



## Area Planning Committee (Central and East)

**Date** Tuesday 8 March 2022  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 8 February 2022 (Pages 3 - 12)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
  - a) DM/21/01611/FPA - Apollo Bingo, Front Street, New Durham, Durham (Pages 13 - 44)  
Demolition of Existing Bingo Hall and erection of 1no. part 3 storey, 4 Storey Purpose Built Student Accommodation with associated parking and servicing facilities.
  - b) DM/21/01900/FPA - Biggin Farm, New Brancepeth, Durham, DH7 7HQ (Pages 45 - 58)  
Alterations to 2no. existing Agricultural Buildings (retrospective application).
  - c) DM/20/01084/FPA - Brancepeth Manor Farm, Brandon Lane, West Brandon, Crook, DL15 9AS (Pages 59 - 96)  
Extension to Chalet Park and two residential dwelling houses (amended description).
  - d) DM/21/01526/FPA - Land to the North of 22 Coronation Avenue, Blackhall Colliery, TS27 4HR (Pages 97 - 116)  
The erection of 5 No. 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted).

- e) DM/21/03682/FPA - St Cuthbert's House, Diamond Terrace, Durham, DH1 5SU (Pages 117 - 150)

Demolition of the Mainstreet USA offices, and the erection of a new build 2-4 storey workplace building and associated landscaping.

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

**Helen Lynch**

Head of Legal and Democratic Services

County Hall  
Durham  
28 February 2022

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 A Holmes, C Hood, N Jones, C Kay, D McKenna, R Manchester, C Marshall, E Mavin, K Robson, K Shaw and A Surtees

**DURHAM COUNTY COUNCIL**

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

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 8 February 2022** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors S Deinali (Vice-Chair), D Brown, J Cosslett, J Elmer, L A Holmes, C Hood, N Jones, C Kay, D McKenna, R Manchester, C Marshall, E Mavin, K Robson, K Shaw and A Surtees

**Also Present:**

Councillor M Wilkes

**1 Apologies for Absence**

There were no apologies for absence.

**2 Substitute Members**

There were no Substitute Members.

**3 Minutes**

The minutes of the meeting held on 11 January 2022 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 5a, that he was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submission in objection to the application.

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

**a DM/21/02945/FPA - 1 Newcastle Terrace, Framwellgate Moor**

The Senior Planning Officer, Leigh Dalby, 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 of 2-bed C3 (dwelling) to a 4-bed C4 (HMO) with external and internal alteration and was recommended for approval, subject to conditions.

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

Councillor M Wilkes thanked the Chair and Committee and asked them to imagine being on the deck of a 16<sup>th</sup> Century galleon, receiving lashes from a cat o' nine tails as punishment for drinking one's shipmate's rum ration. He noted that the fact you would be on deck was due to the lack of the room to swing a cat below deck. He explained that jumping forward 300 years, Newcastle Terrace was being built in the expanding mining community of Framwellgate Moor. He added that the properties were an improvement to the single storey cottages of the time, far bigger and better. Councillor M Wilkes noted that over the next 100 years building standards had appeared to go backwards and, while there were new technologies such as insulation and double-glazing, developers were building properties with box rooms which were barely capable of fitting a bed, desk and a wardrobe. He noted the introduction of the Nationally Described Space Standards (NDSS) so that residents across the country were able to live in decent homes.

Councillor M Wilkes noted that Members would be aware that those minimum standards still could result in some small rooms being built or converted and called bedrooms. He added that those minimum standards were there for very good reason and included a minimum standard property size. He explained that the two bedroom, ex-miners' properties from the 19<sup>th</sup> Century on Newcastle Terrace had been built such that they exceeded today's minimum space standards and noted that those standards also applied to conversions.

Councillor M Wilkes explained that chopping up the interior of one of those cottages and converting them to a four-bed House in Multiple Occupation (HMO) did not meet the minimum standard and breached Policy 29 of the County Durham Plan (CDP), adding that a four-bed property should be no less than 97 square metres.

He noted that the opinion within the report was not, in his view, accurate in suggesting that a plan that was more than 14 percent below the minimum standard would be passed on appeal. He noted that the NDSS stated that at least one bedroom in a four-bed home must be at least 11.5 square metres, a woefully inadequate size in his opinion. Councillor M Wilkes explained that while that may be the case, the minimum size would protect people from smaller sized bedrooms, and he noted that none of the bedrooms within the proposal before Members were that large.

Councillor M Wilkes noted that the accommodation being built and converted across Durham City, and expanding into other areas, brought with it frequent challenges. He added that it was the conversion of properties to HMOs that angered people the most, noting that Newcastle Terrace had largely been protected from such conversion, with only 6.3 percent having been converted to HMOs. He noted the reason was that the properties were too small to be converted into four-bed properties without being extended. He explained that only two houses in the street were registered HMOs, both of which had significant extensions, and with both being three storey properties.

Councillor M Wilkes noted that Framwellgate Moor Parish Council had objected to the application for various reasons, including the impact of the proposals on parking. He added that the property was on a street where parking was already a problem and noted that CDP Policy 16 required that HMOs provide adequate parking and must have regard to the Council's adopted Parking and Accessibility Supplementary Planning Document (SPD). He noted paragraph 54 of the Officer's report noted that the proposals did not meet the standards required within the SPD. Councillor M Wilkes explained that the reason given for the Committee to ignore the policy was that there was no space for the required extra parking on the street and asked how that could be a valid argument in planning terms. He noted that he felt the report was pretty clear and he felt that the proposals were in breach of Policy 16, specifically 3(d) adding that he felt policies should not be ignored. Councillor M Wilkes added that he felt the Council should not allow properties to be converted to significantly below national standards or in breach of its own policies. He explained that while he was sure the internal finish of the property would be of a good quality, that did not take away the fact that the proposal was against policy, namely policies 16 and 29. He urged the Committee to use those policies to reject the application, supported by the Parking SPD and the national space standards.

He noted Policy 29(e) stated that proposal would be required to '*provide high standards of amenity and privacy*' and Policy 29(f) stated that design should '*contribute towards healthy neighbourhoods and consider the health impacts of development and the needs of existing and future users...*'.

Councillor M Wilkes reminded Members that people had just come through the worst health crises for a century, adding that everyone in the room would understand the difficulties of being stuck inside their home during the pandemic. He asked Members to imagine being stuck inside a 7.5 square metre bedroom with the only other room one could sit in being a shared all-in-one kitchen/lounge with three other people who were not members of your family. He noted that was what was being proposed by the application and added that he felt it was unacceptable, reiterating that it breached national guidelines and the Council's own CDP. He concluded by noting that, should the application be passed, he hoped that the tenants did not get a cat.

The Chair thanked Councillor M Wilkes and asked Mr Roger Cornwell, representing the City of Durham Trust to speak in relation to the application.

Mr R Cornwell thanked the Chair and Committee and noted he would refer to slides on the projector screen. He explained that the City of Durham Trust's case was that the proposal was not consistent with Policy 29 of the CDP adding that the policy was aimed at driving up building standards in the County, however, the proposals would take a house that met the NDSS and turn it into one that did not.

He referred to a slide setting out the current property layout and noted there were two bedrooms, both on the first floor, and both large enough to be a double bedroom. He added that the ground floor was a living room and presumably a kitchen. He referred to a second slide which set out the proposals, noting that there were now four bedrooms, the largest of which was 10.4 square metres. He added there were now two bathrooms and that the amount of shared space had been halved, crammed into what was described as the kitchen. Mr R Cornwell noted that space would not meet the NDSS.

Mr R Cornwell referred Members to points he would list, from the NDSS:

- a) There's a minimum floor area which to some extent depends on the number of residents and the number of bedrooms.
- b) If a house has more than one bedroom, one of them must be a double. It's this rule that explains why, as the report paragraph 44 notes, the NDSS does not provide guidance specifically relating to 4 bedspace, 4 person dwellings.
- c) All of the bedrooms meet the standard for a single bedroom, but
- d) None of them meets the minimum for a double, which is 11.5 square metres. You will recall the largest is 10.4 square metres.

Mr R Cornwell explained that the internal floor area of the house was 85 square metres, spread over two floors.

He added this was more than was needed for a two-bedroom house, which was 79 square metres, however, not for the proposed four-bedroom house, where the minimum was 97 square metres.

Mr R Cornwell noted that the City of Durham Trust agreed with the Officer's report, which stated that the NDSS cannot be applied rigidly, but it was '*a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.*'

Mr R Cornwell reiterated that one of the aims of Policy 29 was to drive up residential living standards and reiterated that the proposals would turn a house that met the NDSS into one that did not. He noted that there should be no backtracking and added that was a fairly basic principle that he hoped the Committee agreed with. He noted that, consequently, the application should be refused as it did not meet the requirements of Policy 29(e) of the CDP.

The Chair thanked Mr R Cornwell and asked Officers to comment of the points raised by the speakers.

The Principal Planning Officer, Paul Hopper noted that it was important to understand when and where the NDSS would apply and explained that the supporting text within the standards referred to '*all new residential development*'. He added this was followed up in CDP Policy 29 in terms of when those space standards should apply, as well as in the supporting text. He explained that Officers had taken the view, in this instance, that the rigid applications of the NDSS did not apply. The Principal Planning Officer noted that Councillor M Wilkes had suggested that some of the information within the report was misleading and explained that he disagreed adding that any decision which specifically cites as a refusal reason failure to comply with NDSS could not be sustained at appeal. He added that, as referred to within the report, it was a measurement of the quality of a particular development. He noted in reference to the application, Officers view was the NDSS did not apply to conversions, with the only instance where it would apply to conversions was if there was a net increase in the number of dwellings, if a new dwelling was created then the NDSS could be applied rigidly.

The Principal Planning Officer noted comments relating to a double-bedroom and he explained that was a requirement contained within the NDSS and referred to his previous comments on when the NDSS would apply. He added that given the proposed use for student occupation, it was likely that all of those bedrooms would be occupied as single bed spaces.

He reiterated that the requirement for a double-bedroom was included within the NDSS and added that the standards should not be applied rigidly and that it was felt there was not a sustainable refusal reason based upon that.

The Principal Planning Officer noted that, as set out within the report, the proposed use would not be licensable as a HMO, nevertheless, if the space requirements were applied as part of a licencing regime, the development would meet with those minimum requirements.

In summary, the Principal Planning Officer noted that if Members were minded to apply the NDSS as a measure of the quality of the space provided within the development and were minded to refuse the application as they felt the application did not provide a satisfactory level of residential amenity in terms of internal space, in the context of Policy 29, Officers felt that any refusal reason that cited failure to comply with the NDSS would be challengeable.

The Principal Development Management Engineer, David Battensby explained that it was entirely possible for a property to be altered internally to provide additional rooms without planning permission. He added that, likewise, it was possible for a family to have multiple vehicles without any recourse in terms of the County Council's parking standards. He noted that the existing terrace did not generally have any in-curtilage parking, with on-street parking being the norm for family members. He added that it was not possible to require a developer to provide in-curtilage parking where it was not practicable and therefore it was not possible to impose the parking standards on such a development. In reference to the sustainability of the location, he noted that there were bus stops within 70 metres of the property and it was intended that the property would have adequate cycle storage provision. He noted that therefore the application was compliant with the standards that were asked for, however, in terms of asking for additional parking on-site, it was not possible to apply those standards. The Principal Development Management Engineer concluded by explaining that it was the responsibility of the motorist to find a place to park, adding that Highways did try to achieve what it could in terms of parking provision, however, where there was not space then it was not possible to force a developer to come up with additional space.

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

Councillor C Kay noted the objectors had placed great store in the NDSS and had explained how they felt the proposals did not meet the requirements, with Officers having a different view. He asked as for clarification of the Officer's views in terms of when the NDSS applied, and the type of secure cycling storage that would be provided.

The Principal Planning Officer noted that if Members were minded to refuse the application because they felt there was insufficient internal space provided, they would be able to do so and there were policies that Members could cite in that respect. He added that any refusal reason that specifically referred to failure to meet NDSS would struggle to be sustained at appeal. He noted any refusal of an application because Members felt it failed to provide an adequate quality of development, in the context of Policy 29, would be a decision for the Committee. In reference to cycle storage, he explained that it was subject to condition, for precise details to be submitted to, and agreed by the Local Authority.

Councillor J Elmer noted he was still slightly confused and referred to Policy 29, in terms of NDSS, and that Officers were suggesting that it would be difficult to sustain a refusal reason based on that at appeal. He added that Officers had also suggested that it would be reasonable to use the same policy albeit in relation to the quality of the development. He explained his understanding was that Policy 29 primarily focussed on space standards within properties. The Principal Planning Officer noted that Policy 29 did refer to the NDSS, however, that was in relation to new development, as previously mentioned. He added that Members could refer to Policy 29 within any refusal reason if they felt the development did not provide adequate internal amenity space, reiterating that the NDSS did not apply in this instance as it was not a new development or provided a new dwelling.

Councillor J Elmer noted the property had previously been a miner's cottage with two decent-sized rooms on the upper floor, considered adequate at the time in terms of the space people need to be able live, albeit that being quite some time ago. He added that those rooms had been subdivided down to rooms that were quite tiny and were not going to be able to provide for people's future quality of life, exacerbate people's mental health issues, noting the country was facing a mental health crisis. He explained that he felt the least the Committee could do was to try and make rooms available that had adequate space for people to live in. Accordingly, he moved that the Committee reject the Officer's recommendation and refused the application citing Policy 29 in terms of failure of the building to provide adequate quality of life.

The Principal Planning Officer noted for clarity that in terms of the NDSS and the bedroom sizes, all of the proposed bedrooms met the NDSS for single bedrooms. Councillor J Elmer noted that they did not meet Part B of the NDSS in terms of one of the bedrooms being a double-bedroom. The Principal Planning Officer noted the proposals partially complied, however the extent to which it complied or did not comply, given the nature of the development, should be afforded very limited weight in terms of a refusal reason.

Councillor J Elmer noted he felt it should be applied with a more significant degree of weight as it related to people future quality of life and that it seemed to be a matter of judgement.

Councillor C Marshall noted he agreed with Councillors M Wilkes and J Elmer in terms of the property not being suitable, adding that the city centre was full of such conversions, with poor concrete floors, lowered ceiling heights and new floors added to obtain additional storeys within a property. He explained that the issue was one that was discussed at nearly every meeting of the Committee in that there was a world-class university, with ambitions to grow the number of students and modernise its assets. He noted the major role of the university in supporting the economy of the county and the wider North East. Councillor C Marshall noted that it was impossible for the university to grow without having a plan for how students were going to live, integrate and contribute in a positive way to the wider community in and around Durham. He noted that he was supportive of the university plans for expansion, however, it would not be possible without an acceptable plan for growth noting potential uses within the city that would increase the number of students. He added that one could not flood the city with students without having an accommodation strategy that allowed those students to come and live in the city. He noted he felt there was no standing in terms of refusing the application, referring to an appeal against refusal of a similar application at North End, with the Council awaiting information in terms of whether the applicant in that case would be awarded costs. Councillor C Marshall noted that without a planning policy that could support Officers then similar situations would occur at Committee. He noted he was not sure he could support the refusal of the application as he did not feel the refusal reasons stood up in terms of planning grounds, adding he felt there would be another appeal, and with costs. He reiterated that he agreed with the sentiment that the property was unsuitable, however, he did not feel planning policy allowed for the application to be refused.

The Chair allowed Mr R Cornwell to note that the North End application referred to had been refused at appeal. The Chair added that not all were in favour of Durham University expansion, they having hit their projected numbers around five years ahead of schedule.

Councillor J Elmer noted the university had an accommodation plan which supported the building of Purpose Built Student Accommodation (PBSA), which they would have some form of influence over. He added that the type of accommodation as referred to in the application was not supported by the university. Councillor J Cosslett noted he would second Councillor J Elmer's motion to refuse the application.

The Solicitor – Planning and Development, Neil Carter, asked for further clarity of the proposed refusal reasons, noting that Councillor J Elmer had mentioned sub-standard accommodation he believed was detrimental to the future residential amenity of occupiers, adding that was strictly different to the application of the NDSS. He added that some of the bedrooms were compliant with the NDSS and therefore he noted that it would be difficult to sustain refusal in connection with bedroom sizes given that they are compliant with NDSS. It noted that in respect of the more common parts of the property, it was known they were not compliant, and a reason could be put forward, that could be argued at appeal, in connection with a lack of adequate accommodation for future occupiers. He noted he would wish to drill down into the reasons and make the distinction, adding he was concerned that if there was a generic reason relating to space standards, then time would be spent dealing with the issue of the bedroom sizes at appeal, reiterating that the bedroom sizes were felt to be acceptable as they did comply with the space standards. He noted there was a refusal reason to be advanced, based on conflict with Policy 29, and reiterated he would welcome further qualification from Councillor J Elmer about which aspects of the development he had those concerns about.

Councillor J Elmer noted that Officers had referred twice to the application being compliant with the space standards, however, that would require there to be a double-bedroom, however there was no double-bedroom. He asked whether the proposals were compliant with the space standards. The Solicitor – Planning and Development noted the advice from Planning colleagues was that the bedrooms were compliant. Councillor J Elmer noted he felt that did not follow when looking at the standards as written as asked for more information on how that position had been reached. The Principal Planning Officer noted the NDSS included minimum requirements for bedroom sizes, a minimum requirement for overall space delivered within the development, and a requirement for one of the bedrooms to be a double-sized bedroom. He explained that the proposals were compliant in that the single bedrooms met the minimum standard. In terms of a double-bedroom, he noted that the proposals did not deliver a double-bedroom. He reiterated his earlier comments that the standards themselves were not applicable in this instance. Councillor J Elmer noted that the justification that had been given was that the proposals were not considered by Officers to be new development, being replacement of residential with residential. Councillor J Elmer put it that it was moving from a building with two decent sized rooms to four new rooms which were quite small, half the size of the previous rooms. The Principal Planning Officer noted the distinction that needed to be drawn in terms of new units and new bedrooms, being fundamentally different. He noted Policy 29 and the text at the beginning of the NDSS, adding in Policy 29 it related to all new residential development, with supporting text making reference to internal space within new dwellings. He noted in terms of the NDSS it referred to internal space within new dwellings.

He noted that the proposals could not be said to deliver a new dwelling and it was on that basis he had commented as previously mentioned.

Councillor J Elmer noted he felt there was a flaw as that would mean that any conversion of a building, from two bedrooms to four bedrooms as an example, would therefore not have to comply with the minimum space standards. He felt that was saying to all students across the city that the space standards did not apply to them, adding he felt that was a backwards way of looking at things. He noted he would wish to continue with his objection and put the Council in the position of having to make a case for developers to provide decent standards of living.

Councillor C Marshall noted that the way to do what Councillor J Elmer had said was to create a planning policy that allowed for the Officers to stand behind it. He noted the situation was going round in circles, noting he had heard no case for refusal, adding that he would support any such case if one could be made. He explained that it was not simply a case of saying that Officers were wrong and noted that Officers had succinctly put that, from a planning policy point of view, it was not possible to reject the application on space standards. He added that Members could not ignore that and hope that Officers, being put in the impossible position of defending the indefensible, could do so. Councillor C Marshall noted planning policy should not be made up in that way and, while supporting the comments from Councillors J Elmer and M Wilkes, he noted the way was to develop a policy to allow Officers to stand behind it, not to make up policy when an application was heard at Planning Committee. He concluded by noting he therefore could not support any recommendation for refusal unless a Member was able to provide clear material planning considerations that would stand up at appeal.

Upon a vote being taken on the motion to refuse, the motion was LOST.

Councillor M Wilkes asked for clarity on the vote of the Chair, the Chair noted he did not vote.

Councillor C Marshall proposed that the application be approved, he was seconded by Councillor C Kay.

Upon a vote being taken it was:

## **RESOLVED**

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



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/21/01611/FPA
Full Application Description:	Demolition of Existing Bingo Hall and erections of 1no. 4 Storey Purpose Built Student Accommodation with associated parking, and servicing facilities
Name of Applicant:	Durham Grove Limited & Majestic Bingo
Address:	Apollo Bingo Front Street New Durham Durham DH1 2EP
Electoral Division:	Belmont
Case Officer:	Leigh Dalby (Senior Planning Officer) Tel: 03000 261 959 Email: leigh.dalby@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site is located on the Northern side of the A181 Front Street/Sherburn Road, to the East of Belles Ville/Mill Lane and to the west of Frank Street. The surrounding area is predominantly residential in character although there are commercial units near to the site, to the East, West and South with Dragonville retail, business and industrial park approx. 130m to the East.
2. To the East of the site is a 3-storey flatted development, with bungalows to the immediate north. Two storey housing lies to the west, and south of the site on the opposite sides of Mill Lane/ Belles Ville and Front Street/ Sherburn Road.

3. The current application site area is approximately 2,392m<sup>2</sup> (0.24 hectare), which comprises of a relatively level site, laid to hardstanding with a 3-storey bingo hall with car park to the west and north. To the immediate east of the site stands the 3-storey residential development known as Lantern Court.

#### The Proposal

4. The proposal seeks planning permission for the demolition of the existing bingo hall and the erection of 1No. 4 Storey, Purpose Built Student Accommodation facility (PBSA) with associated parking, and servicing facilities that would contain 128no. beds, with ancillary facilities.
5. The proposed building would be approx. 12.0m in height for 4 storeys reducing to approx. 9.0m for the 3-storey element. The building is laid out within a loose U form with 4 storey frontages to the roads to the South and West, and a reduced 3 storey frontage to the North. The proposal would include an internal parking, and servicing area.
6. The application is reported to the Planning Committee at the request of Councillors E and L Mavin and Councillor Fletcher to allow local residents to relay their objections to the proposal direct to the committee.
7. The application was previously presented to Planning Committee in January 2022 at which it was resolved to grant planning permission subject to a section 106 agreement. However, following the committee meeting it transpired that Durham University had submitted a representation which was not reported to the Committee. Consequently, it is considered appropriate to bring the application back to the Committee for consideration in the context of all representations received, having given the applicant an opportunity to address the university's observations.

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#### PLANNING HISTORY

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8. Whilst there is no history considered relevant to this proposal, a summary of the recent planning history is as follows:
  - 4/04/01128/FPA, Erection of single storey pitched roof extension to side to provide toilets, and provision of access ramp and balustrade – Approved.
  - 4/07/00257/FPA - Erection of smoking shelter and associated enclosure to west elevation of existing building – Approved
  - 4/12/00761/AD - Various illuminated and non-illuminated signage. Approved.

## **NATIONAL POLICY**

9. 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.
10. 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;
11. 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.
12. 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.
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 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.
16. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. NPPF Part 15 Conserving and Enhancing the Natural Environment - 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.
18. 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:**

19. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
20. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
21. 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.

22. 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.
23. 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 should have regard to Parking and Accessibility Supplementary Planning Document.
24. 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.
25. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
26. 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 it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
27. Policy 28 (Safeguarded Areas). Within safeguarded areas development will be subject to consultation with the relevant authority and will be permitted where it can be demonstrated that it would unacceptably adversely affect public safety, air traffic safety, the operation of High Moorsey Meteorological Officer radar.

28. 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'.

29. 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.
30. 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.
31. Policy 33 – (Renewable and Low Carbon Energy) – states that renewable and low carbon development energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associate developments including access roads, transmission lines, pylons and other ancillary buildings.

Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.

32. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water
33. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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

34. The following comments were received following consultation with Statutory and Internal consultees.
35. **DCC Highways** – No objection
36. **DCC Design and Conservation** – Raised strong concerns in relation to the loss of the non-designated heritage asset and the public benefit that the proposal will bring; concerns also raised in relation to the scale, design and lack of external amenity space. In conclusion the team consider the proposed development to be contrary to sections 12 and 16 of the NPPF, and Policy 16, 29 and 44 of the County Durham Plan.
37. **DCC Env. Health Statutory Nuisance** – No objections subject to conditions
38. **DCC Environmental Health (Contaminated Land)** – No objection subject to conditions
39. **DCC Drainage and Coastal Protection** – Advise that they approve the treatment of surface water prior to leaving the site; however, further advise that the option of connecting to the highway drain is investigated. They also note that they would approve the connection in principle and the connection would be process through Section 50 of the Highways Act.

40. **DCC Ecology** – No objection subject to conditions securing the recommendations within the submitted Bat Survey.
41. **DCC Education** – No objection to the proposal, and no contribution required.
42. **Met Office Safeguarding** – No objections.
43. **Belmont Parish Council** – Objects to the proposal and consider the development fails to meet the requirements of Policy 16(2) of the County Durham Plan. The Parish Council considers that the application does not identify a genuine need for additional student accommodation of this type, in this location. The applicant has failed to undertake consultation with the relevant education provider in relation to the identified need and that the proposal would result in the loss of a bingo hall which is a much-loved leisure and tourist facility for the local community.

In addition, the proposal would result in a development that does not reflect the layout, character, scale and appearance of the local area in accordance with policy 29 of the CDP. The development would also result in an unacceptable level of impact upon the amenities of surrounding residents with regard to overshadowing and disturbance from future residents.

The updated statement from the applicant does not provide any justification or source information for the figures it presents and makes incorrect and unsubstantiated assertions. The submitted information does not demonstrate need for the development of this type in this location contrary to Policy 16(2)(a).

The proposal fails to meet the educational need set out in Policy 16(2)(b), in that the university have stated that they have concerns over the size and quality of communal facilities for student residents and its remoteness campus to a degree they would not deem it suitable for the university's accommodation offer to students.

#### **NON-STATUTORY RESPONSES**

44. The following comments were received following consultation with non-statutory consultees:
45. **NHS** – Confirms that there is no requirement for any financial contribution to improve existing health facilities or to add new provision.
46. **Durham Constabulary (Architectural Liaison Officer)** – No objections to the proposal but recommends that the developer should consider the Secure by Design principles.
47. **DCC Regeneration and Economic Growth** – No objection.

48. **Durham University** – Offered no objection to the principle of the development but raise reservations in relation to the size and quality of the communal facilities, lack of external and location of the proposal, and as such they would not consider the proposal to be suitable to form part of the University’s accommodation offer to students. The University have also confirmed that the 3000-student relocation stated in the housing need statement by the applicant is incorrect as the relocation of the students has already occurred.

#### **MEMBER OF PARLIAMENT AND COUNTY COUNCILLORS**

49. Mary K Foy (Member of Parliament for City of Durham) objected to the proposal. A summary of those points of concern are:
- Development will be out of keeping with the surrounding area and would appear incongruous within the streetscene
  - Loss of community facilities
  - No identified need for PBSA in accordance with Policy 16
  - No engagement from the university
  - The site should be used for affordable housing
  - Impact on residential amenity of local residents through disturbance through the movement of students coming to and from the site
  - Design is not sympathetic to local character and scale would be overly dominant in relation to the existing buildings
  - The location of the site is considered to be remote from any university facilities contrary to Policy 16.
50. County Councillor J Elmer (Brandon Division) objects to the proposal, a summary of the points are as follows:
- No identifiable need for the proposal with figures verified by the University
  - PBSA use would lead to noise and disturbance for local residents
  - No consultation with Educational Providers
  - Loss of leisure facilities
  - Design is too prominent for surrounding townscape; monolithic block would be discordant with surroundings
  - No social or economic benefit to local residents

#### **PUBLIC RESPONSES**

51. The application has been publicised by way of site notice, press advert and notification letters sent to neighbouring properties, in response 35no. letters of objection, were received (it is noted that 71no. letters of objection were submitted and subsequently withdrawn by Acorn Community Group due to concerns over data protection) and 5no. letters of support, a summary of the points of objection are as follows:

## OBJECTION

- Development Offers nothing to the community
- No shortage of student accommodation in Durham
- Site should be used for affordable housing
- There has been no meaningful community engagement
- The proposal is contrary to policies 16, 29 and NPPF 127
- It will create a loss of a much-loved community facility
- No outdoor space and small bedrooms for students offer
- The development will impact on Milhouse court in terms of privacy overlooking and loss of sunlight
- It will create a loss of venue to the local residents and would be a radical change to the area
- The height and mass of the building is out of character with the area
- Insufficient cycle parking
- Concerns over appearance of development against the two storey units adjacent
- The plans are insufficient in detail to allow scheme to be accurately considered
- Room sizes are insufficient and too small

## SUPPORT

- Site is an eyesore and needs regenerations
- Development will provide jobs and boost local economy

## **APPLICANTS STATEMENT:**

52. The planning application seeks permission for the erection of Purpose-Built Student Accommodation (PSBA) on the site of the Apollo Bingo Hall. The operator of the Bingo Hall has confirmed that the continued use of the premises for this purpose is not commercially sustainable due to changing customer patterns following the Covid pandemic. The sale of this property will enable the operator to continue investing in securing the future of their 12 remaining clubs which includes the Hippodrome Bingo Club in Bishop Auckland.

