



Area Planning Committee (Central and East)

Date Tuesday 10 May 2022
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 12 April 2022 (Pages 3 - 20)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/21/02193/FPA - Land to the east of Whitwell House, Front Street, New Durham, DH1 2EP (Pages 21 - 44)
Erection of retail unit and associated parking court.
 - b) DM/21/03860/FPA - 76 Whinney Hill, Durham, DH1 3BG (Pages 45 - 60)
Erection of part two-storey/ part single-storey extension to rear of existing small 4-bed HMO (use class C4) to include provision of 2 no. additional bedrooms.
 - c) DM/21/02034/FPA - Land at Former Skid Pan north of Woodward Way, Aykley Heads, DH1 5ZH (Pages 61 - 102)
Proposed development of 48 residential dwellings with associated infrastructure, open space and highway improvements.
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
29 April 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 12 April 2022** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Brown, J Cosslett, J Elmer, L Fenwick (substitute for S Deinali), C Hood, C Kay, D McKenna, R Manchester, E Peeke (substitute for L A Holmes), K Robson, K Shaw and S Wilson (substitute for C Marshall)

Also Present:

Councillors D Nicholls and M Wilson

1 Apologies for Absence

Apologies for absence were received from Councillors S Deinali, LA Holmes, N Jones, C Marshall, E Mavin and A Surtees.

2 Substitute Members

Councillor L Fenwick substituted for Councillor S Deinali, Councillor E Peeke substituted for Councillor LA Holmes and Councillor S Wilson substituted for Councillor C Marshall.

3 Minutes

The minutes of the meeting held on 8 March 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 5c, that he was a Member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to the application.

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

a DM/22/00186/FPA - Elderhurst, 26 Lobley Hill Road, Meadowfield, Durham, DH7 8RQ

The Senior Planning Officer, Jennifer Jennings, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was to change the property from a residential dwelling into a Children's Home for up to two children and young people aged between 8 to 17 years old and was recommended for approval, subject to conditions. The Senior Planning Officer noted that Condition 3, as set out in the report, referred to those aged 12 to 17, however, it should have referred to those aged 8 to 17. She asked that Members agree to the condition being amended accordingly, should they be minded to approve the application.

The Chair thanked the Senior Planning Officer and asked Susan Howe, Clerk to the Brandon and Byshottles Parish Council to speak in relation to the application.

S Howe noted that Brandon and Byshottles Parish Council fully understood the requirement for children's homes, however, they did not feel it was appropriate for the proposed property and therefore were in objection to the application. She explained that the Parish Council had concerns relating to access to the rear being restricted, having only one way in and out from the industrial estate. She noted as regards issues relating to parking, additional traffic and highway safety. She noted concerns in respect of impact on residential amenity, with the proposal splitting the street and having a negative social impact. S Howe noted that the Police had recommended the installation of CCTV, noting the Parish Council felt that would have a negative impact and detract from the character and appearance of the area. She concluded by noting the Parish Council objected to the application and reiterated there would be a negative impact upon residential amenity.

The Chair thanked S Howe speaking on behalf of Brandon and Byshottles Parish Council and asked Paul Burnside, speaking on behalf of the residents of Lobley Hill Road to address the Committee.

P Burnside noted the proposals would have a negative impact on community cohesion and noted that people needed a quiet place to relax, adding that with the busy A690 to the front, residents only had the small lane at the rear to use. He noted as regards the staff parking for four vehicles.

Mr P Burnside explained that 20 percent of the residents of the street were losing a neighbour, with one neighbouring property having elderly residents. He noted the dominance of the four car parking area and explained that there would also be additional visitors and that there would be around 3,500 vehicle uses associated with the proposals. He noted the significant danger to children in the area from such additional vehicle movements, noting that there was no pavement. He reiterated that the street was unique and that, as it faced the A690, residents relied upon the back lane for socialising, access to allotments and for an area for children to play. He noted residents all used their back door rather than the front door due to the busy A690. He noted as regards the management plan actively stating the use of the rear lane for access and the need for additional parking. Mr P Burnside noted the application suggested that the Council car park opposite could be used, however, there was no plan or incentive for that car park to be used. He explained that the proposals would represent a huge increase in traffic, with four staff, eight vehicle uses per day, reiterating that would amount to around 3,500 uses annually, far greater than residential dwellings and magnifying the issues mentioned. He noted that during shift changes he would have serious safety concerns, with movements in the back lane while children play, a major safety concern.

Mr P Burnside noted that the proposals would have an impact on residents, such as children using their bicycles and for coming together for key events, such as the Queen's Jubilee, not having any other space to use. He reiterated that there would be significant impact on the back lane, with the additional 3,500 vehicle uses and noted that the proposals would split the small residential street in two. He concluded by noting that residents were relying on Members to make the right decision, adding that while the proposed children's home was a good thing, it was the wrong location.

The Chair thanked P Burnside and asked the Committee Services Officer to read out a statement from Councillor P Taylor, Local Member, who was unable to attend the Committee.

“Chair and members of the planning committee, I would like to begin with an apology for not being able to attend in person due to a previously arranged appointment.”

I am really sorry that I cannot be with you today to speak to you about this incredibly important 'Change of Use' planning application in my Division which involves the lives of two young people, and that could, if approved, have a profound and long-lasting effect on the lives of the people of the very close knit community of Lobley Hill Road in Meadowfield.

When I first became aware that Meadowfield could possibly be the new home of two looked after children, I was absolutely delighted and indeed I felt pleased that we were going to be given the opportunity to warmly welcome two young people into our community.

It is, and always has been my view, that there is nothing more important in life than caring for our young people by trying to give them the best possible start in life by showing them love, kindness and providing them with guidance.

Colleagues, I must express to you my feeling of tremendous disappointment when I found out the chosen property was Elderhurst on Lobley Hill Road in Meadowfield.

This property is one of only 12 family homes and part of an extremely close-knit little community, a community where all the residents know each other and socialise using the rear private lane as a well-used communal area on this small and quite unique street.

I would like you to imagine that you live on a street of just 12 residential homes, that you and your neighbours enjoy close and longstanding relationships, and quite uniquely share a communal area to the rear of your home. This sounds quite idyllic to me but sadly also all too rare in our society these days.

So please imagine if you will, that a proposal comes along that will completely alter this quiet contented little haven that could see a Council owned secure facility and a works car park placed in the middle of this happy community.

I would like to thank our officers from CYPS for meeting with some of the residents of this community, to try and alleviate their concerns and fears, sadly I have report to the committee that these concerns, and most importantly, their fear of crime remains and perhaps has grown even stronger, contrary to Policy 18 of the CDP – 'The Fear of Crime'.

Colleagues, I would define the word cohesion as meaning unity, a solidarity, an interconnection, that to my mind is what the community of Lobley Hill Road have in abundance right now, and that's wonderful.

Policy 18 (Children's Homes) gives great importance to the need for community cohesion, and I very much agree. Sadly, it is my belief that changing one of the 12 family homes into a children's home will detrimentally affect the community cohesion of Lobley Hill Road forever. This is of course contrary to Policy 18.

I have real concerns about the amenity of both the young people and the residents. How can removing a family home and replacing it with a secure unit surrounded by a tall fence and putting a works car park in the back lane/communal area not have an unacceptably negative and harmful impact on the community?

A private communal area used for years by residents to park their vehicles and to socialise will have a works car park with staff, relatives, managers, deputy managers, and various other visitors constantly coming and going. This is a very significant change that will undoubtedly have an unacceptable and demonstrably harmful impact on the living conditions of residents and very significantly increase pollution from vehicle movements, contrary to Policy 31 of CDP.

Paragraph 33 of the Planning Officers report states that it is important that the home integrates with the local community and that positive relationships with neighbours are developed, I couldn't agree more. This is incredibly important, I would go further though and say that it absolutely vital, sadly I do not think this can be achieved at this location.

I have concerns for the young people for whom Elderhurst could become their home.

Policy 18 states that sites should have a positive environment and the size and scale of the home should be appropriately matched to the children.

Whilst I have no concerns about the size of the property, I do have a major concern about children having to spend much of their time indoors as there is only a very tiny yard to the rear surrounded by a 2 metre high fence affording the children no outlook whatsoever.

Therefore, it is my belief that such a tiny secure outside area is completely unacceptable and indeed detrimental to the health, wellbeing and amenity of the children, yet again, contrary to Policy 18.

Colleagues, as elected representative's we are all corporate parents and as you know, we all have a duty to provide the best possible care, safeguarding and support for the children and young people that the Council looks after.

Colleagues, I do not have a single concern about the fantastic people who care for looked after children and I am confident that they will do an outstanding job of caring for the two children who would reside at Elderhurst.

However, and in conclusion members, ever since I was made aware that Elderhurst was the chosen property, I have done nothing but worry constantly that this area and property is just not suitable. Chosen for the right reasons but in the wrong location and community environment.

Will changing a family home into a secure facility on such a small street create a sustainable, inclusive and mixed community, as it should according to Policy 18? Not a single resident of only 11 properties has offered support for this application, therefore, I am desperately sad to say that in my judgement, it certainly will not.

The young people will have a good size property in which live, and they will receive the very best of care, but the only secure access to the outside world is a tiny back yard surrounded by a high fence, this to my mind, as a parent and a grandparent, seems totally unacceptable and woefully inadequate. These children deserve very much better.

I trust to your judgement colleagues and thank you for allowing my concerns to be conveyed to you”.

The Chair thanked the Committee Services Officer and asked Laura Counce, Strategic Manager, Children and Young People’s Services, Durham County Council (DCC) to speak in support of the application.

The Strategic Manager explained she was the Strategic Manager with responsibility for children homes and the Responsible Individual in terms of Ofsted. She noted that the service was looking to expand the number of children homes, with nine homes currently, with a tenth being in the process of being registered. She explained the reason for the expansion was to look to accommodate all the looked after children from County Durham within the county. She noted that currently the position was that some looked after children were not living within County Durham due to the lack of provision. She explained that this was less than ideal for the young people and was the driver for new children’s homes to be developed in County Durham.

The Strategic Manager noted there would be a Manager for the home, with clear oversight from both the Council and Ofsted. She explained that the inspection regime was significant, with annual visits, monthly quality assurance visits, independent visits and a report to Ofsted. She noted that the property chosen was felt to offer a good home for two children. She emphasised that the maximum capacity would be for two children.

She explained that it was important that the children lived within a community and became part of a community, the close knit nature of the street as described being ideal to help them feel part of society and local life.

The Strategic Manager emphasised that the proposal was not a secure unit, that being a very different facility. She explained it was a home for children to live, like any other children, to see family and friends and to have a normal family life. She noted that neighbours would be respected and explained that a number of other Council children's homes were similar, and they worked well in terms of their neighbours. She noted that if there were any issues they could be raised with Officers.

The Strategic Manager explained that the children would be supported in actively being part of and contributing to the local community, adding to positive cohesion in the community. She reiterated that the Council's children's homes were well staffed, with there always being two staff on site, with their being a Manager and a Deputy Manager. She noted the concerns raised as regards parking and took them seriously, noting parking and being respectful of and working with neighbours. She noted there was the additional council parking across the road, and while that was a busy road, she noted that visitors would be requested to use that parking provision.

The Chair thanked the Strategic Manager and asked the Senior Planning Officer to comment on points raised by the speakers.

The Senior Planning Officer explained that, as set out in the report, that the character of the building would remain residential, the aim being that it would be in character and residential for the children living there. She noted she would defer to colleagues from Highways as regards those issues.

