and attractiveness of the City Centre. It further states that development that provides residential accommodation in upper floors of commercial properties will be supported as long as they do not have a negative impact on retail, commercial and tourism activities and the general amenity of neighbouring properties and residential amenity including noise impact.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

43. *City of Durham Parish Council* objects to the proposals. In relation to the initial submission for 70 beds and two additional floors, the Parish considered that the assessment of need was not adequately demonstrated and could not justify the addition of two storeys to the existing building. It also considered that there would be excessive harm to the Conservation Area and inner setting of the World Heritage Site. Further concern was raised with regards of loss of retail floorspace.
44. Upon receipt of amendments to the scheme, reducing the scale and size of the proposals, the Parish Council maintain its objection, stating that the proposals remain contrary to CDP policies 44 and 45 and NP policies H1 and H2, due to negative impacts on the conservation area and WHS without any benefits to outweigh this. The Parish Council further state that whilst they would support a different proposal for student accommodation or other non retail use above the ground floor and within the existing envelope of the building, the proposals submitted and amended are considered excessive, unjustified and harmful to the City of Durham Conservation Area and the Durham Castle and Cathedral World Heritage Site.
45. *The Highway Authority* originally raised a number of issues with regards the scheme, stating they could not support it due to concerns over use of Saddler Lane for pedestrian and cyclist access, quality of the surface and bin storage. Upon receipt of further details, Highways were satisfied that no vehicle access would be taken from Saddler Street to the development and that a contribution would be made towards surface improvements. Whilst some continued concern was raised with regards cyclist safety accessing the courtyard, it was felt that numbers using this access would be limited and it would not be sufficient to uphold a refusal on this basis. Bin storage details were not agreed, but a condition could be applied. Further details within the main body of the report.
46. *Drainage and Coastal Protection* officers state that the application should include an existing and proposed surface water drainage system with impermeable catchment area plans for existing and proposed.
47. *The Coal Authority* note that the site falls within the defined development high risk area. However, they comment that the extension works would take place at existing

roof level and that it would not require substantial foundation works. On this basis no risk assessment is required and no objection raised. An informative is requested to be added to any permission.

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

48. *Historic England* offer no comments in relation to the proposal.
49. *Northumbrian Water* have no comments.
50. *NHS* originally stating that a contribution of £14,700 would be required to increase GP surgery capacity, confirmed this contribution would no longer be required based on revised scheme.
51. *Police Architectural Liaison Officer* raised a number of queries with regards security in relation to: a manned reception area, night watch facility, CCTV installation, access control to the building, individual apartments and bedrooms, and security of bike storage. The applicant responded to these queries and this is addressed within the report.

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

52. *DCC Design and Conservation* provided detailed comments in relation to the original submission and requested a number of amendments, including removal of the 4th floor and stair lift tower, improvement to the materials palette and provision of further assessments, particularly against ICOMOS guidance.
53. Upon receipt of amendments to the scheme, along with updated assessment documents, Design and Conservation conclude that the heritage impact summary identifies that the significance and setting of the heritage assets, designated and non-designated, would be either sustained, conserved, or slightly enhanced. It would therefore be suggested that the revised proposal accords with the principles of Section 16 of the NPPF, County Durham Plan Policies 44, and 45, and Neighbourhood Planning Policies H1 and H2. This would be subject to the appropriateness of the materials that are critical in order that the development does becomes a recessive part of the townscape the palette of materials should be limited, muted and of high quality. This can be controlled by the imposition of conditions should the application be approved. Full details of comments contained within the main body of the report.
54. *DCC Ecology* section noted that the building to the rear of the site had a high risk for bats and more information was therefore required to inform the application.
55. Upon receipt of further information which confirmed 3 roosts on site, Ecology state that a Bat Mitigation Class Licence will be required for development to proceed. They request that if approved, a condition should be applied requiring adherence to Section 5 of the report, which includes provision of ecological enhancements.
56. *DCC Archaeology* comment that although ground disturbance appears minimal, the creation of lifts will involve excavation of pits and may impact on archaeological remains. On this basis the ground disturbing elements of the development need to be monitored and two conditions are requested for a programme of works to be submitted prior to commencement of development and submission of a post investigation assessment.

57. *DCC Public Rights of Way* section note the presence of two public footpaths around the site which are ancient vennels and are also part of the adopted highway network. They note that emergency fire access is required onto these footpaths via fire doors and advise that doors and gates must not exit directly onto a highway or PROW. They also state any works should not impact on the widths of the path. Construction works may require temporary path closure.
58. *DCC HMO licensing* section comment that the development constitutes a change of use into a number of houses in multiple occupation and will therefore individually need to be licenced under Part 2 of The Housing Act 2004. Further comments received about extent of kitchen facilities and fire detection alarm systems.
59. *DCC Environment, Health and Consumer Protection (Contaminated Land)* state there is no requirement for a condition.
60. *DCC Environment, Health and Consumer Protection (Nuisance Action Team)* assessed the noise assessment and confirmed that it is carried out to correct methodologies and fully identifies the nearest noise sources that would impact on the development. Based on the information submitted, they request that a pre commencement condition be applied for a full scheme of noise mitigation measures to be submitted and approved, and implemented prior to beneficial occupation, should permission be granted.
61. *DCC Spatial Policy* comment that the conversion of this property into PBSA has scope to be compliant with the CDP, but the current design does raise some concerns in relation to the potential lack of light in some of the rooms, as well as the impact to the operational requirements of local businesses, both during construction and as an ongoing operation. The development of the site would contribute to the economy through the construction process and new student residents supporting local services etc, which can be considered as a benefit. The proposal would also make use of empty space above business premises. They further comment that the requirements set out in Policy 16 have been met as sufficient information has been provided in relation to need and consultation has taken place with the University provider.
62. Further comments were received following advice from legal section and the Licencing Team, which highlighted that in accordance with the Housing Act, the conversion of any property which is licensable as an HMO should be treated as an HMO. Therefore, despite the scale of the development, the proposals should be classed as an HMO and determined under section 3 of Policy 16. They further note that 74.1% of properties are Class N exempt student properties as defined by Council Tax records. Although this figure is above the 10% threshold outlined in the policy, the site falls within the town centre and as such commercial uses are predominant with the 100m area, therefore the exemption set out in criteria (i) of policy 16-3 applies.
63. *DCC Sustainable Travel* comment that the site does not warrant the production of a Travel Plan

#### **PUBLIC RESPONSES:**

64. The application was advertised by way of site notice and letters to neighbouring residents and occupiers. Three public comments were received to the original submitted scheme, raising the following concerns:
- Whilst one additional storey might be acceptable, 2 would be too much and overpowering on the general roofline in the street.
  - Concerns over increase in massing of the annex buildings

- Concerns that no studies done in relation to housing need for key workers, individuals and small families or consideration of demand in existing PBSA
  - Query whether consideration given to staff facilities for existing shop now that this is lost through development
  - How would shop unit be serviced if no longer from the rear
  - Because it is a larger shop unit it can provide for an anchor tenant, however with it being lost concern this may be detrimental overall to shopping area
  - Concern that suggestion that student accommodation only viable use is biased view and the need for two storeys to make it viable is not believable
  - Consider adding two floors to the building is totally unacceptable and out of keeping with area, but accept reuse of upper floors.
  - Concerns over extension upwards and outwards within the conservation area and below the wall of Durham Castle, part of the WHS is not acceptable and in breach of CDP policies 44 and 45 and NP policies H1 and H2
  - Durham University provided comments, stating they have no objection to the principle of student accommodation on the upper floors but the two storey upwards extension raises significant concerns on impact of CA and WHS. Recommend reducing height
65. Two further comments received following submission of amendments
- Whilst encouraged to see change in plans, still do not consider that there is a need to extend height of building. Development should be contained within current building footprint. Concerns that this could set precedence of buildings looking to increase height.
  - Comments that there is no demand for this type of accommodation, as all the new PBSAs have loads of vacancies but no HMOs are available for rent
  - Concerns that the additional storey will overshadow Moatside Lane and cause increase risk of crime and antisocial behaviour. Note that already problems along this laneway. Request section 106 monies towards lighting along this lane.
  - Concerns that construction works will negatively impact on residents within Saddler Lane through lighting, deliveries and causing nuisance. Request conditions to protect against this
66. City of Durham Trust object for the following reasons:
- Concerns over loss of first floor retail and lack of strategic oversight on persistent change of upper floors to student accommodation.
  - Concerns over inaccuracies within Planning Statement and reference to need for additional bedspaces, which doesn't take into account allocated PBSAs in the CDP.
  - Consider the works would be irreversible and would render the upper floors never suitable for retail. Consider student accommodation use would not add to year round city centre vitality.
  - Consider Heritage and Design and Access statement as incomplete and inaccurate. Insufficient assessment of the terrace from the Castle's position and views across the city. Overemphasises impact of trees providing screening which are relatively new addition and not properly managed on site
  - Insufficient assessment on the surrounding buildings, burgage plots and Moatside lane, impact on height increase, night time assessment and impact on lighting of castle and cathedral and WHS in general.
  - Consider that the merits with replacing the plant on the flat roof is overrated.
  - Design is out of keeping as mansard roof not visible along historic core streets and there are few dormers. The proposed dormers are also not in keeping with other windows along this elevation.
  - No effort to improve the unsightly shop facias.
  - Buildings along Silver Street are seen to step up the slope, creating a fragmented roofscape, however the proposals would flatten this effect.

- Consider that the design quality is extremely poor and would have substantial negative townscape and roof scape impacts causing heritage concerns and detract from the WHS.
  - Concerns over large tower to rear and materials proposed being wholly out of keeping.
  - The proposals weaken the dominance of the castle set against the subordinate townscape which is noted as an important part of the significance of the WHS.
67. Following receipt of amendments, the City of Durham Trust stated that they continue to object to the proposal, stating 'The removal of the highly intrusive fourth floor, realignment of the third floor to accord with the existing frontage, and alternative materials for the rear extension, simply are not enough. The proposals fail to deliver any positive enhancement; the roof replacement for the current rooftop is only a minor reduction in negative impact. It is negated by the loss of stepping up Silver Street, the effective joining with the adjacent Tesco's block to create a large unsympathetic, homogenous mass and it still imposes a large two storey rear extension to the World Heritage Site (WHS) at a vulnerable point. Loss of retail space remains insufficiently examined or justified as does the need for more student spaces outside of County Durham Plan (CDP) major Purpose Built Student Accommodation (PBSA) allocations. Put concisely, it is an inappropriately weak design imposed on the conservation area, a historic street, and close to the WHS with no acceptable justification of its use.'
68. Further assessment provided in their response, highlighting continued deficiencies in the applicant's assessments and no justification for the proposals
69. World Heritage Site Co-ordinator objects for the following reasons:
- No proper assessment undertaken of impact of proposals on Castle terrace
  - The assessment underestimate the individual and cumulative impact of the large foreground buildings which broke up the burgage plot frontage height and width ratios and large flat roofs with plant etc, which have negatively impacted on view from terrace, Moatside lane and the WHS boundary.
  - The two additional floors of differing architectural approach would sit uncomfortably and is very poor in design approach, along with the stair tower finished in render is also inappropriate.
  - The proposals are discordant by size and form, too high in roofscape and flattens the topography crucial to the WHS setting. Long and short distance views impacted negatively.
  - Proposals offer considerable disruption to the dominance of the WHS buildings and offer no benefit to outweigh this
70. Upon receipt of further amendments, the World Heritage Site Co-ordinator continues to view the scheme as failing in its heritage and WHS assessment, with the importance of the WHS being underestimated as well as the impacts of the proposal.
71. Reference is also made to comments made by ICOMOS (advisers to UNESCO) in relation to the Elvet Business School proposal and in relation to the proposed WHS boundary expansion:
72. 'ICOMOS advises that in the absence of a buffer zone, a reappraisal of regulations for the immediate setting of the property should be undertaken urgently to ensure that developments are limited in this area and, where appraise, is of a size and form that is compatible with supporting attributes of the Outstanding Universal Value.'
73. 'Protection measures are also necessary for the sections to the north-west and north of the property, to control development and redevelopment and so ensure there is no impact on the views.'

## **APPLICANT'S STATEMENT:**

74. This note has been prepared by Lichfields and comprises the 'Applicant's Statement' in relation to the above planning application.
75. The subject planning application seeks permission for the change of use of the upper floors of the above premises from retail use (Class E) together with a single storey extension in order to form a 58-bed space student accommodation development.
76. Following submission of the planning application in 2020 and as a result of comments made by Council Officers earlier this year, the proposed development has been significant modified and reduced in scale. This resulted in the fourth floor being removed from the scheme completely reducing the number of bed spaces proposed from 70 to 58. Amendments to the design of the proposed development were also incorporated as a result of discussions with Council Officers.
77. The existing building, which is not listed comprises ground and 2 upper floors. The upper floors were previously used as retail and back of house floorspace as part of the former M&S store but are currently vacant. More recently the ground floor was occupied by M&Co prior to the company entering administration. The unit has been actively marketed over the past three years, but no interest has been forthcoming for re-occupation of the entire building. Yorkshire Trading Company currently occupy the ground floor on a month to month rolling lease in order to provide an active frontage and to keep some '*lights on*' in Silver Street. As part of the planning application submission the professional opinion of Bradley Hall Chartered Surveyors was obtained in relation to the re-occupation of the entire building for retail. In addition to there being no interest from any party to occupy the whole building, it was their considered opinion that whilst they consider the retail market will improve they '*would not expect any retailer to require the upper parts to your premises. The ground floor at 10,000 sq ft is large enough for most occupiers in a city like Durham and as a result the upper parts simply become a liability.*'
78. The proposed development will retain retail use at ground floor with the upper floors converted and extended to provide student accommodation bringing the majority of a prominent, vacant building back in to productive use.
79. As part of the planning application submission, Lichfields prepared a BedSpace Report which demonstrated, inter alia:
  - that there is a need for additional student accommodation of the type proposed in this location;
  - the proposed development would not have a negative impact upon retail, employment, leisure, tourism, housing or the council's regeneration objectives particularly as the ground floor retail unit is being retained and that the student accommodation will generate footfall and expenditure within Durham City supporting existing surrounding businesses; and
  - that the design and layout of the proposed development is of an appropriate and acceptable standard.
80. The report concluded that the proposed development is in accordance with Policy 16 of the adopted County Durham Local Plan.