53. The proposal would secure the redevelopment of the application site which is in danger of vacancy and dereliction if the proposed redevelopment is not approved. The design of the proposed 3 and 4 storey building has been developed to comply with Council Officer comments outlined during detailed pre-application discussions and further engagement following submission of the application. In response to Officer and public concerns, the positioning of the building on the site has changed and the building has been significantly modified and reduced in scale. The reduction from four to three storeys at the rear of the building and other alterations have resulted in a loss of approximately 10% in the number of units compared to that originally being proposed.

54. The reductions in the proposed height of the building have mitigated any potential impacts on surrounding dwellings in terms of overshadowing and loss of privacy etc. The result is a development that would co-exist with surrounding properties and relate positively given the previously developed (brownfield) nature of the site and scale of the existing building.
55. There is significant demand for PBSA in the Durham area connected to the continued growth of the University. The application seeks planning permission for development that would be modest in scale in the context of anticipated demand and would be representative of approximately only 4% of the shortfall in bedspaces anticipated by 2024. Nonetheless, it has the potential to deliver a meaningful contribution towards providing the required student bed space numbers in the short term through the utilisation of previously developed land in a highly sustainable location.
56. Additional footfall from residents of the proposed development has the potential to support local businesses, public transport and be a catalyst for further regeneration of the Sherburn Road area. Employment would also be provided both directly by the development during the construction and operational phases, and indirectly in support services. The applicant has also offered to provide a multi-purpose community space within the development that could be used by local community groups and would support the integration of the development and its residents into the area.
57. A number of objections have raised issues that the site would be better suited to being redeveloped for affordable housing and/or older persons accommodation. Whilst the applicant recognises that County Durham currently has an acute shortage of both forms of accommodation, it must be made clear that alternative uses for a site are not a material planning consideration and therefore these aspects of the objection letters should be given no weight in the determination of the application. Moreover, and without prejudice to the applicant's firm position that potential alternative uses are not a material planning consideration, engagement with affordable housing providers in the local area including Karbon Homes and Believe has concluded that the site is too small and constrained for it to be a potential affordable housing site.
58. Council Officers have confirmed that the proposal complies with relevant policies in the County Durham Plan and have assessed all material planning considerations in detail. They have recommended approval of the application and on this basis it is respectfully submitted that planning permission should be granted for the proposed development.

*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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59. 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 non-designated heritage asset, the impact on residential amenity, the character and appearance of the area and visual amenity and highway safety.

### Principle of Development

60. 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, stating that such development will be permitted provided it is compatible with uses 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.
61. As detailed above, policy 6 of the CDP permits development on unallocated sites within built-up areas provided it meets the criteria set out within the policy. The site lies within the built-up area of Gilesgate and as such policy 6 is relevant. In this regard it is considered that the proposal can draw support in principle from this policy given that the site is located within close proximity to other residential uses and would not be prejudicial to any existing or permitted adjacent uses, subject to the impact on residential amenity, which is considered in greater detail below (criteria a), it is within the existing built framework of Gilesgate / Gilesgate Moor and would not lead to coalescence with neighbouring settlements (criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and has easy access to sustainable transport and local facilities (criteria f). The site makes best use of previously developed land (criteria i). Consideration of the requirements of criteria d, e, g, h of policy 6 are considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.
62. It is therefore considered that the principle of Purpose Built Student Accommodation (PBSA) in this location is acceptable subject to the relevant material considerations as set out below.

63. Given the proposal relates to PBSA, Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) of the County Durham Plan is relevant and includes the fundamental aim of ensuring that new PBSA and HMO proposals create/maintain inclusive places in line with the objective of creating mixed and balanced communities.
64. Part 2 of Policy 16 states that new PBSA development on sites not allocated for student accommodation will be required to demonstrate the following:
- a) That there is a need for additional student accommodation of this type in this location
  - b) Consultation with the relevant education provider pursuant to the identified need
  - c) It would not result in a significant negative impact on retail employment leisure tourism housing or other of the council's regeneration objectives
  - d) The development is readily accessible to an existing university or college academic site or hospital and research site
  - e) The design and layout the student accommodation and siting of individual uses within the overall developments are appropriate to this location and in relation to the adjacent neighbouring uses
  - f) The internal design layout and size of the accommodation and facilities are appropriate standard
  - g) Activities of the occupants of the development will not have an unacceptable impact upon the amenity of the surrounding residents in itself or when considered alongside existing approved student housing provision prior to occupation in management plan or draft outline management plan appropriate to the scale of development shall be provided
  - h) the quantity of cycle and car parking provided has regard to the council's parking and accessibility guidelines: and
  - i) The applicant has shown that the security of the building and its occupants has been considered along with that of other local residents and legitimate users.
65. Paragraph 253 of the County Durham Plan Inspectors report highlighted that it is possible that purpose-built student accommodation schemes will also be proposed on non-allocated sites during the plan period, and parts (a) to (i) set out the criteria of part 2 of Policy 16 will manage such developments. It is acknowledged that by providing a range of accommodation including HMOs, university affiliated colleges and privately run PBSA allows for individual choice and variety within the market, which can potentially also alleviate pressure on the residential housing market.
66. In taking each of these criteria in turn; with regard to criteria a) the supporting text for Policy 16 highlights that need can be considered in both quantitative and qualitative terms, with Paragraph 5.139 recognising that the student housing market is not static and that there needs to be choice in the market. The application is supported by an updated Housing Needs Statement, PBSA demand study and additional clarification statement. These documents have assessed the projected number of student bed spaces required within the city and also the aspirations of students housing requirements.

In conclusion they identify a perceived shortfall in student bed numbers which they consider cannot be met by current and planned PBSA schemes based upon their market research.

67. Durham University has been consulted and have provided further information following an initial reply which raised no objection to the principle of development but raised concerns regarding some elements of the adopted design approach. The supplementary information provides some additional information around the number of students living within the city and advises that there are 22,219 active students at Durham University as of 1st December 2021, and that of these 18,276 live within Durham City (DH1), 7,328 of which are residing in College affiliated accommodation (either owned by the University or leased from the private sector), and that for the next academic year they expect the numbers in College affiliated accommodation to rise to 7,528. These figures exceed those stated within the supporting Needs Statement and as such display some level of conflict with the applicant's findings in this regard.
68. However, it should also be noted that the University have confirmed that 1,610 students have taken an option to study online for this academic year, which was an increase of 1351 from 259 students in December 2019 (pre-pandemic), but that the number of students studying online is expected to reduce post-pandemic.
69. The University Strategy 2017-2027 has a target of 21,500 active students by 2027 and the University acknowledges that it has exceeded this target for a short period of time due to the outrun of the last two A-level cycles. However, they do note an expectation for this to return to the overall target in the coming years.
70. Whilst there is some question as to the likely quantitative demand for bedspaces covering the 2017 – 2027 period, supporting text to Policy 16 at 5.141 nevertheless advises that consideration of the need for additional student accommodation shall include, but not be limited to, University student growth forecasts and that PBSA can increase choice for the student population. Para. 5.146 recognises that PBSA should reflect the needs and aspirations of the student population.
71. In this regard the applicant's Needs Statement provides market data from a dedicated student property search engine and tenancy management platform which operates across the UK (including County Durham) and highlights the type of accommodation most popular with students based on the type of unit most commonly searched. This identifies that 4 and 5 bed accommodation is the most sought after within the city, with approx. 43% of all student enquiries relating such units. As such it can be demonstrated that there is a desire for students to live within this type of accommodation and that the proposed development would add to the choice and variety of housing accommodation on offer to the student market generally, providing an alternative to traditional HMO style housing.

72. In light of the above it is considered that whilst the proposal is unlikely to meet a quantitative demand, it would comply with policy 16a) of the CDP in that it would meet an identified need to broaden the choice and variety of student accommodation available within the city.
73. In relation to criteria b) the applicant has provided evidence of consultation with Durham University. Whilst the university did not initially respond to the proposal a response has subsequently been received. The university have confirmed that they do not object to the principle of development, however they do state that they have concerns regarding the accommodation relating to the size and quality of communal facilities for student residents, the lack of an external area and its relative remoteness from campus to a degree that they would not deem the site suitable for their own accommodation portfolio.
74. Whilst the university do not regard the site appropriate for their property portfolio, this does not mean that the site is not a suitable location for students, subject to further consideration as set out below.
75. Given that the applicants have consulted with the University as detailed above, it is considered that requirement of criteria b has been met.
76. With regard to criteria c) the application site currently hosts a Bingo Hall which is considered a leisure use for planning purposes and this represents the existing permitted use. However, the application is supported by representation from the owner and operator of the Hall which confirm that the continued use of the building for this purpose is no longer viable due to the low level of usage, and that irrespective of the outcome of the current application they intend to discontinue the existing business. Given that it would appear highly likely that the current use will cease in the immediate future due to a lack of demand, the proposal would not result in any significant negative impact upon leisure facilities in the area, given the sites already limited use, and the intention to cease operations. The proposed development is therefore considered to have limited impact in terms of the loss of the existing use.
77. With regard to criteria d) the site is located approx. 1200m from St. Hild and St. Bede College (Durham University Site) and is situated on a main bus route into and out of the city providing readily available access to Durham University facilities. It is therefore considered that the proposal is acceptable in this regard.
78. Criteria e) relates to matters regarding the design and layout of the proposals which are considered in more detail elsewhere in the report.
79. In relation to criteria f) the internal layout of the PBSA accommodation and facilities are considered to be satisfactory, with sufficient space provided. It is noted that the Council's Env. Health Team in relation to HMO's has advised that the development is broadly acceptable although the kitchen facilities would require alteration to comply with appropriate licensing requirements. However, this alteration could be completed without need for significant reconfiguration and in any event is subject to legislative control falling outside of the planning system. As such this matter could not be afforded significant weight in determination of the application and could be resolved without any fundamental impact upon the proposal as currently submitted.

80. Criteria g) relates to consideration of the impact of the development upon surrounding residents which is considered in detail elsewhere in the report. However, it is noted that the Council's Env. Health Statutory Nuisance team have raised no objections to the proposal in this regard subject to conditions.
81. In regard to criteria h) the Council's Highway Engineers have considered the proposal and confirmed that the development is acceptable in highways safety terms.
82. Having regard to criteria i) the applicant has stated that the security of the building and its occupants have been a key matter for consideration when formulating the proposed design. However, the submission and agreement of precise details of the security measures are to be secured via planning condition which would also require the implementation of a comprehensive management plan.
83. The final element of Policy 16 for consideration is the impact of the proposal on designated and non-designated assets, this will be addressed in further detail elsewhere in the report.
84. In light of the above it is and subject to consideration of compliance with criteria e and g of policy 16, and all other material considerations, including the impact on heritage assets the development is considered to be acceptable in principle, in accordance with Policy 16 of the CDP.

#### Developer Contributions

85. Policy 25 (Developer Contributions) of the County Durham Plan advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Para 5.253 of the supporting text for policy 25 state "There should be no instances where essential site-specific infrastructure and mitigation cannot be secured because of viability concerns. However, in these situations where the infrastructure is an essential prerequisite to enable the site to be developed, a scheme will be deemed unacceptable in planning terms." In view of this the following developer contributions were requested in accordance with the Council's policies

#### Open space / Green Infrastructure

86. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
87. In accordance with Policy 26 and having regards to the Councils Open Space Needs Assessment (OSNA) it was considered that the development should provide a financial contribution of **£114,622.50** towards off-site facilities such as allotments, parks, sports and recreation grounds and youth play space

88. The developer has agreed to provide this contribution, which can be secured by way of a s106 agreement.

#### Education provision

89. Paragraph 95 of NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to proactively meet the requirement. The Councils Education team have confirmed that given the nature of the proposal being a student development there will be no impact on existing educational provisions within the area and that no contributions are necessary.

#### Health Contributions

90. Paragraph 34 of the NPPF required Local Authorities to have regard to setting where contributions are necessary within the Local Plan. In this regard Policy 29(f) of the CDP requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users. The local NHS Clinical Commissioning Group (CCG) have confirmed that there is sufficient local health service facilities to accommodate future residents of the development and have therefore stated that a financial contribution towards additional healthcare facility space is necessary.

#### Developer contribution conclusion

91. As detailed above it is considered that the proposal is in accordance with Policy 25 and 26 of the CDP to mitigate the impact on the development subject to the signing of a s106 agreement to secure the obligations.

#### Impact on Heritage assets

92. As detailed above, Policy 16 states that *'Where appropriate, development will be expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment, and should seek opportunities to enhance and better reveal the significance and understanding of heritage assets whilst improving access where appropriate'*.
93. The application site does not sit within a designated conservation area, nor is the building a designated heritage asset. The Council's Design and Conservation Section have stated that the building should be classified as a non-designated heritage asset due to its local historic interest. A desk-based assessment of the building has been undertaken by the Council's Design and Conservation Section which identified that the building has moderate levels of historic, evidential, aesthetic, design and communal value and considers the proposal to be contrary to Policies 16 and 44 of the CDP.

94. Policy 44 of the County Durham Plan states in relation to non-designated heritage assets *'A balanced judgement will be applied where development impacts upon the significance and setting of non-designated heritage assets'*.
95. This displays a broad level of accordance with paragraph 203 of the NPPF states *'The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.'*
96. Whilst it is acknowledged that the building does have moderate value as a non-designated asset, paragraph 203 of the NPPF requires decision makers to, when weighing applications that directly or indirectly affect non-designated heritage assets, to undertake a balanced judgement having regard to the scale of any harm or loss and the significance of the heritage asset.
97. In terms of that assessment, it is acknowledged that there is a genuine fall-back position which would allow demolition of the building without planning permission, albeit subject to a prior approval process that would consider only the proposed means of demolition and site remediation. The acceptability of the principle of the demolition being considered to have deemed consent without the need for full planning permission.
98. Given that the building has a genuine fallback position and could be demolished without the need for planning permission, resulting in its total loss, has been significantly altered since its original construction (as identified in the Council's desk based assessment), and given the confirmation from the current operators that the existing business is no longer viable; it is considered that on balance, to refuse the application on the basis that the existing building should be retained due to its status as a non-designated heritage asset would be unjustified, as the significance of the building does not outweigh the loss and re-development of the site.
99. As noted, the existing building is not considered a designated heritage asset and as such the requirement to weigh any (less than substantial) harm resulting from the development against the public benefit of the scheme, (as identified in paragraph 202 of the NPPF), does not apply in this instance.
100. If planning permission is granted it is considered appropriate that a historical building recording assessment is undertaken prior to demolition to document the building for future interest which can be secured through planning condition.

## Impact upon Residential Amenity

101. Policy 29 (Sustainable Design) of the CDP 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. 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.
102. The above policies and SPD are in broad accordance with paragraph 130 of the NPPF which 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.
103. Having regard to criteria e) and f) of Policy 29 and the requirements of policy 31 (which supports new development 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 development is not considered to have any adverse impact in this regard.
104. The scheme proposes 128no. student bed accommodation, the details of which have been assessed by the Councils Env. Health who the quality of residential accommodation provided to be acceptable, subject to some alteration to kitchen facilities. It is therefore considered that the proposal is acceptable and provides an appropriate quality of residential living accommodation for future residents, noting that the site is considered PBSA and as such the requirements of the NDSS are not to be applied. In addition, the proposal including some onsite facilities in the form of a gym and laundry for occupants to utilise. It is therefore considered that the proposal would accord with Policy 29.
105. Local residents and objectors have raised concerns that the proposal would result in an increase in crime in the area. Crime, and fear of crime are material planning considerations with paragraph 92(b) of the NPPF stating that planning decision should aim to ensure that developments provide healthy, inclusive and safe places that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Whilst these concerns are noted, the courts have held that fear of crime is only a material consideration where the use, by its nature, would provide a reasonable basis for concern.

106. In this regard Durham Constabulary have not objected to the proposal and have requested that the developer have regard to use of the Secure by Design principles. Whilst this cannot be conditioned the developer has indicated they will consider those principles although conditions requiring the submission and agreement of all external lighting can be included should planning permission be granted. Therefore, and noting that Durham Constabulary raise no objection to the application, it is not considered that there would be any material increase in crime as a result of the proposals, and with it the fear of crime, and as such these matters should be afforded limited weight in the determination of the application. It is therefore considered that the proposal meets the test of Paragraph 92 of the NPPF and Policy 29(m)(1 and 6) in that it provides a safe and defensible development.
107. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where 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 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.
108. The Council's Env. Health officer has assessed the development and offers no objection subject to planning conditions in relation to the submission and agreement of a noise mitigation scheme. Subject to the inclusion of a planning condition in this regard it is considered that the proposal is acceptable and would not result in any unacceptable impact upon surrounding residents or future occupiers.
109. The design and layout of the proposal is such that privacy and separation distances between the direct facing habitable windows of the proposal to the residential units on Lantern Court exceeds the minimum requirements set out by the Council's Residential Design SPD with windows located in the North and North eastern elevation proposed to be opaque glazed and serve circulation spaces. Such measures are considered acceptable and sufficient to protect the privacy and amenity of future occupiers and existing surrounding residents in accordance with policies 16, 29 and 31 of the CDP.
110. In addition, concerns have been raised in relation to the impact of the proposal upon the amenity of those residents occupying properties to the North at Mill House Court resulting from overshadowing and loss of daylight.
111. These concerns were raised with the applicant who has provided detailed sunlight and daylight assessments in response which assess the impact of the development upon those bungalows to the North. This includes assessment of the current situation in terms of overshadowing experienced by these dwellings. These documents detail that throughout the spring, summer and autumn periods the impact on the dwellings would be minimal and restricted to the early morning period.

However, during those winter months spanning December to February, the study shows that a shadow would be cast across those dwellings to the North for the majority of the day.

112. Notwithstanding this, the applicant has provided further evidence which demonstrate that the dwellings currently experience significant overshadowing in December from the existing building and hedgerow, as such it is considered that the proposal would not create a significantly detrimental impact on the residential amenity of residents, over and above that already experienced in terms of loss of daylight and over shadowing.
113. With regard to overbearing, again this has been considered in detail and the application has been designed in a way to ensure that the built structure does not impact on the 45 degree vertical visibility plane of the properties at Mill House Court to the extent that the proposal would maintain an acceptable level of openness and would not have any unacceptable overbearing impact in this regard.
114. Therefore, in conclusion it is considered that the proposal is acceptable and would not have any adverse impact upon existing or future residents in accordance with the requirements of Policies 16, 29 and 31 of the County Durham Plan, the Council's Residential Design SPD, and Sections 8 and 12 of the NPPF.

#### Economic and Regeneration Benefits

115. The applicant has provided details from the site owners and operators which confirm that the continued use of the building for its purpose as a bingo hall is no longer viable due to the low level of usage, and that irrespective of the outcome of the current application they intend to discontinue the existing business.
116. It is acknowledged from experience that older buildings (especially ones built for a specific purpose such as cinemas) can have specific issues and restraints that can hinder their conversion to other modern uses, and as such these buildings are often unattractive to developers where outside of key city centre locations. Therefore, given that the current use is to cease there is a realistic risk that the building and site could fall into a state of disrepair and dereliction on this key gateway through the city, that would have a detrimental impact on the character and appearance of the area.
117. It is considered that this proposal seeks to deliver a scheme that will regenerate this current failing site with a vibrant use, that could be a catalyst for further investment and regeneration in this immediate area and provide further economic benefits through increased footfall to support the vitality and viability of local businesses. Therefore, it is considered that the scheme would meet the aspirations of objective 13 of the County Durham Plan, and paragraph 5.129 of the supporting text for Policy 16 which recognises that "that PBSA can support the viability of a wider development and support regeneration opportunities".

### Sustainability and Carbon Reduction

118. Policy 29 of the County Durham Plan criteria c and d require that developments should seek to minimise greenhouse gas emission by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and should minimise the use of non-renewable and unsustainable resources.
119. The applicants have confirmed that at this stage of the proposal they have not fully developed their sustainable strategy. However, they have confirmed that they are proposing to use Green Guide A rated and high-performance thermal elements in the construction materials that will exceed the current building regulation requirements and meet the Councils minimum target of a 10% improvement.
120. In addition, the building would utilise low temperature underfloor heating and renewables technologies consisting of a combination of air and ground source heat pumps and PV solar panels to deliver an energy efficient building. Given the nature of the scheme it is proposed that all heating would be provided at a central source similar to a district heating system.
121. The development would provide full waste segregation facilities within the refuse storage area on the ground floor in order to encourage occupants to recycle waste effectively.
122. In light of the above it is considered that the proposal is acceptable in regard to the provision of Policy 29 c and d, subject to a planning condition requiring a detailed scheme to be submitted and agreed by the LPA in this regard.

### Highway and Pedestrian Safety

123. 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
124. The Council's Highway Engineers have assessed the proposal and concluded that the proposal is acceptable.
125. In light of the above it is considered that subject to the conditions requested by the Highway Authority it is considered that the proposal complies with Policy 21 of the County Durham Plan, and Part 9 (Paragraph 112) of the NPPF.

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

126. 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.

127. Policy 29 states that all developments should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
128. Concerns have been raised in relation to the appearance, scale and design of the proposal in relation to the character of the area by local residents and the Council's Design and Conservation team. Whilst it is acknowledged that the building would have a transformational impact on the immediate streetscene, given it would propose a modern contemporary construction within an area that is characterised by mid-20<sup>th</sup> Century two storey red brick and render dwellings, the area does include other established buildings of this scale. The existing building is similar scale with the existing bingo hall on site being only 0.6m lower than the highest point of the proposed building and the presence of a 3 storey, flatted development directly adjacent is also noted. Therefore, it is not considered that the addition of a building of this scale within the locality would appear as an incongruent addition, so out of keeping with the character of the area.
129. In addition, the Council's Design and Conservation section have raised concerns regarding the proposed design and the suggested palette of materials. However, as noted it is considered that the scale and mass of the building is acceptable as detailed above, and although the design is somewhat contemporary, it would be read in the context of the differing character of the area, the varied streetscene and the design, scale, and palette of materials within the locality.
130. Whilst the applicant has proposed predominantly red brick with a vertical rhythm to design this references some elements of the local vernacular, the number of additional materials and colour palette could be considered at odds with the overall simple vernacular of the area, and as such it is considered appropriate to require the submission and agreement of the precise detail of materials to be secured through planning condition.
131. In light of the above it is considered that the proposal is acceptable in relation to Policies 16 and 29 of the CDP.

### Drainage

132. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
133. Whilst 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.

134. The Council Drainage and Flooding section have assessed the scheme and concluded that the scheme is acceptable subject to a highways licence of which the applicant could be reminded through planning informative.
135. It is therefore considered that the scheme is acceptable in relation to Policy 35 and 36 of the CDP subject to appropriate planning conditions.

### Ecology

136. The application was supported by a Bat Survey in order to assess the building for protected species. The assessment concluded that the development presented low residual risk of disturbing bats and loss of roosts in the unlikely event that roosts are present within the building, specifically the external features were inspected from ground level and are considered superficial upon closer inspection due to construction. The details of this survey have been inspected by a County Ecologist who has concluded that the proposal is acceptable subject to a condition in relation to the mitigation enhancement measures recommended within that report.

### Connectivity

137. Policy 27 of the CDP requires new residential development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located by surrounding development which includes outline permission for up to 900 dwellings. Similar requirement in terms of broadband connectivity would also apply to that development and broadband connectivity would be delivered in this wider context. As such it does not appear that there are any significant constraints to delivering the connectivity in accordance with the requirements of policy 27 although the submission and agreement of precise detail in this regard could be secured through planning condition noting the outline nature of the application. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policy 27 of the CDP.

### Residual Matters

138. It is noted that a number of the objections state that the site should be used for affordable housing. However, it is noted that the site is not allocated for any specific purpose and it is not the purpose of this development management process to dictate alternative uses beyond that which is the subject of the current application. With this in mind the application should be considered against the requirements of relevant policies of the current local plan. However, the applicants have responded to this point and advised that engagement has been undertaken with registered housing providers but that feedback has been that the site is too small and constrained for it to be likely to be attractive as an affordable housing site.

139. A number of comments have been received in relation to the facility being a valuable asset to the community. However, having consulted the Council's Assets of Community Value Register (last updated October 2021) it would not appear that the building is a registered community asset in this regard and as such the protection afforded to registered community assets are not considered relevant in the determination of this application.

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## CONCLUSION

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140. In summary, it is considered that the principle of the development is acceptable in planning terms and would accord with the broad aims of policies 6 and 16 of the CDP subject to a s106 agreement to secure necessary contributions, and appropriate planning conditions. It is considered that on balance the development is acceptable in terms of the loss of a non-designated heritage asset, provides acceptable levels of amenity space for residents of the proposed development, protects the privacy, and amenity of the existing residents whilst also being acceptable in terms of highways, drainage and ecology in accordance with Policies 1, 6, 16, 21, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36 and 44 of the County Durham Plan and Parts 2, 4, 8, 9, 11, 12 and 16 of the National Planning Policy Framework.

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## RECOMMENDATION

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141. That the application be **APPROVED** subject to a s106 agreement to secure the following;

- The financial contribution of **£114,622.50** for use towards the creation of new off-site open space/amenity provision or the improvement of existing provision within the electoral division.

And subject to the following conditions;

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

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

2. The development hereby approved shall be carried out in strict accordance with the 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) 1, 6, 16, 21, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36 and 44 of the County Durham Plan and Parts 2, 4, 8, 9, 11, 12 and 16 of the National Planning Policy Framework.

3. 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.

4. 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 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, 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 suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

5. 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.

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 above damp-proof course 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.

8. 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.

9. Prior to the first occupation the development hereby approved, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

10. Prior to the occupation of the development hereby approved a scheme detailing the glazing and ventilation specification which details a sound reduction index and ventilation rates as stipulated in Table 1, of the submitted report Apex Acoustics - Apollo Bingo Site, Durham, Noise Impact Assessment 8806-1, 2nd February 2021 rev A. shall be submitted to and agreed by the Local Planning Authority, The agreed scheme shall thereafter be implemented in accordance with those details and maintained as such for the lifetime of the development.

Reason: To ensure a satisfactory form of development and to protect the residential amenity of residents in accordance with Policy 29 and 31 of the County Durham Plan.

11. Details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority prior to the development hereby permitted being brought into use. The detail provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting shall be erected and maintained in accordance with the approved details thereafter.

Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.

12. Prior to installation of the water proof damp coursing associated with the development hereby approved, details of a scheme to minimise greenhouse gas emissions, with the aim of achieving as close as possible a zero-carbon building, shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation and electric car charging points. The renewable and low carbon energy measures shall be installed in accordance with the approved details thereafter.

Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in policy 29 of the CDP

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 0730 to 1800 on Monday to Friday and 0730 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.

14. 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 premises shall be used only for the purposes of student accommodation 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.