The Principal DM Engineer, Jarvis Robinson noted the current standards would require three spaces, with four being provided, above the required amount. He explained that staff change over would be outside of peak hours and not impact upon busy times associated with schools and work. He noted the additional parking provision at the nearby leisure centre. He noted the site location being visually adequate, and with street lighting. He added that, in terms of the number of trips generated, the proposals would be neutral when compared to a family of four, effective comparable in that regard. He concluded by noting that therefore from a Highways perspective it would be very difficult to object to the proposals.

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

Councillor J Elmer noted that he was the other Local Member for the area and noted he had been contacted by residents over the last couple of months as regards the application. He noted his initial support of the proposals, noting that children's homes were very important and welcomed in the Brandon area. He noted that residents were frustrated and it was not a case of nimbyism (not in my back yard), rather they had concerns as regards it being the right development but in the wrong place.

Councillor J Elmer noted Policies 18 and 31 of the County Durham Plan (CDP) which referred to Children's Homes and Residential Amenity and Pollution respectively. He noted that if Members felt that there was an unacceptable impact upon crime, the fear of crime and community cohesion then the proposals breached Policy 18. He noted that if Members felt there would be an unacceptable impact upon amenity and noise then the proposals breached Policy 31. He added that the house was in the middle of a linear row, with the busy A690 to the front which was dangerous to cross. He noted the danger posed with the proposed children's home not using the front door, with all access at the back. He noted the elderly residents to one side of the property and young children in the area. He added the unadopted road to the rear was a dead end, was not a through road and therefore was an area residents used to socialise, children used to play and was the focal point for community cohesion. Councillor J Elmer felt the proposals would physically separate the linear community, reiterating as regards the dangerous road to the front of the street. He added that some properties would lose neighbours and the two metre fences would block neighbours. He noted a hazard in terms of the vehicles on the narrow back lane, effectively a staff car park, with issues at shift changing with up to ten vehicles a week, around 4,000 vehicle movements per year, with reverse manoeuvring on to the back street where children play. He noted as there was no footpath this represented a hazard. He explained he had additional concern that the four parking spaces provided was insufficient, with additional visitors to park at the Meadowfield Leisure Centre car park. Councillor J Elmer suggested that rather than park in that car park and cross the A690, visitors would look to park elsewhere in the back lane if the four parking spaces were used. He added this had occurred already when Council staff had been visiting the property.

Councillor J Elmer noted that in addition to the impact upon residential amenity and socialising and children playing, there was a visual intrusion in terms of the two metre fencing, visually barring and therefore a breach of Policy 31. He noted that he felt the proposals far from integrated successfully, were more likely to disrupt and, while accepting a need for children's homes he would suggest that should be elsewhere. Councillor J Elmer proposed that the application be rejected.

Councillor C Kay asked as regards the status of the back lane, whether it was adopted highway or privately owned. The Senior Planning Officer noted the back lane was not adopted and was a private lane for residents use.

Councillor C Kay reflected on whether each property owned a tenth of the lane or similar and noted that the potential issues as described in respect of parking would not necessarily stop if the house was sold privately, for example if that household owned six cars. He asked as regards the number of journeys as a result of the proposal. The Senior Planning Officer noted around 3,500. Councillor C Kay noted that number divided over the course of a year that would figure would result in half journeys and asked for clarification. The Principal DM Engineer, David Smith noted the trip generation associated with the proposed development was very modest, with seven to eight trips per residential unit, being similar for the proposals taking into account the staff involved, for example when compared to a residential property with a family and teenagers with their own vehicles. He added that in highway terms it was a neutral impact. He noted that the property was the third or fourth in the row and there was good parking and turning provision. He noted there were no fundamental highways issues.

The Lawyer (Planning and Highways), Clare Cuskin noted the comments from Councillor J Elmer and asked for clarification he had come to the Committee with an open mind. Councillor J Elmer noted he had come to the meeting with an open mind.

Councillor D Brown noted he had come to the meeting with an open mind and had read the Committee report carefully. He noted he took on board Councillor P Taylor's address and the point as regards all County Councillors being corporate parents with responsibility for children in care. He referred Members to paragraph 40 of the report which stated 914 children in care and with the number increasing all the time. He explained he had heard the points raised by objectors and noted that Members may recall a similar application at Coxhoe. He noted that if there had been problems occurring, he felt the Council would have picked those up by now. He noted reference in the report to appeal decision overturning refusal of a children's home for seven children at West Rainton. Councillor D Brown suggested that if the Committee were to refuse the application, then the reasons would need to be concrete else the decision could be overturned at appeal.

Councillor K Robson noted he had listened intently to the speakers and noted it did not strike him as a useful place to put a children's home and asked if other locations had been considered, as there did not appear to be lot in terms of amenity for children in the area. The Chair noted he would allow the Strategic Manager to answer. The Strategic Manager reiterated that the Council had an ambitious expansion plan and were constantly looking for potential properties.

She explained that there were key criteria when considering potential sites including: parking; proximity to neighbours; layout; the size of rooms; and entrances in and out of the property. She explained that it was a challenge to find suitable properties that would work as a children's home and reiterated that it was an ongoing area of work.

The Chair noted Councillor D Brown had referred to the children's home at Coxhoe and asked if there had been any issues, though noting it had been, and was, a separate application. The Strategic Manager noted it had been operating since the middle of January 2022 with no complaints having been received to date.

The Senior Planning Officer noted that in respect of potential alternative sites, the policy did not require any assessment of alternative sites, rather only that a gap in service was identified and therefore the proposals met the requirements of the policy in that respect.

Councillor K Shaw noted he had real concern as regards the need for the looked after children in County Durham, adding there was a need to have children's homes in our communities. He noted the issue had been raised when he had been a Cabinet Portfolio Holder, including the cost in terms of provision outside of the area. He noted the need for a 180 degree change in terms of social housing following closure of provision as a result of funding cuts and austerity. He noted the massive cost of buying in provision to meet need and added he understood the points made by residents. He added that the proposals were to support vulnerable children and was confident the concerns in planning terms were addressed, with the application helping to meet a need. Councillor K Shaw noted that therefore he would support the Officer's recommendation.

Councillor S Wilson noted a children's home had been approved three or four years ago of a similar, or slightly larger, size in his area and noted no issues had arisen. He added he understood the concerns of residents, however, the proposals were not for a secure unit. He noted that the proposals would not split a community in two and noted they represented an opportunity for the children in the home to integrate into a community. He noted the issues raised by Councillor C Kay as regards parking, with similar issues being possible if the property was privately owned, and therefore he felt the issue was moot. He reiterated he understood the concerns raised, and referred to the inspection regime as described, including inspection by Ofsted. He added he believe the proposal represented a good development and was a chance to involve young people in the community. Councillor S Wilson seconded Councillor K Shaw's motion for approval.

Councillor J Elmer asked if Councillor K Shaw would entertain additional conditions in respect of his motion for approval, relating to: only having two children; having no more than four vehicles, with additional vehicles to utilise the car park at Meadowfield Sport Centre; stipulating one shift change at 11.00am; that the Council maintain the road; and the Council extend its winter maintenance to all times of the year relating to the entrance and exit.

The Principal Planning Officer, Paul Hopper noted that future maintenance of the road or extension to winter maintenance provision could not be achieved via planning. He noted that the age and maximum number of children were set out within the application and conditions. He noted that there could be a condition relating to parking, though Highways Officers had commented on those issues. He added that while it was possible to condition as regard shift changes, if there were ever extenuating circumstances relating to a shift change there then could be the potential for a breach of such a condition.

The Lawyer (Planning and Highways) noted that for conditions to be lawfully imposed Members had to be satisfied that they were to make the proposals acceptable in planning terms, they were reasonable, and they were enforceable. She added she was not convinced that the majority of the additional conditions proposed by Councillor J Elmer would meet those tests, certainly not the conditions relating to the ongoing and winter maintenance of the unadopted road and advised those were not reasonable. She noted she was comfortable as regards the requirement relating to the number of children and added she was not certain as regards any limit to the number of vehicles parking as this did not meet the test, in terms of being necessary for the development. The Principal DM Engineer, D Smith noted there was space for four vehicles to park and that it would be for the developer to operate. He added that the back lane was a private street, with private rights, noting no traffic restrictions. He noted he did not see it being necessary to apply any condition other than to only park at the rear of the property, as parking on the A690 to the front was unsuitable.

The Chair asked if the Strategic Manager would comment as regards shift changes. The Strategic Manager noted that generally there would be one shift change at around 11.00am, however, there may be circumstances where that needed to occur at a different time. She reiterated that the majority would be 11.00am, however, it may not always be possible. She noted that children's homes worked on consistent levels of staffing.

The Lawyer (Planning and Highways) noted the comments from the Strategic Manager relating to shift changes and noted that that if the application was for a residential dwelling, one would not expect to impose conditions relating to when and why people would come and go from the property and asked why Councillor J Elmer felt such a condition would be necessary.

Councillor J Elmer noted he felt the condition relating to two children was reasonable, and the condition relating to the limit of four vehicles at any time in the parking space was also reasonable, given the busy A690 to the front of the property, with any overflow to be directed to the car park at Meadowfield Leisure Centre. He added that without such there would be a huge temptation for revert to parking in residents private spaces, as had previously occurred. In respect of shift changes he felt it was not the same as a residential or family property with people going to and returning from work. Councillor J Elmer conceded as regards the conditions relating to ongoing maintenance and winter maintenance and asked if Councillor K Shaw would consider the three proposed additional conditions relating to the number of children, parking and shift change times.

Councillor K Shaw noted his understanding was that Officers had felt the issues relating to parking had been addressed within the application. The Principal Planning Officer noted that the response from Highways was there was no need for a condition, with the Lawyer (Planning and Highways) having noted that such a condition would not meet the required test for a condition being imposed.

Councillor K Shaw noted he saw no need to move away from the recommendations as set out by Officers.

The Chair noted the application had been moved for approval by Councillor K Shaw and seconded by Councillor S Wilson.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report, with an amendment to Condition 3 relating to the age of the of the children that could occupy the home (8 to 17 years old).

b DM/21/03843/FPA - 7 Rowan Drive, Brasside, Durham, DH1 5YE

The Principal Planning Officer 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 Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting.

The application was for the erection of part two storey/part single-storey extension at rear of dwelling (amended application form) and was recommended for approval, subject to conditions.

The Chair thanked the Principal Planning Officer and asked William Reed, a neighbouring resident to speak as regards his objections to the application.

W Reed noted he felt the application did not meet the standards relating to the 45 degree rule and added that the proposals, including the tree, would block even more light, his garden not getting any sun from the west on an evening, resulting in his wife and himself being unable to sit in their garden. He noted he did not object to the ground floor extension, rather the upper floor. He added that the view from the other neighbour's kitchen would be blocked and explained that he and Paul Watson, the other neighbour, were objecting to the application in terms of loss of privacy and blocking of natural light. He noted no objection to the people, or the ground floor extension proposed, rather the upper floor and tree blocking light.

The Chair thanked W Reed and asked Grace Maddison, the Applicant, to speak in support of her application.

G Maddison noted her family's circumstances, being a blended family with three dependent children, currently living across two households with two sets of costs. She noted that it was not possible for her family to move and therefore the only option was to extend the property to create a stable environment for the children. She explained that they had been legally required by the Council to originally apply for a double driveway as they were building a four bedroom home. She added that they were relieved when they were told that this would not be required as they understood the concern this would cause for their neighbours and was not something they would ever have asked for in the first place.