81. The design and appearance of the proposed extension to the building has been amended since the application was originally submitted with the proposed fourth floor being removed completely. All of the existing unsightly plant currently located on the roof of the existing building would be removed as a result of the proposals.
82. We note that the council's Design & Conservation Team, in their comments on the planning application in relation to the design of the development state that '*The overall impact within the conservation area would be sustaining and conserving. But it would be suggested that there would be some beneficial impacts (enhancement) deriving from improving the aesthetic of the existing buildings frontage, and from the new roof structure removing existing service work and providing higher quality unified materials. In preapplication comments Historic England considered that the general tidying up of the roof and walls offers a slight enhancement to the conservation area. Further benefits would be delivered by securing the commercial use of the ground floor and bringing the building into full active sustainable use while allowing it to add to the vitality and viability of this part of the city which is suffering from an economic downfall and high levels of vacant buildings.*'
83. The comments go on to set out that the proposed development '*would be negligible within the setting of the WHS and not harmful*' and that the overall cumulative impact on the setting of the WHS would be '*either negligible/ slight and either conserving or beneficial. This ties in with the core aims of the WHS Management Plan of protecting the sites OUVs and setting, and would not weaken or threaten any of the inscription criteria for its inclusion on the World Heritage List.*'
84. Finally, the comments conclude that '*The heritage impact summary identifies that the significance and setting of the heritage assets, designated and non-designated, would be either sustained, conserved, or slightly enhanced. It would therefore be suggested that the revised proposal accords with the principles of Section 16 of the NPPF, County Durham Plan Policies 44, and 45, and Neighbourhood Planning Policies H1 and H2.*'
85. A wide range of public benefits would also be created by the proposed development and these are set out in the Planning Statement prepared by Lichfields. In summary, they include:
  - The re-use of a vacant building in an economic climate where large retail units are no longer in demand;
  - The development will bring footfall into the area and will also play a wider role in capturing investment in Durham and generating:
    - (i) Capital investment of £4.2 million;
    - (ii) Support the recreation of 85 FTE construction jobs and an additional 100 indirect and induced FTE jobs supported in the construction industry supply chain and related services during the build period;
    - (iii) GVA (economic output) uplift of £11.2 million during the build period; and
    - (iv) Estimated net additional new student expenditure of £365,000 per annum which could support approximately 5 FTE jobs in local shops and services.
86. In the context of the above, the planning application submission and Council Officers' assessment of the proposal, it is clear that the proposed development is in accordance with the development plan and that there are no material considerations which indicate otherwise. On this basis planning permission should be granted for the proposed development.

*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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87. 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 World Heritage Site, Conservation Area, surrounding Listed Buildings and Non Designated Heritage Assets, impact on amenity of neighbouring occupiers and future residents, highway safety and issues surrounding archaeology and ecology.

### **Principle of the Development**

88. 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 and the DCNP.

89. 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.

90. As a conversion to create a 58 bed student accommodation block, the development should be assessed and determined against Policy 16, relating to Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation. Although referenced as a student accommodation block, it is noted from the floor plans that the layout of accommodation is in the format of a number of multiple bedroom apartments. As such, given this layout, the proposals are considered to be licensable under the Licensing of Houses in Multiple Occupation (Prescribed Description) (England) Order 2018. Paragraph 5.136 of the CDP clarifies that a PBSA is a building which is not classified as Use Class C4 or anything licensable as an HMO. On this basis, part 2 of policy 16 is not considered relevant, therefore, consideration of the acceptability of the proposals falls to be assessed against part 3 of policy 16.

91. Policy 16-3 states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for a change of use to a Class C4 HMO where planning permission is required, will not be permitted if, in accordance with part a), including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from Council tax charges (Class N Student Exemption). It further states in part b) that a change of use will not be permitted where existing unimplemented permissions for HMOs within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10 per cent

of the total properties within the 100 metres area; or, in accordance with part c), less than 10 per cent of the total residential units within 100 metres are exempt from council tax charges (Class N) but the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.

92. The policy further states in part i) that changes of use to HMO would not be resisted where an existing high proportion of residential properties within 100 metres are exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.
93. From assessing the percentage in HMO use within 100 metres of the site, it is confirmed that 74.1 per cent are in HMO use. However, given that the site is within the primary shopping area of Durham City it falls to be considered under part i) which is permissible of changes of use in these circumstances. The principle of development to create new HMOs in this location is therefore acceptable and in accordance with planning policy.
94. Notwithstanding the above, and given the scale of the development, the applicant submitted a Bed Space report assessing demand for student accommodation, in consultation with Durham University. Significant objection has been received in relation to the Bed Space Report, in particular, its disregard for PBSA allocations contained within the CDP. The applicant submitted further detail addressing these points, commenting that the allocations within the CDP cover a long term strategy up to 2035, and have no guarantee of being realised, particularly in the short term up to 2027, the end date of the current Durham University Strategy and Estate Masterplan (2017-2027). In addition, the applicant further states that to use the potential bed space provisions within the allocations as a benchmark for supply would risk over calculating short term bed supply.
95. The LPA note the details put forward in the Bed Space report, and in considering the analysis of potential bed space demand, a shortfall in supply of some 978-1086 bedspaces is indicated, based on a conservative estimate of demand. The current proposal through provision of 58 bedspaces can provide 5-6% of this estimated demand in the short term, and would not be considered to result in excessive overprovision when taking into account allocated sites.
96. As already noted, the internal layout of bed space within the property is akin to a series of HMOs, for which a HMO licence is required, and the property is not classed as a PBSA on this basis. There is therefore no requirement under Policy 16-3 to demonstrate a need for additional student accommodation. That aside, provision of a HMO arrangement within this large student accommodation block would be considered to meet a HMO need, but would be suitably contained within the City Centre, away from residential areas and within a managed student accommodation facility, that can provide additional amenities over and above HMOs in the community. Such a provision suitably widens the choice and diversity of the accommodation offer and offers alternative benefits over individual studio flats as noted in other PBSA blocks which potentially limits social interaction between students. It is noted that Durham University provided public comments on the scheme, raising no issue to the principle of provision of this quantity of student accommodation in this form.
97. In light of the above, the proposals are considered acceptable and in line with the requirements set out in policy 16-3(i).
98. As noted, whilst the development would retain the ground floor retail unit, it would result in the loss of the first-floor retail space. The LPA concedes that this is

regrettable, however, in recognition of the ongoing issues surrounding vacancy rates within town centres, it would be inappropriate to insist on its retention in retail use, particularly as permitted development rights effectively allow for change of use of these spaces to residential in any case. Policy 9 also supports residential uses within town centre locations. Notwithstanding this, the retained ground floor unit is noted as being a large space and is currently occupied for retail purposes.

99. The development to convert the upper floors of this retail unit to student accommodation in a highly sustainable location, readily accessible to the university site would be deemed acceptable in principle, subject to other considerations below.

#### Impact on the character and appearance of the World Heritage Site, Conservation Area, surrounding Listed Buildings and Non-Designated Heritage Assets (NDHA)

100. Local Authorities have a duty to preserve or enhance the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 of the same Act requires a similar duty to preserve or enhance Listed Buildings or their setting or any features of special architectural or historic interest which it possesses. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
101. In line with this duty, Policy 44 (Historic Environment) of the CDP 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.
102. Policy 45 (Durham Castle and Cathedral World Heritage Site) of the CDP seeks to ensure that developments within the World Heritage Site (WHS) sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value (OUV) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.
103. Policy 16 3f) of the CDP states that new HMO development will only be permitted where the design of the building or any extension would be appropriate in terms of the property itself and the character of the area.
104. Both approaches display a broad level of accordance with the aims of Part 16 of the NPPF which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
105. Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.

106. Neighbourhood Plan policy H1 and H2 relating to the World Heritage Site and Conservation areas require that development proposals should sustain and enhance their special interest and significance.
107. As noted, the original submission prompted significant objection in relation to its appearance and impact on the WHS and surrounding conservation area. The scheme was subsequently amended, taking into account the concerns raised, and has now resulted in a reduced scheme, through removal of the fourth floor and scaling back of the lift / stair structure. However there remains continued objection to the scheme, as highlighted in the public comments above. Design and Conservation assessed the amended scheme providing detailed comments, as well as addressing concerns raised. These are summarised below under various relevant headings.

#### Design

108. It is acknowledged that mansard roofs are not common within the city centre, but are nonetheless considered a traditional roof style and allow for regular lines of dormers to form an integral part of the roof architecture. The addition of a mansard roof in this location is noted as a replacement to the existing flat roof area that is of no quality or character, with the proposed roof successfully fitting with the upper neo-Georgian style façade of the host building. The dormers would provide breaking features that line through with the windows in the elevation below and continue the vertical balance to the façade.
109. In assessing the proposed roof against the Conservation Area Character Appraisal of this part of the city, it is considered that the proposed extension would remove a modern flat roof that adds nothing to the city's roofscape character and provide a new and more interesting roof structure of appropriate materials. This would in turn better reflect and add to the defining roofscape characteristics as outlined in the character appraisal. The submitted visualisations also appropriately show a retained stepped arrangement between the two modern blocks of Tesco and the former Marks and Spencer's building, with the ridge line of the extension proposal set lower than the parapet line of the Tesco block. The subordinate effect would be increased by the extension proposal being set back from the parapet with the prominence of the corner of the Tesco building retained.
110. It is noted that the stair tower element is discordant with the traditional mansard form and does not reflect the traditional roof form and profiles that characterise the local vernacular. However, this element of the proposals would be subordinate to the main roof and located to the rear where it would either not be visible from street level or seen at such a distance from specific elevated viewpoints only that it would not be so visually discernible or harmful in the wider townscape and roof space.
111. New window openings are proposed along the elevations facing onto Moatside Lane to the west and south. At first floor level on the west elevation, the majority of the windows would be installed in existing bricked up window openings and as such their reinstatement is not opposed. Windows at second floor level would for the most part result in the introduction of new window openings on the west elevation as well as the south elevation of the Annex Building. At third floor level the new mansard roof would also introduce new windows overlooking the Lane. In terms of impacts on Moatside Lane itself, given the character of the Lane as a dark, narrow vennel with a significant ground level difference rising from Silver Street up to the Castle embankments, it is considered that its overriding character would remain intact, particularly as the majority of the windows would be well above head height. On this basis, the impact

of these proposed changes on visual amenities would not be considered significant or unduly negative.

112. In summary the design of the proposed alterations are considered acceptable and in keeping with the host and neighbouring building due to its suitable level of subordination. A condition for submission of details of all external surface materials is recommended to be included on any approval granted.

#### Conservation Area

113. Historical development of the site saw the removal of the more traditional burgage size plots and historic buildings and replacement with large modern blocks of horizontal emphasis. In consideration of the current proposals, whilst they would not reverse this harm, it is not considered that they create a greater adverse effect to the physical fabric or historic plan form at this part of the city.
114. In terms of views from within the Conservation Area, assessment of the various visualisations demonstrates that the extended building would appear visually recessive in the varied townscape background, remaining subordinate to the higher status grade II and II\* listed buildings within the Market Place. The extended building would not appear prominent or incongruous, but rather suitably assimilated in the visual context of the Market Place streetscene. Of note, when viewed from Market Place, the visualisation demonstrates that the roofline of the extension can successfully retain the stepped down appearance from the Tesco building allowing the scheme to follow the existing roofscape hierarchy and gradient down Silver Street. Views travelling up Silver Street indicate that there would be no significant visual impact as the proposal would be shielded from view due to the narrowness and curve of the street.
115. Assessment of the visualisations of long distance views from Crossgate notes that the extension would not appear visually prominent or as a major detracting presence, sitting within the context of more traditional fragmented forms in the foreground and background. Any views are not considered to naturally fall within the line of sight but would rather be specifically looked for. In any case, progressing down the hill at Crossgate, it is clear that the WHS dominates the view, with the development proposal disappearing from view due to the intervening topography and built development.
116. The overall impact within the conservation area is therefore deemed to be a sustaining and conserving one. There are also noted enhancements through improving the aesthetic of the existing buildings frontage and from the new roof structure removing existing servicing structures and providing higher quality unified materials. In this case the development is therefore considered to accord with the aims of policy 44 of the CDP and policy H2 of the Neighbourhood Plan.

#### World Heritage Site

117. The development, being located directly adjacent to the WHS boundary, has been subject to detailed assessment taking into consideration the impacts of the development on the WHS and key attributes of the Outstanding Universal Values (OUVs) associated with, amongst others, the visual drama of the Cathedral and Castle, as well as the dramatic and dynamic skyline and uncontested nature of the Cathedral and Castle in the context of the fragmented nature of the surrounding townscape.
118. A key viewpoint as noted within the Heritage Statement, relates to the view from the railway line approaching into the City, where the proposed new roof would feature.

Visualisations of this view identify that the proposals would introduce a new roof of a different form to the traditional vernacular architecture in the immediate vicinity of the WHS. However, it is considered that the visualisation demonstrates that the impact would be negligible within the setting of the WHS and not harmful.