15. Prior to commencement above damp proof course a scheme detailing the enhance ecological mitigation measures recommended within Section G.5 of the submitted Bat Survey dated February 2021 shall be submitted to and approved in writing by the Local Planning. The agreed scheme 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).

16. Prior to the first occupation of the dwellings hereby permitted, a detailed management strategy scheme for the development (which shall include but not be limited to a parking management strategy (including means of electronic vehicle charging), a residents charter (setting out the expectations of residents), and details of building security measure to ensure occupant safety shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed scheme shall be implemented in accordance and maintained for the lifetime of the development.

Reason: The applicants special circumstances allow this development to be approved in compliance with Policies 1, 6, 16, 21, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36 and 44 of the County Durham Plan and Parts 2, 4, 8, 9, 11, 12 and 16 of the National Planning Policy Framework.

17. No demolition shall commence until a written scheme of investigation setting out a programme of archaeological and historic building recording work has been submitted to and approved in writing by the Local Planning Authority. The programme of building recording work will then be carried out in accordance with the approved scheme of works prior to any demolition.

Reason: To record and preserve any historical interests in the site, and to comply with part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the building recording must be devised prior to the demolition being implemented. This is required as a pre commencement condition in order to mitigate potential impact on the significance of the heritage asset which needs to be considered before site works commence.

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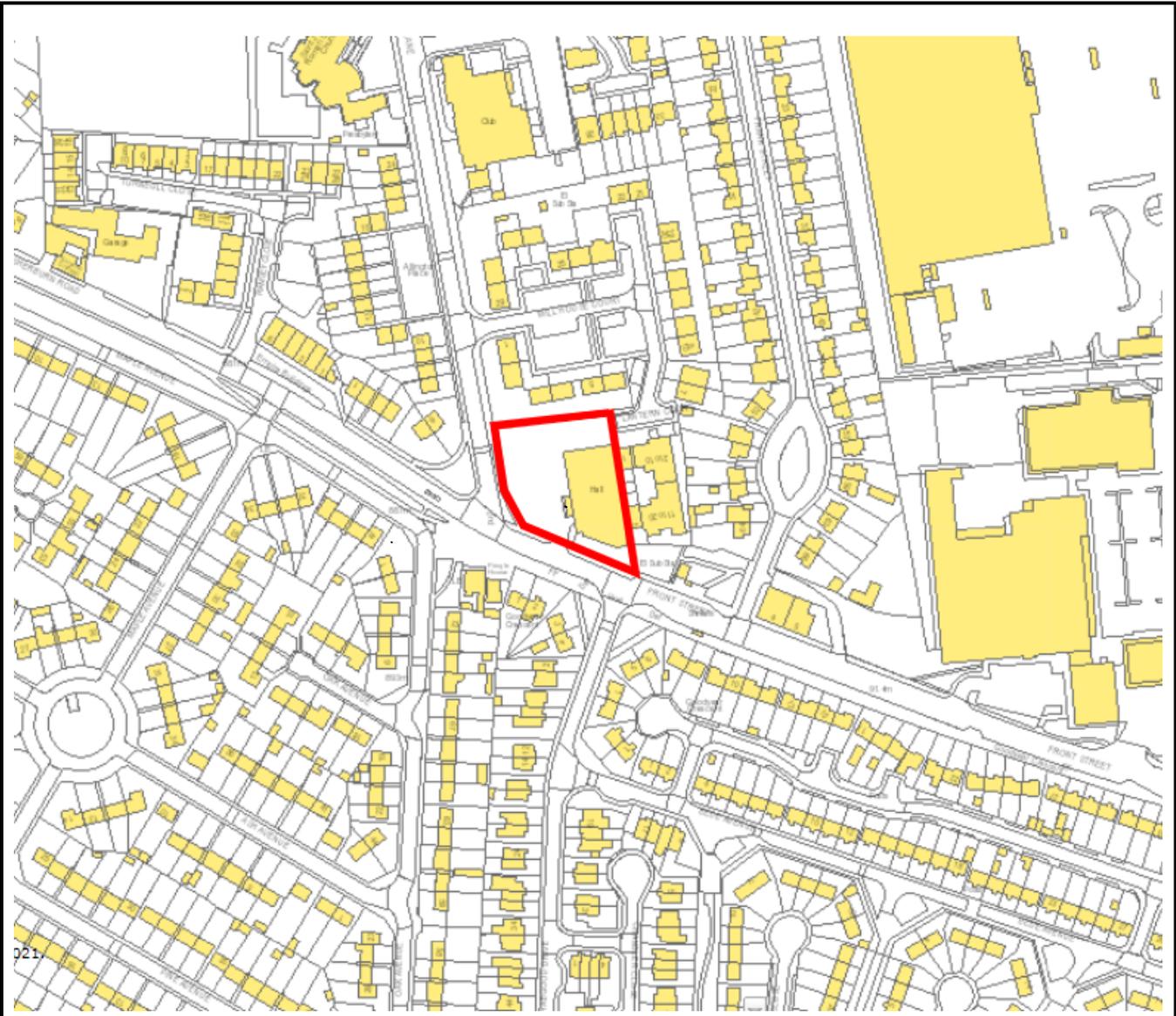
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses



<p><b>Planning Services</b></p>	<p>Demolition of Existing Bingo Hall and erections of 1no. 4 Storey Purpose Built Student Accommodation with associated parking, and servicing facilities</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Apollo Bingo, Front Street, New Durham, Durham, DH1 2EP</p>	
	<p><b>Date March 2022</b></p>	<p><b>Scale NTS</b></p>

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/21/01900/FPA
Full Application Description:	Alterations to 2no. existing Agricultural Buildings (retrospective application)
Name of Applicant:	Westgarth
Address:	Biggin Farm New Brancepeth Durham DH7
Electoral Division:	Deerness
Case Officer:	Leigh Dalby (Senior Planning Officer) Tel: 03000 261 959 Email: leigh.dalby@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site is located within the open countryside approx. 2.0km to the west of New Brancepeth and 1km to the east of Esh Winning. The application relates to 2no. agricultural buildings situated within the existing farm yard of the agricultural holding. The surrounding area is predominantly rural in character although there are a number of residential dwellings located within approx. 0.4m to the North-East and South.

#### The Proposal

2. The proposal seeks retrospective planning permission for the installation of pre—cast concrete panels to 2no. agricultural buildings to infill between the steel frame supports. Building A (used as a grain store on officer visit) will be enclosed on three sides with a maximum height of 3.0m, building B (used to house livestock) will have 1.0m high panels along the main front elevation of the building.

3. The application is reported to the Planning Committee at the request of Councillors D Nicholls to permit the local residents to speak in relation to the proposal.

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## PLANNING HISTORY

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4. Whilst there is no history considered relevant to this proposal, a summary of the recent planning history is as follows:

DM/18/00864/FPA Construction of 2No. pig finishing buildings for 2000 pigs and 4No feed silos at Biggin Farm, New Brancepeth.

Retention of extension to existing agricultural building at Hill House Farm, New Brancepeth, to house pigs Application Withdrawn 15th October 2019

DM/17/00919/FPA Construction of 2no. pig finishing buildings for about 4000 pigs and 5no. feed silos. Retention of extension to existing agricultural building at Hill House Farm to house pigs. Amended description and plan with amended siting, engineering works and landscaping with amended and updated environmental statements to include cumulative impact with 1000 pigs at Hill House Farm. Application Withdrawn 21st March 2018

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## PLANNING POLICY

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### NATIONAL POLICY

5. 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.
6. 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;
7. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

8. NPPF Part 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.
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.

**LOCAL PLAN POLICY:**

14. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
15. Policy 10 (Development in the Countryside) states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.

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 should 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.; 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'.

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 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
20. 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.

*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 AND INTERNAL RESPONSES:**

21. The following comments were received following consultation with Statutory and Internal consultees.
22. **DCC Design and Conservation** – The application seeks consent on a retrospective basis for alterations to 2 no existing barns involving the installation of exterior concrete panels.

The subject barns are not listed, are not within any designated conservation area, do not meet the criteria as non-designated heritage assets (NDHA) and do not fall within the setting of any designated heritage assets. They fall within the setting of Eshwood Hall, on the local list of Historic Parks, Gardens and Designed Landscapes, a NDHA, and the built NDHA contained within the Hall estate. This site is a 60 acre estate that included parkland, woodland and gardens with glass houses, fish ponds, waterfalls and rockeries. Its local heritage significance moderate as a industrialists 19th-century landscaped park and grounds.

Despite the close relationship between the NDHA and New Biggin farm there are intervening buildings, topography, and tree coverage with clear legibility between the two sites of differing character.

The works carried out relate to two existing buildings with no increase in size, scale or massing, and such concrete panels of a grey muted appearance are commonly associated with large agricultural shed type buildings. Based on the above, they would be considered to cause no adverse effects to the setting of the NDHAs identified. It would therefore be recommended that the application is in accordance with NPPF Section 16 and County Durham Plan Policy 44 expecting development proposals to sustain and conserve the setting of NDHAs.

23. **DCC Env. Health Statutory Nuisance** – The information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact.

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:

I am satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.

24. **DCC Landscape** - It is acknowledged that the concrete panels are utilitarian and stark in appearance, they will however weather to a darker tone of grey and the alterations are broadly sympathetic to and in keeping with other modern agricultural sheds in the wider area. No landscape objections are raised to the proposal.
25. **DCC Ecology** – No objection.
26. **DCC Public Rights of Way** –The proposed alterations to 2 existing agricultural buildings have no direct impact on Brandon Footpath 54 that follows along the access track to Biggin Farm and pass to the east of the buildings.
27. **Brandon and Byshottles Parish Council** – Objects to the proposal as it will lead to associated slurry, noise and odour which will have an increased adverse impact on the quality of the local environment and the amenity of nearby properties and villages across Deerness Valley

The application offers no economic or environmental benefits to the local community and would significantly diminish the enjoyment of the visual landscape, appearance and character of the beautiful Deerness Valley.

#### **NON-STATUTORY RESPONSES**

28. The following comments were received following consultation with non-statutory and consultees:

29. **The Woodlands Trust** – The proposal would be contrary to NPPF 180(c) in that the proposal would result in the increase of livestock on the site resulting in increased impacts of caused by increases in nitrogen pollution on nearby ancient woodlands.
30. **Eshwood and Hareholm Residential Group** – The group submitted a odour appraisal in relation to the proposal that states that the use of the buildings for the purpose of housing pigs will cause an odour nuisance on nearby residents.

## **PUBLIC RESPONSES**

31. The application has been publicised by way of site notice, and notification letters sent to neighbouring properties, in response 16no. letters of objection, and 2no. representations were received, a summary of the material planning points of objection are as follows:

### **OBJECTION**

- The use of the building for the purposes of housing pigs will result in noise and odour nuisance impacting the amenity of the area and local residents
- There will be an Environmental impact from the slurry spraying resulting from disposal of pig waste
- Heavy traffic visiting the site to transport goods and livestock will impact the local road networks
- Impact on the ancient woodlands as a result of the housing of pigs
- Less than 400m proximity to other residential dwellings which is not allowed under permitted development rights.

### **APPLICANTS STATEMENT:**

32. The application is for minor building works which have already been carried out. The works have had a minimal impact on the appearance of the buildings or the wider setting. Indeed the works are consistent with the appearance of the existing buildings both in terms of material and colour. With or without the building works, the buildings can be used lawfully for the accommodation of livestock. The building works undertaken have not facilitated the use of the buildings for livestock in anyway.

*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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33. 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 residential amenity, the character and appearance of the area and visual amenity and highway safety.

### Principle of Development

34. Policy 10 (Development in the Countryside) states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
35. Policy 10 states that developments will be supported which seek to support existing agricultural enterprises including new or extension to existing buildings, structures or hard standings required for the function of that enterprise. In this regard it is considered that the proposal can draw support in principle from this policy given that the proposal seeks to alter existing farm buildings to facilitate and support their use for further farming purposes, subject to the design, construction and scale, and other material planning consideration as detailed below.

### Impact upon Residential Amenity

36. Policy 29 (Sustainable Design) of the CDP 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.
37. The above policies and SPD are in broad accordance with paragraph 130 of the NPPF which 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.
38. Given the nature of the proposal and its location it is considered that the addition of concrete panels to existing building within the farmyard will comply with the provisions of policy 29 in that the alteration will improve the appearance and character of the buildings and permit a greater economic opportunity for the farming enterprise to accord with criteria a and b, the remaining criteria within Policy 29 are not considered relevant in the consideration of this proposal.

39. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where 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 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.
40. The Council's Env. Health officer has accessed the development and concluded that the proposal subject of the application is acceptable and will not lead to a statutory nuisance.
41. Objection in relation to the proposal have mainly centred on the use of the farm for the purposes of keeping livestock (Pigs), the resulting noise, smells, spraying of livestock waste which has a detrimental impact on the residential amenity of the local residents and impact on the environment and local woodland, and that the alteration to the buildings will further allow the use to intensify.
42. The use of the farm and its buildings for farming practices is established in this location and are lawful in planning terms. The planning system does not differentiate between whether a farm operates as an Arable, Pastoral or Mixed farming practice. Section 55(2)(e) of the Town and Country Planning Act 1990 (as amended) explicitly states "The following operations or uses of land shall not be taken for the purposes of this Act to involve development of the land...the use of any land for the purposes of agriculture or forestry (including afforestation) and the use for any of those purposes of any building occupied together with land so used;"
43. Therefore, the use of the existing agricultural land and buildings for pig farming is a lawful activity being within their existing agricultural use and is not development for the purposes of planning.
44. Additionally, the matter of whether the buildings can be used to accommodate livestock falls outside of the controls of planning legislation, provided those levels do not intensify above the threshold for Environment Impact Assessment (EIA) development as defined within the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. The EIA regulation 17 of schedule 1 provides the levels as to when a farming practice becomes EIA development as 'intensive farming'; in this regard the farm would have to be rearing more than 3000 production pigs or 900 sows on the site.
45. The applicant has provided details that the farm will house 650 pigs on site, which is below the above thresholds set out within Regulation 17 of Schedule 1 of the EIA regulations, therefore the farming activity being undertaken on site is not EIA development as 'intensive farming' identified within schedule 1 of the EIA regulations.

46. The LPA has undertaken an EIA screening opinion on the proposal and is satisfied that the levels of activity at the farm does not constitute EIA development on the basis of the details provided.
47. Furthermore, in relation to the concerns of spraying of farm waste on land; the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 apply to development which is given planning permission under Part III of the Town and Country Planning Act 1990.
48. This means that only operations that are development as defined by s.55 within Part III of the Town and Country Planning Act 1990 (as amended) are controlled by the EIA regulations (where they meet the relevant thresholds as set out within the EIA regulations Schedules 1 and 2). However, the activity of spraying fields (whether using the waste from the pigs on site, or through importing fertilizer or animal waste) is neither development nor permitted development as this does not fall within the definition of development as defined by s.55 of the Town and Country Planning Act 1990 (as amended) being an agricultural activity and is therefore outside of the control of Planning Legislation and the EIA regulations.
49. Whilst the above matters are acknowledged to being of concern to the local residents, given the use of the farm and it's buildings are lawful for the purposes of farming (including housing pigs and livestock) that pigs and livestock could and will be housed within the buildings with or without the addition of the concrete panels, and the spraying of waste is not development in planning terms, the above these matters raised are outside of the control of this application.

#### Highway and Pedestrian Safety

50. 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
51. Due to the nature of the proposal the Council's Highway Engineers were not consulted, however it is considered that the addition of concrete panels within the existing buildings within the farmyard would not have a detrimental impact on the safety of any road users
52. In light of the above it is considered that the proposal complies with Policy 21 of the County Durham Plan, and Part 9 (Paragraph 112) of the NPPF and is acceptable in this regard.
53. It is noted that objections were raised in relation to the highway safety given the use of the farm for livestock purposes will require additional transportation that will have a detrimental impact on the local and rural road networks.
54. However, as detailed above, the use of the farm for farming practices (whether arable, pastoral or mixed) is established, and not a matter for consideration in the determination of this planning application, which is seeking minor alterations to existing farm buildings, as such this is not something which can be afforded weight in the determination of this application.

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

55. 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.
56. Policy 29 states that all developments should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
57. The nature of the alteration to the to the building as outlined above are considered to be relatively minor in nature, and have a functional form and appearance as is characterised within farming buildings, and within the immediate setting within the farm yard.
58. It is therefore considered that the proposal is acceptable in relation to Policy 29, as the additional of concrete panels to farming buildings will not have a detrimental impact on the character and appearance of the area (being within the existing farm yard) and will not impact the amenity and privacy of any surrounding land users..

### Ecology

59. Policy 41 (Biodiversity and Geodiversity) of the CDP seek to restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The proposal has been assessed by a County Ecologist on the basis of the proposal presented to planning committee and has offered no objection to the proposal.
60. It is therefore considered that the application is acceptable in regard to Policy 41, in that the proposal to install concrete panels within an existing building would not result in any ecological harm as a direct result of the proposal.

### Residual Matters

61. An objection has been received from The Woodland Trust, in relation to the impacts of increased livestock and the resulting impacts of increases in nitrogen pollution on nearby ancient woodlands.
62. Paragraph 180(c) of the NPPF 2021 states "development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists"

63. The Woodland Trust are of the opinion that the installation of the concrete panels within the existing buildings will facilitate their use to house livestock and result in increased levels of ammonia pollution. However, as previously stated the use of the buildings to house livestock is lawful, and that livestock could be housed within the buildings with or without the addition of the concrete panels, the applicant has confirmed that the buildings would still function as pig housing if the panels had not been undertaken.
64. Therefore, given that the activity of housing pigs is lawful and that the farm has a genuine, realistic and intention to house pigs within the buildings with or without the concrete panels, it is considered that it is not reasonable to argue that the addition of the concrete panels will result in the loss or deterioration of irreplaceable habitats (as suggested) and that the proposal of the addition of concrete panels is acceptable in regard to the provision of paragraph 180 of the NPPF.
65. A number of objections and representations highlight that The Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) states that the for the purposes of that order the use of buildings to house livestock is not permitted without planning permission. This is correct; however, objectors have inferred that given that the General Permitted Development Order (GDPO) does not permit the use of building within 400m of residential properties without planning permission that therefore no buildings can be used for livestock purposes within that 400m range.
66. This however is incorrect, the GDPO simply sets the criteria as to if or when a planning consent is necessary for a development, it does not set out the criteria for acceptability that must govern the determination of any planning application, as members will be aware a planning application must be considered on it's individual merits, which have been outlined above.

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## CONCLUSION

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67. In summary it is considered that the principle of the alteration of the farm buildings through the addition of concrete panels in is acceptable in planning terms as detailed above in accordance with Policies 10, 21, 29, 31, 40 and 41 of the County Durham Plan and Parts 2, 4, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

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## RECOMMENDATION

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68. That the application be **APPROVED** subject to the following conditions.
1. The development hereby permitted shall be begun before the expiration of three years from the date of this permission.

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 10, 21, 29, 31, 40 and 41 of the County Durham Plan and 2, 4, 8, 9, 11, 12 and 15 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



<p><b>Planning Services</b></p>	<p>Alterations to 2no. existing Agricultural Buildings (retrospective application)</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Biggin Farm New Brancepeth Durham DH7 7HQ</p>	
	<p><b>Date</b> 18.02.2022</p>	<p><b>Scale</b> NTS</p>



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/20/01084/FPA
Full Application Description:	Extension to Chalet Park and two residential dwelling houses (amended description)
Name of Applicant:	Brancepeth Estates Limited
Address:	Brancepeth Manor Farm Brandon Lane West Brandon Crook DL15 9AS
Electoral Division:	Deerness
Case Officer:	Paul Hopper (Principal Planning Officer) Tel: 03000 263 946 Email: paul.hopper@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application relates to a split site of approximately 5.4 hectares in total area comprising land to both the north and south of an existing pond at Brancepeth Manor Farm, which itself lies to the west of Brandon. The application site comprises a large area of agricultural land to the south of an existing pond, along with an area of existing tree planting immediately surrounding the pond itself. The site also includes a smaller parcel of land set within the former farm buildings at Brancepeth Manor Farm, many of which have now been converted to residential dwellings. Planning permission was granted at the site in March 2016 for the construction of 22 No. holiday lodges with associated infrastructure and landscaping. This permission has subsequently been implemented and whilst works have since ceased, the permission is nevertheless now capable of implementation in full.

2. The previous application site partially wrapped around the existing pond and in part, the current application continues this arrangement encompassing land immediately to the south-east of this.
3. The buildings associated with Brancepeth Manor Farm are located to the north-east of the application site and agricultural fields frame the site to the south-east and west. Two public rights of way are located to the north and west of the site, one positioned to the northern boundary of the wider site, with the other situated approximately 200 metres to the west. Presently, there are two points of access to the site, one taken to the north off Brandon Lane (which is also a byway) and a second from via Wolsingham Road/Sandy Lonnen to the south.

### The Proposal

4. Planning permission is sought for the construction of an additional 8 No. lodges at the site intended to form a southern extension to those lodges already granted planning permission in March 2016. In addition, two dwellings are proposed. The first would occupy a position within the cluster of farm buildings previously comprising the Brancepeth Manor Farm, and the second position to the south west of the proposed lodges, occupying the site of an existing barn which would be removed as part of the development. Both dwellings are presented as enabling development, required in order to support the extension to the lodge park, which the applicant advises is not viable without the financial contribution provided by these units. Enabling development means allowing development to take place that would not normally be granted planning permission, to enable the delivery of a development which provides significant public benefit.
5. The 8 No. additional lodges would occupy an inverted 'L' in terms of layout and take an access from the long private drive to the east which also serves those residential dwellings at Brancepeth Manor Farm and would link to the existing internal layout previously approved for the 22 lodges. Both of the residential dwellings proposed would utilise this access, as would the 8 lodges. And the 22 already benefitting from planning permission.
6. The proposals would result in the removal of much of the existing vegetation which already exists to the south of the pond and includes a number of existing trees. The application is supported by a landscape scheme and whilst full details are described elsewhere in this report, this fundamentally proposes structure planting to the south of the proposed lodges and the delivery of the development in 2 phases, with 4 of the lodges being installed initially, and once proposed structure landscaping has established the remaining 4 would be installed.
7. In terms of appearance the chalets would be a mix of 2 and 3 bed units with external surfaces finished in a mix of vertical larch timber cladding and natural stone, with graphite grey UPVC windows. All would be served by an access from Wolsingham Road/Sandy/Lonnen and an internal access road linking to the approved arrangement.
8. The southernmost dwelling proposes a 4 bedroom detached dwelling with a footprint of approximately 247sq metres set within a reasonable curtilage and

comprise a kitchen/dining room, utility, living room, bedroom and WC to the ground floor, with dressing room, family bathroom and remaining bedrooms to the first floor (two of them sharing en/suite facilities). External surfaces would be finished in natural stone, stone quoins and double-glazed hardwood timber sash windows with a slate roof.

9. The second dwelling (set within the cluster of buildings forming Brancepeth Manor Farm) proposes a 6 bedroom dwelling with a footprint of approximately 214sq metres set within a generous curtilage comprising kitchen, utility, dining room/snug, living room, guest bedroom and WC to the ground with the remaining bedrooms to the first floor served by a family bathroom. External surfaces would be finished in natural stone to the walls and slate to the roof. The property would also be served by a detached double width garage set to the rear of the building finished in materials to match the dwelling.
10. The application is reported to the Planning Committee as it constitutes major development.

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## PLANNING HISTORY

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11. The application site and surrounding area has been subject to a number of previous planning permissions relating to both the area surrounding the existing pond and also land comprising the collection of former agricultural buildings at Brancepeth Manor Farm. A brief summary of the relevant planning history is included below.
12. In March 2016 planning permission was granted for the construction of 22 No. holiday lodges on land to the south of Brancepeth Manor Farm and this related specifically to land surrounding the existing pond. In that instance the development was to be accessed via the existing lane to the north which was noted as being a byway and remains so. That permission was granted subject to conditions, including that passing places be installed prior to the commencement of development. These passing places have been installed to the satisfaction of the Local Planning Authority in accordance with the condition but are the subject of a civil dispute with regard to landownership.
13. Prior to submission of the lodge application a number of planning permissions were granted relating to the conversion of the former agricultural buildings at Brancepeth Manor Farm to use as residential accommodation. Most of these are now complete, although some remain under construction/conversion. In all cases means of access to these units are taken via the existing arrangement from Wolsingham Road/Sandy Lonnen to the south, which is secured via large, automated access gates.
14. A total of 3 planning applications proposing the erection of a single dwelling with detached garage set within the cluster of former farm dwellings on land now forming the location for one of the 2 dwellings proposed as part of the current application were submitted and subsequently withdrawn in 2017 and 2018.

**NATIONAL POLICY**

15. 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.
16. 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;
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.

22. 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.
23. 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.
24. 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.
25. 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.
26. 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.
27. Historic England: Enabling Development and Heritage Assets Good Practice Advice in Planning Note 4 which also relating to heritage assets provides a useful methodology. It states that to meet the policy in NPPF Paragraphs 202, an enabling development proposal can only be considered for approval if it provides benefits that outweigh the disbenefits, and where the decision-maker is confident that the scheme would secure the conservation of the heritage asset(s).

## **LOCAL PLAN POLICY:**

28. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
29. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
30. 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.
31. Policy 8 (Visitor Accommodation) supports new and extensions to visitor accommodation provided it is appropriate to the scale and character of the area and not used for permanent residential occupation. In the countryside such accommodation would also need to meet an identified need, support business viability (if an extension) or involve conversion and should respect the character of the countryside and demonstrate how the location can be made sustainable. For chalets, camping and caravanning development and infrastructure, in addition to the above criteria the development would need to provide flood risk details, not be unduly prominent, have appropriate layouts and have sensitive materials, colours and scale.
32. Policy 10 states that development in the countryside will not be permitted unless the proposal relates to one or more exceptions.
33. 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 should have regard to Parking and Accessibility Supplementary Planning Document.
34. 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.

35. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
36. 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 it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
37. 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.

All new development to achieve BREEAM minimum rating of 'very good'.

38. 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.

39. 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.
40. Policy 33 – (Renewable and Low Carbon Energy) – states that renewable and low carbon development energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associated developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
41. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
42. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
43. Policy 40 (Trees, Woodland and Hedges) - states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new landuses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
44. 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. 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.

*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:**

45. The following comments were received following consultation with Statutory and Internal consultees.
46. Highway Authority - raises no objection to the application noting that the volume of traffic likely generated by the proposal would not result in any adverse impact with regard to highway safety.
47. Northumbrian Water Limited – offered no comments.
48. Natural England – offered no comments in response to the application.
49. Environment Agency – originally raised objection but this was withdrawn after the applicant provided additional information sufficient to satisfy their concerns.
50. Coal Authority – originally raised objection but this was later withdrawn after the applicant provided additional information to satisfy their concerns. They do advise that a scheme of intrusive site investigation be carried out and remediation undertaken where required, and that this be secured by planning condition.
51. SABIC – offered no objection but advised that should planning permission be granted SABIC be consulted to agree a method statement and ensure that their standard conditions for work close in close proximity to the pipeline are met. They also recommended that the HSE be consulted to review the proposed development.
52. Health and Safety Executive – responded and raised no objections noting specifically that it does not advise against the granting of planning permission in this case.
53. Durham County Council as Lead Local Flood Authority (LLFA) – raises no objection but notes that the surface water management scheme for the proposed development should be implemented in accordance with the Flood Risk and Drainage Assessment and that this be secured through planning condition.
54. Brancepeth Parish Council – raises objection noting that the development would affect a large percentage of residents of the Parish in that it would have an adverse impact upon highway safety. These concerns relate specifically to the poor quality of Wolsingham Road which includes poor road surface and several potholes and is completely impassable in places in winter, a lack of access to public transport, unsustainable volumes of traffic using the road, a lack of sufficient passing places given the road is used by large farm machinery and vehicles, likely conflict with

walkers, cyclists and horse riders and that the development would increase traffic travelling through the Brancepeth village.