G Maddison explained that they understood that the single storey extension would be allowable under permitted development and added that the second floor bedroom would not be visible from neighbours north-facing views. She explained that Brasside was a safe and secure area with wonderful nature reserves and great links to schools and local amenities which was the ideal environment to raise young children in. She added she had really enjoyed living within the village for the last four years, and that they hoped they would be given the opportunity to remain within the local community as a family, so that they could continue to contribute towards this fantastic area for years to come.

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

Councillor S Wilson asked for confirmation as regards separation distances and whether they were acceptable. The Principal Planning Officer noted separation distances referred to facing elevations, and that in this case the only facing elevation was a domestic garage, therefore distances were in effect met.

Councillor S Wilson noted the ground floor extension would by itself be allowed under permitted development and noted he would be happy to propose approval of the application.

Councillor C Kay noted the issues raised as regards the 45 degree rule, noting the proposals fell short and asked at what point it became a material concern, adding he felt proposals either passed or failed on criteria and that there should not be grey areas. The Principal Planning Officer noted it was a matter of judgement in terms of the impact of the second floor extension. He noted the elevations shown highlighted the stepped construction and therefore it was for the committee to judge how much of an impact there would be in terms of light and overbearing noting there was already some level of impact from the existing stepped arrangement of the property. He added that Officers had concluded there whilst there would be some impact, this would not be sufficiently adverse to sustain a refusal.

Councillor J Elmer noted it was a difficult one for Members, with the application just not meeting the 45 degree rule, however, the applicant had already compromised in terms of a reduced second floor, with the ground floor extension being permissible under permitted development rights. He concluded that he agreed with the Officer's recommendation and would second the approval of the application.

Upon a vote being taken it was:

RESOLVED

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

c DM/21/01697/FPA - Land East and West of 5-8, Rosewood Walk, Ushaw Moor, Durham, DH7 7JY

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 Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was the erection of 2no. apartment blocks containing 8no. residential apartments (C3) (16no. in total) with associated parking and was recommended for approval, subject to conditions. The Senior Planning Officer noted that following the latest revision to plans, the City of Durham Trust had rescinded one element of their objections to the proposals in relation to Nationally Described Space Standards, however, their other objections, as set out in the report remained.

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

Councillor M Wilson noted she was speaking on behalf of local residents and explained that there were concerns as regards parking and the impact on the highway from the development, in respect of displaced parking and the ability for large vehicles, such as refuse and emergency vehicles, to pass along the highway. She noted parking provision of one per dwelling and asked where additional vehicles would park should the occupiers of each unit have more than one vehicle. She explained that additional vehicles would make the situation more difficult and Members on the site visit would have been made aware of the situation. She concluded by noting she hoped that the Committee would consider the issues raised.

The Chair thanked Councillor M Wilson and asked Mr Glenn McGill, Agent for the Applicant to speak in support of the application.

Mr G McGill explained that it had taken a year and a quarter to get to the current position with the application, with a lot of work with the Planning Department. He noted that the site was a small, derelict, in-fill site in a sustainable location close to shops, services, schools and open spaces. He added that the planning history for the site included three applications, the last being for 11 houses, however none were taken forward due to viability. He explained the proposals were not the most profitable, however it would tidy up the derelict space.

Mr G McGill noted that the proposals met CDP Policy 21, ensuring proper standards in relation to highway policy. He noted that as the land was private property, the existing use by nearby residents for parking could be taken away at any time. He noted that the proposal for flats would not generate as much parking and vehicle movements as the previously approved application for 11 houses. He reiterated the work with Planning Officers to resolve issues and noted the Case Officer's report dealt with those issues and stated that the application met all the CDP and highways standards. He concluded by noting it would help meet housing delivery and hoped that Members would consider the application worthy of approval.

The Chair thanked Mr G McGill and asked if the Senior Planning Officer had any comments on the points raised by the speakers.

The Senior Planning Officer noted he would defer to the Principal DM Engineer, however, he reiterated that the parking on the application site could be taken away at any time by the landowner.

The Principal DM Engineer, D Smith noted that the issues in respect of the current parking by nearby residents on the application site and added that could be removed if the site was fenced off. He noted there would be some displaced parking and explained he had visited the site at the weekend and noted around five or six vehicles on the land. He noted that the street was five metres in width and noted some parking may be displaced to Cochrane Mews. He noted that parking would not be disruptive if parking was in line and added that the Front Street was protected through part-time parking restrictions and bollards. He concluded by noting that while there would be some displaced parking there was not such an issue to refuse the application.

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

Councillor D Brown explained he had attended the site visit and noted the comments within the report and from the Applicant's agent were true. He noted he did not understand how there were buildings in the middle of the site, however, he did not see why the application should not be approved as it would tidy up the site. He noted the comments relating to the development obstructing a view, however, as he understood that was not a material matter and therefore, he would propose the application be approved as per the Officer's recommendation.

Councillor S Wilson noted the issues raised as regards parking and felt that, similar to the first application, it was a moot point as the site could be fenced off tomorrow as it was private land. He noted his concern as regards bin collections, access along past the site and noted he would listen to more comments before coming to a conclusion.

The Chair asked if the Highways Officer could clarify as regards bin collection. The Principal DM Engineer explained that generally refuse vehicles were around 2.5 metres wide and noted if resident parked responsibly there would be sufficient room to gain access and turn around, as with any other street.

Councillor J Elmer noted there were many positive aspects to the application and congratulated the applicant in going above and beyond building regulations with the inclusion of cycle storage, photovoltaics and water harvesting. He noted, however, that the Committee should not rule out of hand the concerns raised as regards parking. He added that he had attended the site visit and noted around 10 cars parked on the land and noted those cars would need to park somewhere. He explained that such displacement of vehicles can lead to stress and arguments in a street. In respect of tidying up green spaces he noted that could be resolved with a litter pick.

The Chair noted there had been a proposal for approval by Councillor D Brown and asked Members if there was a seconder or any other proposals.

Councillor K Shaw seconded Councillor D Brown's motion for approval.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions and Section 106 Legal Agreement as set out within the report.

Councillor S Wilson left the meeting at 11.31am

d DM/21/03497/FPA - New College Durham, Framwellgate Moor, Durham, DH1 5ES

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 the erection of three storey extension to Sports and Music Hall building with associated landscaping and was recommended for approval, subject to conditions. The Senior Planning Officer noted an additional condition, should Members be minded to approve the application, relating to damp proof course and drainage.

The Chair thanked the Senior Planning Officer and asked Caitlin Newby, Agent for the Applicant, to speak in support of the application.

C Newby thanked the Chair and Committee and explained the application was for a new T-Level extension to New College Durham (NCD) and that it was in line with the policies and strategic objectives of the CDP.

She noted that NCD had worked very carefully in respect of policy requirements prior to submitting the application. She reminded Members that NCD was looking to better cater for future learners, working with local employers and Government in respect of skills gap. She added that T-Levels were new two-year technical qualifications for those aged 16-19 in areas such as Health, Education and Science, identified skills with a national shortage. She explained that the proposals would also accommodate new subjects as T-Levels expanded, therefore the application was such to meet that need.

C Newby noted that the proposals would allow for greater options for post-16 education locally, crucial in addressing social inequalities, impacting on future career options and earning potential. She referred Members to the report and presentation, noting that the application was seen as acceptable in principle and that Officers noting the application was acceptable, subject to conditions. She added that there had been no objections from any members of the public and respectfully requested that Members approved the application.

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

Councillor J Elmer noted he honestly could not find anything negative to say as regards the application and therefore moved that the application be approved subject to the conditions set out in the report and the additional condition as set out by the Senior Planning Officer. Councillor J Cosslett seconded the motion for approval.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions as set out within the report and an additional condition relating to drainage.



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/21/02193/FPA
Full Application Description:	Erection of retail unit and associated parking court (amended plans received 07.03.22)
Name of Applicant:	Mr Amen Kareem and Mr Mohammad Sharifi
Address:	Land To The East Of Whitwell House, Front Street, New Durham, DH1 2EP
Electoral Division:	Belmont
Case Officer:	George Spurgeon (Senior Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to an open area of grassed land within the settlement of Gilesgate Moor and the defined District Centre of Dragon Lane. It lies north of, and adjacent to, Sherburn Road which is a main thoroughfare linking Durham City in the west to Sherburn village and beyond, to the east. A line of residential properties with front gardens known as Goodyear Crescent provide a frontage to the other side of the street. To the west of the site, a pair of semi-detached properties exists, the nearest of which is a residential dwelling with side garden overlooking the site. The attached property to this dwelling is a newsagent shop. Dragonville Retail Park is located to the north-east of the site with the rear elevation of Matalan store abutting the site.

2. To the north of the site beyond an existing timber fence, is a triangular shaped parcel of privately owned land thought to have previously been used as allotments but that has recently been covered with concrete and used to site a static caravan which is currently under investigation by the Council's Planning Enforcement Section. The application site is overgrown, having been left in an untidy state since the cessation of its former unauthorised use as a hand car wash. The site has been scraped to remove topsoil and grass, with a mound of earth remaining on site. Prior to this, the site was an open, mainly grassed unmanaged area.

The Proposal

3. The application seeks full planning permission for the erection of a single storey retail unit and associated parking area. The unit is proposed to have an 'L' shaped form with a floor area of approximately 250m², featuring a hipped roof measuring 3.5m to the eaves and 5.5m to the ridge. The unit is proposed to be finished in buff brick to the external walls and would be served by 10 car parking spaces to the west and a sheltered cycle store to its south. Bins would be stored to the north, divided from the parking area by a 3m high weldmesh fence. The exact end use of the unit is not known at this time although the applicant has indicated that it is likely to be a local convenience store or similar.
4. The application is being reported to planning committee at the request of Councillor Fletcher due to concerns over the lack of clarity as to the nature of the retail unit proposed, the questionable need for further retail in this location, and noise and disruption to nearby residents and traffic flow.

PLANNING HISTORY

5. EN/21/01053 Clearance of former allotments, creating of hard standing, siting of a trailer / static caravan on site.
6. DM/20/00216/FPA Change of use to hand car wash including the erection of 2 No. buildings, cabin and storage container. Refused 25th June 2020.
7. DM/19/01160/FPA Proposed hand car wash business on vacant site. Refused 13th September 2019. Appeal Dismissed.
8. EN/19/01111 Unauthorised excavation works and erection of wooden fencing panels. Case closed, no breach
9. DM/19/01231/AD various adverts for hand car wash business on vacant site. Refused 13th September 2019.

PLANNING POLICY

National Policy

10. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
11. 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 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.
14. 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.
15. 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.
16. 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.

17. 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.
18. 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.
19. 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 Page 73 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:

20. 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; noise; public rights of way and local green space; planning obligations; 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 (CDP)

21. *Policy 9 (Retail Hierarchy and Town Centre Development)* defines the retail hierarchy and states that proposals that would positively contribute to the evening economy will be supported provided they contribute to the vitality and viability of town centres, promote public safety and accord with this and other relevant policies in the Plan.

22. *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.
23. *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.
24. *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.
25. *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.
26. *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.
27. *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.