119. The extension proposal sits well below the skyline and is too distant to discern in any real detail. It is shown to be visually recessive in the dense highly varied townscape/roofscape setting of the WHS. It is not seen to challenge the dominance or compete for its attention. It does not present a visual distraction that draws the eye away from the WHS, nor does it harm its visual appeal. On this basis, and in consideration of this key view of the WHS, the OUV attributes are considered conserved.
120. Further assessment was provided in terms of the impact of the development on views of the WHS from key routes and this confirms that the development would have no visual influence from the main viewing locations (including Framwelgate Bridge, Elvet Bridge etc).
121. Significant concern was raised in relation to the impact of the proposals on the night time views of the WHS, through introduction of a new upper floor level with windows, bringing the townscape closer to the Castle and Cathedral site. Design and Conservation section assessed these concerns, noting that the existing buildings sit within a dense urban environment of varying uses, where high levels of artificial illumination from various sources exist. Notwithstanding this, the Cathedral and Castle still effectively manage to maintain their night-time dominance and visual appeal.
122. The additional illumination from the development would be restricted to the upper window openings. As such the increase would be at a domestic scale and level unlikely to be significant. The illumination would be well below the skyline, below and off set from the Castle, and falling outside the dark cloak around the base of the WHS. Overall it would be anticipated that lighting from the proposed roof extension would result in a very slight and limited discernible difference, which would not detract from the presence and visual appeal of the WHS at night.
123. Concerns raised with regards the impacts of the development on the view out from the Castle North Terrace have also been considered. Design and Conservation note that this Terrace is a later adaption of the original defensive feature to create a promenade reflecting the changed fashion of the late seventeenth century. Tree and vegetation clearance has taken place relatively recently so that the North Terrace now affords a more open vista out across the city, and directly over the application site. Within the view the special historic interest (medieval town plan, landmark historic buildings, burgage plot dimensions, varied roofscape, connection to the river and wider landscape) that characterises the city can be experienced. The view from the terrace helps emphasise the Castle's dominance over the city and therefore is noted as being an attribute of its OUVs. However, views from this vantage point form part of the private University grounds and are therefore not regularly experienced and cannot be afforded the same value as other key public views.
124. Nonetheless, existing views from this Terrace demonstrate that the existing roof top is a negative feature within the view and adds no value to the experience of the setting of the WHS. The views clearly show that the roof is of no character, and unsightly due to the flat roof form, low quality modern materials, and array of plant and equipment. The proposed roof structure on the other hand would be considered to provide an aesthetic improvement by the removal of these features, providing a rationalisation and general tidying up of the roof, providing higher quality unified materials and adding pitched natural slated sides, reflecting the traditional roofing material in the area. The

stair tower element would face the WHS, but its impact would be reduced by the fact that there is an existing double storey mansard roofed annex building, and other built forms, between it and the North Terrace/castle. It would not be drawn directly up close to the terrace, whilst the rear blocks would be broken down by height and building line variants.

125. The extension proposal would add height and mass to the existing building but it would continue to sit below the roof line of the Tesco block and well below the level of the North Terrace. This means that there would continue to be a view over the top of the site despite the extension, and it would not block the view of other heritage assets, nor the view of the surrounding traditional roofscape, river or wider landscape. Of greater importance, it would not be anticipated to weaken the effect of the Castle's dominance and imposing nature above this part of the inner townscape.
126. The impact of the development has been assessed against ICOMOS Guidance for assessments on World Heritage sites, specifically in terms of evaluating the level of impact resulting from change. The assessment has highlighted that the effect of the changes proposed would have a negligible impact on the inner setting as a whole and on key views towards the WHS that express its OUVs. This is due to the proposal representing a very minor visually recessive component within the expansive townscape setting, where it would result in a virtually indistinguishable visual change. In terms of views out from the North Terrace, the effect of the change would be viewed as an improvement, through removal of negative aspects associated with the existing situation in accordance with policy H1 of the Neighbourhood Plan.
127. Assessing the development against Historic England's guidance 'Seeing History in View' equally demonstrates that the magnitude of impact would be neutral/negligible as the development proposed would not affect or detract from the heritage values of the heritage assets in view.
128. The threats to the inner setting of the WHS as identified in the WHS Management Plan relate to major skyline development or major development impinging on views to and from the site, in the backdrop of the WHS, quality of development impacting on the integrity of views, the degrading of the approaches and townscape relationship and the dark setting of the WHS. The above assessment concludes that there would be no such harmful effects arising from the development proposals. As such this demonstrates that the development adheres to the core aims of the WHS Management Plan that seeks to protect the sites' OUVs and setting, as it would not weaken or threaten any of the inscription criteria for its inclusion on the World Heritage List.
129. Another point of note raised by Design and Conservation, relates to Historic England's guidance on the setting of heritage assets. This states that enhancement can be achieved by removing or re-modelling an intrusive building or feature or its replacement, by a new more harmonious one. It is considered that the current proposal achieves this aim. It should further be noted that comments from Historic England at pre application stage, note that the impact on the WHS would be minimal neither detracting from the dominance of the Cathedral and Castle nor impacting notably on expansive views of the city from the Castle.

#### Listed Buildings and NDHA

130. The development proposal would not impact on the significance of the adjacent Castle Walls and would not degrade the experience of this listed heritage asset from within Moatside Lane. The proposed extension would be assimilated into the Saddler Street and Market Place streetscapes without challenging or detracting from the domestic,

commercial and key civic and religious listed buildings where intervisibility would occur. In Crossgate it would be seen at a distance in no discernible detail and assimilated without harm into the wider townscape background of the street that contains many listed buildings.

131. Whilst the development would have impacts physically and visually in the context of Moatside Lane, by reason of the roof top location, the proposals would result in no change to the historic physical fabric or form/route of the lane. There would be a change within existing views from within the lane, but they presently focus upon the unsightly roof-top security railings etc. These would be removed from the view, tidying up this area and resulting in a slight visual improvement.
132. The noted qualities within the lane derive from its strong sense of enclosure, tight intimate atmosphere, the feeling of its ancientness and the experience of its relationship within the Castle's defensive wall, mound and Keep. The proposed roof top extension would not adversely affect any of the above defining characteristics, but would rather reinforce the enclosed feeling and intimate character within the part of the Lane directly impacted.

#### Heritage Impact Summary

133. In conclusion, it is considered that the significance and setting of the heritage assets, designated and non-designated would be either sustained, conserved or slightly enhanced where appropriate. As such, the proposals are deemed to accord with the principles set out in Part 16 of the NPPF, CDP policies 44, 45, 16 3f) and 29, as well as Neighbourhood Plan Policies H1 and H2 and sections 66 & 72 of the Listed Building Act. This would be subject to the imposition of conditions for full details of materials for all external surfaces, to ensure the palette of materials are limited, muted and of high quality.

#### Impact on amenities of neighbouring occupiers and future residents

134. 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. Distance standards are outlined within the Residential Amenity Standards Supplementary Planning Document (SPD).
135. 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.
136. Policy 16-3e) states that development will only be permitted where they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues.. Criteria 16-3g) states that the applicant is also required to show the security of the building and its occupants has been considered, along with that of neighbouring local residents. Occupying an existing commercial building, the conversion to residential has necessitated a number of amendments to the elevations to provide new window openings, ensuring that each bedroom and common space

has access to natural daylight. The front elevation would not be altered, with all bedrooms and common spaces along this elevation suitably aligned to take in at least one existing window each. Along the side elevations however reinstatement of existing window openings along with new windows are proposed overlooking the narrow PROW at Moatside Lane to the west and south. In addition, new build accommodation on the roof would introduce new windows along the east elevation overlooking the Tesco building.

137. For the most part, particularly at second and third floor levels, access to natural daylight can be adequately attained. On the east side, the elevations would be set back from the edge of the Tesco building and would allow sufficient light within the windows along this side. On the west side, the neighbouring building overlooking the vennel is lower in height standing at two storeys and as such would similarly not excessively hinder natural daylight into these windows. First floor level windows on the west elevation would likely have poorest access to daylight by comparison to upper floors, but it is considered that sufficient daylight could still be achieved within bedrooms at this level.
138. In terms of privacy, the majority of rooms would have good levels of privacy with no concerns regarding overlooking from neighbouring properties. At first floor level on the west elevation, however, further amendments were required to the layout of these windows, in order to address the relationship with reinstated windows on the building across the Vennel, recently approved for conversion to HMOs. The amendments have been assessed and through re-positioning on the elevation and introduction of obscure glazing where potential direct overlooking could be attained, it is considered that issues of overlooking have been satisfactorily addressed, particularly as any mutual overlooking between windows across the vennel would be at quite an acute angle. In coming to this conclusion, it is noted that the relationship between windows at this level is tight and compact. However, city centre living, particularly through conversion of existing buildings and making viable use of upper floors, such arrangements can be deemed acceptable. Future occupiers would be aware of the limitations of these particular rooms and would have choice in terms of whether to occupy them.
139. Due to close proximity of neighbouring buildings, general outlook for most of these windows on the west, south and east elevations would be limited, particularly at first and second floor levels, and would certainly fall short of requirements set out in the SPD. However, and as already referred to in the paragraph above, living within the established dense urban framework of buildings and narrow streets, future occupiers would have an expectation of this as opposed to the openness associated with suburban areas, and seeking to rigidly apply the guidance set out in the SPD would not be a pragmatic approach in this context. The disbenefit of this would be outweighed by the convenience associated with this city centre location and ready access to University buildings, services and night time economy. In addition, there are noted benefits of the HMO configuration of this particular development, in that occupiers would have access to other shared rooms within the immediate apartment and within the common rooms of the overall accommodation facility and would not be solely confined to a single room with one point of outlook for all activities, as might be expected within studio apartments.
140. As a further point and as required as part of policy 25 of the County Durham Plan in relation to Developer Contributions, the development is subject to payments for off site open space improvements amounting to £45,849, which would go towards open space within local area..

141. Detailed floor plans have been submitted indicating that all room and shared areas are of appropriate size in line with HMO licencing requirements. Licencing section assessed the details and provided comments on various requirements to ensure accommodation would be licensable. Whilst it was noted that insufficient cooking facilities were annotated within the plans as required for HMOs of 5 plus residents, from assessing the size of the kitchen area, it is clear that sufficient space is available to meet with licence requirements in this regard. Overall, internally sufficient space is available for future occupants, with added benefits associated with additional and alternative common room areas and a gym, outside the individual HMO apartments.
142. A noise assessment was submitted in support of the application, taking into account impact of noise levels on future occupants, given the extent of activity within this busy commercial part of the town centre. An assessment of glazing and ventilation, plant noise and floor and wall insulation between adjoining commercial premises and individual flats was provided. These details were assessed by Environmental Health who considered the methodology acceptable and conversion of the building suitable for its intended purpose. However, further detail on noise mitigation measures has been requested by means of condition to ensure future occupants are protected from traffic and commercial noise. A pre-commencement condition will be duly applied seeking these details, with implementation required prior to occupation. Subject to imposition of a condition, Environmental Health confirm that the proposed use is unlikely to cause a statutory nuisance and raise no objections.
143. However, given concern raised by residents living at Saddler Lane it would be appropriate to apply a further condition with regards provision of a construction management plan. An additional condition would be included to limit hours of working.
144. In response to the Police Architectural Liaison Officer, the applicant provided detail relating to fire safety measures within the property, providing a plan indicating emergency exit arrangements. In terms of security, it was confirmed that the facility would be manned by a 24/7 reception desk, with all doors externally and internally, where appropriate, having access panels and appropriate locking mechanisms. A specification was also provided for windows and the cycle storage, with reference to CCTV security cameras where required. Upon further consultation with the Liaison Officer no further comments were received.
145. Although concerns were raised that the additional height would create an overbearing and foreboding impact on the Lane potentially resulting in increased instances of anti-social behaviour, this would be difficult to quantify as a direct result from the roof. In any case, and as noted within the previous section above, this is a distinct character of the laneway and a key assessment was to ensure the additional roof height would not take away this expectation of the vennel. Indeed, the removal of security railings etc in place of a tidied up appearance associated with the new roof would create some visual improvement.
146. In consideration of the various details above against policy requirements, it is considered that the proposals largely meet with these and the proposals are considered acceptable in terms of amenities and impacts of future occupiers, subject to appropriate conditions and would accord with the requirements of policies 16, 29 and 30 of the CDP and policy S1 of the Neighbourhood Plan.

#### Highway Safety and Access

147. Policy 16 3d) requires that development can demonstrate that the quantity of cycle and car parking provided has regard to the council's Parking and Accessibility Guidelines. Policy 21 has similar requirements in relation to cycle parking, and also

states that development should provide appropriate, well designed, permeable and direct routes for walking, cycling so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. It further requires that development ensures the creation of new or improvement to existing routes and facilities do not cause unacceptable harm to the natural, built or historic environment.

148. As already noted, the site is centrally located with ready access to many services and facilities and the university campus. There are ample opportunities for access to public transport, with direct routes for walking and cycling, all in line with policy 21. As part of the proposal, a large area of secure cycle parking is to be provided within the building in line with policy 16-3d). No car parking facilities are to be provided and all future tenants will be advised of this. Given the highly sustainable location of the development, there are no requirements for car parking in any case.
149. Access arrangements to the accommodation is primarily to be taken through the existing entrance point on Silver Street. A secondary access will also be available on the eastern elevation of the building, through a private shared yard, accessed from the adopted Saddler Lane, which itself is taken off Saddler Street. This secondary access is largely intended for those seeking to use the cycle parking. It should be noted that at this point, there is an existing steel palisade boundary fence which is locked to prevent unauthorised access. There is a pedestrian gate to the side which remains open and accessible and is currently the main access route for existing residents living in this yard area.
150. Servicing for the retail unit would continue to be taken from Silver Street in line with other businesses during set times. The proposed scheme intends to utilise the existing service area to the rear of the site for refuse storage and collection via Saddler Lane, which is the same as the current arrangement for surrounding residents. The bin storage for the retail unit is also annotated within this yard area. Whilst the existing building would have had service access from Saddlers Lane, it appears unlikely that deliveries could have been achieved through this lane due to its narrowness and confined junction to Saddler Street.
151. Highways section assessed the details of the scheme, raising a number of concerns. In particular there was some concern over the potential increase in vehicular use of Saddler Lane to access the rear yard area. This raises some concern as a locked gate exists at the end of this lane, and where cars are unable to access the yard to turn around, they would need to reverse back down Saddler Lane onto Saddler Street, creating a significant accident risk. There was also concern over increased cyclist use of this lane and risk of conflict with vehicles. Reference was also made to the poor surface quality of Saddler Lane.
152. The applicant confirmed that there would be no increase in vehicle use of the yard resulting from the development, with the gate locked and controlled at all times, and future occupiers advised that there is no car parking included as part of their tenancy. In terms of cyclist safety, it is not anticipated that the frequency of cyclists using this narrow lane to access Saddler Street would be so significant as to raise concern, but it is noted that Saddler Lane is straight and affords forward sight visibility from one end to the other in any case. Highways acknowledge this but have sought to secure this through a condition preventing any increase in car access to the rear service yard. Notwithstanding this, it is noted that any planning condition which sought to ensure that there was no increase in existing vehicle movements to the property from Saddler Street as a result of the development would fail to meet the tests of reasonableness nor would it be sufficiently precise or enforceable. The retail unit is already accessed via this route which would remain unchanged post development. In addition, the

development does not include any provision for resident parking and as such there would not be any increase in vehicle movements as a result of the proposal. Whilst there is likely to be some access required to allow residents to move into and out of the facility at the beginning and end of their tenancy periods details of how this would be managed could be secured through a facility management plan.