55. Brandon and Byshottles Parish Council – raises objection as they consider the access onto the site is not satisfactory given that it is a single track road and as such will adversely impact highway safety and that drainage plans encroach onto land not under the control of the developer contrary to relevant local plan policies.

#### **INTERNAL RESPONSES:**

56. Spatial Policy Section – whilst deferring to colleagues within appropriate specialist services in relation to detailed matters of landscape, ecology, design etc etc, nevertheless notes concern regarding the significant loss of trees, visual amenity impact of the southern dwelling, a lack of justification for the two dwellings, whether SUDS and foul/wastewater treatment proposals are acceptable, access and highway safety and the position of the Ethylene Pipeline. However, in concluding they confirm that the principle of additional holiday lets in this location is not entirely contrary to policy and that if specialist colleagues state that all of the constraints detailed can be overcome or adequately mitigated, then there would be no objection to these elements of the proposal from a planning policy perspective.
57. Landscape – Raise objection to the impact of the dwelling proposed to the south of the pond.
58. With regard to the lodges, as previously discussed these appear acceptable in principle although a reduction in density is advised. They note that careful consideration needs to be given as to how this element of the proposal would be achieved given that the extension into open pasture would require substantial advance structure planting to create year-round screening. They note that in order to comply with Policy 8, this structure planting would need to be suitably established prior to the introduction of lodges in order for them to be visually acceptable. The phased approach would need to be agreed in advance and the timing of the introduction of the lodges dependent on the design, quality and performance of the planting. This would need to be achieved via a performance based planning condition. A full landscape maintenance plan will also be required to include the initial 5 year establishment and further long-term management (for a period of 20 years).
59. A revised landscape plan was submitted which introduced structure planting to the south of the proposed lodges and to the front and rear of the southern dwelling. However, the precise species mix for the latter is not identified but could be secured through planning condition.
60. Trees – raise no objection noting that the submitted tree report complies with current standards.
61. Ecology – raises no objection to the application subject to the mitigation listed in the Ecological Appraisal being secured through planning condition.

62. Nuisance Action Team – Raise no objection to the application subject to the inclusion of a planning condition requiring the submission, agreement and subsequent implementation of a site management plan.
63. Contaminated Land Section – Raises no objection to the application subject to the inclusion of a planning condition requiring the submission and agreement of a preliminary contaminated land risk assessment, intrusive investigations, remediation and verification where requirement is identified.
64. Design and Conservation – Raise no objection to the application but note their comments relate principally to the two proposed dwellings which they consider reflect an acceptable design approach, despite the overall height of the southern dwelling being of note. However, they do defer to colleagues from the Council's Landscape Section to comment on the landscape and visual amenity impacts of the development. Should planning permission be granted the control of external materials is advised by way of planning conditions.
65. Public Rights of Way Section – raises no objection to the application subject to the proposed access to the site from the north byway to the north being made permanently unavailable for vehicular access. The submission and agreement of precise detail in that regard to be secured through planning condition, along with its implementation prior to the first occupation of any of the lodges.

#### **NON-STATUTORY RESPONSES**

66. The following comments were received following consultation with non-statutory consultees:
67. Campaign for the Protection of Rural England (CPRE) – Objects citing concern regarding the loss of trees which will screen the previously approved development, the impact upon the residential amenity of adjacent occupiers, the impact of the southern dwelling upon landscape and visual amenity of the AHLV and the infill dwelling in that it would conflict with appropriate national and local planning policy. Concern is also raised at the impact of the development upon highway safety noting that Wolsingham Road to the south is not suitable to accommodate the increase in vehicle movements.
68. The North East Chamber of Commerce – support the application noting that as evidenced by independent research, there is a real need for new visitor accommodation of this type in the county to support the further development of the tourist economy. They note that County Durham has significant potential to grow its visitor economy and to capitalise on the investment in major attractions and that the proposed development would further enhance the quality and diversity of visitor accommodation; attracting overnight stays and supporting jobs in the crucial hospitality sector.
69. Visit County Durham – supports the application noting that independent research indicates that the County lacks the type of visitor accommodation in and around the city.

## PUBLIC RESPONSES

70. The application has been publicised by way of site notice, press advert and notification letters were sent to neighbouring properties. Since original submission of the application 3 re-consultation exercises have been undertaken. In response, 38 no. letters of objection were received from 26 properties. A summary of the points of objection are as follows:
71. **Highway Safety** - likely increase of traffic along Wolsingham Road/Sandy Lonnen which is unclassified highway of poor quality and the adverse impact of this upon road safety. Road too narrow, unlit with sharp, blind bends. There have been many accidents and two fatalities along these roads and any increase of traffic will increase the unacceptable risk of further incidents. Increased amount of traffic through Brancepeth village along the Wolsingham Road and the frequent speeding of such traffic. Inability to give pedestrians, cyclists and horses priority and safe distancing along this road. Agricultural vehicles and escort have to use wrong side of road to negotiate bends. No passing places. Change of access from Brandon Lane to Wolsingham Road not a good change.
72. **Impact on Residential Amenity** – (Noise) each lodge will produce in the region of 65dB of noise (a conservative estimate assuming that small gatherings will be outside the lodges at varying times). With these levels, the original 150m would have been sufficient to dampen the noise pollution and prevent major disturbances to the residents. 25m is insufficient to reduce any form of noise pollution, and will demonstrably cause nuisance to the residents of Brancepeth Manor.
73. **Light pollution** - including car lights at night continually shining into residential properties.
74. **Privacy** - will make us feel overlooked and that our current level of privacy has been entirely eliminated, security and privacy affected due to proximity of new lodges.
75. **Landscape / Trees** – site lies in AHLV and does not conserve nor enhance the special qualities of the landscape. Tree loss should be mitigated by planting to offset the loss. Remove further trees, undergrowth and the drywalling would further expose the 8 lodges elevating them further making them even more visible from the surrounding areas.
76. **Character Of Area** - change the setting of the local area, and will result in a quiet, remote and rural settlement of a few houses being turned into a large holiday park with over 5 times the number of properties, destroy the privacy and tranquillity of the place
77. **Ecology** – dozens of nesting birds within the footprint of the new development and their habitat will be decimated. Several of these species are rare and /or protected such as lapwings, curlews, owls, bats, Great Crested Newts, evidence of a water vole.

78. **Drainage/ sewage** - Surface water from the proposed new development will create additional pressures on the Brancepeth Beck which struggles with the volume of water in times of high rainfall now. The drainage proposal and the locations suggested are a none starter due to the applicant using land not in his ownership.
79. **5 bed infill barn to enable development** - area of land is required for emergency vehicles to be able to turn. This dwelling does not run alongside the commercial development and so needs to be looked at as a separate proposal
80. **Two proposed dwellings** - would be new builds not conversions so are new building in the countryside and also fall outside of farming diversification as not been a working farm for many years
81. **Manager's house** - existing barn is not officially classed as a barn, only a field shelter, therefore should not be a conversion. It is not essential to have a full time permanent worker on site 24 hours a day. The business is not operational, not proven to be a success. The proposed house is excessive in size at 2,250 sq. m with 4 bedrooms and 4 car parking spaces.
82. Objections were also received in relation to the **Farm Shop/ Cafe** which objectors considered must be significant predicted number of visitors/customers to justify the capital expenditure. Not solely for the benefit of residents on the site and therefore it may attract many more visitors thus increasing traffic. There is no farm onsite so all produce would need to be brought in from outside. There is no requirement in the application for the shop to purchase any minimum amount of produce from local farms or primary producers and so support the local food economy. Similarly, concern was raised in relation to **Employment** - 25 FTE jobs. A shop and cafe alone cannot generate such a high level of employment. If building jobs are included these are only temporary and not necessarily local. However, it is noted that this element was removed from the proposal.
83. Councillor Marion Wilson offers support for the proposal which she considers would bring employment and additional revenue to the area.
84. Councillor Fraser Tinsley advises that both himself and Cllr Gunn have received a number of representations from residents of their ward (Willington and Hunwick including Brancepeth) regarding this application, which raise material considerations that they feel are relevant to the determination of this application.

#### **APPLICANTS STATEMENT:**

85. The application proposes an extension to the already permitted holiday lodge scheme at Brancepeth Manor Farm and delivers a range of tourism and economic benefits to the County. The Phase 1 lodge development already benefits from planning permission and has been implemented in accordance with the approved plans. The proposed development seeks permission for only 8 additional lodges and two residential dwellings to fund delivery of the lodges. Without the dwellings

the lodge development and associated economic and tourism benefits will not be realised.

86. Through extensive discussion with planning officers, the scheme has changed significantly since its original submission, responding comprehensively to landscape, visual, design, ecology and other comments. Working closely with officers, this has resulted in a high quality tourism development capable of creating a range of benefits.
87. The applicant recognises the value and importance of sustainable energy sources and protecting the environment. As such, we confirm that all lodges and houses will be powered by a combination of air source and ground source heat pumps. There is no mains gas connection and the possibility of maximising renewable energies is an increasingly important consideration for UK holiday makers.
88. The applicant has committed to a variety of conditions requiring phased planting of the landscaping proposals, ensuring the lodges sit comfortably within their setting from the outset. The landscaping also secures a variety of biodiversity benefits.
89. Beyond the site boundaries, the scheme enjoys high levels of accessibility to the surrounding countryside and public rights of way, ensuring visitors can make the most of the County Durham countryside.
90. Access for the proposed development is proposed via Wolsingham Road where a series of new and improved passing places are proposed. Whilst the permitted lodges currently take access from Brandon Lane, the highways assessment for the current scheme is based on all lodges being accessed from Wolsingham Road and a condition is proposed to ensure the Brandon Lane access is closed for visitors to the entire lodge park.
91. Overall the proposed development represents a high quality tourism development, responding positively to the Council's tourism priorities and increasing the number of overnight stays in the County. It represents a high quality design response with good landscaping and biodiversity benefits, as well as taking a positive approach to the effects of climate change. The scheme is consistent with the relevant policies of the Durham Local Plan and officers have recommended approval on this basis.

*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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92. 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 (including the viability of the scheme and the requirement for enabling development), impact upon the character and appearance of the surrounding area and AHLV, the impact on residential amenity, highway safety, ecology, drainage and all other material planning considerations.

### Principle of Development

93. The proposal comprises the construction of 8 holiday lodges to provide an extension to the scheme previously granted planning permission in 2016. That planning permission has been implemented and as such is now capable of completion in full. The current application also includes the construction of 2 No. dwellings which the applicant advises are required in order to deliver the development as without the associated capital receipt the development would be unviable. The proposals originally included provision of a farm shop and café, although the application has since been amended and these elements removed from the scheme.
94. With regard to the proposed lodges, policy 6 of the County Durham Plan (CDP) is relevant and 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, stating that such development will be permitted provided it is compatible with uses 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.
95. However, as the site is not located within or adjacent to any existing settlement for planning purposes it is considered to be located within the open countryside and as such policy 6 does not apply.
96. Consequently, policy 10 of the CDP is relevant and relates to development within the countryside. It states that development in such locations will not be permitted unless allowed for by specific policies in the Plan (such as policy 8 relating to visitor accommodation), relevant policies within an adopted neighbourhood plan relating to the application site, or where the proposal relates to stated exceptions.
97. The approach contained within policy 8 is considered to display a broad level of accordance with paragraph 84 of the NPPF which states that decisions should enable; the sustainable growth and expansion of all types of business in rural areas, the development and diversification of agricultural and other land-based rural business; and sustainable rural tourism and leisure developments which respect the character of the countryside. In particular, policy 8 notes that development for visitor accommodation in the countryside will be supported where it is appropriate to the scale and character of the area, and it is not used for permanent residential occupation. Whilst the scale and character of the proposal

is considered in more detail elsewhere in this report, it is noted that the applicant has confirmed that the lodges would not be used for permanent accommodation as a person's sole place of residence, and this can be secured through planning condition should the committee resolve to grant planning permission.

98. In addition, policy 8 also states that development will be supported where it is necessary to meet identified visitor needs or it is an extension to existing visitor accommodation and helps to support future business viability and it respects the character of the countryside, demonstrating clear opportunities to make its location more sustainable.
99. In relation to need, it is noted that whilst the previously approved lodges are not complete, (and as such the proposal cannot be considered an extension to an existing visitor accommodation), the permission is nevertheless capable of implementation, and Visit County Durham and the North East Chamber of Commerce offer support for the proposals noting that the development is consistent with current market and visitor intelligence which identifies a need for overnight accommodation in the County. In supporting the scheme, they note in detail the associated benefits that this would have on the County's tourist economy. Therefore, it is considered there is an identified need for this type of visitor accommodation in accordance with policy 8.
100. The application site is not considered to be a sustainable location as it is located within open countryside in an area with no services and is not well served by public transport. Criterion f) of policy 8 requires proposals to demonstrate clear opportunities to make its location more sustainable. The supporting text to this policy further advises that in locations that are not served by public transport or that are not close to existing services and facilities, applicants will need to demonstrate that development is sensitive to its surroundings and does not have an unacceptable impact on local roads, and that any opportunities to improve the scope for access by foot, by cycling and/or by public transport are made the most of, thereby making the development more sustainable. In this regard the proposals are well situated to make use of existing public rights of way to the north and west and also includes provision for secure cycle storage to be secured through planning condition. Given this, the future occupants would have a sustainable travel alternative to the private car and this is considered sufficient to comply with criterion f) in this instance.
101. Policy 8 also requires new development should not be unduly prominent in the landscape from either long or short range views and this is considered in more detail elsewhere in this report.
102. In light of the above, the principle of the additional 8 lodges at the site is considered acceptable subject to the inclusion of a planning condition which prohibits occupation of the units as a person's sole, permanent place of residence.
103. The proposal also includes the erection of 2 No. new dwellings comprising a 4 bedroom detached property occupying the position of an existing barn to the south of the chalets and a 6 bedroom dwelling to the north east, set within the existing cluster of converted farm buildings at Brancepeth Manor Farm.

104. Relevant national and local plan policies seek to restrict unacceptable development within the countryside, particularly in unsustainable locations. The Local Planning Authority consider that both dwellings would fail to accord with the aims of policy 10 which states that development will not be permitted unless allowed for by specific policies in the plan or where the proposal relates to one or more of the exceptions stated. In this regard the dwellings are not considered to meet any of the exceptions outlined in policy 10 in that they do not relate to an existing building, they are not replacement dwellings, they do not involve an extension to an existing dwelling and do not facilitate or support an existing agricultural or rural-land based enterprise or associated farm. As noted in the planning history 3 applications were submitted for a single dwelling in the position of one of the dwellings proposed as part of the current application and that these were withdrawn due to concerns raised by the LPA that the principle of development could not be supported.
105. The applicant considers that the dwellings are required as enabling development to support the previously approved scheme for 22 lodges and the additional 8. In this regard a full Financial Viability Assessment completed by Knight Frank has been submitted in support of the scheme which concludes that it is not viable principally due to high build costs, and that in order to deliver the development, the capital investment delivered through the enabling development is required.
106. The submitted assessment has been reviewed by the Council's Valuation Officers and Spatial Policy Section and has, where appropriate, been subject to the submission of additional information upon request from officers to ensure that revenues from sales prices and the costs associated with the development appear to officers as accurate as is practicable. Having scrutinised the assessment officers do not dispute that the development is unviable and that additional investment is required in order to deliver the scheme.
107. Visit County Durham supports the application as does the North-East Chamber of Commerce, with the former providing detailed information demonstrating that there is a need for overnight accommodation of the type proposed within the County. Specifically, they have identified the benefit to the economy of overnight stays. Particularly, that at present 94% of all visits to the County are for the day and that average day spend for visits of this nature is £20.71, accounting for 69% of total expenditure and that only 6% of visitors at present stay overnight and the average spend per trip in those instances is £144.55, accounting for 31% of total expenditure. With this in mind, there are significant benefits to the tourist economy of ensuring that there is sufficient supply of overnight accommodation available. The delivery of the development in this context would therefore deliver notable economic benefits both locally and across the County as a whole.
108. Visit County Durham advise that as a destination the County urgently needs to increase its visitor accommodation capacity to achieve higher visitor spending levels and that this will in turn, allow the County to sustain more visitor economy businesses and direct and indirect employment. The current Durham Tourism Management Plan notes that it is important that the County grows its visitor accommodation stock quickly in order to exploit Durham's greater UK profile and

capitalise on the growth in UK based holidays following Covid. Development such as that proposed will help convert increased visitor levels into overnight visitors, higher spend and visitor economy employment.

109. The site currently benefits from planning permission for 22 lodges, the additional 8 lodges proposed as part of this application would add to that offer and, as noted above, the scheme would help meet an identified need for this type of overnight accommodation within the County. Following from this, and noting the research undertaken by Visit County Durham, this would in turn translate to a boost the local tourist economy and help deliver some of the key aims of the current Durham Tourism Management Plan. The enabling development would provide the capital investment required to make the scheme viable.
110. The applicant has advised that whilst the use of other funding sources to finance the development have been explored these all have very low risk profiles for this type of development, and have not been able to make the scheme work and more widely it is noted that many lenders have pulled out of the sector entirely. Those lenders approached have included large mainstream banks and investment vehicles. An application for grant funding was also made with the RDPE Growth Programme which has now expired due to the passage of time and the development was concluded to not fulfil all of the relevant criteria at that time. There are no other live grant schemes which would be suitable for this scheme.
111. Accepting that other streams of securing the shortfall in funding are not available to the application the LPA must be satisfied that the minimum amount of development is proposed to meet that shortfall. The viability assessment has been scrutinised in this regard and relies on up-to-date valuation information to assess the likely land values associated with each dwelling in the event of planning permission being granted and taking account of the development costs including associated infrastructure. Whilst land values are always subject to market fluctuations, it is considered that the figures provided represent an accurate appraisal of the market position, and that the capital receipt would directly relate to the shortfall in the development cost. As such, it is considered that the 2 dwellings proposed represent the minimum necessary in these circumstances.
112. It is of paramount importance therefore that the lodge development takes place in order to ensure that the wider economic benefits of the scheme as identified are delivered. Whilst it is noted that the development does not relate to the conservation of a heritage asset, guidance cited in Historic England's Policy Note 4 nevertheless provides a useful methodology when considering the balance of advantage. This states that in order to meet the requirements of the NPPF an enabling proposal can only be considered for approval if it provides benefits that outweigh the disbenefits, and where the decision-maker is confident that the scheme would secure the conservation of the heritage asset. It also advises that good practice to take the decision in the light of a realistic view of the consequences of refusal. Equally, a proven conservation deficit may not automatically lead to grant of consent, where the disbenefits of failing to comply with other planning policies are considered to outweigh the benefits of conserving the asset.

113. In terms of the benefits of the scheme, the applicant has presented evidence that the delivery of the lodges would add to the range and variety of visitor accommodation in the County, and that the scheme is supported by Visit Durham and the North-East Chamber of commerce as a consequence, with the latter noting the associated economic benefits. Whilst the two proposed dwellings would be harmful in as much as they would result in development which would fail to conserve the landscape character of the surrounding AHLV the benefits of the scheme would outweigh the harm sufficient to justify the granting of planning permission in this instance.
114. Equally, it is critical that there are appropriate mechanisms in place to ensure that the proposed housing, is built only in direct association with the lodges. A Section 106 Agreement will therefore be required to secure that the two come forward together and heads of terms have been agreed with the applicant in this regard.

Impact upon the Character and Appearance of the surrounding area and Area of Higher Landscape Value (AHLV)

115. In assessing the previous application relating to the construction of 22 lodges it was noted that the site occupied a position in an isolated location but would form part of the extended Brancepeth Manor Farm complex which is settled around the existing pond to the north. At the time of the previous application the site was not subject to any formal landscape designation. However, with the adoption of the County Durham Plan in October 2020, the site now falls within an Area identified as being of Higher Landscape Value and as such policy 39 of the CDP is relevant. This states that development affecting Areas of Higher Landscape Value will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm. This approach is considered to accord with the aims of paragraph 174(a) of the NPPF which requires planning decisions to contribute to the and enhance the natural and local environment by protecting and enhancing valued landscapes and recognising the intrinsic character and beauty of the countryside.
116. The northern dwelling would be well contained within the existing cluster of buildings and as such would not be readily visible in the wider locality and the impact of this element of the proposals are considered to accord with policy 39 in this regard.
117. However, the impact of the 8 lodges and the southern dwelling require greater consideration in this regard. As noted, the site was not designated as AHLV at the time the previous application for the 22 lodges was granted and it remains that this permission is capable of implementation. The development would have some level of impact on the special landscape qualities of the area as a result. Whilst this is noted, it is also the case that at present land to the south of the pond is well established with vegetations including a number of mature trees and that this would screen the development to the north. This was a notable consideration in determination of the previous application.

118. Several residents raise objection to the application as they consider the lodges and southern dwelling would have a significant detrimental impact upon the AHLV resulting in the loss of existing planting, which was an important consideration in the determination of the 22 lodges, and the loss of part of the existing stone wall boundary wall, and that the density of the lodges would be too concentrated.
119. The current proposal would remove much of the existing tree cover and thereby expose views into the site from the south. This is acknowledged by the applicant who proposes replacement structure planting to offset that loss. However, it is noted that replacement planting in this regard, particularly structure planting, would take considerable time to become fully establish, and any associated screening benefits would not be delivered instantaneously. Policy 8 recognises this and at criteria h) requires new development to not be unduly prominent in the landscape from either long or short range views by ensuring adequate year-round screening through existing topography, vegetation or other features which are compatible with the landscape and where new or additional screening is required this must be suitably established before development can take place. Therefore, a phased approach to the delivery of the 8 additional lodges is proposed to be secured by planning condition.
120. The Council's Landscape Section has reviewed the landscape scheme submitted in support of the application which has been revised in consultation with the Council's Landscape Architect, and includes proposed phasing which identifies that 4 of the 8 lodges would be delivered in phase 1, and the remaining lodges following in phase 2, and only at such time as the structure planting has sufficiently established.
121. In terms of policy 39 of the CDP this states that new development affecting the AHLV will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm. In this instance, subject to the inclusion of planning conditions as identified above, it is considered the lodge element of the proposal would accord with the aims of policy 39 of the CDP and paragraph 174(a) of the NPPF in that it would conserve landscape quality.
122. With regard to the proposed dwelling to the south of the pond, it is noted that this would be detached from the main cluster of buildings at Brancepeth Manor Farm by some distance and would sit beyond the lodges themselves. In addition, it is noted that the dwelling would replace an existing pole barn which is presently in a poor state of repair being constructed from a variety of corrugated sheeting and cladding. Whilst the Council's Design and Conservation Section note the design approach to the dwelling is broadly acceptable and would use materials typical of the locality, the Council's Landscape Section raise concerns that the dwelling would appear as an incongruent addition to the landscape, to the detriment of landscape and visual amenity.
123. Policy 39 makes provision for new development that does not conserve the special landscape qualities of the AHLVs but only where the benefits of the development in that location outweighs the harm. Text supporting the policy notes that whether harm is considered unacceptable will depend partly on the significance of the

effects of development on those attributes, and partly on the extent to which the benefits of the development outweigh that harm in the balance of considerations and that these are matters that need to be assessed on a case-by-case basis.

124. Whilst the southernmost dwelling would result in harm as identified by the Council's Landscape Section text supporting the policy advises that not all harm is unacceptable, and in this instance the dwelling is required as enabling development to support the delivery of the wider lodge development. That development has considerable economic benefits attached to it and already benefits from planning permission. Detailed consideration of the economic benefits of the scheme have been discussed elsewhere in this report and are considered considerable, and as such sufficient to outweigh the harm identified in accordance with the aims of policy 39 of the CDP.

#### Impact upon Residential Amenity

125. Whilst occupying a rural location the site is nevertheless situated to the south of a cluster of residential properties which previously formed part of the Brancepeth Manor Farm complex. In the main, the residential occupation of these properties is a direct result of a variety of previously granted planning permissions relating to the conversion of former farm buildings which were no longer required for agriculture. It is noted these are not occupied in association with any ongoing farm enterprise and that any meaningful agricultural activity ceased at the farm some time ago.
126. At its closest point the proposed lodge development would be approximately 52 metres from the existing dwellings which compares to the previously approved arrangement that granted planning permission for lodges approximately 76 metres from the nearest dwellings at their closest point.
127. With regard to the two proposed dwellings, it is noted that the southernmost property would be positioned approximately 76 metres from the lodges to the north, with the northern dwelling situated at greater distance. Notwithstanding this, it is noted that the northern dwelling would be situated within close proximity to existing dwellings forming part of the Brancepeth Manor complex and present a principal elevation to the south, immediately opposite an existing dwelling.
128. Policy 31 of the County Durham Plan is relevant and 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. Policy 29(e) requires new development to provide high standards of amenity and privacy, and minimise the impact of development upon the occupants of existing adjacent and nearby properties. Both display a broad level of accordance with the aims of paragraph 174 of the NPPF which requires planning decisions to enhance the local environment by preventing new and existing development from contributing to unacceptable levels of noise pollution, with paragraph 184 requiring planning decisions to ensure new development is appropriate to for its location and in doing so mitigate and reduce to a minimum potential adverse impacts resulting from noise from new

development – and avoid noise giving rise to significant adverse impacts on health and the quality of life.

129. Local residents have raised objection to the application citing fundamental concerns that the development would lead to an unacceptable increase in noise disturbance as a result of the additional 8 lodges proposed, which they consider to be an impact that cannot be adequately mitigated against through site management. They believe that the use of the site would have a significant adverse impact upon their quality of life in what is currently a tranquil, rural area.
130. It is noted that a previous planning permission for the construction of 22 lodges across the wider site has been implemented and as such is capable of completion in full. Any increase in noise and disturbance as a result of the 8 additional lodges therefore needs to be considered in this context. The two additional dwellings are not considered to result in any unacceptable increase in disturbance in terms of noise.
131. The lodges would be available for private let and as such it is anticipated that the development would give rise to noise levels over that which would normally be expected in a residential area. This was considered to be the case in determination of the previous application. In that instance it was considered that any impact could be appropriately mitigated against via appropriate and effective site management using methods well established at holiday sites through a clearly defined set of site rules and supervision, including requirement for visitors to report to the site office upon arrival. The applicant has confirmed intention that the 8 additional lodges would be incorporated into this wider site management plan.
132. Notwithstanding the above, it is noted that the proposal would increase the total number of lodges to 30 and introduce lodges in closer proximity to existing dwelling than those already approved, closer by approximately 24 metres. The cumulative impact of the development must therefore be carefully considered.
133. The Council's Environmental Health Section (Noise Action Team) originally raised no objection to the application but subsequently sought further clarification in relation to the management of the lodges (particularly how the preservation of low night-time noise would be achieved and sought confirmation of the applicant's intention to implement a noise policy for the site as a whole). The applicant has confirmed that the site would be subject to a management plan, the requirements of which would be enforced by the site manager. In addition, it is noted that the submission and agreement of any proposed lighting could be controlled via planning condition.
134. Therefore, subject to the imposition of a planning condition requiring a detailed site plan for all 30 lodges, the development is considered to accord with the requirements of policies 8, 29 and 31 of the County Durham Plan and Part 15 of the NPPF in that it would not have any adverse impact upon the residential amenity of surrounding occupiers.