28. *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 wastewater 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.
29. *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
30. *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.
31. Residential Amenity Standards SPD (2020 Adopted version) – Provides guidance on the space standards that would normally be expected from new buildings and existing dwellings.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

32. The application site is not located within an area where there is a Neighbourhood Plan to which regard is to be had.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

33. *Belmont Parish Council* – Object to the application on the grounds that the proposal would generate additional traffic which would add to the traffic on Sherburn Road / Front Street, that the exact use has not been specified, and that the proposal is contrary to Policy 29 of the County Durham Plan.
34. *Highways Authority* – Considers the parking provision to meet the Council's standard of 1 space per 25sqm, with 10 spaces provided to serve a 250sqm unit, and the required 6m reverse distance from the spaces being provided. Advises that the proposed cycle parking is also proposed should be covered to allow for use in inclement weather. Advises that a new access is proposed, which would require the applicant to enter into a S184/S278 agreement with the Local Highway Authority to provide this on the existing Highway.

Non-Statutory Responses:

35. *Landscaping* – Advise that a soft landscaping scheme to include the planting of trees and shrubs should be considered to create a green frontage to the development which would soften the appearance of the proposed building and hard surfaces.
36. *Design and Conservation* – Consider the principle of development and the design concept to be satisfactory, with development of the site considered to visually improve the street.
37. *Environmental Health Nuisance* – Recommends conditions to secure details of lighting, and to restrict opening hours and noise levels.
38. *Environmental Health Contamination* – Advise a conditional approach to land contamination.
39. *Ecology* – Confirm that no ecological surveys are required to support the application as the site has recently been cleared.
40. *Police Architectural Liaison Officer* – make several recommendations to help design out crime including the provision of a knee rail around the perimeter of public areas and a 3m high weld mesh fence around the bin store and service area. This is shown on the latest proposed plans.

Public Responses:

41. The application has been advertised by way of a site notice and individual notification letters sent to neighbouring properties. A total of 8 representations were received, with 6 objecting to the application and 2 neither objecting nor supporting. The following concerns were raised:

Highways

- The proposal would generate an increase in traffic,
- There is an insufficient number of parking spaces, and delivery vehicles would restrict access to parking spaces encouraging on street parking on a busy road which would adversely affect highway safety,
- Reversing delivery vehicles would cause safety concerns for pedestrians,
- The turning area for vehicles in the service area is not large enough for HGV's,
- Deliveries into the retail park near the traffic lights at times already cause traffic issues due to the larger vehicles having to temporarily block the main road to gain entry to the rear of the retail premises.
- Nearby residential property would lose off road parking.

Visual Impact

- The loss of the natural “green” break between the residential area and the retail area is in the view of the residents a noticeable and detrimental visual effect on the area.

Other Issues

- No detail of the type of retail or the opening hours proposed have been provided,
 - There are vacant sites in the retail area,
 - The site was cleared by the applicant depriving residents of well used and established amenity space,
 - The proposal would block access to the plots to its rear (north),
 - The applicant only owns half of the site with the other half being unregistered land,
 - The proposals would have an impact on the wider community outside of the present notification area where residents are possibly unaware of the application but who would also be affected.
42. Councillor Fletcher and Lattin both object to the application raising concerns regarding the creation of an additional access onto an already busy section of highway, that there is no need for further retail in this location, and the lack of clarity as to the proposed use. Concerns were also raised regarding the proposed development resulting in a loss of open space and a significant buffer between the residential areas of the Sherburn Road and the Commercial Centre in Dragonville, with comments made by the Inspector when dismissing the appeal against the refusal to grant planning permission to use the land as a hand car wash (reference DM/20/00216/FPA) cited.

Applicants Statement:

43. No statement received prior to report publication.

PLANNING CONSIDERATION AND ASSESSMENT

44. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the principle of development, highway safety, residential amenity, design and visual impact, ecology, drainage, ground conditions, and other matters.

Principle of Development

45. The application site lies within the Dragon Lane District Centre as defined by Policy 9 of the County Durham Plan (CDP). Policy 9 seeks to protect and enhance the hierarchy of defined retail centres in the County. With reference to District Centres, the supporting text to Policy 9 advises that both of the defined District Centres have large mainstream convenience food store anchors and also a higher order non-food retail offer which reflects the origins of both centres as out of centre retail park developments.

The supporting text goes on to advise that the offer in the District Centres is predominantly retail orientated, and that support will be given to proposals that will diversify the range of facilities within the centres, providing other main town centre uses, allowing them to evolve over the Plan period to increasingly perform a town centre role. However, the policy does not preclude the addition of further retail uses, instead setting a threshold for which retail uses over a specified floor area (1500m² for convenience or 1000m² for comparison) require their impact on Durham City Centre to be considered.

46. This is in line with Paragraph 86 of the NPPF which advises that Local Planning Authorities (LPA) should define a network and hierarchy of town centres and promote their long-term vitality and viability by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses and reflects their distinctive characters.
47. The application proposes a retail unit within the defined District Centre with a floor area of 250m², which is below the threshold where an impact assessment would be required. Therefore, the principle of the proposal is acceptable and in accordance with CDP Policy 9 and Part 7 of the NPPF.
48. Residents have raised concerns that the end use of the unit has not been provided and that there are vacant sites within the District Centre which indicates there is no further need for retail in this location. The unit proposed is stated to be for a retail use which would fall under Use Class E. Class E covers a broad range of uses that would generally be considered acceptable within defined centres. As the application site lies within a defined District Centre the principle of the unit operating as a retail unit is considered to be acceptable. However, as Class E covers a broad range of uses allowing the unit to potentially operate as a restaurant or light industrial use in the future without requiring any further planning approval, which may lead to greater impacts upon residential amenity than operating as a retail store, it is considered to be appropriate in this instance to impose a condition restricting the use to one falling under Class E (a) in order to protect the amenity of nearby residents.
49. Notwithstanding the above, the applicant has indicated that the likely future use of the unit would be as a local convenience store or similar. Whilst concerns have been raised by residents that there is no need for further retail in this location, with it noted that there is an existing convenience store nearby to the west, the planning system should not be used as a tool to restrict competition and as such this is not a material planning consideration to which weight can be afforded in determination of this planning application, and as such the concerns raised are not sufficient to sustain refusal of the application.

Residential Amenity

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

51. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
52. The proposed retail unit is in a reasonably busy area, with both mixed commercial and residential uses nearby. The application is supported by a Noise Impact Assessment which has been reviewed by the Council's Environmental Health Officers (EHO). The report confirms relevant ambient noise levels for both night-time and daytime periods and identifies that fixed plant and machinery will be required, but that specific details of these are unknown at this stage. It is envisaged that air handling plant to provide background ventilation, external refrigeration plant (i.e. condenser unit) associated with chilled storage cabinets inside the store, and an extract fan serving a food preparation area/bakery may be required depending on the end users. As such, the EHO has recommended a condition relating to a threshold of acceptable noise levels that any fixed plant/machinery must not exceed. A condition is also recommended to secure details of any external lighting.
53. No details of proposed opening hours have been provided as part of the application. However, the Noise Impact Assessment suggests that these would be expected to be around 7am-11pm and it is noted that the opening hours of the local convenience store to the west are 6am to 10pm Sunday to Thursday and 6am to 11pm on Fridays and Saturdays. Accordingly, a condition is recommended to restrict the opening hours of the proposed unit in line with the existing convenience store.
54. The Council's Residential Amenity Standards SPD advocates separation distances of 21m between facing principal elevations and 18m between bungalows, 13m between principal and two storey gable elevations and 10m to a single storey. The side elevation of 5 Front Street to the west is blank and the properties on the opposite side of the road from the site at Goodyear Crescent are over 21m away. The north elevation of the unit is proposed to comprise two doors, with the rear gardens of the five dwellings on Frank Street either being over 21m away or orientated at an oblique angle such that any visual intrusion would be minimal.
55. A condition is recommended to secure details of a construction management plan to minimise disruption throughout the construction period.
56. Overall, the proposals are not considered to adversely affect the amenity of nearby residents, according with CDP Policy 31 and Part 12 and 15 of the NPPF.

Highway Safety/Access

57. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
58. Residents have raised concerns over the proposals generating an increase in traffic at an already busy section of road, there being insufficient parking to serve the unit, and the turning area for vehicles within the service area not being large enough.
59. Highways Officers have raised no objections to the proposals, confirming that the amount of parking proposed is sufficient and in accordance with the Council's Parking and Accessibility Standards 2019, at a rate of one car parking space per 25m² of floor area, with a distance of 6m between the access/egress point of the spaces allowing sufficient room to safely reverse into and out of the spaces. A covered cycle parking area is also proposed, allowing use in inclement weather. Whilst the proposal would generate additional traffic, given that the development is to be served by 10 car parking spaces this is not considered to have a significant impact on the surrounding road network.
60. The access point to the proposed service area is 3.8m wide for a length of approximately 7m, narrowing to a width of 3.1m at the 9m length point. Whilst this may not be large enough for some delivery vehicles, it is considered that it would be of a sufficient size for delivery vans or small lorries. Noting that the proposed use could reasonably be serviced by such vehicles and it being the responsibility of the operator to ensure appropriately sized delivery vehicles are used) the Highways Officers have raised no objection to the application in this regard.
61. Overall, the proposals are not considered to adversely affect highway or pedestrian safety and would accord with CDP Policy 21 and Part 9 of the NPPF.

Design/Visual Amenity

62. CDP Policy 29 outlines that development proposals 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. In total, Policy 29 sets out 18 elements for development to be considered acceptable, including: buildings being adaptable; 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.

63. CDP Policy 39 states that proposals for new development will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects.
64. The site currently comprises rough grass, informal areas of hardstanding, debris and soil. The current baseline visual environment is unattractive as the site appears derelict. The site lies within an urban area and its development as proposed would introduce buildings, parking and access areas which would be experienced at close range by residents, pedestrians and road users.
65. The application proposes a single storey 'L' shaped building featuring a hipped roof and finished in buff brick to the external walls. The dwellings to the south are finished predominantly in red brick and white render, with the shops to the east comprising of red brick and hipped roofs and the residential property to the west is finished in stone. A condition is recommended to secure further details/samples of the proposed materials to ensure their suitability with the surrounding area.
66. The submitted streetscenes show that the ridge of the roof would be comparable to the eaves of the Matalan store to the east and the residential property to the east. Glazing would be installed to the west facing entrance and the south elevation to provide an active frontage when travelling along Sherburn Road. Overall, the scale and appearance of the building is considered to be appropriate for its surroundings and to improve the current appearance of the site.
67. It is noted that when dismissing the appeal for the use of the land as a hand car wash, the Inspector considered that the site provides a visual and physical break between the residential area around Frank Street and the south of Front Street and the retail park, with the proposals including car parking, buildings/containers, and 3m high acoustic fencing having the effect of bringing the commercial area closer to the residential area and eroding the existing sense of a gap between the respective land uses.
68. The previous comments from the Inspector are acknowledged, although it is noted that this application proposes a very different type of development to that associated with the hand car wash and that the appeal was determined prior to the adoption of the CDP.
69. Similarly to the application for the hand car wash, the plans continue to show a landscaping strip to the edge of the parking areas, now proposed to the west of the site. However, an additional space to the south of the unit is now proposed to be retained as a green open area to help provide an attractive frontage from the main road and to retain an element of separation from the residential properties on the opposite side of the road. This application also proposes the erection of one larger permanent building in keeping with the retail uses already present to the east and that which would have a more positive visual appearance than the several smaller, less attractive temporary structures associated with the previous unauthorised hand car wash operation which was the subject of the planning appeal.

70. Knee rail fencing is proposed as the boundary treatment, as recommended by the Police Architectural Liaison Officer, which would help to retain some of the open character of the site and a condition is recommended to secure specific detail in this regard. A condition is also recommended to secure details of soft landscaping such as trees and shrubs to create a green frontage to the development which would soften the appearance of the proposed building and hard surfaces.
71. Overall, the design, layout and scale of the scheme is considered to be acceptable, subject to conditions, complying with CDP Policy 29 and Part 12 of the NPPF.