153. In relation to the road surfacing of Saddler Lane, the applicant has agreed to pay a commuted sum of £2000.00 towards a scheme of micro asphalt resurfacing works. This would be secured through a Section 106 agreement.
154. In terms of bin collection, although it is noted that communal refuse and recycling bins would be contained within storage compounds within the site and managed by the site operators for collection, The Highways Authority require the inclusion of a further condition for a drawing indicating the precise bin collection point, as concerns have been raised with regards proliferation of bins on Saddler Lane.
155. Public Rights of Way assessed the proposals, noting the adopted vennel paths of Moatside Lane to the West and south. They confirm that as part of the construction works, temporary path closure may be required, and this would need to be applied for. They further state that no amendments should be made to the footpath width. It is confirmed that there is no intention for any amendments to the footpath at any point in the development. PROW team also noted fire doors opening out over Moatside Lane, which is deemed contrary to Section 153 of the Highways Act 1980. However, having discussed the arrangement with the applicant, it is clear that the doors have opened out over the laneway for at least 44 years and amending the doors for the purposes of the current application would negatively impact on internal escape routes leading to the emergency exit point. PROW acknowledged this and agreed to accept the current arrangements as existing raising no objections.
156. Subject to the inclusion of conditions as referenced above and a contribution towards resurfacing works, the proposals are considered to be compliant with the relevant parts of policy 16 and 21 of the County Durham Plan.

## Ecology

157. LPAs have a legal duty to European Protected Species (EPS) when determining planning applications and must have regard to the Habitats Directive in the exercise of its functions. EPS, such as bats, are afforded the highest level of protection under the Habitats Directive. In assessing case law on this matter, the Supreme Court ruling associated with *R (Murge (FC)) v Hampshire County Council [2011] UKSC 2* comments that an LPA is not expected to duplicate the licensing role of Natural England. The ruling further states that an LPA should only refuse planning permission where a criminal offence relating to EPS is likely to result from the development and where a licence from NE is unlikely to be granted. In all other cases EPS should not present a bar to planning permission.
158. An initial Bat Risk Assessment Report was submitted by Tina Wiffen in December 2020, followed by a further Bat Survey Report in July 2021. These reports identified that whilst the main 1930s building does not support roosting bats, the 1970s building to the rear has a bat roost that is used by small numbers of Common Pipistrelle bats. The ecology consultant assessed the nature of the roost and noted that the bats are not using a maternity roost and that the risk of the building being used as a hibernaculum is considered to be negligible. On this basis, the consultant has designed a mitigation strategy to ensure there is no significant long term impact on bats as a result of the proposal, and this includes the strict requirement to obtain a Bat Mitigation Class Licence prior to works proceeding. These licences are Natural

England's "light touch" licensing procedure for small numbers of bats of what are considered to be common species, found in roost types which Natural England considers the loss of which will not have a significant negative impact on the conservation status of the species population. Under the BMCL the proposed conversion works to the building can be carried out without a significant negative impact on bats provided that the works are carried out in a manner which minimises the risk of bats being killed or injured during the development.

159. The Council's Ecology section assessed both Bat Reports and confirmed that it was sufficient to inform the application and no further survey is required prior to approval. The BMCL application must be prepared by a Registered Consultant who is able to register sites for development under a BMCL. The licence application will require appropriate mitigation and careful liaison with the contractor. A condition will be applied requiring adherence to the recommendations within the Bat Report.
160. In consideration of the above, the LPA is satisfied that a suitable assessment has been made by an appropriately experienced and licensed bat ecologist. DCC Ecology section have considered the findings of the reports and are satisfied that there would be no breach of article 12 of the Habitats Directive and consider that a derogation from that provision can be permitted and a licence granted.
161. On this basis, given other considerations relating to the principle of development and impacts on area and neighbouring residents, the proposed development is found to be acceptable on its planning merits. There is therefore no reason to refuse the development given that the consultant ecologist and DCC Ecology have determined a licence can be granted having assessed the proposals under the derogation tests.

#### Other Issues

162. Archaeology identified that the site is in an area of high archaeological potential and whilst ground disturbance would likely be minimal, there was potential for excavation works with ground disturbing elements that would need to be monitored. As such a request for a pre-commencement condition relating to provision of a scheme of works is made should approval be granted.
163. Drainage section have requested further details on surface water drainage. A suitably worded condition will be applied.

#### Section 106 Obligations

164. Policy 25 of the County Durham Plan states that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and / or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local needs. As discussed, Highways identified a need for surface improvements to Saddler Lane to ensure it can safely cater for increased use by cyclists. A commuted sum of £2000.00 has been requested in this regard to which the applicant has agreed.
165. Policy 26 further states that proposals for new residential development will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space needs Assessment (OSNA). Where it is determined that on site provision is not appropriate, the council will require financial contributions secured through planning obligations

towards the provision of new open space. Spatial Policy assessed the details of the proposal and calculated off site contributions as £45,589.00 in this regard.

#### Other objections received

166. In relation to concerns raised that no studies were done in relation to housing need for key workers, individuals and small families, there is no policy requirement to assess alternative housing needs as part of this specific application. In any case, if a particular need was identified, it would not be possible within the remit of planning to control future occupiers.
167. Another query was raised regarding whether there was sufficient provision of facilities for staff with upper floors of shop unit now lost through development. Whilst this is noted, the ground floor of the premises covers a large area, not all given to shop floor use and as such, sufficient space would be available for staff facilities through reconfiguration of the ground floor area if required. This concern however would not constitute sufficient weight against the proposed conversion to warrant a refusal.
168. Concerns were also raised that this larger shop unit has the potential to attract an anchor tenant, however with the upper floor of the unit lost from retail use, this may no longer be possible, which would have a detrimental impact on the overall shopping area. This concern is acknowledged and as already noted, the LPA regrets the loss of the retail use of the upper floor space. However, the ground floor is to be retained in retail use and is noted as having a large shop floor area, despite the loss of the upper shop floor space. It should be further noted, that permitted development rights allow for conversion of upper floors over shops to residential accommodation. A further objection was received commenting that the additional storey would overshadow Moatside Lane and increase the risk of crime and antisocial behaviour along this lane, already noted as having problems. A request was put forward for Section 106 monies to be used to introduce lighting along this lane. The additional storey however is noted as being set back from the parapet and it is therefore not expected to create significant over shadowing in this case and certainly not to the extent that it would make any issues of crime and disorder in the area worse. In any case, the addition of windows overlooking on the laneway would introduce an element of natural surveillance, which may help reduce some instances of antisocial behaviour along this lane. The Police Architectural Liaison Officer was consulted on the scheme and raised no concerns in relation to the laneway. Accordingly, there is no justification for seeking a 106 contribution towards lighting in this area.

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## CONCLUSION

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169. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise.
170. The proposals have been assessed against all relevant policies contained within the County Durham Plan, the City of Durham Neighbourhood Plan and the NPPF. Although some conflict is identified in relation to distance standards set out in the SPD, when assessed against remaining relevant policies, including all criteria set out in CDP the proposals are considered compliant. Paragraph 11 of the NPPF states that development proposals that accord with an up to date development plan should be approved without delay.
171. As noted, a number of objections and concerns have been received. The applicant has sought to address these issues through submission of updated drawings reducing

the size and scale of the scheme. Although it is acknowledged that there remains continued objection to the scheme, upon careful and detailed consideration of the proposals, it is not considered that the concerns raised are sufficient to warrant a refusal in this case.

## RECOMMENDATION

That the application be **APPROVED**, subject to the completion of a Section 106 Legal Agreement to secure the following:

- Financial contribution of £45,589.00 towards the provision of new open space, or the improvement of existing open space green infrastructure in the Electoral Division
  - Financial contribution of £2000.00 for provision of microashphalt resurfacing works to Saddler Lane
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.

Plan	Drawing No.	Date Received
Section D-D As Proposed	03004 REV 4	30/04/21
Section C-C As Proposed	03003 REV 4	30/04/21
Section B-B As Proposed	03002 REV 5	30/04/21
Section A-A As Proposed	03001 REV 7	30/04/21
South and East Elevations	02002 REV 6	30/04/21
North West Elevation	02001 REV 9	30/04/21
Proposed Site Plan	01099 REV 1	30/04/21
Site Location Plan	00001 REV 2	30/04/21
Proposed Roof Plan	01041 REV 10	30/04/21
Third Floor as Proposed	01031 REV 11	30/04/21
Second Floor as Proposed	01021 REV 12	30/04/21
Ground Floor as Proposed	01001 REV 10	30/04/21
First Floor as Proposed	01011 REV 14	09/07/21
South West Elevation	02002 REV 13	09/07/21
Bat Survey Report		02/07/21

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

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

4. No residential development shall take place until a scheme of noise mitigation measures to address the above relevant points 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.
- 35dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)
  - 30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
  - 45 dB LAmax in bedrooms during the night-time
  - 55dB LAeq 16hr in outdoor living areas

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.

5. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
- i. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  - ii. Details of methods and means of noise reduction/suppression.
  - iii. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  - iv. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
  - v. Designation, layout and design of construction access and egress points.
  - vi. Details for the provision of directional signage (on and off site).
  - vii. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
  - viii. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
  - ix. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
  - x. Routing agreements for construction traffic.
  - xi. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  - xii. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

- xiii. Management measures for the control of pest species as a result of demolition and/or construction works.
- xiv. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

- 6. No development other than ground clearance or remediation works shall commence until a scheme for the provision of foul and surface water drainage works have been submitted to and approved in writing by the Local Planning Authority. The scheme shall be developed in accordance with the Councils Sustainable Drainage Systems (SuDS) Adoption Guide 2016. The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that surface and foul water are adequately disposed of, in accordance with Policies 35 and 36 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.

- 7. No development shall commence until a written scheme of investigation setting out a programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' has been submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

Reason: To safeguard any Archaeological Interest in the site, and to comply with part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

- 8. The development shall not be occupied until the post investigation assessment has been completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

Reason: To comply with Paragraph 199 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

- 9. No development shall be occupied until details of the surface treatment and construction of the hardsurfaced area within Saddlers Lane has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details prior to first occupation.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

10. Prior to the first occupation of the development hereby approved, details of bin stores and bin collection points shall be submitted to and approved in writing by the Local Planning Authority. The bin stores shall be constructed in accordance with the approved details and be made available prior to the occupation of the development to which they relate and location of bin collection points strictly adhered to in perpetuity.

Reason: In the interests of visual amenity and highway safety in accordance with Policies 21 and 29 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

11. Notwithstanding the details submitted within the application prior to first occupation of the development hereby approved, a detailed strategy of precise management methods, approaches and techniques for the operation of the site shall be submitted to and agreed in writing by the Local Planning Authority. The strategy may include measures of CCTV coverage, 24 hour security or warden presence, student warden schemes and other management operations, including access arrangements for tenants at the beginning and end of tenancies. Thereafter the development shall be implemented in accordance with the agreed details, with adherence to the agreed management scheme in perpetuity.

Reason: To protect existing residents and occupiers in the area and future occupiers of the premises and in the interests of highway safety in accordance with policy 21 and 29 of the County Durham Plan and part 12 of the National Planning Policy Framework.

12. No development shall take place unless in strict accordance with the mitigation and licensing requirements detailed within Section 5 'Recommendations and mitigation' of the protected species report 'Bat Survey Report' by Tina Wiffen received 2 July 2021, including requirement to secure a Bat Mitigation Class Licence (BMCL) before any works in the 1970s extension proceed, along with provision of other ecological enhancements.

Reason: To conserve protected species and their habitat in accordance with Policy 43 of the County Durham Plan and paragraph 175 of the NPPF.

13. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0830 to 1400 on Saturday.

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

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

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

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

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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

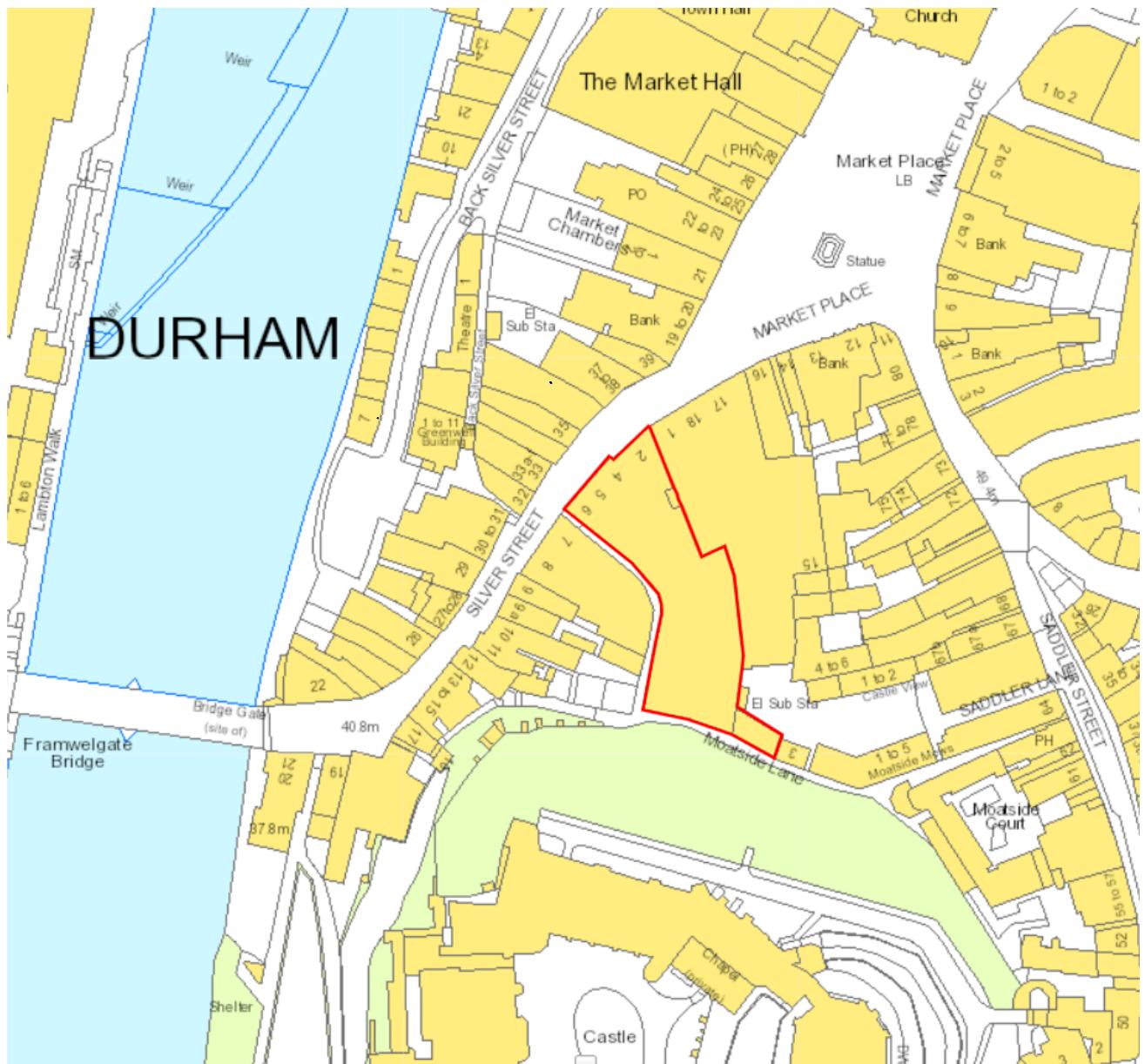
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan

Residential Amenity Standards SPD (2020)

City of Durham Neighbourhood Plan



<b>Planning Services</b>	DM/20/03760/FPA Partial change of use to create 58 bed Student Accommodation Facility to include the erection of a single storey extension to existing roof and associated access arrangements (amended title) (updated elevation and floor plan to south west) on First to Third Floors, 4-6 Silver Street, Durham, DH1 3RB.
This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005	
<b>Date</b> 14 September 2021	<b>Scale</b> NTS

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## Planning Services

# COMMITTEE REPORT

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## APPLICATION DETAILS

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**APPLICATION No:** DM/20/01479/FPA

**FULL APPLICATION  
DESCRIPTION:**

**Erection of 1no. 4 storey building comprising of 3no. units (use class E (a)(b)(c) or Sui Generis (drinking establishment)) to ground floor, 1no. unit (use class E(d) to first and second floor and 4no. residential units (C3) ancillary to the commercial units to third floor. (amended description)**

**NAME OF APPLICANT:** Mr David Gill

**ADDRESS:** Land To The North Of 28 North Terrace, Seaham, SR7 7EU

**ELECTORAL DIVISION:** Dawdon

**CASE OFFICER:**  
Leigh Dalby  
(Senior Planning Officer)  
Tel: 03000 261 389  
Email: Leigh.Dalby@durham.gov.uk

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site consists of a parcel of disused land. The site is surrounded by existing development. North of the site is residential dwellings, to the east is open land. To the south is a mix of uses including a former gym, residential and other leisure uses.
2. The site is located within a highly accessible location near the centre of Seaham. The site is walking distance from local services and employment areas and is also accessible to public transport including bus services.

### The Proposal

3. Planning permission was originally sought for the erection of 1no. 4 storey building comprising of 3no. units (use class A1/2/3 or 4) to ground floor, 1no. unit (use class D2) to first and second floor and 4no. residential units (C3) ancillary to the commercial units to third floor.
4. Whilst the application originally sought consent for the above use classes, following Government changes to the use classes order in September 2020, the above uses

classes have altered, and are no longer recognised. Therefore, the proposal has been considered in line with the current equivalent use class categories namely Class E (a), (b), (c) and (d) (formally A1/2/3 and D2) and Sui Generis (formally A4). This is considered necessary to align with the current legislative framework.

5. The application is reported to Planning Committee at the request of the Local Ward member to be given consideration by the Committee.

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## **PLANNING HISTORY**

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6. DM/20/01726/FPA Retrospective application for temporary site compound, including site hoarding, associated welfare and storage units and material storage – Pending consideration.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social, and environmental, each mutually dependent.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal;
9. 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.
10. NPPF Part 3 Plan-making. The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for addressing housing needs and other economic, social and environmental priorities; and a platform for local people to shape their surroundings.
11. 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.
12. NPPF Part 6 Building a strong, competitive economy. The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country’s inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.

13. 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.
14. NPPF Part 9 Promoting sustainable transport. Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. NPPF Part 12 Achieving well-designed places. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
17. 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.

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

18. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
  - Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
  - Policy 2 (Employment Land) Policy 2 supports development of and extensions to B1, B2 and B8 developments within specified employment allocations, but also protects other existing employment sites from being changed to non-employment uses, unless appropriate marketing has been undertaken for employment uses, and that the use would not compromise the main use of the site for B class uses and would comply with retail Policy 9 where main town centre uses are being proposed. Specific further protection is outlined for land north of Netpark, Consett Project Genesis site and the Hownsgill Industrial Estate. Where a non-employment development will replace an employment use the jobs will need to be relocated.

Policy 6 (Development on Unallocated Sites) supports 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.

Policy 9 (Retail Hierarchy and Town Centre Development) seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county

Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development to have regard to Parking and Accessibility Supplementary Planning Document.

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.

Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable its proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.

Any residential and commercial development should be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.

Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: 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.

Provision for alterations and extensions to residential property to be sympathetic to existing building and character and appearance of area

Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety

Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

Provision for new major residential development to be assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

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 can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of 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.

Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.

Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.

Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss of deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

Policy 43 (Protected Species and Nationally and Locally Protected Sites) development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.

## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY AND INTERNAL RESPONSES:**

19. The following comments were received following consultation with Statutory and Internal consultees.

**DCC Highways** - The revised Ground Floor Layout Plan drawing number C101 Rev G includes the required parking space per flat which is welcomed.

There is a requirement to formalise parking restrictions to which the applicant must meet the costs of and which the applicant has requested to be conditioned. I would request a suitably worded condition requiring the applicant to arrange for the introduction of waiting restrictions on Back North Terrace and Tempest Road prior to the occupation of the property. This is in the interests of road safety.

The footpaths currently crossing the development land are not part of the public highway but would be deemed to possess public access rights which would need to be formally removed and as such Stopped Up under Section 247 of the Town and Country Planning Act 1990. I would request a suitably worded condition requiring the applicant to secure the stopping up of highway rights on the footpath which crosses the development site prior to occupation of the site.

As the footprint of the development does not follow the highway boundary there are locations to the frontage and Tempest Road side where paving will continue from the adopted footway to the property curtilage. There is reference to the provision of feature paving to these areas which should be extended to encompass the adopted footway area. There will need to be clear delineation of the highway boundary incorporated into the floorscaping design. I would request a suitably worded condition requiring the applicant to submit to and have approved by the LPA, a floorscape design prior to commencement of works.

The proposal makes reference in the Design and Access Statement to the site being in an accessible location however no provision has been made for cyclists. There is potential in the paved frontage area to make a provision for cycle parking which the applicant should incorporate into the floorscape design.

It will be necessary for the applicant to enter into an agreement under Section 278 of the Highways Act, to allow the required works within the existing highway to be carried out. The applicant should make contact with Phillip Thompson , Highways Adoptions Engineer, phillip.thompson@durham.gov.uk or tel. no. 03000 267106. Any non-standard highway construction would involve the payment of commuted sums as part of the development proposals.

The new vehicle access crossing to the 4 parking bays must be constructed in accordance with the requirements of Section 184(3) of the Highways Act 1980. It may be possible for this to be incorporated into the Section 278 Agreement.

Given the size and location of the development it would be essential that a condition is secured requiring a Construction Management Plan to be submitted and approved prior to commencement of the development.

There is nearby public parking space which may accommodate shoppers, however the proposal will inevitably increase on street demand in the area. Whilst the location is within walking distance of public transport services there will likely be an increase in

demand for parking. Whilst the proposed development makes very little provision to mitigate the parking issues it is not considered that there is sufficient road safety impact to withstand an appeal under NPPF Paragraph 109.

In summary, subject to the provision of the conditions identified and the requirements identified above I would offer no objection from a highways perspective.

Informative advice:

Developers undertaking works requiring access to the public highway must be made aware of the requirements of The County Council of Durham Road and Street Works Permit Scheme. This scheme permits access to the public highway and it is a legal requirement for developers to adhere to the scheme requirements. Permits will only be granted once a S278 agreement or S184 license is secured. Failure to adhere to the scheme will result in delay to development proposals and potential legal action by this highway authority. Scheme details can be found at <http://www.Durham.gov.uk/roadworks>

All correspondence relating to the scheme should be addressed to DCCstreetworkspermitscheme@durham.gov.uk

Developers undertaking works which require the occupation of highway space (carriageway, verge or footway) in connection with building work must obtain a licence from the Highway Authority. Further details can be found at the following website link: <http://www.durham.gov.uk/article/2155/Occupation-of-the-road-in-connection-with-building-work-licence>

**DCC Conservation** - Whilst the principle of redeveloping the site is welcomed and the applicant has responded to previous advice regarding the scale of the building, the proposed form of the building, in particular the corner detailing could better respond to the character and appearance of the conservation area.

Following the receipt of revised plans the following additional comments were received: The applicant has amended the proposed plans as requested and updated the information within the design and access statement. No further comments from a design and conservation perspective.

**DCC Ecology** - This proposal includes the creation of 4 new residential units within the 400-metre buffer and would normally be unacceptable under the current DCC Habitats Regulations Assessment (HRA) of new residential accommodation on the coast. However, I consider that providing the new units are tied to the operation of the commercial units and are not sub-let for any other residential use the creation of new units within the 400m buffer is likely to be acceptable and in accordance with the HRA.

The HRA concludes that residential accommodation can proceed up to 6km away from the coastal European Protected Sites provided certain mitigation measures are taken.

Mitigation measures can include alternative green space that meets the Natural England SANG guidelines or a financial contribution of either £662.00 (for sites allocated in the County Durham Plan) or £756.61 per dwelling (for non-allocated sites) towards specific Coastal Access Management Measures. The HRA mitigation is not restricted to new housing developments and applies equally to other developments, such as visitor accommodation and tourism proposals.

I consider that this development is acceptable under the HRA providing the financial contribution of £756.61 per new residential unit is applied. This should be secured through a Section 106 Agreement or Unilateral Undertaking.

The supplied Preliminary Ecological Appraisal report by EcoSurv is acceptable and if the application is approved the contents of section 6 (Conclusions and Recommendations) should be conditioned as it contains the provision of bat roost units and swift/swallow bricks in the new building.

#### **DCC Drainage - No comment**

**DCC Contaminated Land** - I would confirm that I have assessed the available information and historical maps with respect to land contamination. I have reviewed the following report:

GEOL Consultants Ltd. (30/03/2020) Phase 1 Preliminary Contamination Risk Assessment, Proposed Mixed-Use Development on land adjacent to 28 North Terrace, Seaham, Co. Durham, SR7 7EU

I am satisfied with the information provided in the phase 1 report and agree with the risk assessment. A phase 2 site investigation is recommended.

Given the above, the following contaminated land condition should apply.

#### **Contaminated Land (Phase 2-3)**

No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

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

#### **Contaminated Land (Phase 4)**

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

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

The following should be added as an informative:

If unforeseen contamination is encountered, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary a remediation strategy is carried out in accordance with the YALPAG guidance and agreed with the Local

Planning Authority. The development shall be completed in accordance with any amended specification of works.

**DCC Statutory Nuisance** - The proposed development will be located on the northern end of North Terrace the properties on North Terrace are mixed residential and commercial properties, mainly café/bars, whilst in close proximity to the development on Tempest Road the properties are mainly residential and therefore sensitive receptors.

It appears that the development will be tied to 28 North Terrace, which appears to be commercial to the ground floor and residential to the first floor, both of which will be sensitive receptors.

The application is seeking multiple uses for the development over four floors, the ground floor will be divided into three units with the intention to have business uses of A1/A2/A3 and A4; the first and second floor is to be operated as a gym, Class use D2 and the third floor will be divided into four residential flats, Class C3.

With regard to any proposed hours of operation of the business classes of the development only D2 hours have been proposed, that is no times have been offered for the ground floor units but it is suggested that the first and second floor D2, Gym, will be operated 0800 to 2300hrs seven days a week, including Bank Holidays.

The development will be a noise generating development both during the construction phase as well as post development. There is also the potential for dust issues, during ground perpetration and construction, and odour issues associated with any kitchen extraction plant which would be required in relation to the operation of a commercial kitchen.

Issues associated with the ground floor use:

As the application relates to several A Class Uses, I will consider that the uses with the potential to generate the most noise will be from the A3 and A4 uses. I would advise that these use classes do have the potential to cause noise disturbance to the adjacent residential premises due to the type of activity; customers using the facility, particularly the proposed outdoor amenity area, music being played in the premises, noise from any odour extraction system.

Issues associated with the first and second floor use:

The proposed use for the first and second floors is D2, the aim is to introduce a gym to both floors, and this may lead to a significant noise impact for the adjoining residential properties, as well as noise breakout for nearby sensitive receptors to the rear of the premises and residential properties on Tempest Road.

#### Acoustic Design Statement

The developer has submitted an Acoustic Design Statement - reference 20-51-743, produced by Northburn Acoustics dated 17 April 2020 and published 10 June 2020. Whilst it is acknowledged that the report has been carried out to appropriate methodologies and the monitoring locations are sufficient to demonstrate the existing noise climate, it is limited to the impact of noise from traffic and potential business class uses impacting upon future residents of the third floor of the development itself and does not consider the impact of the proposed uses of the development upon neighbouring sensitive receptors.

The assessment author recommends a planning condition which would benefit future occupants of the flats on the third floor in relation to attenuation from external noises, mainly related to traffic, however the recommendations of the report would be beneficial to the occupants in relation to externally sourced noise in general. The author also provides advice in relation to the requirement for the development to comply with Building Regulations Approved Document E - Resistance of the passage of Sound, as well as the siting of any odour extraction systems being ducted internally to the roof. However, in both instances the author suggests placing the onus on any future tenants of the business use elements of the development to ensure that noise from the activities will not negatively impact upon future occupants of the flats.