135. In relation to the two proposed dwellings, the southern unit is positioned sufficient distance from the nearest existing dwellings to adequately ensure that there would be no adverse impact as a result of overbearing or overshadowing.
136. With regard to the northern dwelling this would be set to the northern edge of the existing cluster of buildings at Brancepeth Manor Farm and as such would be framed by existing dwellings to the south and east. The dwelling to the south (Marauder Lodge) has been subject to conversion and is occupied as a residential dwelling, as is the building to the east. The southern elevation of the proposed dwelling would be 13 metres from the northern elevation of Marauder Lodge which contains windows to habitable rooms, including a master bedroom, study and kitchen, and also a large area of floor to ceiling glazing serving a lounge. Given the position of the Marauder Lodge offset from the proposed dwelling to the north it is noted that only those windows serving the kitchen and potentially a study would face the corresponding elevation. Other windows of Marauder Lodge positioned further west serve a lobby, WC and car port which are not considered habitable rooms and as such there would be no adverse impact in terms of intervisibility or loss of privacy.
137. Whilst the Council's SPD requires new development to achieve a minimum of 21 metres between facing elevations containing windows to habitable rooms. With regard to the kitchen and study windows the development would not meet this requirement. However, boundary treatment is proposed in the form of a 1.1 metre stone wall with metal gates. Details of precise means of enclosure have been secured through planning permission which would help reduce any intervisibility in this regard. It is also noted that other existing arrangements within the cluster of converted buildings do not meet this requirement (most notably to the property to the east which has facing elevations 13 metre from Marauder Lodge and that this is often typical of residential redevelopment of former farm buildings.
138. Whilst at first floor the facing elevation of the proposed infill dwelling would include windows serving habitable rooms these would be delivered through the use of roof lights and as such there would not be any adverse impact in terms of intervisibility or loss of privacy. Given the limited height of the building it is not considered there would be any adverse impact in terms of overbearing or overshadowing the property to the south.
139. In light of the above, and given the development would mirror a pre-existing arrangement, it is considered that the proposed dwelling would not have any unacceptable impact upon the residential amenity of nearby occupiers from overbearing, overshadowing or loss of privacy in accordance with policies 29 and 31 of the CDP.
140. Whilst the lodges are not required to meet NDSS standards given their occupation as holiday accommodation it is noted that the two proposed dwellings do meet the stated minimum standards and sufficient private amenity space is provided to serve each dwelling. This element of the proposal is therefore considered to accord with the aims of policy 29 of the CDP and the Council's Residential Design SPD.

## Parking, Access and Highway Safety

141. The current planning application relates to the construction of an additional 8 lodges at the site along with two new dwellings. Access would be taken for all elements via the private drive to the east. This drive is served by large, automated gates and accessed directly from Wolsingham Road/Sandy Lonnen to the south which connects the A690 at Brancepeth Village to the B299 at Crook.
142. The applicant has confirmed that along with the 8 lodges and two dwellings the new access would also serve the 22 lodges previously granted planning permission in 2016. That permission included provision for vehicular access to the north which required associated improvement works and in this regard a condition was included that required the submission and agreement of detailed specification for passing places along this route to be submitted to and agreed in writing by the LPA prior to the commencement of development, and that the agreed detail thereafter be implemented and retained for use. As noted elsewhere this detail was submitted and agreed by the LPA in consultation with the Highway Authority and it is understood that passing places have now been installed, although subject to an ongoing land ownership dispute.
143. It is noted that the previous application intended sole access to the 22 lodges to be taken via a byway to the north and that this arrangement was identified within the plans approved when that application was granted planning permission by the committee. The Council's Public Rights of Way Section in commenting on the current application has noted requirement for a physical barrier to restrict access from the byway to the north given the increase in lodges, and that this be installed prior to first occupation of any of the resulting 30 lodges. Whilst there would potentially be implications for the plans previously approved, should the current application be granted planning permission a Section 73 planning application could be submitted to amend the previously approved layout. Based on the information submitted there is no obvious reason as to why the previously approved plan could not be amended to amend the internal access road removing the connection to the byway to the north.
144. A Transport Statement supports the current application which was undertaken in relation to the proposed scheme at a time when the farm shop/café still formed part of the proposal. However, whilst it is noted that this element has since been removed from the scheme, the finding of the assessment remain fundamentally unaltered. Specifically, the assessment concluded that the development could be safely serviced from the access via Wolsingham Road/Sandy Lonnen, and that the anticipated vehicle movements could be satisfactorily accommodated on the wider road network subject to 10 of the passing places along Wolsingham Road to the east of the site being upgraded and a new space installed. This upgrade works would comprise the stoning up and underpinning by a 300mm sub-base and the installation of appropriately identified signage. The Highway Authority concurred with this assessment and offered no objection to the application subject to the submission and agreement of full engineering details for the upgraded passing places and their subsequent implementation, to be secured through planning condition.

145. The farm shop and café no longer form part of the application which reduces the vehicle movements originally anticipated to be generated by the development. However, the applicant has confirmed that it remains the intention to provide the upgraded passing places as described.
146. Several residents residing both adjacent to the site and to the east at Brancepeth Village have raised objection to the application citing concerns regarding the suitability of Wolsingham Road/Sandy Lonnen to accommodate the increased traffic generated by the proposals as have Brancepeth and Brandon and Byshottles Parish Council's. In addition, an adjacent landowner has commissioned a response to the applicant's transport statement by a Transport Consultant which disputes the applicant's position and considers that the development does not meet relevant national or local policy and that the applicant has been unable to prove anything other than an unacceptable impact on road safety, capacity and amenity, and as such planning permission should be refused.
147. The Highway Authority has reviewed both assessments along with all additional information presented by both transport consultants and considers that the increased vehicle movements generated by the development would have a negligible impact upon road safety and as such could not be considered severe for the purposes of paragraph 111 of the NPPF.
148. Paragraph 110 of the NPPF states [in part] that in assessing specific applications for development it should be ensured that safe and suitable access to the site can be achieved for all users and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree. In addition, paragraph 111 goes on to state that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
149. In this instance it is considered that the increase in vehicle movements as a result of the proposals, to include serving all 30 lodges, could be satisfactorily accommodated via the proposed access from Wolsingham Road/Sandy Lonnen and would not have any severe impact upon the road network.
150. The Council's Public Rights of Way Section raises no objection to the application but advises that measures be included to ensure that no vehicular access is provided to the site via the byway to the north which could be appropriately secured through planning condition. Officers advise the use of a lockable gate and appropriate signage in this regard.
151. With regard to the two proposed dwellings it is considered that safe and adequate access can be achieved for all users and each provide sufficient in curtilage parking to meet the Council's current parking standards.
152. In light of the above, and subject to the planning conditions stated the development is considered to accord with the aims of policy 21 of the CDP and paragraphs 110 and 111 of the NPPF.

## Ecology

153. 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. 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. Paragraph 174 of the NPPF requires planning decisions to contribute to and enhance the natural and local environment by minimising impacts and providing net gains for biodiversity. Paragraph 180 goes on to state that if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts) adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused.
154. The application would result in the loss of some existing habitats around the lake/pond and an existing barn. As such the application is supported by an Ecological Appraisal completed by E3 Ecology which the Council's Ecologist has reviewed and considers is sufficient to inform the application. Whilst a breeding bird risk assessment was originally requested this requirement was withdrawn upon removal of the farm shop from the proposals.
155. Objections have been raised by existing residents who consider that the development would lead to an unacceptable loss of habitat and an adverse impact upon ecology, wildlife and biodiversity. They consider that visitor activity would introduce an unacceptable level of noise, lighting and other general disturbance associated with the proposed accommodation to the detriment of local wildlife. Residents also advise of the presence of water vole within the pond and dispute the findings of the submitted ecological appraisal in regard.
156. The presence of a European Protected Species (EPS) is a material planning consideration. The Conservation of Habitats and Species Regulations 2017 have established a regime for dealing with derogations which involved the setting up of a licensing regime administered by Natural England. Under the requirements of the Regulations it is an offence to kill, injure or disturb the nesting or breeding places of protected species unless it is carried out with the benefit of a licence from Natural England.
157. Notwithstanding the licensing regime, the Local Planning Authority must discharge its duty under the regulations and where this is likely to be an interference with an EPS must consider these tests when deciding whether to grant permission for a development which could harm an EPS. A Local Planning Authority failing to do so would be in breach of the regulations which requires all public bodies to have regard to the requirements of the Habitats Directive in the exercise of their functions.
158. In relation to protected species, the habitats on site are considered to have suitability for foraging and commuting bats. Most activity is likely to be associated with the large waterbody to the north of the site. There are no trees with potential roosting

features for bats within the site boundary and given the barn occupies an exposed location and its current state of repair, that more suitable roosting locations exist to the north of the site. As there would be no interference with an EPS, there is no need to apply the derogation tests in this case. The appraisal concludes that there is no historical records of otter, water vole or white clawed clayfish in the area. Assessment of the pond suggests that it is unsuitable for great crested newts.

159. The appraisal includes a mitigation strategy which includes requirement for the lodges to be 10 meters from the bank of pond, the use of low lux lighting positioned at low level with cowls fitted to reduce light spill, the use of close boarded fencing to allow hedgehogs to forage, works timed to be undertaken outside of the bird-nesting season unless a checking survey has been undertaken, adherence to a construction management plan to reduce the risk of pollution to the pond, and work to be carried out under a method statement for reptiles, common toad, brown hare and bat to address the low residual risk to these species being present. In addition, 2 bat boxes would be installed to retaining trees and tree and woodland management would be carried out to promote deadwood habitats and promote overall biodiversity.
160. The Council's Ecologist have reviewed the supporting information and raises no objection to the application but notes that conditions should be included to ensure the lodges are a minimum of 10m away from the pond (as per the recommendations of the appraisal) and that additional pond edge planting (using appropriate native species) be incorporated into the landscaping scheme to provide an enhanced buffer for wildlife. The former can be adequately ensured through planning condition, and it is noted that the submitted landscape plan has been amended to reflect the additional planting requested.
161. Therefore, subject to the conditions stated, the application is considered to accord with the requirements of paragraph 180 of the NPPF and policy 41 of the County Durham Plan.

### Drainage

162. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Policy 8.3(g) they provide a specific Flood Risk Warning and Evacuation Plan in accordance with Table 2 in the National Planning Policy Framework (NPPF) Technical Guidance.
163. Policy 35 of the CDP requires development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. Development in flood zones should not be permitted unless in exceptional circumstances. Regarding surface water flood risk, the management of water must be considered intrinsic to the overall development, with runoff rates carefully controlled. Policy 36 of the CDP requires proposals to the disposal of foul water, utilising the hierarchy of foul water.

164. Residents have raised objection to the application citing concerns regarding the means of securing appropriate drainage from the site which they note requires discharge to features not within the applicant's control. The submitted detail has identified that surface water can be collected and stored on site prior to being discharged into existing watercourses. In consideration of the above, the details submitted indicate that consideration of flood risk impacts have been assessed and are found to be satisfactory in accordance with policy 35.
165. The application site is not within Flood Zones 2 or 3 as identified by the Environment Agency who it is noted do not raise any objection to the application in this regard. Nevertheless, the application is supported by a Flood Risk and Drainage Assessment which in part (noting that the farm shop and café no longer form part of the development), concludes that the 8 additional lodges, barn and dwelling will not have an adverse impact in terms of flood risk providing suitable drainage systems are implemented. The Council Drainage and Coastal Protection Team as LLFA and NWL raise no objections to the application in terms of surface water drainage. Whilst residents have raised objection to the intention to discharge surface water to features outside of the site this arrangement is not considered unachievable no objections have been raised from statutory consultees in this regard. The submission, agreement and implementation of a flood risk warning and evacuation plan as required by policy 8.3(g) of the CDP could be appropriately secured through planning condition.

#### Connectivity, Sustainability and Energy Efficiency

166. Policy 27 of the CDP requires new residential development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located immediately adjacent to existing dwellings which are understood to benefit from broadband connectivity. As such it does not appear that there any significant constraints to delivering the connectivity in accordance with the requirements of policy 27 although the submission and agreement of precise detail in this regard could be secured through planning condition noting the outline nature of the application. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policy 27 of the CDP.
167. Policy 29 of the County Durham Plan criteria c and d require that developments should seek to minimise greenhouse gas emission by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and should minimise the use of non-renewable and unsustainable resources.
168. The applicants have confirmed that at this stage of the proposal they have not fully developed their sustainable energy strategy. However, the applicant has advised that Brancepeth Manor Farm does not benefit from a mains gas connection and, as such, it is the applicant's intention to employ renewable energy sources for the proposed dwellings irrespective of the Local Plan requirements and that subject to further feasibility assessment of the ground conditions, it is anticipated that the two dwellings would utilise a ground source heat pump and air source heat pump solutions and passive EV charging points. The latter employed in the lodges also. The intention is to use renewable energy sources in the lodges and that again whilst

the precise solution has yet to be formulated there are several possible options in this regard, the most likely being the use of air source heat pumps.

169. In light of the above it is considered that the proposal is acceptable in regard to the provision of Policy 29 c and d, subject to a planning condition requiring a detailed scheme to be submitted and agreed by the LPA in this regard.

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## CONCLUSION

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170. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.

171. In summary, the 8 lodge extension to the chalet park is considered acceptable in principle and would accord with policies 8 and 10 of the County Durham Plan subject to the conditions listed in the report, specifically those relating to the phased approach to delivery and the requirement for landscape structure planting.

172. Following a rigorous assessment of the financial case put forward by the applicants in support of their scheme, it is considered that substantial wider economic benefits for Durham City and indeed the County would be brought about as a result of the delivery of the wider lodge development. This would be part funded by the proposed enabling development comprising of the 2 new dwellings and would bring substantial benefits in terms of job creation and additional expenditure to the local economy, together with enhancing the tourist offer and image of Durham as a visitor destination. These benefits are considered to outweigh the policy conflict of the two proposed dwellings.

173. The development is therefore considered to accord with policies 8, 10, 21, 25, 26, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 6, 8, 9, 11, 12, 14, 15 and 16 of the NPPF.

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## RECOMMENDATION

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174. That the application be **APPROVED** subject to a s106 agreement to secure the following;

- delivery of the enabled 30 lodge development on a phased basis with the enabling development.

And subject to the following conditions;

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

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

2. The development hereby approved shall be carried out in strict accordance with the 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) 1, 6, 16, 21, 25, 26, 27, 28, 29, 31, 32, 33, 35, 36 and 44 of the County Durham Plan and Parts 2, 4, 8, 9, 11, 12 and 16 of the National Planning Policy Framework.*

3. The development hereby approved shall be made available as commercial holiday lets for a minimum of 140 days per calendar year, with no single letting period exceeding 31 day.

*Reason: To ensure that the development is occupied as holiday accommodation only and to prevent future use of the units as potential second homes to comply with Policy 8 of the County Durham Plan and Part 6 of the National Planning Policy Framework.*

4. The development hereby approved shall be occupied solely for the purposes of holiday accommodation and shall not be occupied as a person's sole or main place of residence. The owners/operator shall maintain an up-to-date register of the names of all occupiers and of their main home addresses and telephone numbers and shall make this information available at all reasonable times to the Local Planning Authority.

*Reason: To ensure that the development is occupied as holiday accommodation only, in order to comply with Policy 8 of the County Durham Plan and Part 6 of the National Planning Policy Framework.*

5. Prior to the first occupation of any of the holiday accommodation units hereby approved, a detailed Site Management Plan relating to all 30 holiday lodges detailing means for to the prevention of noise disturbance arising from their use, shall be submitted to and agreed in writing by the Local Planning Authority. The scheme shall include, but not be limited to, the submission of specific details and measures including a quiet time between 11pm and 8am will be adhered to, measures for limiting the playing of amplified music, restrictions relating to the use of BBQs and open fires, restrictions upon any large gatherings within the wider site as well as providing a detailed procedure for investigating and resolving any complaints received. Thereafter, the development shall be managed in accordance with the agreed Site Management Plan.

*Reason: In the interests of the residential amenity of surrounding properties in accordance with Policies 8 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework*

6. 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 of all lodges and dwellings 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 and 16 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the suitable details are agreed prior to units being brought onto site given the sensitive location of the area.*

7. The development hereby approved shall be undertaken in a phased approach in accordance with that identified on Drawing No. 911\_100 entitled Landscape Strategy – Phase 2 Rev D. None of the lodges to the south of the dry stone wall as shown on the plan shall be installed within 10 years of the implementation of all structural landscaping as identified as edged orange on the plan. Thereafter, all landscaping will be maintained in accordance with a scheme of maintenance to be agreed through condition 8.

*Reason: To ensure adequate screen planting is provided and there are no resulting adverse visual or landscape impacts from the development, in accordance with Policies 39 and 40 of the County Durham Plan and Parts 12 and 15 of the NPPF.*

8. The scheme for the ongoing maintenance of all areas of structure landscaping edged orange on Drawing No. 911\_100 shall include, but not be limited to, irrigation systems to aid with successful establishment and life expectancy. This shall be submitted to and agreed in writing by the Local Planning Authority prior to implementation.

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

9. All planting, seeding or turfing and habitat creation shown on the approved landscaping scheme shall be carried out in the first available planting season following the practical completion of the development with the exception of the structure landscaping shown on Drawing No. 911\_100 covered by the maintenance plan required by condition 8.

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

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

10. Prior to the first occupation of the development hereby approved a scheme for the ongoing maintenance of the areas of meadow grassland and other structural

landscaping within the development shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall provide for details of an agreed maintenance schedule for the duration of this permission.

*Reason: In the interests of the visual amenity of the area and to comply with Policies 26 and 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

11. No development shall commence until details of the internal access track linking the development hereby approved to that approved under planning permission DM/15/03141/FPA, has been submitted to and approved in writing by the Local Planning Authority. The approved details will thereafter be completed in accordance with the approved plans prior to first occupation of the holiday lodges to be permitted and retained thereafter.

*Reason: In the interests of highway safety in accordance with the requirements of policy 21 of the County Durham Plan.*

12. No development shall be occupied until details of the surface treatment and parking areas have 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.*

13. No development shall commence until such time as a scheme detailing the means of disposal of all foul and surface water generated by the development has been submitted to and agreed in writing by the Local Planning Authority. 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.*

14. No development shall commence until a flood evacuation plan for the site has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the agreed details.

*Reason: In the interests of flood safety and to accord with the requirements of policy 8 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework.*

15. No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of;

0730 to 1800 on Monday to Friday

0800 to 1400 on Saturday.

No internal works audible outside the site boundary shall take place on the site other than between the hours of;

0730 to 1800 on Monday to Friday

0800 to 1700 on Saturday.

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

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

*Reason: In the interests of the privacy/amenities of neighbouring occupiers and to comply with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

16. Prior to the first occupation the development hereby approved, details of all means of enclosure of the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

*Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

17. 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:

- A Dust Action Plan including measures to control the emission of dust and dirt during construction.
- Details of methods and means of noise reduction/suppression.
- Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
- Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
- Designation, layout and design of construction access and egress points.
- Details for the provision of directional signage (on and off site).

- Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
- Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
- Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
- Routing agreements for construction traffic.
- Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- Management measures for the control of pest species as a result of demolition and/or construction works.
- Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

*Reason: 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.*

18. 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 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, 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 suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.*

19. 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.*

20. 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.*

21. No lodge shall be occupied until full details of all external lighting, including details of design and appearance, luminosity and direction of light, 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 open countryside and to protect the amenity of neighbouring residents in accordance with policy 10 and 29 of the County Durham Plan and Part 12 of the NPPF*

22. No development shall commence until a scheme to minimise greenhouse gas emissions, with the aim of achieving as close as possible a zero carbon building, shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation and electric car charging points. The renewable and low carbon energy measures shall be installed in accordance with the approved details thereafter.

*Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in policy 29 of the CDP*

23. No lodge shall be occupied until full details of all cycle storage has been submitted to and agreed in writing by the LPA. Thereafter the development shall be carried out in accordance with the agreed detail and retained and made available for the storage of cycles for the duration of the development.

*Reason: To ensure the development maximises opportunities to make its location more sustainable in accordance with policy 8 of the CDP.*

24. No development shall commence until such time as full details of the means for restricting access to the site from the northern byway as identified on Drawing No COM083-BHA-XX-ZZ-DR-A-1200 Rev P01.17 has been submitted to and agreed in writing by the Local Planning Authority. No lodge shall be occupied until such time as the agreed detail has been installed in full and thereafter shall be retained for the duration of the use hereby approved.

*Reason: To protect the users of existing public rights of way in accordance with policy 26 of the County Durham Plan.*

25. The development hereby approved shall be carried out wholly in accordance with the requirements of Section H of the report entitled Ecological Appraisal: Brancepeth Manor Farm.

*Reason: To conserve protected species and their habitat in accordance with the objectives of Part 15 of the NPPF and policies 41 and 42 of the County Durham Plan.*

26. No development shall commence until such time as a method statement detailing appropriate working practices for development within close proximity to the SABIC Wilton to Grangemouth Ethylene Pipeline has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the agreed detail.

*Reason: To protect the safety of local residents in accordance with the aims of policy 29 of the County Durham Plan and Part 15 of the NPPF.*

27. No development shall commence until precise engineering detail of both the new passing place and the works to upgrade existing passing places along Wolsingham Road has been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved detail.

*Reason: In the interests of highway safety in accordance with the aims of policies 8 and 21 of the County Durham Plan and Part 9 of the NPPF.*

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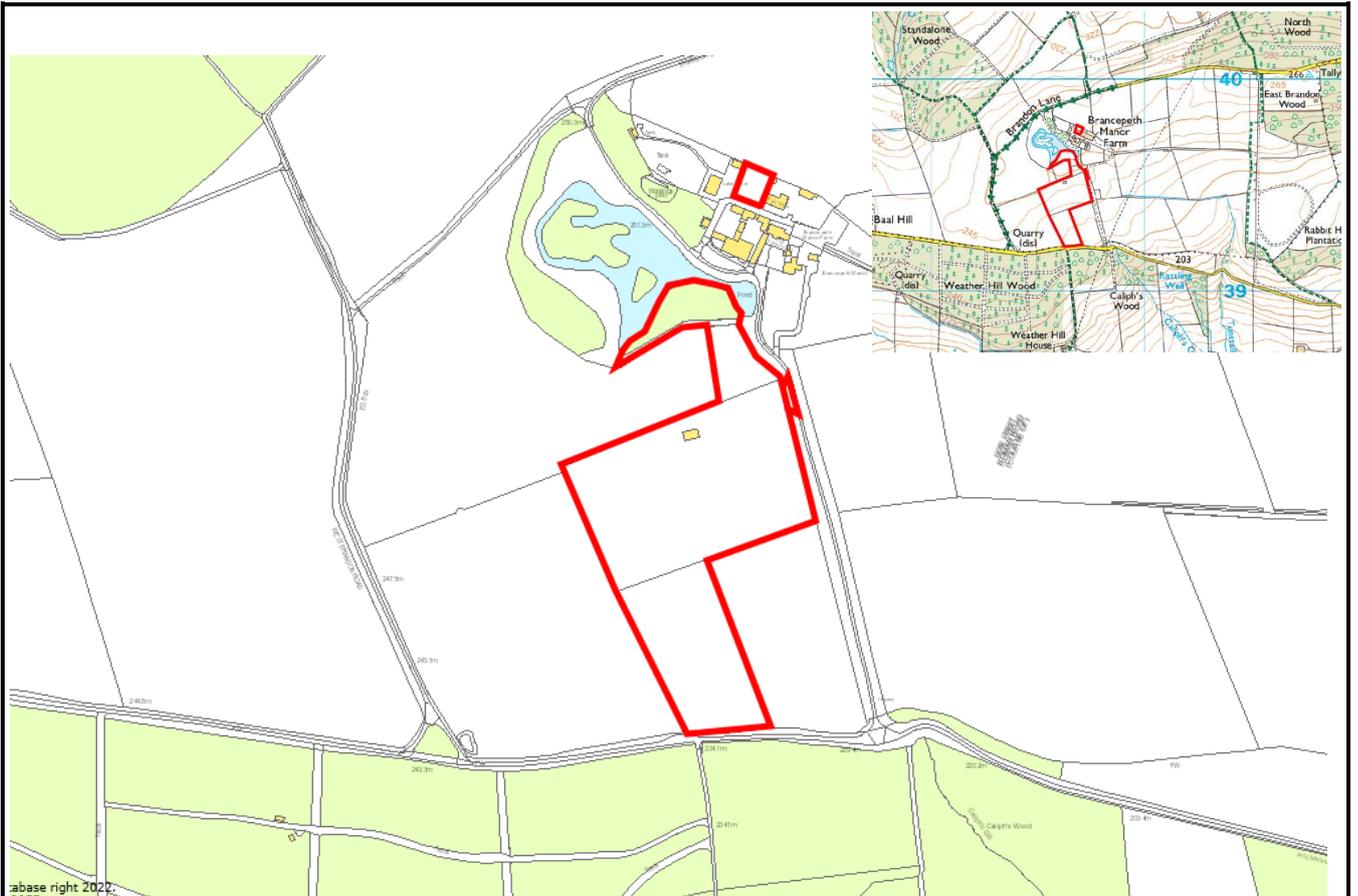
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses



<p><b>Planning Services</b></p>	<p>Extension to Chalet Park and two residential dwelling houses (amended description)</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Brancepeth Manor Farm Brandon Lane West Brandon Crook DL15 9AS</p>	
	<p><b>Date March 2022</b></p>	<p><b>Scale NTS</b></p>

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/21/01526/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	The erection of 5 No. 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted)
<b>NAME OF APPLICANT:</b>	Mr Geoff Robson
<b>ADDRESS:</b>	Land To The North Of 22 Coronation Avenue Blackhall Colliery TS27 4HR
<b>ELECTORAL DIVISION:</b>	Blackhalls
<b>CASE OFFICER:</b>	Michelle Hurton Planning Officer <a href="mailto:Michelle.hurton@durham.gov.uk">Michelle.hurton@durham.gov.uk</a> 03000 261398

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site lies within the settlement of Blackhall and is bound to the north and northeast by a railway embankment, to the northwest, west and southwest by residential properties, and to the southeast by Blackhall Welfare Ground which is defined within the Council's Open Space Needs Assessment (OSNA) as a park and recreation ground. The site is mostly brownfield and was previously a local authority garage site and as such some of the associated hardstanding still remains.
2. The site is currently accessed via The Coast Road (A1086) from both Hepscoth Avenue and Coronation Avenue.
3. The application site itself lies at the end of two rows of terraced properties mentioned above and slopes down to the edge of the coastal railway line. The site is visible from the nearby terraced properties, from properties in Enid Gardens to the northwest and also from Blackhall Welfare Ground. The site is not visible from the railway line due to the vegetation and height of the trees along the northern and north-eastern boundary.
4. The site is located within 400m of the Durham Coast SAC and Northumbria Coast SPA/RASMAR sites which form part of a wider European network of sites known as Natura 2000. Natura 200 sites are of exceptional importance in respect of rare, endangered, or vulnerable natural habitats and species within the European Community.

5. Any plan or project likely to have a significant effect on a Natura 2000, either individually or in combination with other plans or projects, is required to undergo an Appropriate Assessment to determine its implications for the site. The competent authorities (Durham County Council in this instance) can only agree to the plan or project after having ascertained that it will not adversely affect the integrity of the site concerned.

## The Proposal

6. The application seeks planning permission for the erection of 5 detached dwellings at the site with a double garage associated with plot 1. All properties would have three floors comprising a lounge, hall and kitchen at ground floor, three bedrooms and a bathroom at first floor, with a fourth master bedroom, en-suite and walk in wardrobe to the second floor. In curtilage parking is provided for all five dwellings. External walls of three of the dwellings would be finished in Forterra Moray Red Mixture Brick with the other two finished in Forterra Abbey Red Multi Facing Brick. All properties would be finished in Russell Grampian Slate Grey tiles to the roof and each would have access to a rear garden and parking provision to the front.
7. The site would be accessed from Coronation Avenue via the A1086 (Coast Road) located to the west of the site which is the main road through Blackhall.
8. The application is being considered by Committee at the request of a Councillor Rob Crute who believes that traffic generation and access issues warrant detailed consideration by the committee.