Drainage

72. 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.
73. CDP Policies 35 and 36 relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
74. The site is not located within a flood zone. The submitted application form states that surface water is proposed to be disposed of by way of a sustainable drainage system, although no details of this or the disposal of foul sewage have been provided. Therefore, a condition is recommended to secure further details prior to the commencement of works.
75. Subject to this condition, the proposals are considered to accord with CDP Policy 35 and 36 and Part 14 of the NPPF and would be unlikely to result in drainage problems.

Ecology

76. NPPF Paragraph 180 d) advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks to secure net gains for biodiversity and coherent ecological networks.

77. The application is not supported by any ecological reports. The County Ecologist has confirmed that as the site was recently cleared it is considered to be of low ecological value and so no surveys of the site are necessary in this instance. A condition is recommended to secure a landscaping scheme and the inclusion of native species rich planting as part of this would be considered sufficient to achieve minor net gains in biodiversity. A condition is also recommended to secure details of the installation of bird and bat boxes to achieve biodiversity enhancements.
78. Subject to these conditions, the proposal is considered to accord with CDP Policy 41 and Part 15 of the NPPF.

Sustainability

79. Criterion c) of Policy 29 requires all development to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source.
80. Criterion d) of Policy 29 requires all development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials, during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable waste and prioritising the use of local materials.
81. The applicant has not provided any details to demonstrate accordance with the above criteria of Policy 29. However, whilst it would be preferable to have some details prior to determination, it is considered that these details can be secured via a suitably worded planning condition in this instance.
82. Subject to such a condition, the proposal is considered to accord with the sustainability aims of CDP Policy 29 and Part 2 of the NPPF.

Responding to Objector's Concerns

83. It has been suggested that the site previously had some value as public open space. However, the site is privately owned and despite its previous uses the site does not have any formal status as public open space. Its contribution to the character and appearance of the area has been discussed above.
84. A concern has been raised by residents that the applicant only owns half of the site with the other half being unregistered land. However, because land is not registered at the Land Registry, does not mean that it does not have an owner. The applicant has signed ownership certificate A within the submitted application form declaring that they own all of the land to which the application relates. Disputes over land ownership would amount to a private legal issue and are not a material planning consideration in the determination of this application.

85. A concern was raised that the proposals would affect a greater number of residents than were directly notified of the application by way of a notification letter. However, the application was also advertised by way of a site notice. The Council has exceeded its minimum statutory duty to publicise the planning application by posting a site notice and notifying adjacent residents by notification letter.
86. Residents have also raised concerns that the proposal would block access to three allotment plots to the north of the site and result in the loss of off-street parking. The plans submitted with the previous retrospective application seeking consent to use the land as a hand car wash showed the land to the north to be divided into three plots each with their own individual access. The land to the north no longer appears to be divided into three plots or in use as allotments as it has since been covered in hardstanding. The land is privately owned and does not have formal status as an allotment. An objection was received by the owner of this land who confirmed that the land is divided for three members of the family. The fence dividing the application site from the land to the north comprises three gates to allow continued access to the land to the north. The left gate would allow continued unimpeded access after the development however the central and right gates would be blocked by the bin and service area serving the development. The right gate is currently blocked by the earth mound on the application site. It is unclear whether these access points are still required as the land no longer appears to be divided into three plots and access to this land from the south after the development would be possible through the left gate. Questions regarding the obstruction of the other two access points, and the potential for the owner of the land to the north to be allowed continued vehicular access to their land from the south (i.e., through the service area) raises matters relating to specific rights of access which are private legal matters between the parties involved and as such would not constitute a material planning consideration to which weight could be afforded in the determination of this application. In any event it would appear that some level of access to the land to the north via the application site would be maintained post development.
87. It is noted that whilst some of the land included within the application site may currently be used informally for car parking, the dwelling at No. 5 Front Street benefits from two in-curtilage car parking spaces and railings along the edge of the footpath to the front of this property and the adjoining convenience store prevent on-street parking along this stretch of the main road. The unadopted back lane to the north of 4 and 5 Front Street would remain fundamentally unaffected post development.

CONCLUSION

88. The proposal relates to the erection of a new retail unit within the Dragon Lane District Centre. Whilst the exact end use of the retail unit has not been specified, the principle of a use falling under Class E in this location is acceptable and would accord with the requirements of CDP Policy 9.

89. It is concluded that this development would have an acceptable impact on the character and appearance of the surrounding area, represent high quality design, and would not adversely impact on the amenity of neighbouring residents. Conditions are recommended to secure further details regarding the disposal of foul and surface water and a scheme to minimise carbon emissions.
90. The proposal is therefore considered to accord with policies 9, 21, 26, 29, 31, 32, 35, 36, 39 and 41 of the County Durham Plan and Parts 6, 7, 8, 9, 12, 14 and 15 NPPF with no material considerations to indicate otherwise, and therefore the application is recommended for approval.

RECOMMENDATION

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:

Location Plan C-00

Proposed Elevations C-102 B received 07.03.2022

Proposed Site and Ground Floor Plan C-101 A received 07.03.2022

Streetscenes C-110 A received 07.03.2022

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 9, 21, 29, 31, 32, 35, 36, 39 and 41 of the County Durham Plan and Parts 2, 4, 6, 7, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.

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

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

4. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

No tree shall be felled or hedge removed until the landscape scheme, including any replacement tree and hedge planting, is approved as above.

Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats.

The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The Local Planning Authority shall be notified in advance of the start on site date and the completion date of all external works.

Trees, hedges and shrubs shall not be removed without agreement within five years.

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.

5. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in the first available planting season following the practical completion of the development.

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.

6. 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.

7. 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.

8. 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.

9. 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.

10. Prior to the commencement of development, 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 29c) of the County Durham Plan.

11. 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.

12. No development shall be commenced until details of the surface treatment and construction of all hard surfaced areas 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 and the car parking spaces made available for use prior to the first occupation of the development.

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. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed the background (LA90) by more than 5dB LAeq (1 hour) between 07.00-23.00 and 0dB 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. In the event that the stated limits are exceeded then the affected plant and machinery shall cease to operate until such time as it has been demonstrated to the LPA that the required limits have been met.

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

14. 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.

15. Prior to the first occupation the development hereby approved, details of bat and bird boxes to be installed on the elevation(s) of the unit shall be submitted to and approved in writing by the Local Planning Authority. The bat and bird boxes shall be installed in accordance with the approved details thereafter and retained for the lifetime of the development.

Reason: To achieve biodiversity enhancements in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

16. 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 Class E (a) of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order) and for no other use.

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

17. The premises shall not be open to customers outside the hours of 7am to 10pm on Sunday to Thursday and 7am to 11pm on Fridays and Saturdays.

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.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents

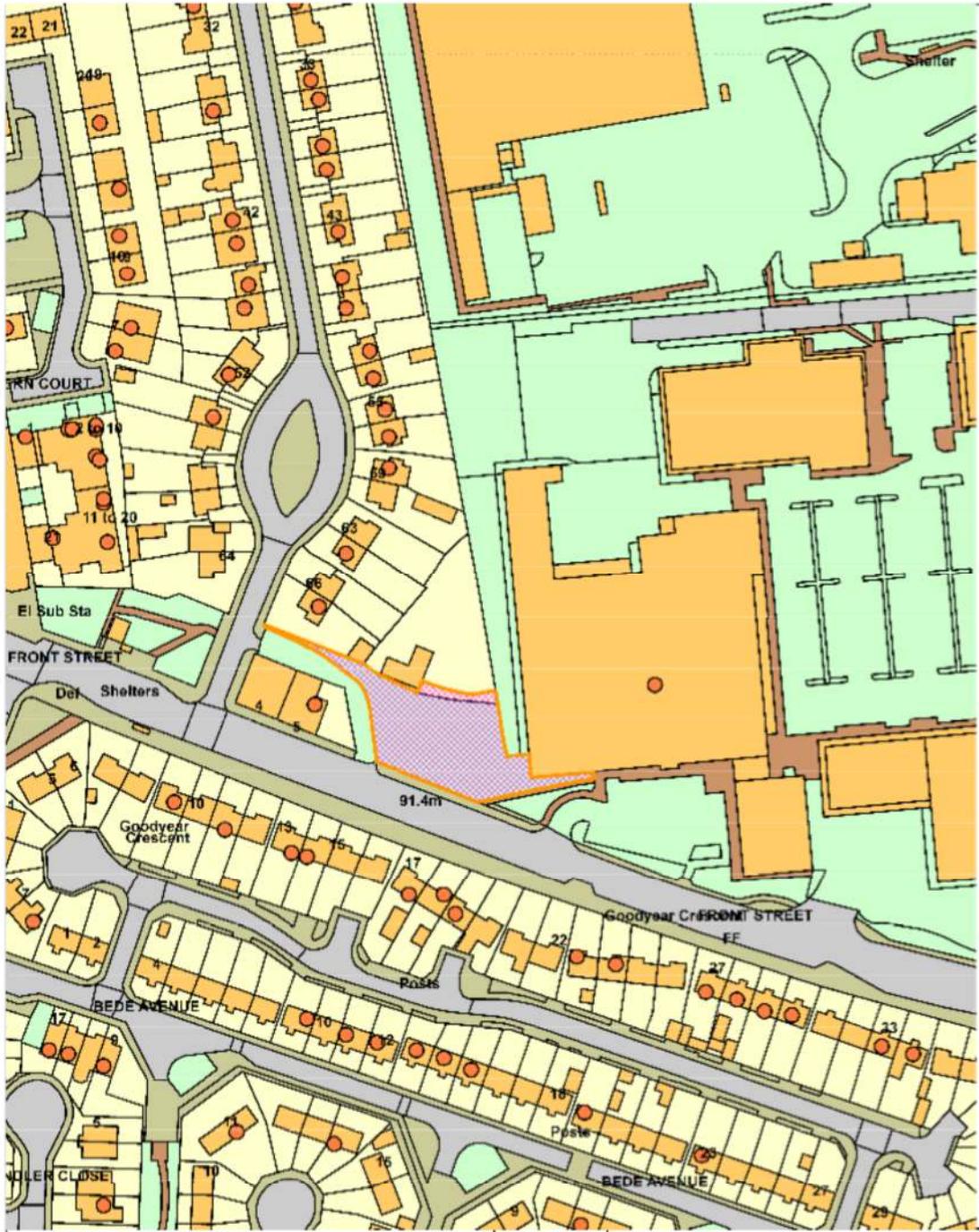
National Planning Policy Framework

The County Durham Plan (CDP)

Statutory consultation responses

Internal consultation responses

External consultation responses



 Durham County Council	Location	Land To The East Of Whitwell House, Front Street, New Durham, DH1 2EP DM/21702193/FPA	
	Comments		
<small>This map is reproduced from Ordnance Survey material with the permission of Ordnance Survey on behalf of the Controller of Her Majesty's Stationary Office Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceedings. Durham County Council, Licence No. 100049055 (2014)</small>	Date	26 April 2022	Scale 1:1319

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/03860/FPA
FULL APPLICATION DESCRIPTION:	Erection of part two-storey/ part single-storey extension to rear of existing small 4-bed HMO (use class C4) to include provision of 2 no. additional bedrooms
NAME OF APPLICANT:	Mr Nick Swift
ADDRESS:	76 Whinney Hill Durham DH1 3BG
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is an unlisted two-storey semi-detached property located within the Whinney Hill area to the east of Durham City Centre, and within the Durham City Centre Conservation Area. The street occupies an elevation position and curves gently from its junction with Old Elvet/Green Lane to the north to Stockton Road roundabout in the South. The property is surrounded by residential properties and there is a high student population resident in the area.
2. The property is currently in use as a 4-bedroom student House in Multiple Occupation (HMO), therefore falling with a C4 use class.