Information within the Design & Access Statement reference 2996/ACW dated June 2020 and published 23 June 2020 advises that the flats will only be leased to the commercial tenants of the building, although it does not indicate that the occupants of the flats will actually be the commercial tenants.

The information submitted indicates that the development is likely to breach the thresholds within the TANS, Noise TANS section 3.7 pg. 18, Odour TANS section 3.2 pg. 12, Dust TANS section 3 pg. 14 . This indicates that the development may, without further controls, lead to a significant impact. The planning officer should consider the following supporting detail for further clarification.

Should planners be minded to grant planning permission I would advise that the following conditions should be affixed in order to protect residential amenity and reduce the likelihood of statutory nuisance, consideration should also be given to entering into a legal agreement in order to ensure that occupation of the flats is limited to the tenants of the commercial aspects of the development:

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

- o A Dust Action Plan including measures to control the emission of dust and dirt during construction
- o Details of methods and means of noise reduction
- o Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- o Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure;
- o Details of provision for all site operatives for the loading and unloading of plant, machinery and materials
- o Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period;
- o Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
- o Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.

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

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

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

2. No construction/demolition activities, including the use of plant, equipment and deliveries, which are likely to give rise to disturbance to local residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.

3. To protect future occupiers of the four flats on the third floor from nearby external noise sources ensure the following noise levels are achieved:

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

Any noise mitigation measures required shall be installed prior to the beneficial occupation of the development and shall be permanently retained thereafter.

4. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the separate and adjoining properties shall be sufficient to prevent excessive ingress and egress of noise from the commercial elements of the development. The approved scheme shall be implemented prior to the beneficial occupation of the development and shall be permanently retained thereafter.

5. No hot food shall be prepared or served at the premises until details of the fume extraction system, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times when cooking is being carried out on the premises.

6. The opening hours of the ground, first and second floors of the premises shall not exceed 08.00 - 23.00 on any day of the week.

7. The external area to the front of the ground floor part of the premises shall not be used by customers outside the hours of 0900-2000 hours on any day of the week.

In addition, I can confirm that I have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment as follows:

Having considered the information submitted with the application I am of the opinion that the granting of planning permission for the development may potentially result in a statutory nuisance being created, as clarified above.

However, I consider that the above conditions are sufficient to mitigate the potential of a statutory nuisance and therefore if affixed will remove my objection to the development.

**Historic England** - we do not wish to offer any comments.

**Northumbrian Water** - We note a drainage report has been submitted with the application, however, the document states the surface water flows shall be discharged at a restricted rate of 5 l/sec. Because the proposed discharge rate exceeds the rate agreed through the pre-planning enquiry, NWL request the following condition:

**CONDITION:** Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

**REASON:** To prevent the increased risk of flooding from any sources in accordance with the NPPF.

Any drainage scheme submitted to the Local Planning Authority should be in line with the comments included in Northumbrian Water's enquiry response.

Please note that the planning permission with the above condition is not considered implementable until the condition has been discharged. Only then can an application be made for a new sewer connection under Section 106 of the Water Industry Act 1991.

**Durham Constabulary – Architectural Liaison:** In assessing the likelihood of crime occurring at this development I have taken into account the specific nature of this development, the pattern of criminal activity in the immediate area, and the high incidence of assault in this locality and therefore assess the overall likelihood of crime risk as Possible to Likely.

Assessing Consequences however, can be a more subjective exercise, and taking into account that Catastrophic or Major consequences, such as loss of life or loss of the loss of the entire building are Unlikely or Rare; I assess that Commercial Burglary, Dwelling Burglary, and Vehicle Crime may have Moderate Consequences for the development and intended occupants.

Accordingly I assess the overall risk to this proposed development to be HIGH and have based the following observations and recommendations on this assessment.

#### Crime Prevention observations and recommendations

##### Under-croft Parking

From a designing out crime point of view the Force has serious concerns with the rear parking area for the proposed residential units. Under-croft areas are discouraged for a number of reasons, they can be more susceptible to crime than enclosed parking, they can also encourage ad hoc congregation and possibly anti-social behaviour, as well as providing a sheltered space for rough sleeping. There is also no natural surveillance within this area, making the cars parked here more vulnerable, which may also increase the fear of crime. If a fire is started within this under croft, especially so close to the refuse area it could have a detrimental impact on the residents and users of the building, with three means of escape leading out into this area.

We ask that this area is re-designed to remove the under-croft style parking, or introduce roller shutters to each of the parking bay areas to fully block the area off from public access.

#### Proposed A4 Use

Due to the high amount of assault within the locality of the proposed site, if A4 use is granted we request that the opening hours be restricted to 11pm at the latest.

#### Traffic management & Safety

As the need for parking is likely to increase as a result of this development, especially the gym, it is imperative that the safety of all road users is considered in this locality especially around safe pedestrian movements and free/unobstructed movements through the main junction areas. In consequence we would therefore suggest that parking restrictions in the form of a "No Waiting/ No Loading At Any Time" restriction be extended westwards on the south side of Tempest Road to and around the back lane junction to assist in safe and free traffic flow through the junction and keep the pedestrian crossing area clear and free from visibility obstruction.

#### Access Control

Access control should be used for access to the residential area within the stair core to restrict access to members of the public to the private floor.

Following the receipt of revised plans seeking to address the above, no further comments were received.

**Seaham Town Council:** On behalf of Seaham Town Council I write to formally object to the planning application for the erection of a four storey building on North Terrace in Seaham.

The lack of parking for the new development will cause even more problems on what are already very busy streets and will cause problems in the surrounding existing car parks which already struggle to meet the demand for car parking spaces.

We feel that a four storey development of this nature is not in keeping with the current style or character of North Terrace. In additional to this it is felt the property would be sited in such a way which could reduce vision on an already busy junction and could also negatively impact on the privacy of existing residents surrounding the property.

We also feel that there is a lack of public toilets to support the ever growing tourist offer in Seaham. Whilst tourism increases this could be impacting matters such as Council Tax rates as well as generating additional litter. Some businesses on North Terrace area already storing bins in the streets causing issues to those living in Hawthorn Square.

#### PUBLIC RESPONSES:

20. The application has been publicised by way of press advert, site notice and notification letters sent to neighbouring properties, in response 64no objections were received, a summary of the points of objection are as follows: the following comments were received:

- Scale of building is excessive and not in keeping with the area
- Proposal is out of character within this location and the Seaham Conservation area
- Lack of parking
- Additional traffic generation

- Highway and pedestrian safety
- Loss of privacy to existing residential properties
- No community benefits
- Detrimental impact on existing businesses within Seaham
- Noise disturbance and generation
- Loss of light and over shadowing

#### **APPLICANTS STATEMENT:**

21. The proposals comprise of 3 no. retail units at ground level, a gym at first floor level, and above residential apartments which would be available for occupation by the tenants of the commercial premises. We hope that these new businesses will bring more development and investment to Seaham and support its vitality and viability.
22. The architects have designed the proposals sympathetically and have used a palette of materials which exist in the immediate environs thus creating a building appropriate to its context.
23. The scale and style reflect the new development at 18, North Terrace, and the design intention was to provide two 'bookends' to the terrace.
24. The scheme will generate over eighty full-time and part-time jobs and positively contribute to the vibrant promenade which offers a wide variety of leisure and recreational facilities.
25. During the life of the application, the architects have worked closely with the Officers to refine the proposals.
26. We believe the proposals are acceptable in principle and in detail and that they should be supported. The Committee are therefore requested to grant planning permission subject to controlling conditions.

*The above represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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27. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 47 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, impact on character and appearance of heritage assets, the design and impact upon visual amenity and the impact of the development upon residential amenity, and highway safety.

#### Principle of Development

28. The County Durham Plan defines the designed town centre boundaries across the County. Whilst the site is not located within the defined town centre for Seaham, it is considered to be edge of centre, given it is located within 300m of the town centre boundaries and is particularly well linked to the town centre.

29. Policy 6 of the County Durham Plan supports 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: 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.

30. As detailed above Policy 6 permits development on unallocated sites provided it meets the criteria set out within the policy. In this regard it is considered that the proposed site is acceptable in principle with this policy given that the site is a brownfield site having formally been the location of an infirmary (criteria i), located within close proximity to compatible uses that would not be prejudicial to any existing uses (criteria a), is within the existing built framework of Seaham that will not lead to coalescence with neighbouring settlements (criteria b), will not result in a loss of open land that has any recreational, ecological or heritage value (criteria c), has easy access to sustainable transport and local facilities (criteria f), subject to consideration of the criteria d, e, h in policy 6 which are considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.

31. Policy 9 of the County Durham Plan aims to protect and enhance a hierarchy of centres within the County. Seaham and Peterlee are defined as Large Town Centres. This policy states that proposals for town centre uses not located within a defined centre are required to provide a sequential assessment. Where an application fails the sequential test or would have a significant adverse impact on investment or the vitality and viability of a town centre, it will be refused.

32. The NPPF Section 7 provides guidance on how to assess applications for uses that would normally be located within a town centre and that could potentially impact on the vitality and viability of proposed centres.

33. Paragraph 88 confirms that when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and LPAs are required to demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.

34. Paragraph 90 states that when assessing applications for retail and leisure development outside of town centres, which are not in accordance with an up to date plan, local planning authorities should require an impact assessment if the development is over a locally set floorspace threshold and if there is no locally set threshold, the default threshold is 2500sqm of gross floorspace. This should include assessment of:

- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).

35. The application proposes 373sqm of retail floorspace and 887sqm of leisure floorspace and therefore an impact test is not required.

36. Paragraph 91 confirms where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused.
37. The application has been accompanied by the requisite sequential test. This has considered a number of sites within Seaham and Peterlee and concludes that none of the sites is of a size to accommodate the proposed development. Of these sites however, only 2 are located within a defined centre (Blandford Place, Castledene). In relation to these sites, it is clear that they are not of a sufficient size to meet the developer's requirements.
38. Whilst the sequential assessment constitutes a limited search of the area, it is however considered that the site is highly accessible and is well linked to the defined town centre boundaries. It is also acknowledged that there are limited sites that would accommodate the proposed development, recognising that the proposal constitutes the erection of a new build property and also the unique location of the application site. Despite the limited information, it on balance is considered acceptable and Officers consider that the site represents a suitable location and would not undermine the aims of Policy 9 of the County Durham Plan to protect the vitality of existing town centres.
39. In addition to the commercial uses, the proposal includes residential uses to the upper floor, whilst the site is within the 400m new residential exclusion zone for the HRA, that would normally prevent any new residential development due to the impact on the coastal protected site, it has been considered that given it is proposed that the residential units are to be directly occupied by persons managing or working within the commercial units on the lower floors, this would not have a detrimental effect on the heritage coast. It is therefore considered that the principle of residential use is acceptable subject to a condition limiting the use of the residential units to the commercial units and not for sale or rent to any third parties.
- Impact on Designated & Non-Designated Heritage Assets
40. When considering any application for planning permission that affects a conservation area, the Planning (Listed Buildings and Conservation Areas) Act 1990 s.66 requires the Local Planning Authority to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses; and s.72 requires a local planning authority to pay special attention to the desirability of preserving or enhancing the character or appearance of the area.
41. Section 16 of the National Planning Policy Framework (NPPF) goes further in seeking to enhance and sustain the significance of heritage assets and ensuring new developments make a positive contribution to local character and distinctiveness (para. 197), whilst requiring local planning authorities when considering the impact of a proposed development on the significance of a designated asset to give great weight to the asset's conservation irrespective of the level of any potential harm (Para. 199).
42. 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.
43. The application property is located within the Seaham Conservation Area (a designated heritage asset), the Council's Design and Conservation team have provided the following appraisal of the area and its characteristics; "The Seaham Conservation Area was

designated in 1997 in recognition of its industrial heritage, retention of the historic plan form and surviving historic buildings. The proposed development site is within the historic core of the conservation area, in a mixed-use promenade facing onto a prominent and well used public open space with views out to the sea beyond. The site was formerly occupied by an L shaped infirmary built in 1844 according to historic maps and online sources, which was demolished in 1969.”.

44. The proposed development is located on a prominent corner plot within the Seaham Conservation Area and part of the thriving promenade which is well used by residents and visitors. The site is currently vacant, grassed over with a footpath crossing to Back North Terrace. To the north and north-east is a group of attractive 19th century buildings, all two storey plus attic. Bath Terrace to the northeast is Grade II listed. To the east is a large public open space. Adjacent to the south is a snooker club which appears to be a later infill to the streetscene. North Terrace is predominantly two storey with only a small number of higher three storey properties. To the south, and acting as a dominant focal point, is the Grade II listed former Police Station.
45. The DCC Design and Conservation team have commented that “The proposed development site is a prominent gap site within the conservation area and opportunities to redevelop the site with an appropriate scale and form of development are supported in principle”, and have confirmed that following amendments to the scheme, they have no further comment or objection to the scheme.
46. It is therefore considered that the proposed development would make a positive contribution to the designed conservation area through the infilling of this prominent gap within the centre of the conservation area on the sea front that was historically previously occupied and would not result in any detrimental impact on the setting, appearance or significance of the conservation area or any nearby listed buildings it is therefore considered acceptable in line with Policy 44 and Section 16 of the NPPF and sections 66 & 72 of the Listed Building Act.

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

47. Policy 29 (Sustainable Design) of the County Durham Plan 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.
48. It is considered that the proposed development is of an acceptable design, that reflects the character and appearance of the historic buildings and conservation area and would bring into use a prominent site within the streetscene. The height of the building is of a similar scale to the existing buildings on Tempest Road and provides a ‘book-end’ to this section of North Terrace between to the newly constructed development at 18 North Terrace (former Harbour View Hotel).
49. It is therefore considered that the proposal is acceptable in line with Policies 29 and 6 of the CDP subject to a planning condition requiring the use of renewable energy resources.