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## **PLANNING HISTORY**

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9. In January 2008, Easington District Council granted conditional planning approval for 4no Dwellings and 8no garages with an associated adoptable turning head/access road. Due to the economic downturn later that year but was never implemented and as such the permission subsequently expired on January 24/01/2011.
10. An application for outline planning permission relating to a revised scheme of 5 units was submitted in March 2015 and was subsequently approved in October 2015. Again, this permission was never implemented and as a consequence lapsed in 2018.
11. A similar application to that reflected in the current application relating to the erection of 5 dwellings was submitted in October 2020 but was withdrawn in April 2021.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

12. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
13. NPPF Part 2 - Achieving sustainable development. The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application

of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

14. NPPF Part 4 - Decision-making. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
15. 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.
16. 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.
17. 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.
18. 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.
19. 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.
20. 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.
21. 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.
22. 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:**

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) 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.
25. Policy 15 (Addressing Housing Need) establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
26. 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.
27. 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 should have regard to the

28. 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.
29. 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 sites 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 the proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
30. 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.
31. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards
32. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where 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 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.
33. Policy 32 - Despoiled, Degraded, Derelict, Contaminated and Unstable Land states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
34. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the

lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.

35. 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.
36. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
37. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
38. Policy 41 Biodiversity and Geodiversity states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
39. 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.
40. 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.
41. 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.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

42. The Highway Authority raised no objection noting that highway concerns identified in relation to the previously withdrawn application have been adequately addressed. However, noting the narrow roads accessing the site a condition requiring the submission, agreement and implementation of a construction management plan is advised.
43. Natural England objects advising that insufficient information has been submitted in support of the proposal, and as such the development could potentially significant effect the Durham Coast Special Area of Conservation (SAC), Northumbrian Coast and Teesmouth and Cleveland Coast Special Protection Areas (SPAs) and Durham Coast Site of Special Scientific Interest (SSSI).
44. Network Rail raises no objections subject to a number of conditions and informatives being attached to any approval granted given the closeness of the site to the railway line.
45. Northumbrian Water raises no objections subject to a pre-commencement condition requiring the submission, agreement and implementation of a detailed scheme for the disposal of foul and surface water from the development.
46. The Council's Drainage Section as Lead Local Flood Authority have not commented on the application.

### **INTERNAL CONSULTEE RESPONSES:**

47. Ecology Section raises objection to the principle of development advising that new C3 residential housing within the 0.4km HRA buffer zone would likely to lead to an increase in recreational disturbance on the qualifying species and habitats of the coastal SPA and SAC, and would therefore be in conflict with Measure 1 of the coastal avoidance and mitigation strategy and that the mitigation proposed by the applicant would be inconsistent with it.
48. Spatial Policy Section advises that due to the close proximity of the Durham Coast Railway Line, the Northumbria Coast SPA/Ramsar site and Durham Coast SAC that the development would need to be carefully considered in terms of the impacts on these European protected sites. In addition, they notes the requirements of policy 29 in relation to Nationally Described Spaces Standards and policy 15 that 66% of dwellings on sites of 5 units or more must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard.
49. Landscape raise concerns with the development given the limited amount of landscaping proposed within the scheme and considers that there would be permanent and adverse impacts created.
50. Environment, Health and Consumer Protection (Contaminated Land) considered the details and note that because the development constitutes a change of use to a sensitive receptor that a pre commencement condition is required for Phase 2 and 3 reports and also a Phase 4 verification report prior to occupation of the development.
51. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the proposals, noting that they agree with the findings regarding

BS8233:2014 levels to be exceeded at night-time due to passing trains. Conditions are requested to be applied to submit a noise mitigation report, and to regulate noise and environmental matters from construction works.

#### **PUBLIC RESPONSES:**

52. One representation letter has been received requesting the developer to contact them to advise what effect the development would have on access to their property as they live immediately adjacent to the site and access for work vehicles would be difficult.

*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/simpleSearchResults.do?action=firstPage>*

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

53. The applicant Mr Robson has owned the site since 2007, previously occupied by a number of garages, which had fallen into disuse, the site was/is an untidy eyesore in close proximity to the residential streets
54. In January 2008, Easington District Council granted conditional planning approval on this site for 4 No Dwellings and 8 garages with an associated adoptable turning head/access road. Due to the economic downturn later that year, the scheme was never built, despite receiving full building regulations approval. The permission subsequently expired without being renewed on January 24th, 2011.
55. Outline Planning Approval for a revised scheme of 5 units was applied for in March 2015 and was subsequently approved in October 2015, again for various reasons this approval has now lapsed.
56. The current proposal is to develop the site with 5 units on similar footprints to those previously approved, but over 2.5 storeys. This application will be for full approval rather than outline.
57. Since these 2 expired approvals the council have undertaken and implemented Habitat Regulations Assessments ( HRAs ) in relation to the nearby Durham Coastal SAC which states is considered a general presumption against any net increase in residential development within (a) 0.4 km buffer zone unless information and evidence to inform the HRA can be provided which is able to satisfactorily demonstrate that the proposed development will not adversely affect the integrity of the coastal European Protected Sites in question"
58. In this instance, although generally outside the 0.4km buffer zone and separated from this by a mainline railway and dense tree line, the application site falls within the zone due to the proximity of Blue House Gill a long-vegetated inlet to the north
59. The applicant feels that the benefits of tidying up and bringing back into use a derelict run-down brownfield site in close proximity to existing residential areas far outweighs the perceived harm to the Coastal special area of conservation and the sites separation from the protected area by a busy railway line forms a more natural barrier than any notional buffer zone
60. In this respect the applicant asks that members take this fact into consideration, together with the previously granted approvals, the highway improvements offered to the access and egress from the adjoining streets and the loss of an unkempt derelict area, in granting approval for this proposed development.

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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61. 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 including the impact upon the Northumbria Coast Special Protection Area and Ramsar, Durham Coast Special Area of Conservation, Teesmouth and Cleveland Coast Special Protection Area and Ramsar, impact on the character and appearance of the area, impact on residential amenity, impact on highway safety, contaminated land, drainage and other matters.

### Principle of the Development and its Impact upon the Northumbria and Cleveland Coast Special Protection Areas (SPA) and Ramsar, Durham Coast Special Area of Conservation (SAC) and Durham Coast Site of Special Scientific Interest (SSSI)

62. 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.
63. 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.
64. The application site is located within the settlement of Blackhall Colliery. It is not allocated for housing within Policy 4 of the County Durham Plan (CDP). Development of housing on unallocated sites within the built-up area should be assessed and determined against Policy 6. This policy sets out the following criteria:

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

- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
- b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
- c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
- d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
- e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;

f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;

g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;

h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;

i. where relevant, makes as much use as possible of previously developed (brownfield) land; and

j. where appropriate, it reflects priorities for urban regeneration.

65. In relation to criteria a) and b), proposed residential dwellings in this location are considered compatible with adjoining residential uses. There is no concern that it would result in inappropriate ribbon development, nor that it would be considered inappropriate backland development, as the site has ready independent highway access and can meet distance standards, which will be discussed in more detail elsewhere in the report. In line with criteria f), the site is noted as highly sustainable, being located within walking distance of a range of facilities and has ready access to sustainable modes of transport.
66. The development to erect five residential dwellings in a highly sustainable location would therefore be considered to comply with Policy 6 of the CDP.
67. However, the application site also lies within 400m of a range of protected sites comprising of the Northumbria and Teesmouth and Cleveland Coast SPAs and Ramsar, Durham Coast SAC and the and Durham Coast SSSI and therefore Policy 42 of the CDP, Conservation of Habitats and Species Regulations 2017 and the Habitats Regulations Assessment: Developer Guidance and Requirements in County Durham document all need to be taken into consideration when considering the acceptability of the principle of development.
68. The Conservation of Habitats and Species Regulations 2017, referred to as the 'Habitats Regulations' implement in Great Britain the requirements of the EU Directive on the Conservation of Natural Habitats and of Wild Fauna and Fauna, referred to as the 'Habitats Directive' (Council Directive 92/43/EEC) and protect areas classified under Directive 2009/147/EC referred to as the 'Birds Directive.' The regulations aim to protect a network of sites known as Natura 2000 that have rare or important habitats and species threatened at a pan European level in order to safeguard biodiversity.
69. Policy 42 of the CDP states that development that has the potential to have an effect on internationally designated site(s), 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. Paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
70. 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. In these exceptional circumstances, where these tests are met, appropriate compensation will be required in accordance with Regulation 68.

71. 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.

72. The Habitats Regulations Assessment undertaken for the County Durham Plan proposes a series of three measures to avoid likely significant effects on the coastal European Protected Sites. These being:

- Measure 1: General presumption against any net increase in residential development within 0.4km of the coastal sites
- Measure 2: Provision/enhancement of alternate natural greenspace to reduce the frequency of visits to the coastal sites by residents and hence reduce pressure on them
- Measure 3: Coastal access management and monitoring measures to reduce and monitor the effects of residents and those from a wider catchment who visit the coastal sites

73. It is considered that if within the 0.4km buffer new development resulting in any net increase in residential development, even if measures 2 and 3 of the strategy are implemented, may not be possible to conclude that no adverse effect would occur on the coastal European sites. There is therefore a general presumption against any net increase in residential development in this buffer zone unless information and evidence to inform the HRA can be provided by the proposer or applicant which is able to satisfactorily demonstrate that it will not adversely affect the integrity of the coastal sites in question.

74. A shadow habitats regulations assessment report by Naturally Wild Consultants Ltd was submitted in support of the planning application which proposed mitigation measures to contribute to Measures 2 and 3. However, noting the above this conflicts with the general presumption against new net residential development as set out in Measure 1.

75. In turn, there is no provision within the Coastal Avoidance and Mitigation Strategy to avoid Measure 1 by simply offering an enhanced financial contribution to Measures 2 and 3. The DCC Developer Guidance document details the types of residential development within the 0.4km buffer which can be considered to not result in adverse impacts. These are largely purpose-built residential schemes falling within C2 uses (residential institutions) that involve an element of close personal care, where occupants are considered unlikely to be regularly visiting the coast for recreation and dog exercise. This does not include C3 residential units.

76. As the proposal is considered likely to lead to an increase in recreational pressure upon the internationally designated site, the Council's Ecologist has carried out an Appropriate Assessment of the scheme which concluded that the introduction of 5 detached dwellings falling within C3 use class within 0.4km of the HRA is considered likely to increase recreational disturbance on the qualifying species and habitats of the SPA and SAC, and would therefore be in conflict with Measure 1 of above and that the mitigation proposed by the applicant would be inconsistent with the coastal avoidance and mitigation strategy, policy 42 of the CDP and the Conservation of

Habitats and Species Regulations 2017 given the nature of the development is such that the impacts could not be adequately mitigated.

77. Natural England have objected to the application and consider that insufficient information has been provided in order to demonstrate that the application would not have significant effects on the Durham Coast SAC, Northumbrian and Teesmouth and Cleveland Coast SPAs and the Durham Coast SSSI. Natural England requested further information including details of the mitigation measures proposed to offset potential impacts on the SAC and SPAs, including a specific figure for the proposed financial contribution to wider strategic mitigation measures and an assessment of potential impacts on SSSI features, where these do not overlap with SAC or SPA interest features.
78. However, the applicant did not provide any further information in this regard and as such Natural England maintain their objection. To grant planning permission contrary to Natural England's advice would require the local planning authority to notify Natural England under Section 281(6) of the Wildlife and Countryside Act 1981 (as amended) regarding the terms on which it is proposed to grant the permission and how, if at all, the LPA took account of Natural England's advice. In any event, the grant of planning permission would be contrary to the Habitats Regulations.
79. Notwithstanding the above, officers consider that the erection of 5no dwellings within 0.4km of the SPA and SAC would have an adverse impact on the SPA and SAC which could not be mitigated and as such is not acceptable in principle. The development does not therefore comply with Measure 1 of the coastal avoidance and mitigation strategy, the Conservation of Habitats and Species Regulations 2017, policy 42 of the CDP or paragraph 182 of the NPPF.

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

80. Policy 6c) of the CDP states that development should not be approved where it would result in the loss of open land that has recreational, ecological or heritage value or contributes to the character of the locality which cannot be adequately mitigated or compensated for. It also states under criteria d) that development should be appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.
81. 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.
82. The site lies to the north-east of Coronation Avenue and currently comprises of a mix of hard standings, rough grass, and has an appearance of derelict land with overgrown vegetation and random surfaces of concrete, bricks and soil. There is an existing outhouse in the southern corner and the proposed development would remove the outhouse and introduce 5no two and a half storey detached dwellings and a detached garage to the northwest. The frontage of the dwellings would incorporate hard surface with 2no parking spaces for each dwelling. A turning head and 2 visitor parking spaces would be positioned between plots 2 and 3 with a further 2no. visitor spaces proposed adjacent to number 22 Coronation Avenue.

83. The layout incorporates a small area of green space to the northwest to supplement lawned private rear gardens to the dwellings and it is noted that there are two trees located to the rear of the central visitor parking. Policy 39 (Landscape) of the CDP states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur.
84. The Landscape Section considers that the proposed layout would create a stark arrangement of hard surfaces and building facades given the minimal proposed landscaping on the west facing frontages. The proposed buildings are perpendicular to the existing terraces and are contrary to the existing urban pattern of development in this locale. Therefore, without adequate landscape mitigation it is considered the development would result in significant adverse and permanent landscape effects at site level.
85. The Landscape Section notes that the development would have limited visibility in the context of the wider landscape but would be visible at close range in oblique views from adjacent residences and that there are views across the existing site towards the coast and the Area of Higher Landscape Value (AHLV) to the north-east. The Landscape Section consider that these views would be permanently concealed by built development and that the visual effects would be adverse and permanent given the limited amount of landscape mitigation proposed. In addition, it is considered that the proposed design does not have a green frontage and is dominated by hard surfaces. The introduction of green elements was advised such as trees, shrubs and grass along the frontages of the proposed dwellings. However, no amendments were received.
86. The dwellings are simple in appearance, with a proposed red brick to be used in Plots 2 and 4 and with a slightly varied Red Mixture to be used in plots 1, 3 and 5. All roofs would be finished in Russell Grampian Grey Slate and include chimney detail. To the rear the properties include a small flat roofed dormer window and bi-fold doors at ground floor level to provide access into the rear garden area from the open plan kitchen/dining room. Doors and windows incorporate heads and cills. Boundary treatments to the rear would consist of 1.8 metre high close boarded timber fencing with acoustic fencing to be used to the boundary with the existing railway line. The front incorporates open plan block paved hardstanding areas finished in Marshalls Driveline Nova Smooth Brindle, as are the 4no visitor parking spaces. The provision of bin storage areas is provided for each of the properties, and this would be located within the rear gardens.
87. Officers note that the dwellings proposed are at a height of two and a half storeys, which is higher than the properties within the area, which are predominantly two storey terraced and semi-detached properties. However, the land falls away to the east and as such the increase in height would not have an adverse impact upon the character and appearance of the area.
88. Whilst the concerns of the Council Landscape Section are noted, it is not considered that the development would cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and as such accords with the aims of policy 39 of the CDP and paragraph 174 of the NPPF.
89. Noting the proximity of the rail line to the east, Network Rail were consulted and raise no objection to the application in principle, subject to planning conditions requiring the submission and agreement of additional information relating to details of all surface and foul water arising from the development which must be collected and diverted away from Network Rail property, details of excavations and earthworks to be carried

out near to the railway undertakers boundary fence, details of fencing which must be trespass proof, a method statement outlining means of construction, use of vibro-impact machinery, risk assessment and construction management plan and details of a landscaping scheme.

90. In light of the above the proposals are considered to be in keeping with the general form of development in the local area, which is noted as largely consisting of two storey terraced properties laid out in traditional linear format, finished in brick materials. On this basis, the proposals are deemed to accord with requirements set out in policies 6d) and 29 of the CDP as the dwellings would be appropriate in terms of scale, design and layout to the character, function, form and setting of the settlement.

#### Impact on residential amenity

91. 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 and outdoor garden areas are outlined within the Residential Amenity Standards Supplementary Planning Document (SPD).

92. 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 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.

93. Residential properties at Coronation Avenue and Hepscott Avenue frame the site to the south with those at Enid Gardens framing the site to the west.

94. In assessing the layout of the site it is noted that distance standards required by the Council's SPD can be achieved with approximately 14.7m between the principal elevation of plots 1 and 2 and the gable elevation of 22 Hepscott Avenue, and approximately 18.2m between the principle elevation of plots 3 to 5 and the gable elevation of 22 Coronation Avenue. The blank gable of plot 1 faces onto the rear garden areas of the properties within Enid Gardens, however, this is in excess of 13m required by the SPD. Therefore, it is considered the development would not have any adverse impact upon the residential amenity of existing or proposed residents.

95. Based on this assessment the proposed development is considered to suitably protect residential amenities of existing neighbouring properties, and with proposed dwellings considered to be appropriate in scale and height, there are no concerns that the development would result in issues of loss of light, overshadowing or overbearing impacts.

96. In terms of internal space standards, it is noted that policy 29 of the CDP requires all new residential development to meet the Nationally Described Space Standards (NDSS). This recommends that two storey 4-bed dwellings for five persons should provide a total internal space of 97sqm and that three storey 4-bed dwellings for five persons should provide total internal space of 103sqm. Given the development proposes 2.5 storey dwellings the proposed residential units would comply with the

nationally described space standards with each of the dwellings providing in excess of the required amount at 107sqm. It is noted that the application was amended during the course of the application to remove a 4<sup>th</sup> bedroom in each property which failed to meet the minimum space standards. Consequently, all of the bedrooms in each property now meet minimum space standards. Therefore, it is considered that an adequate level of amenity would be provided for residents in accordance with policy 29 of the CDP.

97. The proposals have also been designed to meet the needs of older people and people with disabilities by ensuring that all of the properties meet M(4)2 Building Regulation standards. Whilst it is proposed for all properties to meet the standard, policy 15 requires only 66% of those dwellings proposed to meet the M4(2) requirements. Given that all of the properties meet the minimum standard the development would exceed the level of provision required through policy 15.

98. It is noted that the rear garden areas of plots 1, 4 and 5 would be below the required size stated within the SPD as they are less than 9m wide or deep. However, given the location of the site adjacent to terraced properties to the west, which themselves have limited outdoor amenity space it is considered that in this instance the size of the outdoor space is acceptable.

99. In summary, the proposals have been assessed against SPD guidance and are considered to meet amenity distance standards and mutual privacy is considered to be suitably protected. The proposed design and scale of the properties and their location and relationship to nearest properties is considered sufficiently appropriate to ensure that the proposal would not be visually dominant or intrusive on nearest residents. Spaces standards and accessibility standards have also been largely complied with to ensure suitable amenity standards for future occupiers. The proposals are considered to accord with policy 29 and 31 of the County Durham Plan and the SPD in this regard.

### Highway Safety and Access

100. Policy 6 of the CDP requires that development will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. Policy 21 states that development should: c) ensure that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements. In relation to parking the policy states that car parking at residential developments should ensure that a sufficient level is provided for both occupants and visitors, to minimise potential harm to amenity from footway parking.

101. The proposed layout indicates that it would be possible to provide a public highway and turning head to adoptable standards accessed from both the front and rear of Coronation Avenue. There is a double garage associated with plot 1 and a private shared surface area to the front of plots 1 and 2.

102. The Highway Authority advises that there would be no objection to the proposed layout in terms of highway safety. The site has been subject to previous applications and the highways comments provided in respect of these previous applications have been satisfactorily incorporated into the scheme given that the proposed adoptable highway layout remains unchanged from the previous application.

103. The 4.8 metres wide road layout and associated 1 metre wide service strip/vehicular access crossing is acceptable. In turn, the additional visitor parking bays are welcomed to help mitigate the loss of the informal parking arrangement for which it is understood surrounding residents have previously used the site.
104. Due to the narrow roads accessing the site, the Highway Authority has requested that a Construction Management Plan be submitted prior to the commencement of development should planning permission be granted which could be secured via planning condition.
105. The proposals could be safely and satisfactorily be accommodated without adverse impact upon highway safety and as such is considered compliant with policies 6 and 21 of the County Durham Plan and paragraphs 110 and 111 of the NPPF.

### Contaminated Land

106. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) of the CDP 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.
107. Contaminated land section has assessed the site, historical maps and Phase 1 Desk Study Report and agree with the recommendation of the report that a Phase 2 should be undertaken. The Contaminated Land officer considers that a condition should apply requiring reports for phase 2 and 3 analysis of potential ground contamination on site and Phase 4 for remediation works in accordance with NPPF part 15 and CDP policy 32.

### Drainage

108. Policy 35 (Water Management) requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
109. 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 defense infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
110. Northumbrian Water have commented stating that the details within the application does not provide sufficient detail with regards to the management of foul and surface water from the development for them to be able assess their capacity to treat the flows from the development. Therefore, should approval be granted they have requested a planning condition be attached requesting a scheme for the disposal of foul and surface water from the development be submitted to the LPA for further consideration
111. Therefore, subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policies 35 and 36 of the CDP.

## Other Matters

112. Policy 27 of the CDP requires new residential development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located in a residential area. Similar, requirement in terms of broadband connectivity and broadband connectivity would be delivered in this wider context. As such it does not appear that there are any significant constraints to delivering the connectivity in accordance with the requirements of policy 27 although the submission and agreement of precise detail in this regard could be secured through planning condition. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policy 27 of the CDP.
113. Policy 29 of the County Durham Plan criteria c and d require that developments should seek to minimise greenhouse gas emission by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and should minimise the use of non-renewable and unsustainable resources.
114. The applicants have confirmed that at this stage of the proposal they have not fully developed their sustainable energy strategy. However, the applicant has advised that the intention is to use renewable energy sources in all dwellings and that there are several possible options in this regard, the most likely being the use of ground and air source heat pumps and solar PV panels. The submission, agreement and implementation of a detailed scheme in this regard can be secured through planning conditions. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of policy 29 in this regard.

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## **CONCLUSION**

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115. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise.
116. In summary, whilst it is considered that the scale and design of the scheme is considered acceptable, policy 42 of the CDP sets out criteria for development which has the potential to have an effect on internationally designated sites. In addition, paragraph 182 of the NPPF states that the presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.
117. Following an appropriate assessment, it is considered that the proposed development would have an adverse and detrimental impact upon internationally designated sites, in particular the Northumbria and Teesmouth and Cleveland Coast SPAs and Ramsar, Durham Coast SAC and the and Durham Coast SSSI, contrary to policy 42 of the CDP, paragraph 182 of the NPPF and Conservation of Habitats and Species Regulations 2017 and as such, is recommended for refusal.

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## **RECOMMENDATION**

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That the application be **REFUSED**:

118. The Local Planning Authority considers that the development would result in a detrimental and adverse impact upon the biodiversity value of the Northumbria Coast SPA and Durham Coast SAC through increased recreational activity contrary to County Durham Plan policy 42, paragraph 182 of the NPPF, the Conservation of Habitats and Species Regulations 2017 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  
Conservation of Habitats and Species Regulations 2017 (as amended).  
The National Planning Policy Framework (2021)  
National Planning Practice Guidance Notes  
County Durham Plan  
Residential Amenity Standards SPD (2020)  
Habitat Regulations Assessment: Developer Guidance and Requirements in County Durham



**Planning Services**

DM/21/01526/FPA The erection of 5 no 2.5 storey dwellings with associated hard and soft landscaping, boundary treatments and car parking (Revised and Resubmitted) at Land To The North Of 22 Coronation Avenue Blackhall Colliery TS27 4HR

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**Date** 08 March 2022

**Scale** NTS

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/21/03682/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Demolition of the Mainstreet USA offices and the erection of a new build 2-4 storey workplace building and associated landscaping.
<b>NAME OF APPLICANT:</b>	The Hanro Group
<b>ADDRESS:</b>	St Cuthberts House, Diamond Terrace , Durham DH1 5SU
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	Louisa Ollivere Senior Planning Officer Telephone: 03000 264878 <a href="mailto:louisa.ollivere@durham.gov.uk">louisa.ollivere@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The site lies north of Durham City Centre off Framwellgate Peth and adjacent to the railway viaduct. The site is currently occupied by a two storey building formerly offices for Mainstreet USA with an adjacent car park that serves the existing building. A residential terrace and associated gardens adjoin the site. A footpath serving further residential properties at nearby Sidegate also lies adjacent the site. Access to the site is gained from a shared access from Framwellgate Peth north of the site, the access is shared with residential properties of Diamond Terrace and a recently developed office occupied by the Probation Service. The site is situated in the Durham Conservation area and is adjacent to a grade II listed Fram Well Head.

#### The Proposal

2. Permission is sought for a new workplace building to accommodate private and public offices on all floors with part of the ground floor section facing onto Framwellgate Peth intended as a café/restaurant use. Employment levels are not detailed as potential occupiers are unknown, however the building could accommodate approximately 70 persons max.
3. The building would be set over four floors to include a lower ground set back into the site and a smaller second floor with mansard roofs. The building would be formed in a cranked L shape around the site natural boundary line and would join up with the ground floor of 1 Diamond Terrace. The building would step back at both the front and rear in blocks.

4. The outer skin of the building would have cementitious large format panelling in a light grey finish at street level with upper floors in red hung clay tiles. The windows are proposed to be timber/aluminium composites with sills, surrounds and dormer windows in a colour to match the windows or clay tiles. The larger area of glazing would be on the south-east elevation. An entrance feature doorway can be found in the south-west elevation onto the Framwellgate Peth streetscape. All windows are to be set back into the elevation.
5. In respect of sustainability, the design incorporates features such as hybrid ventilation, air source heat pumps and has been designed to achieve good levels of daylight.
6. The scheme incorporates three areas of landscaping. The first is the regeneration of land to the south of the proposal with the provision of a stone paved area for standing/seating and a small garden. The second involves coloured paving directly off Framwellgate Peth to provide access to the ground floor commercial unit, and the third is coloured paving towards the rear of the building providing access to the central building core. Roof terrace areas are also proposed.
7. A total of 5 car parking spaces are proposed to be located along the access road running adjacent to the rear elevation, 2 of which would have access to an electric charging point. The existing access to the site is to be used, however the access is proposed to be widened as part of the scheme to allow better access for emergency vehicles. The development would accommodate cycle storage for 17 bicycles along the rear elevation of the scheme off the access road. Bin storage is proposed at the rear of the building.
8. This application is reported to Committee upon the request of the City of Durham Parish Council in order that the Council may raise their concerns with Members.

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## **PLANNING HISTORY**

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9. 4/07/01050/CA Demolition of St Cuthberts House and associated enclosures and offshoots to side of existing dwelling in association with erection of 5 no. terraced dwellings (Withdrawn).
10. 4/07/01051/FPA Demolition of St Cuthberts House and offshoots to side of existing dwelling and erection of 5 no. terraced dwellings of two and three storeys together with communal landscaped garden (withdrawn).
11. 4/08/00715/FPA Demolition of St Cuthberts House and offshoots to side of existing dwelling and erection of 5 no. terraced dwellings of two and three storeys together with communal landscaped garden (revised and resubmitted) (withdrawn).
12. 4/08/00716/CAC Demolition of St Cuthberts House and associated enclosures and offshoots to side of existing dwelling in association with erection of 5 no. terraced dwellings (revised and resubmitted) (withdrawn).
13. 4/09/00508/FPA Demolition of St Cuthberts House and off-shoots to side of existing dwelling and erection of 5 no. terraced dwellings of two and three storeys together with communal landscaped garden (revised and resubmitted) (Approved).