The Proposal

3. Planning permission is sought for the construction of a part two storey/part single-storey extension to the rear of the property in order to provide 2 no. additional bedrooms (subsequently providing 6 in total) to be used for student occupation in association with the existing C4 HMO use of the property and also includes associated alterations to the internal layout.
4. The application is referred to Planning Committee at the request of both Cllr R Ormerod and the City of Durham Parish Council who consider the proposal to be contrary to relevant local plan policies and consider that the proposal would fail to provide a mixed and balanced community.

PLANNING HISTORY

5. No relevant planning history for this site although the adjoining property at No. 75 Whinney Hill was subject to similar application in 2020 which was refused by this committee, and against which an appeal was subsequently allowed. The specifics of this decision are considered in greater detail elsewhere in this report.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

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

12. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

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

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

17. 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.
18. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
19. 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.

Neighbourhood Plan

20. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
21. Policy S1 (Sustainable Development Requirements of all Development and Redevelopment Sites Including all New Building, Renovations and Extensions) seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
22. Policy D4 (Building Housing to the Highest Standards) seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.
23. Policy 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.
24. 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.

25. 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.
26. Policy T2 Residential Car Parking seeks to ensure that proposed development would be served by sufficient car parking spaces.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

27. DCC Highways - Raised no objection to the application. In doing so they note that the dwelling falls within the CPZ and the additional increase in bedrooms would not lead to an increase in the number of permits for which the property is eligible.
28. City of Durham Parish Council – Objects to the application on the grounds that the proposals are unacceptable due to 76 Whinney Hill being located in an area already identified as exceeding the 10% threshold for the number of properties exempt from Council Tax as being wholly occupied by Students as set out in Policy 16.3 of the County Durham Plan, and is also in contravention of CDP Policies 29 and 31, and paragraph 127 (f) of the National Planning Policy Framework.
29. Following amendments to the application which reconfigured the internal layout to ensure that all bedrooms complied with minimum space standards for single bedrooms the Parish Council were reconsulted and resolved to maintain their objections commenting that no amendments to this application satisfy any of their original grounds for objection.

INTERNAL CONSULTEE RESPONSES:

30. Design and Conservation – Raised no objection commenting that, overall, there would be no harm to the Conservation Area or inner setting of the Durham World Heritage Site.
31. DCC HMO Data – Confirm that within a 100m radius of, and including 76 Whinney Hill Durham, 45.5% of properties are currently Class N exempt student properties as defined by Council Tax records.
32. DCC HMO Licensing – Commented that part of the dwelling will be capable of forming a 6-bed licensable house in multiple occupation. However, they have provided advice and guidance to assist the applicant in ensuring compliance with all relevant amenity and fire safety standards relating to a licensed HMO of this type.
33. DCC Environment, Health and Consumer Protection (Nuisance Action Team) – Confirmed that based on the information submitted the application complies with the thresholds stated within the TANS and the development is unlikely to cause a statutory nuisance as a consequence.

PUBLIC RESPONSES:

34. The application has been advertised by means of site notice and by notifying neighbouring residents by letter.

35. To date, 3 no. letters of objection have been received (including representation from the City of Durham Trust, Whinney Hill Community Group, and a resident). The concerns raised in relation to the development are summarised as follows:
- building disruption and impact on privacy
 - overlooking of neighbouring properties
 - parking issues and lack of spaces to support more cars
 - poor management of refuse bins
 - noise issues
 - does not meet the requirements of County Durham Plan Policies 16.3 and 29, including the NDSS and the Residential Amenity Standards SPD.
36. Following receipt of amended proposals and a re-consultation process, the City of Durham Trust resolved to maintain their earlier objections.

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:

37. The application is an extension of an existing HMO and will not affect the availability of housing in the city or address any imbalance local policies seek to re-address. The dwelling will remain a student property and the applicant will extend the property either more sympathetically as the application or via PD rights that remain open to him and that would result in an inferior scheme and inferior accommodation quality which is surely not the aim of planning policy. The application has been carefully amended during the consideration process with detailed discussions with the planning officers to limit any impact on neighbouring houses. We therefore respectfully ask the committee to seek to resolve and approve this application.

PLANNING CONSIDERATIONS AND ASSESSMENT

38. 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, the impact on the character of the area and residential amenity, the impact on Durham City Centre Conservation Area and World Heritage Site (WHS), and impact on parking and highway safety.
39. The NPPF is a material planning consideration in this regard and advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF. Paragraph 11 requires development which accords with an up-to-date Local Plan to be granted planning permission without delay.
40. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area along with the Durham City Neighbourhood Plan which is also now adopted, both are the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP and NP.

Principle of the Development

41. The property in question is currently in use as a small C4 HMO (C4) which are defined as small, shared houses occupied by between three and six unrelated individuals, as their only or main residence, and who share basic amenities such as a kitchen or bathroom. As part of the proposal, the number of occupants would be increased from 4 to no more than 6, therefore, the property would remain in C4 use and as such this application does not propose any material change in use of the property.
42. Part 3 of Policy 16 of the CDP is relevant to this application which relates to student accommodation/HMO's and states that in order to promote, create and preserve inclusive, mixed and balanced communities and protect residential amenity, extensions that result in specified additional bedspaces will not be permitted if, including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N student exemption).
43. Policy 16 confirms that where the 10% has been exceeded it is considered that there is an existing imbalance between HMO's occupied by students and homes occupied by other non-student residents.
44. The most recent up to date Council Tax information identifies that 45.5% of those properties within 100 metres of the application site are currently occupied as student accommodation and are Class N exempt. In this case, the application relates to extensions to the existing C4 HMO property to create 2 no. additional bed spaces and the current concentration of properties within 100 metres of the site recorded as being Class N Council Tax exempt is 45.5% which is above the 10% threshold and therefore the proposal conflicts with Part 3 of Policy 16 in this respect.
45. Notwithstanding the above, the applicant has advised that the existing property benefits from permitted development rights capable of delivering an extension that would provide 2 additional bedrooms. In this regard a scheme was submitted that shows how those permitted development rights could be utilised to provide a total of 6 No. bedrooms by extending the property at ground floor level to the rear, together with some associated internal alterations. It should be noted that the Council has scrutinised that position and upon further amendment by the applicant to reduce the height of the single storey rear extension this element would benefit from permitted development. The evidence confirms that although the scheme which forms the subject of this application would be the applicant's preferred approach to extending the property, permitted development rights would allow an alternative proposal that would deliver additional accommodation of a similar type and that this would be pursued by the applicant if the current application were to be refused.
46. Specifically, that fallback position would provide the same number of bedrooms as the current scheme, although slightly smaller and the kitchen/lounge area slightly larger. The general arrangement and functioning of the accommodation is nevertheless comparable and would accommodate two further bedspaces for two additional students. Therefore, the fallback position would result in the same number of additional bedspaces as the current proposal and in this respect the two schemes to extend the property are considered sufficiently similar.
47. It is noted that a recent appeal decision (APP/X1355/D/20/3258480) in relation to a similar scheme for the erection of a part two storey-part single storey extension, to the rear of the adjoining property no. 75 Whinney Hill, (to form a 6-bedroom C4 HMO) was allowed on appeal in 2020.

In that instance a similar fall-back position was submitted in support of the appeal which demonstrated that 6 no. bedrooms could be achieved by utilising permitted development rights, and the Inspector gave this significant weight in allowing the appeal. That decision is a material consideration in the determination of the current planning application. In that instance the Planning Inspector was also satisfied that the proposal would not have a harmful effect on the living conditions of nearby residents with regard to noise and disturbance, or the character and appearance of the area in accordance with Policy 16 of the CDP and the Framework where it seeks to ensure that places are inclusive and do not undermine quality of life or community cohesion.

48. However, the City of Durham Trust note that the previous application (and subsequent appeal) was considered against the policies of the now superseded City of Durham Local Plan and the Interim Policy on Student Accommodation, having been replaced by the new County Durham Plan which was only taken into account by the Inspector at the appeal stage. The Trust note that the Local Plan Inspector's Report was not submitted as part of the appeal and, therefore, contend that this led the Appeal Inspector to reach the erroneous conclusion that there would not be any adverse impact upon residential amenity when balancing the conflict with Policy 16.3 of the CDP against possible harm in relation to nearby residents' living conditions and the character and appearance of the area.
49. It is acknowledged that the draft of the CDP did not propose controls over extensions to HMOs and that this was introduced following the Examination in Public where in the Local Plan Inspector's report it was considered that cumulatively over time additional bedspaces could lead to a significant increase in the number of students living in an area, undermining the objective of the policy. However, as already discussed, in this instance there is a legitimate fall-back position where the same bed spaces could be provided through the provisions of the Permitted Development Order, and this was given significant weight by the Inspector of the appeal at no. 75 Whinney Hill. Irrespective of the change to the policy, the fall-back position in this regard remains unchanged from the previous appeal in relation to No. 75 and the current proposal.
50. Therefore, whilst it is noted that the development would be contrary to Policy 16 of the CDP, the presence of a permitted development fall-back position and associated appeal decision relating to the adjoining property are sufficient material considerations to, on balance, outweigh the conflict with planning policy in this instance. In particular, the Planning Inspectors previous decision to allow the appeal for a comparable extension at an adjoining property afforded significant weight to that position. Accordingly, it is considered that the proposal is acceptable in principle.

Impact on the character of the area and residential amenity

51. Paragraph 126 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
52. Policy 31 of the CDP states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. Proposals will also need to demonstrate that future occupiers of the development will have acceptable living conditions. In addition, criterion e) of Policy 29 states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.

53. In relation to the amenity of future occupants of the development, concerns have been raised by the City of Durham Parish Council, City of Durham Trust and Whinney Hill Community Group in terms of the proposed bedroom sizes and shared spaces within the property which they contend would fail to meet the minimum Nationally Described Space Standards (NDSS).
54. NDSS is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, Council determined that it was necessary to introduce the NDSS in County Durham with the aim of improving the quality of new build development coming forward. The plan included a 12-month transition period from the adoption of the plan in October 2020 to allow house builders sufficient time to adjust their products according to meet those standards.
55. It is noted that the current application relates to extensions to an existing C4 HMO to form additional bedspaces and would not therefore result in a change of use of the property or any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is 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.
56. Regarding the above, the proposal as originally submitted did not comply with NDSS. However, amended plans have been submitted and all 6 of the proposed bed spaces now meet the minimum 7.5sq metres internal floor space. As such, these are considered to provide an acceptable amount of internal space in accordance with policy 29(e) of the CDP. In relation to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 6 bedspace, 6 person dwellings. However, it does include standards relating to 5 bedspace, 6 person dwellings and 6 bedspace, 7 person dwellings and recommends minimum gross internal floor areas of 110sq metres and 123sq metres respectively. While the proposal would provide approximately 99sq metres floor space and would therefore fall below that recommended by approximately 11 and 24sq metres respectively, as already noted, the rigid application of the NDSS is not considered appropriate in this instance for the reasons outlined above.
57. Notwithstanding the above, consideration of the acceptability of the overall internal space provided is still required in the context of policy 29(e) of the CDP. In assessing the acceptability of the quality of internal space provided in that regard it is important to note that the scheme includes communal space to the ground floor, in the form of a lounge/kitchen area which provides an area within which to socialise and is larger than the existing lounge/kitchen space. It is also recognised that some of the bedrooms provide space in excess of the minimum standard required by NDSS.
58. It is noted that the City of Durham Trust has raised concerns that 76 Whinney Hill currently meets the NDSS, whereas the proposed scheme does not and also does not meet the minimum floor space for a double bedroom. They therefore contend that a well-designed building that meets the requirements of the NDSS should not be modified so it fails the standards. However, it is noted that, following amendments to the application, the bedrooms all now meet the NDSS and given that the property is expected to be occupied by students it is considered likely that each bedroom would be single occupancy.