## Impact upon Residential Amenity

50. Policy 31 of the County Durham Plan 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.
51. Paragraph 130 of the NPPF requires that planning decisions should ensure that developments will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
52. The Police Architectural Liaison Officer (PALO) raised a number of concerns in relation to the proposal and requested that the garage doors/shutters were provided to the rear parking areas, waiting restriction are imposed, opening hours were restricted to 2300hrs, and access code doors were imposed. The latest revised plans have provided doors to the parking area, and planning conditions are proposed to impose parking waiting restrictions and restricting the opening hours of the business to 2300hrs. The PALO was consulted on the amendments, and whilst no response was received it is considered that the amendments and conditions are sufficient to meet the majority of the requests of the PALO for the scheme to be acceptable in accordance with Para. 130 of the NPPF. The issue of the access code entrance is considered to be a management issue and not something that could be controlled via planning controls.
53. The primary access to the retail units will be taken from North Terrance to the Front with the leisure (gym) and residential uses accessed via Tempest Road. It is considered that the retail units and gym will sit within the existing context of a mixed uses within this area framed by a variety of uses and activities. Therefore, any increase in noise or activity would be negligible against the existing activity and noise level typical of this edge of town centre location and busy sea front.
54. In terms of internal amenity space, the proposed C3 uses are considered adequate for a development of this nature, and will provide well-appointed living space with natural light and ventilation to all habitable rooms.
55. The Council's Environmental Health Officer has confirmed that the proposal is within a noise sensitive location. However, with the appropriate conditions the proposal will be acceptable in terms of noise and statutory nuisance.
56. Concerns from local residents have been raised in relation to noise and disturbance resulting from this proposal, this is mainly in relation to the increased activity at the site. Whilst it is acknowledged that there will be an increase in movements near the site, the property is located on a busy corner location, where there are already significant traffic and pedestrian movement, it is therefore considered that any increase in movement to and from the site will not be significant enough to warrant refusal of the application.
57. Significant concern has been raised in relation to loss of privacy by the adjacent residents on Tempest Road by users of the gym on the first and second floors. The Council's Residential design SPD requires a minimum of 21.0m between habitable room plus an additional 3.0m for each storey above a 2 storey development. In this regard the proposal would need to achieve 27.0m to create a satisfactory separation and privacy distance. The submitted details show that the separation distance between the proposed building and the residential building to the North on Tempest Road is between 28.0 -29.0m, and as such is considered to be sufficient to protect the amenity and privacy of the dwelling to the North.

58. However, it is considered that whilst the proposal can achieve a satisfactory distance, due to the commercial nature of the first and second floor and the likely high frequency of users accessing these windows that a perceived surveillance over these dwellings would have a detrimental impact on the residential amenity and enjoyment of the neighbouring properties to the North. Therefore, it is considered that the windows to the Northern Elevation serving the first and second floors should be obscure glazed and controlled by a planning condition to ensure they are kept as such for the lifetime of the building.

59. Therefore, subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of policy 29 and 31 of the CDP and section 12 of the NPPF.

#### Highway and Pedestrian Safety

60. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document.

61. A number of objections have been received in relation to lack of parking, loss of current parking provision, highway safety and additional traffic generation.

62. The site proposes 4no. dedicated in curtilage parking space to the rear of the development for use in association with the additional residential units. Given the location of the proposal site on the edge of the town centre it is anticipated that the users of the businesses will utilise the existing parking provision within the town centre.

63. The Council's Highway section have reviewed the proposal and although note that the development would generate an increase in demand which is not mitigated by any additional on site provision, nevertheless consider that the application would not have an unacceptable impact upon highway safety sufficient to sustain refusal of the application subject to planning conditions. It is therefore considered that the proposal will accord with the requirements of Policy 21 of the CDP, and Part 4 of the NPPF.

#### Ecology

64. Policy 41 (Biodiversity and Geodiversity) of the CDP restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.

65. Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

66. Policy 42 (Internationally Designated Sites) states that development that has the potential to have an effect on internationally designated sites, either individually or in combination with other plans or projects, will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.

67. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the

proposal is able to pass the further statutory tests of ‘no alternatives’ and ‘imperative reasons of overriding public interest’ as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017.

68. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site. In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered. Land identified and/or managed as part of any mitigation or compensation measures should be maintained in perpetuity.

69. The Council’s Ecologist has considered and screened the proposal and provided the following comments “This proposal includes the creation of 4 new residential units within the 400-metre buffer and would normally be unacceptable under the current DCC Habitats Regulations Assessment (HRA) of new residential accommodation on the coast. However, I consider that providing the new units are tied to the operation of the commercial units and are not sub-let for any other residential use the creation of new units within the 400m buffer is likely to be acceptable and in accordance with the HRA”.

70. The HRA concludes that residential accommodation can proceed up to 6km away from the coastal European Protected Sites provided certain mitigation measures are taken.

71. Mitigation measures can include alternative green space that meets the Natural England SANG guidelines or a financial contribution of either £662.00 (for sites allocated in the County Durham Plan) or £756.61 per dwelling (for non-allocated sites) towards specific Coastal Access Management Measures. The HRA mitigation is not restricted to new housing developments and applies equally to other developments, such as visitor accommodation and tourism proposals.

72. Given the constrained nature of the site and limited footprint it is not considered that mitigation could be provided on site and as such it is considered appropriate to secure mitigation through commuted sum of £3026.44 to which the applicant has agreed, to be secured through S106 Agreement or Unilateral Undertaking. The development is therefore considered to accord with policy 42 of the CDP, the habitat regulations and the Council’s developer contributions guidance. .

73. The Council Ecology has also confirmed that “The supplied Preliminary Ecological Appraisal report by EcoSurv is acceptable and if the application is approved, the contents of Section 6 (Conclusions and Recommendations) should be conditioned as it contains the provision of bat roost units and swift/swallow bricks in the new building.”

74. Therefore, it is considered that the proposal is acceptable in line with Policy 41 and 42 of the County Durham Plan, and section 15 of the NPPF subject to the conditions as detailed and securing the necessary HRA payment.

### Connectivity

75. Policy 27 of the CDP requires new residential and commercial development to be served by a high speed broadband connection unless it can be demonstrated that this is not appropriate. As the development would be located within the centre of Seaham within close proximity existing infrastructure and as such it does not appear that there any significant constraints to delivering the connectivity in accordance with the requirements of policy 27. However, the submission and agreement of precise detail in this regard could

be secured through planning condition in accordance with the aims of policy 27 of the CDP.

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## CONCLUSION

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76. The proposed development is considered acceptable in principle and would not have any significant adverse impact upon the vitality and viability of Seaham Town Centre and the associated works proposed could be satisfactorily accommodated in terms of mass, scale, layout, design and materials and would not have an unacceptable impact upon residential amenity, ecology, highway safety, land contamination and drainage in accordance with the requirements of policies 6, 9, 21, 25, 27, 29, 31, 32, 41 and 42 of the County Durham Plan and sections 2, 4, 7, 9, 12 and 15 of the NPPF 2021.
77. In addition, it is considered that the proposal would enhance the character and appearance of Seaham Conservation area and would preserve the setting of adjacent listed buildings in accordance with policy 44 of the County Durham Plan, section 16 of the NPPF (2021) and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 subject to the inclusion of appropriate planning conditions.

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## RECOMMENDATION

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That the application (DM/20/01479/FPA) be **APPROVED** subject to a s106 agreement to secure the following;

- £3,026.44 to be used towards the CAMMs Tier 2 Beachcare and Wardening programme.

And 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, 9, 21, 25, 27, 29, 31, 32, 41 and 42 of the County Durham Plan and Parts 2, 4, 7, 9, 12 and 15 of the National Planning Policy Framework.

3. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site is suitable for use,

in accordance with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

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

Reason: To ensure that the remediation works are fully implemented as agreed and the site is suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

5. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
  1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  2. Details of methods and means of noise reduction/suppression.
  3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
  5. Designation, layout and design of construction access and egress points.
  6. Details for the provision of directional signage (on and off site).
  7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
  8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
  9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
  10. Routing agreements for construction traffic.
  11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
  13. Management measures for the control of pest species as a result of demolition and/or construction works.
  14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre commencement to ensure that the whole construction phase is undertaken in an acceptable way.

6. Notwithstanding any details of materials submitted with the application no development shall commence above damp proof course until precise details of the make, colour and texture of all walling, window and roofing materials have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

7. The commercial premises shall not be open to customers outside the hours of 0800 to 2300 on any day of the week.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

8. In undertaking the development that is hereby approved:

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

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

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

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

Reason: To protect the residential amenity of existing and future residents from the development in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

9. Prior to the occupation of any part of the building hereby permitted, details of appropriate cycle parking shall be submitted to and approved in writing by the Local Planning Authority and thereafter shall be implemented and maintained in accordance with the agreed details.

Reason: To ensure acceptable levels of cycle parking and to promote sustainable transport methods in accordance with Policy 21 of the County Durham Plan.

10. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority. The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the separate and adjoining properties shall be sufficient to prevent excessive ingress and egress of noise from the commercial elements of the development and shall protect future occupiers of the residential units on the third floor from any nearby external noise sources ensuring the following noise levels are achieved:

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

Any noise mitigation measures required and agreed shall be installed 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.

11. No hot food shall be prepared or served at the premises until details of the fume extraction system, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times when cooking is being carried out on the premises.

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.

12. Development shall not commence until a detailed scheme for the disposal of foul and surface water from the development hereby approved has been submitted to and approved in writing by the Local Planning Authority in consultation with Northumbrian Water and the Lead Local Flood Authority. Thereafter the development shall take place in accordance with the approved details.

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

13. The occupation of the residential units hereby approved shall be limited to person(s) solely or mainly working in the businesses contained within the building hereby approved. The residential units shall not be sold, let, sub-let, or used for holiday accommodation.

Reason: In order to comply with Policy 41 and 42 of the County Durham Plan and Part 15 National Planning Policy Framework.

14. Prior to commencement above damp proof course details of the ecology mitigation measures in accordance with Section 6 of the hereby approved Preliminary Ecological Appraisal by Ecoserve (dated 28th Feb 2020) shall be submitted to and approved in writing by the Local Planning Authority. The agreed measures shall thereafter be implemented prior to the first occupation of any part of the building, and maintained in accordance with the agreed details for the lifetime of the development.

Reason: To ensure a satisfactory form of development in accordance with Policies 41 and 42 of the County Durham Plan and Section 15 of the NPPF (2021).

15. The external areas to the ground floor on North Terrace of the premises shall not be used by customers outside the hours of 0900-2000 hours on any day of the week, and there shall be no use of any external areas on Tempest Road at any time.

Reason: To ensure a satisfactory form of development, and to protect the residential amenity of nearby residential units in accordance with Policies 29 and 31 of the County Durham Plan and Section 12 of the NPPF (2021).

16. Prior to the occupation of any part of the building hereby permitted details of a scheme for the formalising of parking / waiting restrictions on Back North Terrace and Tempest Road shall be submitted to and agreed in writing by the Local Planning Authority. The agreed scheme shall thereafter be implemented in accordance with the agreed scheme at the expense of the developer.

Reason: In the interest of highway safety in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF (2021)

17. Prior to the occupation of any part of the building hereby permitted details of a hard landscaping / paving scheme shall be submitted to and approved in writing by the Local Planning Authority. This scheme shall incorporate and provide a design to clearly delineate the areas of public highway and areas of private ownership. The agreed scheme shall thereafter be implemented in accordance with the agreed scheme at the expense of the developer.

Reason: In the interest of highway safety in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF (2021)

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the proposed windows within the first and second floor of the North elevation shall be obscured to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be maintained thereafter in perpetuity.

Reason: In the interests of the residential amenity of neighbouring properties in accordance with Policies 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

19. No development shall commence until such time as a scheme detailing the precise means of broadband connection to the site has been submitted to and agreed in writing by the local planning. Thereafter, the development shall be carried out in accordance with the agreed detail.

Reason: To ensure a high quality of development is achieved and to comply with the requirements of policy 27 of the County Durham Plan.

20. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development Order) 2015 (as amended) (or any revocation and re-enactment of that order), the ground floor units shall be used only for uses contained within Use Classes E (a),(b),(c) or Sui-Generis (drinking establishment), the first and second floor unit shall be used only for uses contained within Class E (d) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

Reason: In the interests of the amenity of the area in accordance with Policies 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

21. Prior to the commencement of the development above damp proof course of the development hereby approved details of how the building shall ensure that the proposal can achieve a Building Research Establishment Environmental Assessment method (BREEM) minimum rating of 'very good' (or any future national equivalent), shall be submitted to and approved in writing by the Local Planning Authority and thereafter the development shall be implemented wholly in accordance with those details as agreed.

Reason: To ensure that the development achieves a sustainable form of development in line with Policy 29 of the County Durham Plan.

22. Notwithstanding any details of shutters submitted with the application the premises shall not be occupied until precise details of any security shutters or grilles have been submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: In the interests of the appearance of the area and to comply with Policy 29 of the County Durham Plan and Part 12 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 form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses



<b>Planning Services</b>	<b>DM/20/01479/FPA</b> <b>Erection of 1no. 4 storey building comprising of 3no. units (use class E (a)(b)(c) or Sui Generis (drinking establishment)) to ground floor, 1no. unit (use class E(d) to first and second floor and 4no. residential units (C3) ancillary to the commercial units to third floor. (amended description)</b>
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<b>Date</b> 14 September 2021	<b>Scale</b> NTS

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	<b>DM/21/02279/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Erection of single-storey extension, conversion of flat roof to pitched roof and new window all to rear elevation and internal alterations to an existing HMO (use Class C4).</b>
<b>NAME OF APPLICANT:</b>	Mr Marc Shalam
<b>ADDRESS:</b>	26 May Street Durham DH1 4EN
<b>ELECTORAL DIVISION:</b>	Nevilles Cross
<b>CASE OFFICER:</b>	Lisa Morina Planning Officer Telephone: 03000 264877 <a href="mailto:Lisa.morina@durham.gov.uk">Lisa.morina@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site is a mid-terraced property currently in use as a small house in multiple occupation (HMO – Use Class C4) located within the Viaduct area of Durham City Centre. The street in which the property is positioned is a simple terraced arrangement dating from the 1890s which contributes positively to the character and appearance of the surrounding Durham City Centre Conservation Area (CA). This mainly relates to the terraced form and street frontage where its original historic and architectural character, uniformity and roofscape remain strong. To the rear the historic form and character of the properties has however been diminished by modern alterations and extensions over time.