14. 4/09/00509/CAC Demolition of St Cuthberts House and off-shoots to side of existing dwelling and erection of 5 no. terraced dwellings of two and three storeys together with communal landscaped garden (revised and resubmitted) (Approved).
15. 4/12/00669/FPA Demolition of St Cuthberts House and off-shoots to side of existing dwelling and erection of 5 no. terraced dwellings of two and three storeys together with communal landscaped garden (revised and resubmitted) (Approved).
16. 4/12/00695/CAC Application for a new planning permission to replace extant planning permission 4/09/00509/CAC - Demolition of St Cuthberts House and off-shoots to side of existing dwelling and erection of 5 no. terraced dwellings of two and three storeys together with communal landscaped garden (revised and resubmitted) (Approved).
17. On neighbouring land to the north-east an office building was recently developed, replacing a building known as Framwell House (DM/18/01115/FPA).

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

18. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
19. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
20. *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.
21. *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.

22. *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
23. *NPPF Part 7 - Ensuring the vitality of town centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
24. *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.
25. *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.
26. *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.
27. *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.
28. *NPPF Part 15 - Conserving and enhancing the natural environment.* The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate. Amongst other aims decisions should ensure that new development is appropriate for its location taking into account the likely effects of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site to impacts that could arise from the development. Noise should be mitigated and reduced to a minimum potential adverse impact to avoid noise giving rise to significant adverse impacts on health and quality of life. Decisions should ensure that new development can be integrated effectively with existing businesses. Existing businesses should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business could have a significant adverse effect on new development the applicant should be required to provide suitable mitigation.
29. *NPPF Part 16 – Conserving and enhancing the historic environment.* Heritage assets range from site 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 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.

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

30. 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; climate change; design: process and tools; effective use of land; historic environment; land affected by contamination; land stability; natural environment; neighbourhood planning; noise; town centres; and use of planning conditions.

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

The County Durham Plan (2020) (CDP)

31. *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.
32. *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
33. *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 should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Delivery Plan.
34. *Policy 22 Durham City Sustainable Transport* seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area
35. *Policy 26 Green Infrastructure* states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.

36. *Policy 29 Sustainable Design* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. 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'.
37. *Policy 31 Amenity and Pollution* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where 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 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.
38. *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.
39. *Policy 35 Water Management* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
40. *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.

41. *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.
42. *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.
43. *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.
44. *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 values (OUVs) 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.
45. *Policy 56 Safeguarding Mineral Resources*. Sets out that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area unless certain exception criteria apply.

#### **NEIGHBOURHOOD PLAN:**

The Durham City Neighbourhood Plan (2021) (DCNP)

46. *Policy S1: Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions* sets out the economic, social and environmental criteria that development proposals will be required to meet.
47. *Policy H1: Protection and Enhancement of the World Heritage Site* requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the

current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need 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 and create new views and vistas.

48. *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
49. *Policy G1: Protecting and Enhancing Green and Blue Infrastructure* seeks to support developments that retain existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value and developments that provide additional green or blue assets, particularly if there is an identified deficiency. Any new or replacement assets must be appropriate to the context and setting. The policy requires developments to protect and enhance public rights of way and footpaths and green corridors. It offers support to proposals that provide net gains for biodiversity. The policy requires features of geological value to be protected. The policy seeks to protect and enhance the banks of the River Wear by supporting proposals with desirable access that do not have significant impacts on current assets. The policy also seeks to protect dark corridors by ensuring developments minimise lighting in such areas.
50. *Policy E2: Other Employment Sites* Offers support to the development of Fowler's Yard (Durham Arts Quarter) and for the development of windfall brownfield sites for mixed use office and business and residential units of all types.
51. *Policy E4: Evening Economy Policy* supports development that would promote/support the early evening and night time economy provided that they contribute to the vitality and viability of the centre and add to /improve the cultural and diversity offer. Such developments are required to provide a strategy for public safety and provide evidence in relation to impacts upon amenity.
52. *Policy D1: Land for Residential Development* supports housing development at Main Street USA or The Avenue which can be either new build or conversion.
53. *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

*The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at <https://www.durham.gov.uk/cdp>*

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## CONSULTATION AND PUBLICITY RESPONSES

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### STATUTORY RESPONSES:

54. *City of Durham Parish Council* – Strongly object to the proposed development on the following grounds:
55. Policy D1 of the DCNP allocates the application site for housing development. Therefore, the proposed commercial redevelopment is in clear conflict with the provisions of DCNP policy D1.
56. The proposed development will significantly change the character and appearance of this part of the conservation area. The new building would result in a much higher density of development. The footprint, height, scale and massing of the development would be substantially greater than the building which currently occupies the site. It is proposed to replace a 1.5 storey property which provides approximately 200m<sup>2</sup> of commercial floorspace, with a 2-4 storey property providing almost 900m<sup>2</sup>, that could accommodate 62-70 people. The design and appearance of the proposed new building, whilst attempting to follow the same building line as Diamond Terrace, does not reflect that of its immediate surroundings. The inappropriate scale and massing of the proposed development, alongside the increased height, would have an overbearing impact on the other properties situated on Diamond Terrace. It is considered this would result in substantial harm to the significance of this part of the conservation area.
57. Policy 44 of the CDP is clear that development will be expected to sustain the significance of designated and non-designated heritage assets. Also, that great weight will be given to the conservation of all designated assets and that these assets should be conserved in a manner appropriate to their significance. This is also reflected in DCNP policies H2 and S1. Therefore, in accordance with national and local planning policy, planning permission should be refused unless it can be demonstrated that the harm is necessary to achieve substantial public benefits that outweigh the harm. The Parish Council does not consider that this information has been provided as part of the planning application.
58. The level of parking provision falls below the parking standards identified within the County Durham Parking and Accessibility Standards (2019) and therefore conflicts with the provisions of CDP policy 21.
59. Lack of clarity over uses proposed.
60. A hot food takeaway in this location would not accord with the requirements of CDP policy 30 or DCNP policy E4, particularly with regard to the impact on residential amenity.
61. *Highway Authority* – Consider that the proposal for 5 spaces is acceptable given the location of the site, in close proximity to the centre of Durham and the train station. However, it is advised that the applicant should also look to provide Electric Vehicle charging into some of the spaces associated with the development. It is noted that 17 cycle parking spaces are proposed. Further details of these spaces are also required. The Officer recommends that it would be beneficial for these spaces to be covered to allow cycles to be parking in inclement weather. The Officer advises that DCC Parking Standards say 2 disabled spaces should be provided where the total number of spaces is less than 10. However, the way the spaces relating to this development are laid out, parallel

to the carriageway it is not considered likely that these could be accommodated without impeding on the carriageway and therefore the Officer on balance accepts the provision of standard parking spaces only.

62. *Network Rail* – Have no objection in principle to the development, but outline some requirements which must be met, especially with the proximity of the development to a steep railway embankment and high voltage overhead line equipment that forms the East Coast Main Line. These include a condition to agree a demolition and construction methodology, use of crane, plant and machinery, drainage and boundary treatments in advance of works commencing and standard railway informatives.
63. *The Coal Authority* - Have no objection subject to conditions to ensure intrusive site investigations and any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, be implemented on site and confirmation that the works have been certified by a suitably competent person.
64. *Historic England* – Have no comments to make.

**NON -STATUTORY RESPONSES:**

65. *Business Durham* – Views awaited.

**INTERNAL CONSULTEE RESPONSES:**

66. *Spatial Planning* – Advise that the site is an unallocated site within the CDP, but note that it is however located within close proximity of the city centre where a mix of uses are within close proximity. As the site is unallocated it is advised that assessment against Policy 6 (Development on Unallocated Sites) is required. The Officer advises that the site is clearly within the built-up area of Durham City and advises that the development will need to comply with criteria a-j of Policy 6.
67. As the site is located outside of the defined Durham City centre it is advised that Policy 9 (Retail Hierarchy and Town Centre Development) of the CDP is applicable, this sets out a retail hierarchy, and seeks to protect the vitality and viability of all centres within the hierarchy.
68. The Officer advises that Policy 9 of the CDP identifies that proposals for main town centre uses, as defined by the NPPF, not located within a defined centre will be required to provide a sequential test. This reflects advice within the NPPF, paragraphs 87 and 88. It is advised that the proposal would constitute a main town centre use (Class E(g) office space, Class E(b) food and drink which is mostly consumed on the premises and Class E(c) financial and professional services. Given the sites location, within 300m of Durham City Centre, the Officer notes that it would constitute an edge of centre site requiring justification.
69. The Officer notes from the sequential information provided that there are sequentially preferable units vacant within the city centre, and that the applicants claim that none of the vacant units available are capable of offering the comparable amount of floorspace to the application proposals and that it has not been possible to disaggregate the uses, stating that there are specific operational and viability requirements which mean the E(b) and E(c) space need to form part of the wider office development.

70. The applicant's justification is accepted by Officers, particularly since it is noted that the existing site has permission for office development. The Officer considers that there is no obvious site where this can be accommodated within the city centre and it would not be logical for the applicant to consider disaggregation of the different elements of the scheme. It is also noted that the site is within close proximity of the city centre and also the railway station, in this regard whilst not located within the city centre, the site is seen as a highly sustainable location. Policy Officers therefore conclude that the proposals would be in accordance with Policy 9.
71. With regards to the implication of the Durham City Neighbourhood Plan (DCNP) Policy (D1), it is noted that the application site is specifically referenced in Policy D1 which states that housing development on the Main Street USA site will be supported. It is advised that the supporting text to the Policy identifies that the site could provide for 5 terraced houses. Whilst the Policy supports housing on the site, the Officer is of the opinion that it does not preclude other uses coming forward, subject to a proposal's acceptability against other relevant policies, and in that respect, it is not viewed as an allocated housing site. Reference is made to paragraph 180 of the Inspectors Report of the DCNP which highlights a main modification to D1 following Examination, within his report, the inspector clarifies that the Plan is not formally allocating the site. This led to a main modification to Policy D1 that removed reference to the site being allocated.
72. The Officer advises that The CDP provides details of how the County's Local Housing Need (LHN) will be met through housing allocations and these allocations are based on significant evidence including an understanding that the site is available to come forward to ensure delivery, which in this instance appears not to be the case. It is advised that the Main Street USA site identified in Policy D1 is not required to meet the County's LHN and as such would be considered as a windfall site if it came forward for housing as supported through Policy D1. It is also noted, that given that the site is in office use and the development proposes redevelopment for offices, albeit on a larger footprint, the principle of office development has already been established on part of the site.
73. Given all of the above, whilst Officers note that there would be merit to the site being developed for housing as per Policy D1, the policy would not preclude the site coming forward for the proposed use.
74. *Design and Conservation Officer-* Points out that the proposed development site lies within the Durham City Centre Conservation Area and within the setting of numerous heritage assets. It is recommended that the impact of the proposed development on the character, appearance and setting of those assets should be a primary consideration in the determination of the application.
75. The Officer considers that the development directly addresses the domestic scale residential streets of Diamond Terrace and Sidegate. The Officer considers that within the immediate context of the site is the ongoing development of Milburngate Phase 2 which includes larger, commercial scale development.
76. In respect of heritage assets, the Officer notes that the site is located within the north-western part of Durham City centre conservation area and adjacent to the Grade II\* listed railway viaduct and Fram Well Head (Grade II). The Officer also noted that the site lies within the inner setting of the Durham Castle and Cathedral World Heritage Site (WHS), the boundary of which is defined in the World Heritage Site Management Plan.

77. The Officer is aware that a previous application for demolition of the building and erection of 5no. terraced dwellings was originally approved in 2008 and then permission renewed in 2012.
78. The Officer suggests that the principle of demolition of the building has been established previously, and therefore, the design and conservation team would not object to the proposed demolition. The Officer considers that the redevelopment of the site offers an opportunity for enhancement in this part of the conservation area.
79. It is the view of the Officer that the proposed scale and massing broadly reflects that previously approved, seeing a terrace bookended by 3 storey development adjacent to Framwellgate Peth. Whilst this proposal is for a workplace building, the Officer considers that externally the building draws upon the vernacular architecture of the adjacent residential, terraced housing. It is considered that the proposal responds to and works positively with the existing topography, reinforces the existing building line and gives strong definition to the street through active built frontage. The Officer considers that the architectural approach is locally inspired, taking reference from and providing a contemporary interpretation of the local vernacular, with a vertical rhythm and fenestration pattern. However, it is recommended the applicant revisit the material and colour palette of the roof area to ensure it sits appropriately adjacent to the existing terraced housing and amongst the wider context historic roofscape.
80. Whilst the proposed development would result in a change to this part of the conservation area, it is considered that the change is not considered harmful to the character and appearance of the street, and broadly reflects the scale and massing of development previously approved.
81. It is concluded that the proposed development is considered to meet the requirements set out by national and local policy, and subject to the recommended amendments, therefore there is no objection to the proposal from a design and conservation perspective.
82. *Ecology* - Advise that the bat survey is sufficient to inform the proposal and no further survey is required. It is recommended that that adherence to the contents of section 8 of the report and the attached Method Statement be a condition on any approval.
83. *Landscape Officer* – Requests that a detailed landscape scheme is needed and should be made subject of condition.
84. *Trees Officer* - Advises that the proposed development should not influence nearby tree cover as mature trees are outside the site boundary and separated by a cobbled street and cut through leading to Sidegate, however, shading may be problematic due to leaf cover from mature tree stock situated to the south. The Officer advises that vegetation which surrounds the site is poor and does not contribute to the site or the conservation area and that no trees within the site boundary warrant individual tree preservation orders.
85. *Environmental Health (Nuisance)* - Officers advise that the proposal is not sensitive but is in a sensitive area, with numerous sensitive receptors in close proximity of the site. The main concern associated with this proposal is noise emitted during operation impacting upon the amenity of nearby sensitive receptors. Upon review of the noise impact submitted by Apex acoustics, the Officer requires conditions in relation to noise levels, to ensure nearby sensitive

receptors are not impacted by this development. With such a condition the Officer is satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.

86. *Environmental Health (Contamination)* - recommends conditions to ensure that no development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority and that further investigations and remediation are undertaken if required and appropriately verified. Informatives are also required in relation to unforeseen contamination being encountered.

#### **PUBLIC RESPONSES:**

87. A total of 26 letters of consultation were sent out to surrounding residents and a site notice posted. This has resulted in 12 letters of objection from local residents and The Sidegate Residents' Association.

88. The concerns of local residents are summarised as follows:

- The character of the area will change from predominantly residential to predominantly commercial.
- The planning proposal is not allocated as a development in the CPD and therefore for the proposal to be successful, it has to be 'within a built-up area, or outside the built-up area but well related to a settlement,' The proposal does not mention Sidegate, but does not relate the application site to it. Instead, they relate the site to the City Centre developments along the riverside, where scale would not be an issue.
- Sidegate is a rare surviving medieval street that contributes to the character and appearance of the City of Durham Conservation Area and therefore the City as a whole. It is a designated Heritage Asset. Increasingly it is being negatively impacted by cumulative effects of surrounding development and thus there is a strong case for Sidegate to be protected from further developments that are inappropriate in terms of design, size and scale.
- The proposal is not domestic scale but akin to larger developments in the city.
- The proposal is not sympathetic to the 2 streets of Victorian houses.
- The height should be reduced to two storeys to fit in with the terraces.
- The building will tower above the houses and block out much needed light, especially in summer months.
- Unlike now, there will be no break in the 33 metres long development and therefore, no direct light coming from the NW onto the path and gardens nearest to the development, which are key features of the Terrace.
- The proposal will dominate the Sidegate area which is an historic entrance to Durham City, a World Heritage site.
- The materials to be used are not sympathetic.
- Parking is not detailed, it may be where residents have always parked and have garages.
- Access is already problematic and increased car use and parking in the area will magnify the dangers of access from the main road which has both speeding and congestion issues at different points of the day.
- The widening of the access would impact on pedestrians and cyclists using the busy shared pavement of Framwellgate Peth.
- There are already issues with noise and air pollution, this will be exacerbated.
- Impacts to amenity of residents.

- There is a presumption against inappropriate development in the greenbelt and there is no greenbelt assessment.
- The proposal would have a negative impact on key views, including those up and down Framwellgate Peth and long distance views from The Sands, Hillcrest, St Mary Magdalene and NEDL.
- There is conflict with City of Durham Neighbourhood Plan Policy S1
- The proposal contravenes DCNP Policies H2 and S2 in terms of its scale, density, massing, form and layout and as it does not harmonise with its context.
- The application makes no reference to the proposed development's impact on the adjacent Fram Well Head and Sidegate, the key heritage assets in the neighbourhood.
- The application fails to reference Policy D1 of the Durham City Neighbourhood Plan (DCNP) that identified this site as suitable for housing

89. *The City of Durham Trust* – Objects based on the negative impact on the Conservation Area, World Heritage Site (WHS) setting, the adverse impact on existing housing and access and failure to provide residential development as supported by the DCNP. It is considered that the proposal also contravenes policies 21, 29, 44 of the CDP and policies S1, H1,H2, D1 and T1 of the DCNP.

*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=R1ISUOGDIZR00>

## **APPLICANTS STATEMENT**

90. The proposed redevelopment of the former 'Main Street USA' property at Diamond Terrace presents an important opportunity to support redevelop a vacant brownfield site on a key gateway entrance route to Durham City.
91. The existing office building currently provides a relatively small floor plate which is heavily compartmentalised and has poor natural light. Whilst it occupies a prominent position, the building is not suitable for modern office use. The specification of the building also falls well below the expectations of a modern occupier, both in terms of environmental performance, noise insulation between floors and provision of natural light.
92. The existing site provides an excellent opportunity to deliver a building with an improved configuration and specification, capable of attracting occupiers who may otherwise be compelled to look out of town or further afield, back into Central Durham. Such occupiers would bring high quality, well paid jobs to the City Centre. In redeveloping the site from scratch, the applicant will invest over £2 million to deliver the proposed new building, which has the potential to offer a unique product that does not exist in Durham City Centre at present; a high specification, modern building offering open plan floor plates which are appropriate in scale and delivers a modern solution that meets occupiers needs, both in terms of staff wellbeing and environmental goals, whilst also incorporating integral commercial floor space at ground level for a food and drink or service offer catering for office workers and passing trade.
93. It is anticipated that the new building in its entirety will appeal to occupiers who are currently located either out of centre, or in constrained premises within the City Centre which is limiting their ability to grow. In this context, the design of the

proposed scheme has been carefully considered to provide a wide range of flexibility to the market, being able to cater for self-contained suites up to a tenant looking to occupy a single building of 866 m<sup>2</sup>, which is intended to address some of the supply issues currently restricting growth in Durham's office market. The provision of a 109m<sup>2</sup> small food and drink/commercial facility at the ground floor level is also considered integral to the financial viability of this development.

94. The appointed leasing agents, Cushman & Wakefield, are aware of several requirements in Durham ranging from 2,000 sqft to 5,000 sqft that have not yet been satisfied due to a lack of available options. There is a real lack of development pipeline of smaller office buildings to cater for occupiers in the local market. Diamond Terrace would address this shortfall and help to retain occupiers in Durham City Centre that might otherwise locate elsewhere.
95. The sequential assessment submitted with this application demonstrates that the proposed development will deliver a unique office product that does not exist in Durham City Centre at present, meeting a particular market requirement for smaller, flexible and high quality new office space situated just 70 to 80 m from the edge of the designated Durham City Centre boundary, with excellent linkages to the Centre and Rail Station. On this basis the requirements of the County Durham Plan Policy 9 have been satisfied.
96. The redevelopment of this site is compliant with national planning policy objectives, which seek to support sustainable development and place significant weight on the need to support economic growth and productivity, taking into account both local needs and wider opportunities for development (revised NPPF, July 2021, Paragraph 81). Paragraph 86 of the NPPF makes clear that planning policies should promote the long-term vitality and viability of centres, by allowing them to grow and diversify, in a way that responds to rapid changes, allows a suitable mix of uses and reflects their distinctive characters. It also emphasises the importance of meeting needs for retail, leisure, office and other main town centre uses over a 10 year period, and ensuring that this is not compromised by limited site availability.
97. The current support of this site for residential use is reflective of the extant permission for the Demolition of St Cuthbert's House (now known as the former 'Main Street USA' property). However, this residential use has not come forward since the grant of permission in 2012 due to viability constraints and as such, the applicant is seeking an alternative, more suitable development option, reflective of its existing use as an office location. The principle of an office building in this location is clearly acceptable given the existing use of the building and its sustainable location on the edge of centre and in close proximity to the train station.
98. The design of the building has been carefully considered in the context of the neighbouring terraced properties, conservation area and nearby Durham Cathedral and Castle World Heritage Site to ensure the scale, materials and design of the building is fully in keeping with this context. As a result, the applicant believes this proposal represents the best possible use of this site, providing an opportunity to support substantial investment to meet existing business needs in Durham City and providing a high quality, viable opportunity to redevelop this brownfield site on a key gateway route.

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## PLANNING CONSIDERATIONS AND ASSESSMENT

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99. 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, amenity, heritage and design, climate change, ecology, impacts on landscaping and green infrastructure, land stability, contamination and mineral safeguarding, highways considerations, flood risk and drainage and railway safety.

### The Principle of the Development

100. The development plan for the neighbourhood area is both the County Durham Plan (CDP) and the City of Durham Neighbourhood Plan (CDNP).
101. Under the DCNP, the application site is specifically referenced in Policy D1. It states that housing development on the Main Street USA site will be supported. The supporting text to the Policy identifies that the site could provide for 5 terraced houses. Whilst the policy supports housing on the site, it does not preclude other uses coming forward, subject to a proposal's acceptability against other relevant policies, and in that respect, it is not viewed as an allocated housing site. Paragraph 180 of the Inspectors Report of the DCNP highlights a main modification to D1. The inspector clarifies that the DCNP is not formally allocating the site. This led to a main modification to Policy D1 that removed reference to the site being allocated.
102. The CDP provides details of how the County's Local Housing Need (LHN) will be met through housing allocations and these allocations are based on significant evidence including an understanding that the site is available to come forward to ensure delivery. The Main Street USA site identified in Policy D1 is not required to meet the County's LHN and as such would be considered as a windfall site if it came forward for housing as supported through Policy D1.
103. Whilst there would be housing supply merits to the site being developed for housing as per supportive thrust of the DCNP Policy D1 in this regard the policy does not preclude the site coming forward for the proposed use.
104. The site is not allocated under the CDP and as a result Policy 6 is one of the main determining policies. Policy 6 states proposals will be permitted within or adjacent to the built-up area provided that they are well related to the settlement and, amongst other criteria, are compatible with existing and allocated surrounding uses, are appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement and are sustainably located. The development of the application site would accord with Policy 6 as it is within the built-up area for Durham City, albeit outside the defined town centre. Detailed consideration of the scheme against the relevant criterion (a – j) of the policy will occur in later sections of this report.
105. Both the proposed office and café/restaurant uses are town centre uses and the site falls outside of the town centre. As such Policy 9 of the CDP requires a sequential assessment to be undertaken. The Policy advises that 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 should be refused. The NPPF also requires the use of sequential tests and advises that for edge of centre or out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. It also advises local planning authorities 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.

106. The applicants have submitted a sequential test which recognises that there are sequentially preferable units vacant within the city centre but consider that none of the units are comparable in terms of the amount of floorspace the site can offer. They also advise that the uses proposed rely on one another in terms of operation and viability and cannot be considered in isolation. Informed by the response of Spatial Planning, Officers accept these conclusions. It should be noted that the use of the vacant existing building on site proposed for demolition was also an office and therefore the proposal is seeking to replace an office building with one predominantly housing another office, albeit of a greater scale. Furthermore, the existing vacant premises could be re-occupied as an office without the requirement for planning permission. Given the edge of centre location and, relative close proximity of the City Centre, its range of facilities therein and the access to a range of transport modes, the site is also considered to be within a sustainable location in that regard. The proposals are therefore considered to accord with CDP Policy 9 and the principle of further commercial use on the site is accepted.
107. Furthermore, paragraph 81 of the NPPF advises that decisions should help create the conditions in which businesses can invest, expand, and adapt and that significant weight should be placed on the need to support economic growth and productivity. The proposal would bring investment to the area and may encourage a significant amount of employment on site which is much welcomed from this perspective.

#### Amenity Considerations

108. Policy 29 of the CDP requires proposals to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy 31 of the CDP requires development to have no unacceptable impact on living conditions. It advises that proposals which will have an unacceptable impact, such as through noise, will not be permitted unless satisfactory mitigation measures can be demonstrated. Policy S1 and E4 of the DCNP provide similar advice to ensure that any impacts upon neighbouring occupiers or impacts of pollution are acceptable. Paragraph 130 (f) of the NPPF requires developments to have a high standard of amenity. Paragraph 185 of the NPPF requires new development to be appropriate to its location taking into account the likely effect of pollution on health, living conditions and the sensitivity of the area. The framework requires development to mitigate and reduce to a minimum potential adverse impact resulting from noise from new development and to avoid noise giving rise to significant adverse impacts on health and quality of life.
109. The site is close to residential properties and concerns have been raised by local residents in relation to noise, air pollution and loss of light. The Parish Council are also concerned that the proposal may include a hot food takeaway use and impact on local amenity.

110. It has been confirmed that the proposed commercial use would involve class E Food and drink which is mostly consumed on the premises rather than a hot food takeaway use and therefore the usual concerns in relation to strong odour and litter etc are not applicable. This can be ensured via a condition.
111. The Council's Environmental Health Officer Officers advise that the proposal has the potential to have noise impacts during operations. However, based upon the noise impact assessment information submitted, the EHO is satisfied that conditions can ensure that noise levels from any plant experienced by local residents would not be at a level that would either cause a statutory nuisance or raise concerns about noise in terms of residential amenity. The use of the roof terraces late at night for social events etc has the potential to cause disturbance to residents however the hours of use for these areas can be controlled via condition.
112. With respect to air pollution, due to the proximity of residential properties to the east of the site, it is considered that dust control measures would be required during the demolition construction phase to be set out within a Construction Management Plan, this can be ensured by way of planning condition.
113. In terms of privacy, the development incorporates two roof terraces which will be open to employees to use as well as for maintenance, however the privacy for residential occupiers adjacent the site and south of the site would be protected due to the 1.4m high walls and planting areas proposed that would restrict views.
114. In terms of light and outlook, the dwelling that would be most impacted would be the adjacent no. 1 Diamond Terrace which is currently in the ownership of the developer who had plans to convert this to an HMO for which planning application has recently been refused. Should the dwelling remain a dwelling with no alterations then 3 gable end windows would have their outlook affected as a result of the development. However, two of these windows are not principal windows nor to habitable rooms (a bathroom and landing) and the one principal window (secondary lounge area) already has poor light and outlook on account of high boundary fencing. The degree of impact that the proposal has over and above the existing situation is not significant and the relationship is considered to remain acceptable. The previous approved housing scheme would have had a similar impact to this neighbouring window as well.
115. Concerns have been raised by local residents that the development would block out light to properties, a path and gardens particularly in summer months. In respect of light, the applicants have submitted a sunlight assessment that indicates that the neighbouring yard to 1 Diamond Terrace is the main area affected by the proposed development. In comparison to the current situation the main impacts would be greater overshadowing in the afternoon for most of the year, however, this is similar to what would have been experienced if the previous housing development had been constructed.
116. There will be an increase in overshadowing of the front garden areas in front of 1-5 Diamond Terrace in the summer evenings when compared to the current situation on site. However, the sunlight assessment details that the loss of light would be akin to the loss of light that would have resulted from the planning approval for 5 dwellings on the site and previously considered acceptable by the Council. Furthermore, the submitted sunlight assessment shows that there are also significant shadowing impacts from the existing surrounds and existing building sought for demolition. In terms of the footpath in front of Diamond Terrace it is noted that this is already in shadow in the early evening all year round and this remains unchanged. The footpath to Sidegate is similarly already in

shadow for much of the year but will become more overshadowed in the summer evenings however the impacts would be similar to the previous planning approval for housing on the site. It is not envisaged that this would deter use of the footpath as it would be adjacent to a more open landscaped area with good surveillance from the proposed building and nearby dwellings.