59. As such, it is considered that the development provides an adequate level of internal space in accordance with policy 29(e) of the CDP.
60. Concerns have also been raised by both the City of Durham Parish Council and the City of Durham Trust with regards to the two-storey rear extension and impact on neighbouring properties. Policy 29 requires that all development proposals will have regard to supplementary planning documents, which includes the council's Residential Amenity Standards Supplementary Planning Document (SPD) referred to in Paragraph 5.303 of the CDP. This sets down standards for alterations, extensions and distances between new dwellings.
61. During the application process the position of the rear two-storey extension has been amended and is now sited closer to the boundary with the adjoining property no. 75 Whinney Hill. The distance between the extension and rear elevation of no. 78 and 79 Whinney Hill would fall below the 13m recommended minimum privacy distance as outlined in the SPD by approximately 2m. However, paragraph 3.5 of the SPD confirms that it is not intended to apply the standards rigidly and as such, taking into account the modest depth, orientation and siting of the extension, it is considered unlikely that the development will have a significant additional adverse impact on the amenity of neighbouring occupants to the north to the extent that would warrant refusal of the application in this instance.
62. In terms of overlooking a concern was also raised by the Parish Council and a neighbouring resident, prior to the submission of amended plans, in relation to the position of the proposed first floor bedroom window and potential for overlooking of private amenity space of neighbouring properties. However, since the extension has been re-sited it is considered that the window will predominantly overlook the host properties own rear private amenity space and is unlikely to result in significant additional overlooking of neighbouring gardens including the adjoining property.
63. Following receipt of amended plans the case officer noted that there appears to be a bedroom window to the rear of the adjoining property in close proximity to the two-storey extension. However, the agent has demonstrated that the proposals would comply with the Council's '45 degree-code' which paragraph 2.3 of the SPD explains is used to minimise the potential for overshadowing to neighbouring properties. In respect of the single-storey element, the proposal would meet permitted development guidance of a 3m projection and as such is considered acceptable.
64. Other concerns have also been raised by the Parish Council and neighbouring resident in relation to additional student occupants and the potential resulting noise and disturbance. While cumulatively, the increase in numbers of students could lead to additional noise and disturbance, due to an increase in comings and goings to the application property, it is not considered that this would create harm to such a degree to warrant refusal of the application. Similarly, in this regard, the appeal Inspector in the decision for the no. 75 Whinney Hill appeal (APP/X1355/D/20/3258480) concluded that because of the additional students living at the property, there would be a small increase in the comings and goings to the appeal property and there would be some limited additional noise and disturbance associated with the additional residents living at the property. However, again the Inspector acknowledged the permitted development 'fallback position' and gave this significant weight.
65. In addition, the Council's Environmental Health Officer was consulted on the proposals and confirmed that the information submitted demonstrates that the application complies with the thresholds stated within the TANS (Technical Advice notes) and the development is unlikely to lead to a statutory nuisance. The officer advised that given this and since the existing use is already a noise sensitive receptor, the addition of two further rooms will not lead to an adverse impact, they would not expect any significant controls on this development.

66. In summary, the proposals have been assessed against SPD guidance and although do not fully comply with recommended privacy distances, it is not considered that the proposals would be unacceptably harmful in terms of the amenity of neighbouring occupants and mutual privacy is considered to be suitably protected. Specifically, it is noted that the single storey element would have no greater impact than the fall-back position afforded through permitted development rights with regard to the two storey element, given the orientation of the properties involved there would be no unacceptable impact to existing privacy levels. Space standards have also been largely complied with to ensure suitable amenity standards for future occupiers. The proposals are therefore considered to accord with policy 29 and 31 of the County Durham Plan and the SPD in this regard.

Impact on the conservation area and world heritage site

67. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act), requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of the conservation area.
68. Part 16 of the NPPF requires local planning authorities, in determining planning applications, to take account of the desirability of sustaining and enhancing the significance of heritage assets and Part 12 states good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
69. Policy 44 of the CDP seeks to ensure that developments contribute positively to the built and historic environment and Policy 45 seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset. Whereas Policy 29 relates to sustainable design and states that all proposals will be required to achieve well designed buildings and places.
70. Policies H1 and H2 of the DCNP seeks to ensure that proposals within the Durham Cathedral and Castle World Heritage Site and Durham City Conservation area sustain, conserve, and enhance its Outstanding Universal Value and the significance of the Conservation Area. In addition, Policy D4 seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high-quality design.
71. Whinney Hill is located within the eastern sector of the designated Durham City Centre Conservation Area. The area is characterised by interwar semi-detached houses and dwellings in groups of four either side of Whinney Hill. The original regular block arrangement, varying topography, landscape features, and the gaps between the properties that channel views towards Durham Cathedral combine to create a distinctive suburban environment that is identified in the Councils adopted appraisal as contributing positively to the surrounding conservation area.
72. Policy H2 of the neighbourhood plan requires proposals to enhance the conservation area and provides a set of criteria to consider in this regard, outlining where such criteria are relevant. The stated criteria is as follows:
- a) sustaining and enhancing the historic and architectural qualities of buildings, and
 - b) sustaining and enhancing continuous frontages, street patterns, boundary treatments, floorscapes and roofscapes; and
 - c) respecting historic boundaries and curtilages;
 - d) avoiding demolition of assets of historic and/or architectural interest which contribute to the character and appearance of the area; and

- e) avoiding loss of, or harm to, an element of an asset which makes a positive contribution to its individual significance and that of the surrounding area; and
- f) avoiding loss of open space that contributes to the character and appearance of the surrounding area; and
- g) protecting important views of the Durham City Conservation Area from viewpoints within and outside the Conservation Area; and
- h) taking opportunities to open up lost views and create new views and vistas; and
- i) having appropriate scale, density, massing, form, layout, landscaping, and open spaces; and
- j) having materials, detailing and lighting appropriate to the vernacular, context and setting; and
- k) using high quality design sympathetic to the character and context of the local area and its significance and distinctiveness, and to the immediate landscape; and
- l) avoiding adding to the cumulative impact of development schemes which dominate either by their scale, massing or uniform design.

73. The Council's Design and Conservation Officer was consulted on the application and advised that it is the front elevation that is the greatest contributor to the Conservation Area that would be unchanged due to the development being to the rear. As such, given the small-scale nature of the proposal and the fact that matching materials will be secured through planning condition, points i - l are met. In respect of points c, d, f and h it is considered that these are not relevant in the determination of this application.
74. With respect to the remaining points, it is considered that, given the position of the proposal to the rear of the existing dwelling, the development would meet the aims and objectives of policy H2 of the local plan as the historic block form layout of this part of the estate and property frontages would be unaffected and it is these attributed which make the greatest contribution to the surrounding Conservation Area.
75. With regards to Policy H1, this seeks to ensure development proposals throughout Our Neighbourhood sustain, conserve and enhance the setting of the World Heritage Site and provides a set of criteria to consider in this regard which are as follows:
- e) carrying out an assessment of how the development will affect the setting of the World Heritage Site, including views to and from the World Heritage Site; and
 - f) protecting important views; and
 - g) taking opportunities to open up lost views and create new views and vistas.
76. The Conservation officer confirmed that the side elevation of the proposed extension would not obstruct the gap between the site and its neighbour from the main street that provides a view towards the central tower of Durham Cathedral. The development would therefore comply with criteria 'f', and it is not considered that criteria 'e' and 'g' are relevant in the determination of this application.
77. In terms of the overall design of the development, the extensions would be sited to the rear of the property and would not therefore appear prominent in the street scene. The extensions would be subordinate to the host dwelling and would comply with the general design principles as outlined in the SPD guidance.
78. Overall, in the context of the street scene, the core special characteristics of the area, and key heritage views including towards the World Heritage Site, there would be no harm, by default the impact on the character, appearance, and significance of this part of the CA and setting of the WHS would be neutral. As such, the proposals are considered to be in accordance with the principles of Parts 12 and 16 of the NPPF, Policies 29, 44 & 45 of the CDP, and Policies D4, H1 & H2 of the DCNP and Section 72 of the Act.

Parking and Highway Safety

79. Paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site. Policy 16 of the CDP requires proposals to extend an existing House in Multiple Occupation to accommodate additional bed space(s) to provide adequate parking and access and Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. Policy T1 of the DCNP which seeks to ensure that development proposals demonstrate best practice in respect of sustainable transport accessibility and design.
80. Concerns were raised by a resident with regards to impacts on parking due to the additional students as a result of the development.
81. The development site is in a highly sustainable location with good access to public transport and within walking distance of local amenities. The Highways Development officer was consulted on the application and advises that from a Highways perspective, this development would be considered acceptable as the dwelling falls within the Controlled Parking Zone and the additional increase in bedrooms would not lead to an increase in the number of permits the property is eligible for. Therefore, the impact on the local highway network would not be considered material in this instance.
82. Notwithstanding the above, is noted that Policy 16 of the CDP includes requirement for the provision of sufficient cycle parking, bin storage and other shared facilities. It is considered that the application site provides sufficient opportunity to accommodate appropriate bin storage and cycle parking within the curtilage of the property. However, should the committee be minded to approve the application, the submission and agreement of full details of bin storage and cycle parking, prior to the first occupation of the development, could be secured through planning condition.
83. The proposals could be safely and satisfactorily accommodated without adverse impact upon highway safety and as such is considered compliant with Policy 16 and 21 of the CDP and paragraphs 110 and 111 of the NPPF.

CONCLUSION

84. 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.
85. In summary, while the proposals would be contrary to the aims of Part 3 of the Policy 16 of the CDP, in that it would exceed the 10% threshold contained within the policy, it is considered that the presence of a legitimate fall-back position which would likely be implemented should the application be refused, and the previous appeal decision to allow an appeal against a similar decision to refuse planning permission for a similar arrangement are sufficient material considerations to outweigh that conflict with planning policy.
86. When assessed against other criteria contained within policy 16 and the remaining policies of the County Durham Plan relevant to the application, it is considered that the extension to the existing small C4 HMO would not have a detrimental impact on the amenity of existing or future residents or the character and setting of the Conservation Area or World Heritage Site, or have any adverse impact on highway safety in accordance with Policy 16, 21, 29, 31, 44 and 45 of the CDP and Parts 9, 12, 15 and 16 of the NPPF.

87. Whilst the concerns raised by the City of Durham Parish Council, City of Durham Trust, Whinney Hill Community Group and neighbouring residents are noted, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application.
88. In light of the above, the application is reported to the Committee with a recommendation to approve, subject to conditions.

RECOMMENDATION

That the application be **APPROVED**:

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) 16, 21, 29, and 31 of the County Durham Plan and Parts 8, 9 11 and 12 of the National Planning Policy Framework.

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

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 and 44 of the County Durham Plan and Part 12 and 16 of the National Planning Policy Framework.