#### Proposal:

2. Planning Permission is sought for the erection of a single-storey extension and the creation of new window to the ground floor, both to the rear elevation. In addition, a pitched roof is also proposed over the existing flat roofed two storey extension. The proposed window would be located adjacent to an existing rear window and the extension would be small in scale, essentially providing a small addition to the footprint of the existing shower room bringing it in line with the existing kitchen. Other internal alterations not subject to planning control are identified on the submitted plans which facilitate the reconfiguration of the property to create an additional bedroom increasing bedroom provision from 5 to 6, which it is noted would not amount to a change of use away from the current established C4 use. However,

it is noted that these elements do not require planning permission and are therefore do not form part of this planning application.

3. The application is referred to the Committee at the request of the City of Durham Parish Council as they consider it to be contrary to the aims and requirements of policy 16 of the County Durham Plan.

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## **PLANNING HISTORY**

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4. 4/08/00038/FPA - Erection of two and single storey pitched roof extensions to rear of existing dwelling. Approved 5 March 2008.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

5. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
6. NPPF Part 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.
7. 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.
8. NPPF Part 5 Delivering a Sufficient Supply of Homes - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
9. NPPF Part 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.
10. 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.

11. 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.

12. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

13. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

14. 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.

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

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

##### County Durham Plan

15. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provide a means to consider student accommodation and proposals for houses in multiple occupation to ensure they create inclusive places in line with the objective of creating mixed and balanced communities.

16. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development to have regard to Parking and Accessibility Supplementary Planning Document.

17. Policy 29 - Sustainable Design requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.

18. 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 can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of 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.

19. 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.

#### Neighbourhood Plan

20. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
21. Policy S1 Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
22. Policy D4: *Policy D4 Building Housing to the Highest Standards* seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.
23. Policy H2 The Conservation Areas expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.
24. Policy T1 Sustainable Transport Accessibility and Design seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.
25. Policy T2 Residential Car Parking seeks to ensure that proposed development would be served by sufficient car parking spaces.

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

## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

26. Highways – No objection
27. City of Durham Parish Council raises objection to the application and consider it to be contrary to policy 16 of the CDP.

### **INTERNAL CONSULTEE RESPONSES:**

28. Environmental Health (Nuisance) Section – No objection.
29. HMO Officers – No objection
30. HMO Data – 59.5% of properties are exempt within 100m.
31. Design and Conservation Section – No objection in principle subject to a planning condition controlling external materials.

### **PUBLIC RESPONSES:**

32. The application has been advertised by means of site notice and by notifying neighbouring residents by letter.
33. To date, one objection has been received from the City of Durham Trust in that the proposal is contrary to CDP Policy 16 and also concern raised over the potential removal of the chimney stacks.

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

34. Stricter enforcement of the newer student house HMO regulations by Durham County Council Environment Dept. and the increasing demand for higher quality accommodation from students paying for private accommodation in conjunction with new planning policy has brought many landlords to reconsider their existing housing stock.
35. The purpose of the application is to bring the property fully up to current Durham County Council HMO regulations for student properties and at the same time improve the let offering to students. The HMO regulations were amended in May 2019 and are being enforced at the renewing of the HMO licenses.
36. The proposals seek to improve the kitchen facilities by making a combined Living / kitchen/ dining space. An additional window is added to meet HMO requirements for light & ventilation. The proposals also seek to equal out the size of the bedrooms, removing the box room, and bring them all over the minimum bedroom size requirement and finally the proposals improve the bathroom facilities offered at the property.
37. The element that is the subject of the planning application is a small infill in the yard that allows a bigger shower room, again to improve facilities. This would normally be PD if not for the Article 4 that limits changes to the elevations adjacent an adopted road.

38. We note the objections to the planning application based on policy 16, number of student beds and HMO percentages in 100m etc. To be clear the internal alterations and the increase of the bedrooms will happen regardless of the result of the planning application as these are permitted development changes. The property is already a C4 and under that class is allowed up to 6 bedrooms. This increase in bedrooms can be achieved with no external changes and thus avoid planning control. The application is simply for the small infill in the yard and should focus only on this.
39. However whilst noting HMO percentages our information is at odds with the HMO data. The latest DCC gazette has the street at 85.3% student. Our own examination of the 32 properties in May Street show that only 2 houses seem to be non-student a percentage of 93.75%. Some of these properties will just not be seeking the council tax reduction to become class N.
40. In a recent appeal APP/X1355/W/20/3253690 at 55 Hawthorn Terrace, Durham DH1 4EQ. (which did not pre-date the CDP) along with other planning consultants, it was argued and illustrated that, within the appeal property's postcode area, 92.9% of the properties are exempt from Council Tax charges and that within the immediate vicinity of the appeal site the overwhelming majority of dwellings are student lets.
41. Policy 16 even states that the highest concentrations of HMOs are in the Viaduct area of the City, where over 90% of all properties are thought to be occupied by students living in HMOs. The inspectorate concluded that "*It is apparent that within the immediate vicinity and postcode area of the appeal site there is a very high concentration of HMOs and an existing and significant imbalance which is heavily skewed towards student occupation. Taking into account the existing characteristics of the area, the limited increase in student occupants additional to the fallback position that the development is unlikely to cause a statutory nuisance, I am satisfied that the proposal would not result in a materially significant increase in noise and disturbance that would have a notably detrimental effect on the living conditions of nearby residents.*" The inspectorate allowed the appeal and overturned the decision for refusal.
42. The Durham City Neighbourhood Plan has recently been adopted and seeks a net gain in conservation terms within applications. To that end we have amended the proposals to include changes to the existing rear extension to remove some of the poor quality elements such as the flat roof and large horizontal rectangular format windows. We have replaced these with a slate pitched roof and new window openings with a vertical emphasis and better window fenestration including a brick arched head and stone cills. Gutter support blocks have been added also. These combined will offer a conservation net gain.

*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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43. 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. The main considerations in regard to this application are the impact of the development upon the character and appearance of Durham City Centre Conservation Area, residential amenity and highway safety, along with all other material planning considerations.

44. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.

45. The County Durham Plan and the Durham City Neighbourhood plan are now both adopted and together are considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.

#### Impact on streetscene and conservation area in which the property is located

46. Local Authorities have a duty to preserve or enhance the Conservation Area as requested by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

47. Policy 44 of the CDP relates to historic environment and requires that development should sustain the significance of designated and non-designated heritage assets and contribute positively to the built and historic environment. In addition, policy H2 of the DCNP requires development within the City Centre Conservation Area to sustain and enhance its special interest and significance as identified by the conservation area character appraisal, taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.

48. The proposed extension to the existing single-storey mono pitched roofed extension would result in a minimal increase in size and scale to a later C20 element that would cause no adverse affect to the sustained heritage values of the building or the character and appearance of this part of the Conservation Area. The extension proposal would still maintain the existing additions small scale, subordinate relationship to the host double-storey extension, its form and general design, having a neutral impact and as such would preserve the charcter and appearance of the area.

49. The proposed new window within the ground floor of the original rear elevation of the main building would to some extent be undesirable as it would unbalance the existing fenestration pattern. However, it is positioned to the rear and accurately replicates the original window adjacent in terms of its size, shape and style including head and sill detailing. It would be generally unseen from outside the private rear yard area, and there is a wide mixture openings to visible rear elevations forming the terraced block. As such it is not considered that this element of the propsal would cause harm to the overall charcter and appearance of the counservation sufficient to sustain refusal of the application.

50. Paragraph 185 of the NPPF states plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets

most at risk through neglect, decay or other threats and should take into account the desirability of sustaining and enhancing the significance of heritage assets.

51. Policy H2 of the neighbourhood plan requires proposals to enhance the conservation area and provides a set of criteria to consider in this regard, outlining where such criteria are relevant. The stated criteria is as follows:

- a) sustaining and enhancing the historic and architectural qualities of buildings, and
- b) sustaining and enhancing continuous frontages, street patterns, boundary treatments, floorscapes and roofscapes; and
- c) respecting historic boundaries and curtilages;
- d) avoiding demolition of assets of historic and/or architectural interest which contribute to the character and appearance of the area; and
- e) avoiding loss of, or harm to, an element of an asset which makes a positive contribution to its individual significance and that of the surrounding area; and
- f) avoiding loss of open space that contributes to the character and appearance of the surrounding area; and
- g) protecting important views of the Durham City Conservation Area from viewpoints within and outside the Conservation Area; and
- h) taking opportunities to open up lost views and create new views and vistas; and
- i) having appropriate scale, density, massing, form, layout, landscaping, and open spaces; and
- j) having materials, detailing and lighting appropriate to the vernacular, context and setting; and
- k) using high quality design sympathetic to the character and context of the local area and its significance and distinctiveness, and to the immediate landscape; and
- l) avoiding adding to the cumulative impact of development schemes which dominate either by their scale, massing or uniform design.

52. Given the limited scale of the proposal and the fact that the materials proposed are considered appropriate subject to a condition for precise details to be submitted and agreed by the LPA, it is considered that points i - l are met. In respect of points c, d, f and h, it is considered that these are not relevant in the determination of this application.

53. With regard to the remaining points, it is considered that the position of the extension to the rear of the dwelling is such that the proposal would accord with the aims of policy H2 of the DCNP in that it is the historic terraced form and the individual properties uniformity, well detailed and conserved frontages of the terrace as a whole that contributes the greatest to the surrounding Conservation Area, and these attributes would be unaffected by the proposed extension, window and roof alteration.

54. Regardless of this however, the applicant has proposed additional amendments which would remove some of the poor-quality elements originally proposed such as the flat roof and large horizontal rectangular format windows. These have been replaced with a slate pitched roof and new window openings including a brick arched head and stone cills. Gutter support blocks have also been added which together are considered to represent improvements to the scheme as originally proposed.

55. In summary, based on the above it is considered that the proposal would accord with the requirements of NPPF Sections 12 and 16, CDP Policies 29 and 44, and NP Policies S1, D4 and H2 and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## Impact on residential amenity

56. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users. In line with this, CDP Policy 31 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. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living 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. In addition, criterion e) of Policy 29 states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
57. Objections have been raised by the Parish Council and the City of Durham Trust who are concerned that the proposal would result in an increase in noise and disturbance in the immediate area. It is noted that the concern in this regard relates to increased noise from the additional bedspace although as noted these works do not form part of this application and cannot be afforded any weight in its determination. The relevance of policy 16 in this regard is discussed in detail elsewhere in this report.
58. More generally in relation to noise it is noted that in this instance the application site is a mid-terraced property located within a residential area, is already in use as an HMO and as such the existing use is already noise sensitive. In respect of the elements that are subject to consideration (which is limited to the addition of a small extension to the rear to provide an enlarged shower room, the proposed window and the pitched roof arrangement) it is not considered that these would amount to any additional increase in noise. The Council's Environmental Health Section therefore raises no objection to the application in this regard.
59. In respect of the position of the proposals, it is not considered to cause any loss of amenity or overlooking/overshadowing to neighbouring properties, except that some overshadowing may occur as a result of the creation of the first floor pitched roof, but this is not considered to be sufficient to warrant refusal of the application.
60. In addition, whilst there would be some reduction in external amenity space following erection of the extension this would not unacceptably undermine the functionality of this space which was already limited, with the main yard area not being adversely impacted upon.
61. In light of the above the proposal is considered to be acceptable in terms of residential amenity and the proposal is considered to accord with the requirements of relevant policies of the County Durham Plan and Paragraph 130 of the NPPF.

## Parking, Access and Highway Safety

62. The property benefits from an existing and well established use as a HMO and as noted the proposed internal alterations to deliver an additional bedroom but are not subject to this application.
63. Therefore, the development not result in any unacceptable harm with regard to highway safety in accordance with the aims of policy 21 of the CDP, policy T2 of the Neighbourhood Plan and paragraph 108 of the NPPF.

64. Both the City of Durham Trust and the City of Durham Parish Council raise objection to the application which they consider to be contrary to the aims of Policy 16 of the County Durham Plan due to creation of an additional bedroom and that this would result in a negative impact on the mix and balance of the existing community.
65. Policy 16 states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to:
  - a Class C4 (House in Multiple Occupation), where planning permission is required; or
  - a House in Multiple Occupation in a sui generis use (more than six people sharing)will not be permitted if:
  - a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
  - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
  - c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus. the conversion of houses for multiple occupation/student use.
66. Supporting text notes that this policy would apply to extensions to an HMO to provide for additional bedspaces, but also to extensions which result in additional floorspace which means the property could be reconfigured to accommodate additional bedroom space. In this context, even if the extended part of the property is not intended to accommodate a bedroom or bedrooms, if a proposed extension would enable an internal reconfiguration of the property with the result of the creation of additional bedroom or bedrooms then the policy would apply. In the case of this application it is noted that the proposed extension would not in itself facilitate the wider reconfiguration of the property, resulting only in an extended shower room of around 4sq metres. The wider reconfiguration of the property would be wholly internal and is not directly linked to the extension to the shower room. With this in mind it is not considered that the development (i.e. the extension, pitched roof and new window) would either result in additional bedspace space or the potential creation of additional bedspace and as such policy 16 does not apply.
67. Given the above, whilst the concerns of the Parish Council and the City of Durham Trust are noted these are not sufficient to sustain refusal of the application noting that the internal alterations required to provide the additional bedspace do not require planning permission and are not directly related to the elements which are subject to control.

## **CONCLUSION**

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68. The principle of the development is considered to be acceptable given the proposed works relate to the erection of a very modest extension, the creation of a pitched roof and a new single window at an existing and well established HMO. Whilst it is understood that the applicant also intends to undertake various internal alterations which would result in the creation of an additional bedspace these works do not require planning permission.
69. The proposed single storey rear extension, pitched roof and new window could be satisfactorily accommodated at the site by reason of their design, materials, scale and layout without adverse impact upon residential amenity and highway safety in accordance with the aims of policies 21 and 29 of the CDP and Parts 9 and 12 of the NPPF.
70. The application is therefore considered to meet the requirements of the National Planning Policy Framework and Policies 16, 29, 31 and 44 of the County Durham Plan and relevant policies set out in the Durham City Neighbourhood Plan, as well as satisfying the requirements of Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 as it is considered to provide a neutral impact on the character and appearance of the Conservation Area.
71. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application.

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## **RECOMMENDATION**

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

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 16, 29 and 31 of the County Durham Plan.

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

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Part 12 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.

## BACKGROUND PAPERS

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

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses

City of Durham Neighbourhood Plan