117. It is therefore considered that whilst there would be some negative impacts to amenity from the development that the impacts would not have an unacceptable impact on living conditions or general amenity. On this basis it is considered that the proposed development is in accordance with Policy 31 of the County Durham Plan, Policies S1 and E4 of the DCNP and Paragraph 130 of the NPPF in that respect.

#### Heritage and Design

118. The proposed development site lies within the Durham City Centre Conservation Area and adjacent to the Grade II\* listed railway viaduct and Grade II Fram Well Head. The site also lies within the inner setting of the Durham Castle and Cathedral World Heritage Site (WHS). The impacts upon which are a primary consideration.
119. Policy 45 of the CDP requires proposals to sustain and enhance the significance of the Durham Castle and Cathedral World Heritage Site, be based on an understanding of the outstanding universal value of the WHS with regard to the adopted World Heritage Site Management Plan (WHSMP) and Statement of Outstanding Universal Value and protect and enhance the Outstanding Universal Value, the immediate and wider setting, and important views across, out of and into the site. It advises that development that would result in harm the WHS or its setting will not be permitted other than in wholly exceptional circumstances.
120. Policy H1 of the City of Durham Neighbourhood Plan follows the thrust of the above policy but also requires opportunities to be taken to open up lost views and create new views and vistas of the WHS.
121. Policy 44 of the CDP expects development to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. It requires development proposals to contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate.
122. The policy advises that great weight will be given to the conservation of all designated assets and their settings and advises that such assets should be conserved in a manner appropriate to their significance, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. Development which leads to less than substantial harm to a designated heritage asset will be weighed against the public benefits of the proposal. Development which leads to substantial harm to, or total loss of, the significance of a designated heritage asset will only be acceptable where it can be demonstrated that it is necessary to achieve substantial public benefits that outweigh that harm or loss, or where number of criteria set out in the policy all apply.
123. In respect of listed buildings Policy 44 advises that development should respect the historic form, setting, fabric, materials, detailing, and, any other aspects including curtilage, which contribute to the significance of the building or structure

and should retain the character and special interests of buildings when considering alternative viable uses.

124. In respect of conservation areas Policy 44 requires the demonstration of understanding of the significance, character, appearance and setting of the conservation area and how this has informed proposals to achieve high quality sustainable development, which is respectful of historic interest, local distinctiveness and the conservation or enhancement of the asset; and that regard is given to the manner in which the proposal responds positively to the findings and recommendations of conservation area character appraisals and management proposals; and respects and reinforces the established, positive characteristics of the area in terms of appropriate design (including pattern, layout, density, massing, features, height, form, materials and detailing). Policy H2 of the City of Durham Neighbourhood Plan follows the general thrust of the above policy albeit with some more details and specific design criteria a-l. This also reflects Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 which imposes a duty on the LPA to pay special attention to the desirability of preserving or enhancing the character or appearance of the Conservation Area.
125. The above policies are in conformity with and reflect Parts 199-207 of the NPPF which covers how to consider potential impacts on heritage assets.
126. In more general design terms, Policy 29 of the CDP requires all development proposals to achieve well designed buildings having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity and landscape features, helping to create and reinforce locally distinctive communities. Similar sustainable design guidance is provided through DCNP Policy S1.
127. Section 12, Paragraph 130 of the NPPF requires developments to add to the overall quality of an area, be visually attractive, be sympathetic to the local character and history, establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming, and distinctive places to live, work and visit.
128. Concerns have been raised by local residents that the proposal fails to assess the significance of the adjacent listed buildings and historic areas within the conservation area. Whilst it is acknowledged that the submitted Heritage Statement does lack some detail, ultimately it has not prevented Design and Conservation Officers being able to adequately assess the impact of the proposals nor have they requested further details to enable their assessment. Historic England have raised no detailed comments on the application.
129. There are no concerns in relation to the setting or views of the World Heritage Site or listed buildings. In respect of the conservation area, the current building on site is not considered worthy of retention and the demolition of which has previously been considered acceptable therefore there is no concerns in this regard. It is considered that the redevelopment of the site offers an opportunity for enhancement in this part of the Conservation Area. Whilst local residents refer to Sidegate being a designated heritage asset, it is in fact a non-designated heritage asset, nonetheless the Victorian street is of interest particularly as it is a historic entrance into the City.
130. In respect of significance, whilst the proposed development would result in a change to this part of the Conservation Area, this is not considered harmful to the character and appearance of the street, furthermore it is akin to the scale and

massing of development previously approved on the site and overall results in a neutral impact.

131. Local residents, the City of Durham Trust and the Parish Council are concerned about the design, dominant size and scale of the development, impact on key views and cumulative impacts of surrounding developments upon the two domestic Victorian terraces and would prefer a 2-storey development. However, the proposed scale and massing broadly reflects that previously approved, seeing a terrace bookended by 3 storey development adjacent to Framwellgate Peth. Whilst this is a four-floor development this involves a lower ground floor set into the site. The building steps back at both the front and rear in blocks similar to the elevation of Diamond Terrace and the building steps down in height as it approaches the residential terrace to a lower height than the previous approved development.
132. Whilst this proposal is for a workplace building, externally the building draws upon the vernacular architecture of the adjacent residential, terraced housing. The proposal responds to and works positively with the existing topography, reinforces the existing building line, and gives strong definition to the street through active built frontage. It is acknowledged that the materials do not match those of the Victorian dwellings, a concern of residents, however the architectural approach is locally inspired, taking reference from and providing a contemporary interpretation of the local vernacular, with a vertical rhythm and fenestration pattern. In response to concerns raised over the colour of the materials for the roof the applicants have proposed an alternative darker red blend clay tile which would be more harmonious with the adjoining terrace but admittedly will not match the terrace roof materials. Whilst there has been significant development at Milburngate/Framwellgate Waterside this is not comparable in footprint size and scale to that proposed, and, given the distance of approximately 100m away and being asset at a much lower level to this development it is not considered that these developments raise concerns in regard to cumulative impact.
133. Local residents are also concerned that the character of the area will change from residential to commercial as a result of the proposal. However, it is considered that given the former commercial use on the site which was seen predominantly from the main road with the office building in the background that the character is already commercial from this main viewpoint. Pedestrians walking along Sidegate will see the commercial building in the context of residential properties however from this viewpoint the character only alters slightly to become more commercial than before but still predominantly residential.
134. As there would not be harm to the significance of the designated and non designated heritage assets the proposal is considered to be in conformity with the above national, local and neighbourhood plan policies in respect of the historic environment and design. With no harm caused to the Conservation Area or listed buildings no conflict is considered to occur with the statutory duties under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area and to have special regard to the desirability of preserving listed buildings or their setting or any features of special architectural or historic interest that they possess.

#### Planning For climate change

135. Policy 29 of the CDP requires all development proposals to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings, minimise the use of

non-renewable and unsustainable resources. Similarly, amongst its advice, DCNP Policy S1 seeks to ensure that development utilises energy efficiently, minimising consumption and carbon emissions. Paragraph 157 of the NPPF requires development to take account of landform, layout, building orientation, massing, and landscaping to minimise energy consumption.

136. Although not a zero-carbon building, this is a low carbon building with a hybrid ventilation system to minimise energy usage. Air source heat pumps are proposed to generate heating for the internal offices. In addition, the building has been designed to have significant amount of daylight to reduce the amount of lighting required. The proposal is considered to perform acceptably in relation to the aforementioned policy guidance.

## Ecology

137. CDP Policy 41 requires development to not significantly harm biodiversity and to minimise impacts to biodiversity and provide net gains for biodiversity. Policy 43 of the CDP advises that all development likely to have an adverse impact on protected species to not be permitted unless there is appropriate mitigation or compensation and the legal tests are met if a licence is required. Similarly, DCNP Policy S1 seeks to protect and enhance the biodiversity and geodiversity of the neighbourhood plan area. Section 15 of the NPPF requires the safeguarding of protected species. The application is supported by a bat survey which concludes a negligible risk to bats but recommends precautionary measures be undertaken and the Ecologist is satisfied that subject to these measures being conditioned there would be no harm to biodiversity or protected species. As a result, the proposals are considered to accord with Policy 43 of the CDP, Policy S1 of the DCNP and Section 15 of the NPPF.

## Landscaping and Green Infrastructure

138. Policy 40 of the CDP advises that proposals for new development will not be permitted that would result in the loss of, or damage to, trees of high landscape, amenity, or biodiversity value unless the benefits of the proposal clearly outweigh the harm. The policy requires new development to retain existing trees where they make a positive contribution to the locality or the development and that any trees that are lost are replaced.
139. Policy 29 requires landscaping proposals to respond to topography, existing features, and wildlife habitats. It requires consideration of views of and from the site and that the design reflects any features characteristic of the locality such as boundaries, paving materials, and plant species. It welcomes opportunities for wildlife and in the case of edge of settlement development requires an appropriate level of structural landscaping to screen or assimilate the development into its surroundings and provide an attractive new settlement boundary.
140. The proposal would not impact on any trees but shading may be problematic due to leaf cover from mature tree stock situated to the south. Given that this is a workplace and the shading is only likely in a small area for parts of the year it is not considered that this would lead to pressure to remove any surrounding trees.
141. As there is minimal detail in relation to the outdoor amenity areas it is considered that a landscaping scheme will be necessary to ensure appropriate planting. This can be ensured via condition.

142. Policy 26 of the CDP and Policy G1 of the DCNP each seek development to protect and enhance public rights of way and footpaths, green infrastructure and green corridors. The footpath to Sidegate is already in shadow for much of the year but will become more overshadowed in the summer evenings however the impacts would be similar to the now expired planning approval for housing on the site. It is not envisaged that this would have a significant negative impact on this footpath and it has been borne in mind that there would be some enhancement of the footpath with better surveillance and surrounding landscaping.

#### Land Stability, Contamination and Mineral Safeguarding

143. The site is within an area at high risk of coal mining legacy and is previously developed land. Policy 32 of the CDP restricts development on despoiled, degraded, derelict, contaminated or unstable land unless it can be demonstrated that such issues can be addressed by mitigation measures, the risks are not unacceptable and all investigations and risk assessments have been undertaken. Section 15 of the NPPF requires Local Planning Authorities to prevent new development from being put at unacceptable risk from land stability. In terms of land stability, aligned with the comments of the Coal Authority, conditions can ensure intrusive site investigations and any remediation works and/or mitigation measures be undertaken to address land instability arising from coal mining legacy. In terms of contamination further details are required in relation to the landscaped areas however this detail and any identified works required can be ensured via condition.
144. The application site is located within a Mineral Safeguarding Area to which CDP Policy 56 relates. This policy advises that planning permission will not be granted for non-mineral development that would lead to a sterilisation of mineral resources unless certain criteria apply or the development is deemed exempt. One such exemption is where a development proposal comprises of an infill within a built-up frontage within a settlement. As this development proposal seeks the demolition and replacement of an existing building adjacent to Framwellgate Peth the application is considered to meet this exemption criteria.

#### Highways Considerations

145. Policy 21 of the CDP requires all development to deliver sustainable transport by amongst other less relevant criteria ensuring that any vehicular traffic generated by new development can be safely accommodated and ensuring development has regard to Parking and Accessibility Supplementary Planning Documents. Policy 22 of the CDP addresses Durham City Sustainable Transport and seeks to manage demand and transport improvements so as to reduce the dominance and impact of vehicles.
146. Paragraph 110 of the NPPF advises that development has opportunities to promote sustainable transport modes, that a safe and suitable access to the site can be achieved for all users, that the design and parking meet national guidance and that any impact upon the network can be mitigated. Paragraph 112 requires developments to incorporate pedestrian and cycle priority, address the needs of people with disabilities and reduce mobility, create places that are safe, secure and attractive, allows for service and emergency vehicles access and to enable charging of plug in and other ultra-low emission vehicles.
147. Policy T1 of the DCNP requires development proposals to be supported by evidence of how they contribute to sustainable transport accessibility and design where appropriate. It requires approach routes and access within the site to be

accessible. It requires adverse transport impacts to be avoided where practicable or mitigated. It requires alterations to existing roads to have good permeability and connections, traffic calming measures and a high-quality public realm.

148. Whilst the concerns raised by local residents in regard to the difficulties they experience with the access onto the busy highway are noted, the Highway Authority has no concern over highway capacity or safety or emergency access with the access alterations being proposed. The widening works are also a concern raised by residents however both these works and the additional access width would have minor impacts on the experience of pedestrian and cyclists on Framwellgate Peth.
149. Local residents were concerned that parking would include an area that residents use for parking however this is no longer the case and the plans have been amended with the proposal now proposing a low level of parking with 5 spaces adjacent to the proposed building. As the Parish Council points out this is well below the level of parking required by adopted parking standards. However, given the location of the site, in close proximity to the centre of Durham and the train station, it is agreed with the Highway Authority that this is an acceptable level of parking provision in this instance as the location allows sustainable transport options to be explored easily. Furthermore staff/customers would be unlikely to park on surrounding roads due to restrictions and the areas currently used for resident parking are protected by residential parking permits that are in place.
150. There is no formal provision for disabled parking, with 2 spaces being required by the parking and accessibility standards, however the space requirements would mean that this cannot be accommodated on the site without unacceptably narrowing the access road. In this instance the Highway Authority are willing to accept standard spaces. Consideration should be given to ensuring that there is an appropriate number of spaces that are in a sensible proximity to the relevant building and that their use is controlled in some way to enable availability for disabled persons. The applicants have agreed that two parking spaces would be prioritised for disabled staff/customers and details of how this will be achieved can be controlled via condition.
151. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
152. In this instance, the proposed development will likely have impacts upon the disabled given the absence of accessible parking bays which meet standards. Mitigation is proposed, however, in the aforementioned scheme to ensure priority parking for the disabled. It should also be considered that the site, at present, is unoccupied and provides no function or employment. Should, for instance, a disabled person gain employment at the new development, there may be some detriment to them in the absence of fully compliant accessible parking. However, equally, it is the new development generating that employment position. Having carefully assessed the impacts officers consider that the impacts upon individuals with protected characteristics are not such as would result in the application being recommended for refusal.

153. Provision has been made for cycle parking on site which has been amended to be partly covered in line with advice from Highways. A condition can ensure that the proposed dual Electric Vehicle charging point is incorporated on site before the site is brought into use.
154. Bearing the above in mind, whilst there would be some conflict with the Council's parking standards and some conflict with CDP Policy 21 and DCNP Policies S1 and T1 and advice at paragraph 112 of the NPPF due to the absence of dedicated accessible parking, no objections have been raised by the Highway Authority. A condition can be added to the planning permission so as to prioritise the availability of accessible parking at the site in the absence of spaces which meet parking standards and this is considered to mitigate the absence to the extent that in the round the degree to which parking provision is compromised is not considered so significant to draw objection from officers and warrant refusal of the application.

#### Flood Risk and Drainage

155. Policy 35 of the CDP requires that all development consider the effect of development on flood risk and ensure there to be no net increase in surface water run-off for the lifetime of the development. Similarly, amongst its advice Part 14 of the NPPF requires Local Planning Authorities to ensure that developments do not result in an increase in flood risk off site.
156. The application site is located within Flood Risk Zone 1 and therefore on land least prone to any river flooding. It is considered that a condition can be utilised to agree the final drainage proposals for the development having regard to the requirements of Policy 35 to ensure the control of surface water run-off and adherence to the hierarchy of surface water disposal.
157. Policy 36 of the CDP requires foul water to drain to a hierarchy with connection to the public sewer being the most suitable option. The drainage is proposed to a main sewer which is appropriate.

#### Railway Safety

158. As the development is close to a steep railway embankment and high voltage overhead line equipment that forms the East Coast Main Line a condition will be required to agree the demolition and construction methodology, use of crane, plant and machinery, drainage and boundary treatments in advance of works commencing alongside other standard railway informatives.

#### Other Issues

159. Residents have referred to the development being within the Greenbelt and needing to be assessed against Greenbelt policies however the site falls outside of the Greenbelt.
160. Concerns have been raised that there is a lack of clarity over the type of uses proposed. The applicants have clarified that the primary use is Class E(g) office space with an area allocated at ground floor level, and accessed via a separate ground floor entrance, offering flexible accommodation for commercial uses within either Use Class E (b) (food and drink which is mostly consumed on the premises), or Use Class E (c) (the provision of services principally to visiting members of the public i. financial services ii. professional services or iii. any other

services which it is appropriate to provide in a commercial, business or service locality). This flexibility is required as potential occupiers are unknown.

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## **CONCLUSION**

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161. The development is within the built-up area and is considered a sustainable unallocated site suitable for development. Whilst in an edge of town centre location, the proposed mix of uses is considered suitable given the floorspace, operation and viability requirements whilst a sequential assessment has been submitted and accepted. Furthermore, the proposed commercial development is replacing a commercial building. The proposal would bring investment to the area and may encourage a significant amount of employment on site. Whilst the DCNP supports housing on the site, it does not preclude other uses coming forward, subject to a proposal's acceptability against other relevant policies and the County Durham Plan has a sufficient supply of allocated housing sites. The principle of the development is therefore acceptable.
162. Whilst some impact upon the residential amenity of neighbouring occupiers has been identified, it is concluded that this impact would not be at a level so as to be unacceptable.
163. The design and visual impact of the development is considered acceptable with no harm to heritage assets identified.
164. The parking provision is below the level of parking required by the adopted parking standards and some conflict with the DCNP is identified as a result. However, the site is within a sustainable location and the Highway Authority have not raised objections to the development.
165. The development is considered acceptable in regard to all other material planning considerations.
166. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. In light of the recent adoption of the CDP, the Council has an up to date development plan. 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. Paragraph 12 of the NPPF advises that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
167. The development is considered to be in general compliance with the Development Plan, adhering to the content of the majority of policies within the CDP and DCNP. However, some conflict with CDP Policy T21 and DCNP Policies S1 and T1 has been identified due to the Council's adopted parking standards not being met, particularly the absence of 2 no. dedicated accessible parking standards designed to necessary standards. However, this can be mitigated to an extent through a condition to ensure a scheme which prioritises the parking spaces being provided for the use of a disabled member of staff or visitor.

168. On balance, taking into account the merits of the scheme in representing an efficient use of brownfield land and delivering employment opportunities in a development of appropriate design and character, the scheme is considered to remain acceptable despite the degree of aforementioned conflict with specific CDP and DCNP policies and approval is recommended.

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## **RECOMMENDATION**

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

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

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

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

Cycle parking	AD(0)01	19/01/22
Landscape Plan	AD(0) 15 rev A	19/01/22
Revised External Materiality		04/02/22
Terrace layout	AD(0)03 Rev A	15/02/22
Location Plan	AL(0) 01A	15/11/21
Lower Ground Floor Plan	AL(0)11	25/10/21
Ground Floor Plan	AL(0)11	25/10/21
First Floor Plan	AL(0)12	25/10/21
Second Floor Plan	AL(0)13	25/10/21
Proposed Elevations	AL(0)20	25/10/21
Proposed Elevations	AL(0)21	25/10/21
Proposed Sections	AL(0)30	25/10/21

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 27 of the County Durham Plan and Part 10 of the NPPF.

3. Prior to occupation of each part of the building occupied by a business/company details of business opening hours of internal and external areas (inclusive of external amenity/terrace areas), and, if applicable customer opening hours shall be submitted to and approved in writing by the Local Planning Authority. The premises shall not be open outside the approved hours.

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.

4. Notwithstanding any details of materials submitted with the application no development shall commence until samples of all walling, roofing and paving 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.

5. Notwithstanding the submitted information, prior to the first occupation of the development hereby approved, a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall include the following:
- Any trees, hedges and shrubs scheduled for retention, including method of protection.
  - Details soft landscaping including planting species, sizes, layout, densities, numbers.
  - Details of planting procedures and/or specification.
  - Finished topsoil levels and depths.
  - Details of temporary topsoil and subsoil storage provision.
  - The timeframe for implementation of the landscaping scheme.
  - The establishment maintenance regime, including the replacement of vegetation which die, fail to flourish within a period of 5 years from planting.
  - A plan showing the public/structural landscaping and private/in-curtilage landscaping.
  - Full details of the management, maintenance and accessibility of all areas of open space in perpetuity.

The approved landscaping scheme shall thereafter be undertaken in accordance with the approved details and timeframes.

Reason: In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

6. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed 40dB LAeq (1 hour) between 07.00-23.00 and 30dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014+A1: 2019. (On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level).

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.

7. Prior to their installation details of any fume extraction and/or ventilation equipment shall be submitted to and approved in writing by the Local Planning Authority. All equipment detailed as part of the approved scheme shall thereafter be retained, operated and maintained in accordance with the approved details so long as the use continues.

Reason: In the interest of the amenities of neighbouring properties in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

8. 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:

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

Details of methods and means of noise reduction/suppression.

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

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

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

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

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

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

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

Routing agreements for construction traffic.

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

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

Management measures for the control of pest species as a result of demolition and/or construction works.

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

The Construction Management Plan shall demonstrate consultation with the Asset Protection Project Manager at Network Rail and include any measures necessary to protect railway land/assets.

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 and public safety 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.

9. The development shall take place in accordance with the mitigation and method statement outlined in the Bat survey and risk Assessment by Veronica Howard dated August 2021.

Reason: In the interests of safeguarding protected species in accordance with policy 43 of the County Durham Plan and section 15 of the NPPF.

10. 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 1 preliminary risk assessment (desk top study).

If the phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, 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.

11. 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.

12. No development shall commence until;
  - a) a scheme of intrusive site investigations has been carried out on site to establish the risks posed to the development by past coal mining activity, and;
  - b) any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented on site in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

13. Prior to the occupation of the development, a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods

and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with paragraphs 178 and 179 of the National Planning Policy Framework.

14. Prior to the occupation of the development a scheme shall have been submitted to and approved by the Local Planning Authority which details measures to ensure that two of the parking spaces detailed on the approved plans shall be prioritised for disabled employees or customers. The development shall thereafter be occupied in accordance with the approved scheme.

Reason: In the interests of the needs of people with disabilities and reduced mobility in accordance with paragraph 112b of the NPPF.

15. The electric vehicles charge point detailed on the approved plans shall be installed and operational on site prior to the uses commencing and shall remain on site in perpetuity.

Reason: To enable charging of plug-in and other ultra-low emission vehicle in a safe, accessible and convenient locations in accordance with Policy 21 of the County Durham Plan and paragraph 112 of the NPPF.

16. No development other than demolition shall take place until a scheme of surface water drainage has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall demonstrate that there will be no net increase in surface water runoff for the lifetime of the development and seek to ensure that runoff rates are as close as practicable to the greenfield rate. The submitted scheme shall also demonstrate that surface water is managed at source wherever possible and disposed of in accordance with the hierarchy of surface water disposal.

Reason: In the interests of ensuring surface water is adequately disposed of in accordance with Policy 35 of the County Durham Plan.

17. 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 premises shall be used only for uses contained within Use Classes E (b) (food and drink which is mostly consumed on the premises), Use Class E (c) (the provision of services principally to visiting members of the public i. financial services ii. professional services or iii. any other services which it is appropriate to provide in a commercial, business or service locality) and E(g) office 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: To define the consent and in the interests of the amenity of the area in accordance with policy 31 of County Durham Plan and Part 15 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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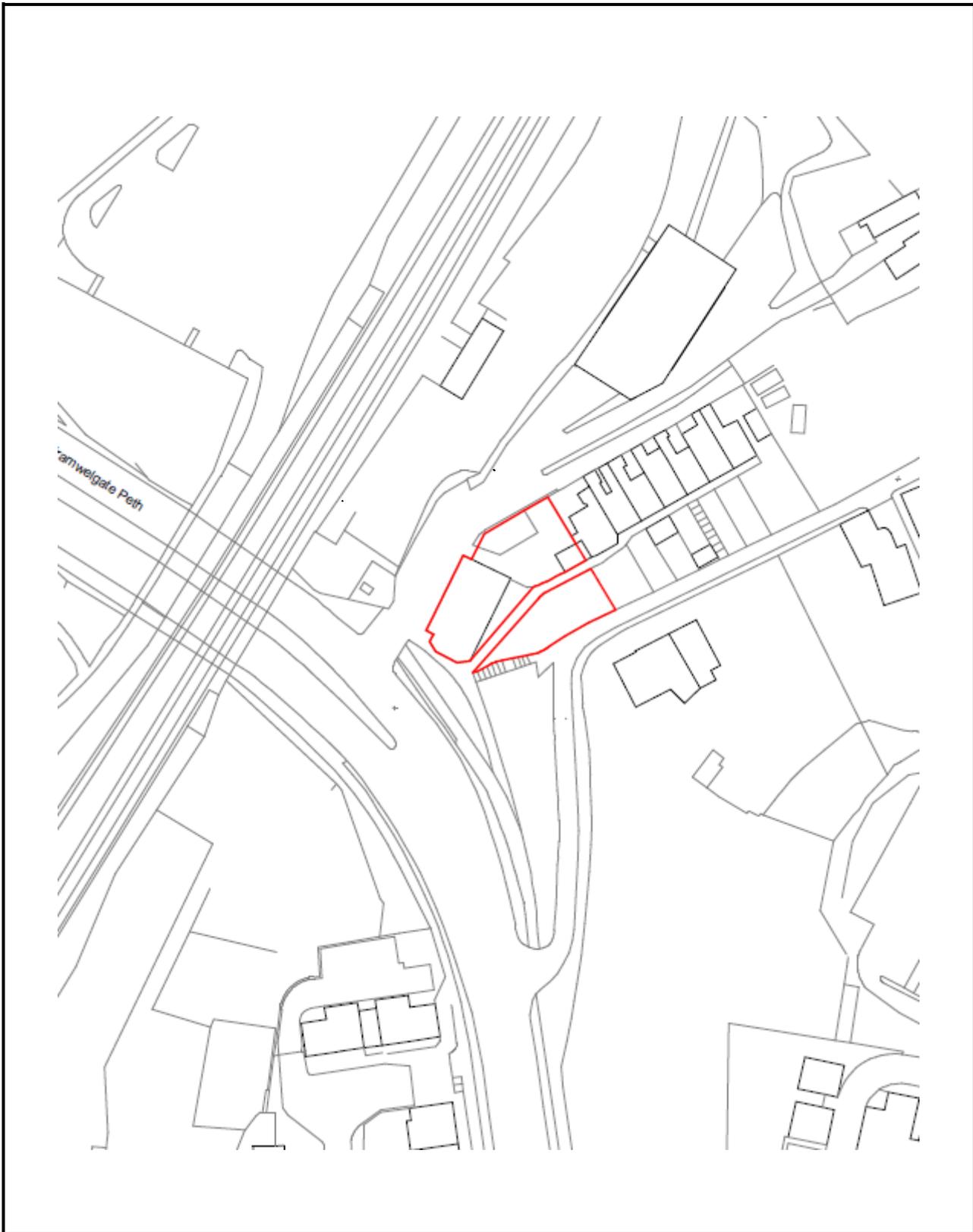
The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering 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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County Durham Plan 2020  
City of Durham Parish Council Durham City Neighbourhood Plan 2020 to 2035 (2021)  
County Durham Parking and Accessibility Standards 2019  
The National Planning Policy Framework (2021)  
Internal and public consultation responses  
Submitted forms, plans and supporting documents



**Planning Services**

DM/21/03682/FPA  
 St Cuthberts House  
 Diamond Terrace  
 Durham

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**Comments**

**Date** 08.03.2022

**Scale** NTS

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