4. Prior to the first occupation of the development hereby approved, details of bin storage and cycle parking shall be submitted to and approved in writing by the Local Planning Authority. The bin storage and cycle parking shall thereafter be constructed in accordance with the approved details and be made available prior to the first occupation of the development hereby approved.

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

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

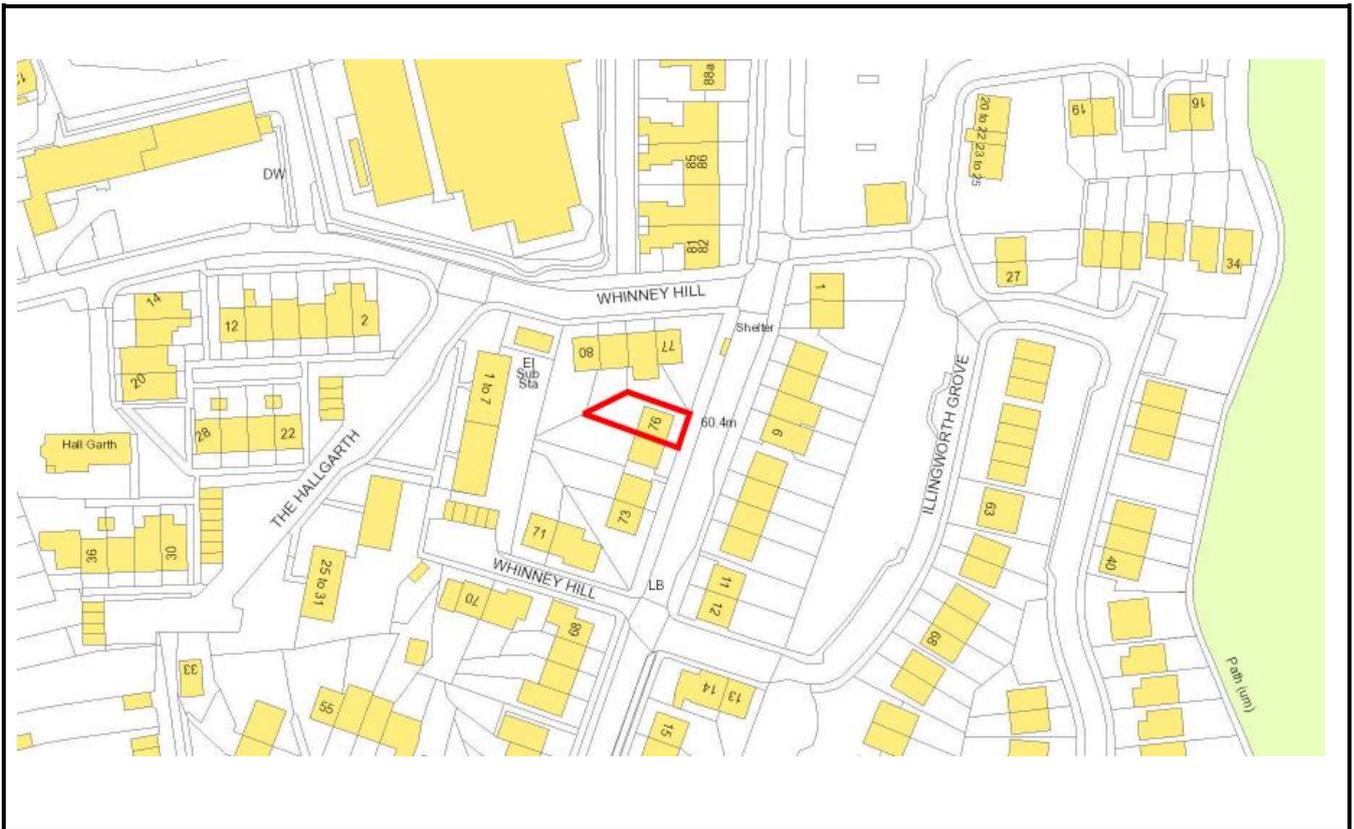
Statutory, internal and public consultation responses

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Residential Amenity Standards SPD (2020)



<p>Planning Services</p>	<p>76 Whinney Hill Durham DH1 3BG</p>	
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	<p>Date April 2022</p>	<p>Scale NTS</p>

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/02034/FPA
FULL APPLICATION DESCRIPTION:	Proposed development of 48 residential dwellings with associated infrastructure, open space and highway improvements.
NAME OF APPLICANT:	Persimmon Homes
ADDRESS:	Land at Former Skid Pan North of Woodward Way, Aykley Heads, DH1 5ZH
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Louisa Ollivere Senior Planning Officer 03000 264878 louisa.ollivere@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is the site of the former skid pan of the Old Durham Police Headquarters which is allocated under Policy 4 of the County Durham plan (CDP) (Reference H4) for housing. It lies north and adjacent to the Phase 1 housing site nearing completion at Aykley Heads and lies approximately one mile north of Durham City Centre. It extends to approximately 1.91 ha and comprises of hardstanding surrounded by poor semi-improved grassland and broadleaf woodland plantation. The site slopes gently from south to the north. Surrounding land drops steeply away to the west and north down to woodland and a beck. Current access to the site is from an informal vehicular access from phase 1 of the development.
2. There is a belt of mature protected trees to the north and west of the site (Aykley Heads North PN1-428B). There is also a beck that curves north and west of the site. To the east of the site is a multi-user route that connects Aykley Heads to Newton Hall and Durham City Train Station. 70m further to the east and 20m north is the local wildlife site of Hopper's Wood which also contains Ancient Woodland. Further to the west is a predominantly residential area of Framwellgate approximately 150 distant.
3. The site is surrounded by the Green Belt on all sides and is surrounded by an Area of High Landscape Value (AHLV). Parts of the site fall within the Coal Development High Risk Area.
4. There are no designated or non-designated heritage assets within close proximity of the development site.

The Proposal

5. The application seeks full planning permission for the erection of 48 dwellings, down 9no. units from the 57 originally proposed. The proposal includes a mix of 2, 3, 4 and 5 bedroomed dwellings including houses, townhouses and bungalows in a range of detached, semi-detached and terraced options. The materials palette proposed includes facing brickwork, contrasting brickwork, a tiled roof and UPVC windows, doors and features with black rainwater goods. Boundary treatments are proposed to be a mixture of brick walls and timber fencing. All properties feature off-street parking, some with integral and detached garages and all have enclosed rear gardens.
6. Natural amenity open space in the form of grassland would be provided within the north east corner of the site where the SUDS basin is accommodated. Further open space would be provided to the west of the development site access road. This would involve the creation of new woodland habitat and paths to the west to connect via a new footbridge to paths to Framwellgate Moor. A landscape buffer would be created to the north of the site boundary and a further new pedestrian footpath connection and footbridge are proposed to the north. Two new foot/cycle paths are also proposed to connect the site to the multi user path to the east. The woodland buffer between the two cells would be retained.
7. Access to the scheme is proposed via the formalisation of the current access track from Phase 1 of the development.
8. The application is being reported to the Central and East Planning Committee as it is a major residential development with a site area in excess of 1 hectares.

PLANNING HISTORY

9. There is no relevant site history relating specifically to the application site, however, there is in relation to the Phase 1 land to the south and through which access would be taken.
10. An application (8/CMA/4/71) for the proposed demolition of the existing police headquarters including listed telecommunications mast and for residential development with associated landscaping and roads was approved in 2012.
11. Listed Building consent was approved for the demolition of a grade II listed mast on the neighbouring site in 2012.
12. In 2015 an application for Reserved Matters for the erection of 217 dwellings pursuant to CMA/4/71 was approved (DM/15/03289/RM).
13. In 2018 an application was approved for the substitution of house types for permission 8/CMA/4/71 (DM/18/03758/FPA).
14. There are several other applications relating to the above applications approved involving variations and discharging of conditions.

PLANNING POLICY

NATIONAL POLICY

15. 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.
16. 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.
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 5 - Delivering a Sufficient Supply of Homes.* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
20. *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.
21. *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.

22. *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.
23. *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.
24. *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.
25. *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.
26. *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.
27. *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.
28. *NPPF Part 17 - Facilitating the Sustainable Use of Minerals* - It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

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

29. 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; design process and tools; determining a planning application; flood risk; healthy and safe communities; land stability; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; 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; Tree Preservation Orders and trees in conservation areas and; water supply, wastewater and water quality.

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

LOCAL PLAN POLICY:

The County Durham Plan

30. *Policy 4 – Housing Allocations.* Allocates 27 sites for housing across the County. Providing the development is in accordance with the site specific requirements in the policy and any infrastructure constraints identified in the Infrastructure Delivery Plan, housing development will be approved if the proposed scheme is in accordance with other relevant policies in the Plan.
31. *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.
32. *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.
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 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 through management and sustainable transport improvements.
35. *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.
36. *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.

37. *Policy 27 – Utilities, Telecommunications and Other Broadcast Infrastructure.* States amongst its advice that new residential and commercial development should be served by a high speed broadband connection or appropriate infrastructure for future installation if direct connection is not appropriate, practical or economically viable.
38. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
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. *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.
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 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.
43. *Policy 39 – Landscape.* 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.

44. *Policy 40 - Trees, Woodlands and Hedges.* 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.
45. *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.
46. *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.
47. *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.
48. *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:

Durham City Neighbourhood Plan 2021

49. *Policy S1 - Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions* seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
50. *Policy H3 – Our Neighbourhood Outside the Conservation Areas* This policy requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area. Such development should sustain and make a positive contribution to the character and distinctiveness of the area, and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.

51. *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.
52. *Policy G3 – Creation of the Emerald Network*. 17 sites of wildlife interest that are linked are identified by this policy which supports the improvement of biodiversity of the sites, improving the amenity of the sites and the accessibility to and between these sites provided there is no significant harm to biodiversity.
53. *Policy D2: Housing for Older People and People with Disabilities* – Requires 10% of housing to be appropriate for older people on sites of 10+ homes or over 0.5ha. Housing schemes that are solely for older people would be supported. Provision should be close to shops and services or public transport with appropriate footpaths and pavements. Extensions to dwellings to facilitate care at home are supported provided that they are in keeping with building and surroundings.
54. *Policy D3: Affordable Housing* - Requires 25% of housing to be affordable on sites of 10+ homes or over 0.5ha unless an off-site contribution is justified or deemed appropriate by the LPA.
55. *Policy D4 (Building Housing to the Highest Standards)* states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions. New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019)
56. *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.
57. *Policy T2 – Residential Car Parking* – supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. Consideration should be given to communal off street parking for dwellings without garages. Any EV requirements should not hinder movement by pedestrians or disabled people and should be in keeping with area character. The policy supports the use of car clubs. Should the parking demand require parking controls these will need to be funded through developer contributions.
58. *Policy T3 – Residential Storage for Cycles and Mobility Aids* - Residential development including change of use should provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC standards and should be adaptable for other types of storage with access to electricity. Where there is communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

59. *City of Durham Parish Council* – Objects to the application. Whilst the principle is accepted, they raise concerns over traffic and lack of access to public transport, lack of EV charge points for properties and lack of proposals to achieve meaningful reduction in CO2 emissions. They conclude that the proposal is in conflict with the CDP, DCNP the NPPF and the BfL SPD.
60. *Highway Authority* – Advise that the principle of the depicted traffic calming is accepted. The Transport Summary finding that additional vehicle trips are not material to the existing highway network, is also accepted. It is noted that the layout has been amended to address earlier requirements in relation to carriageway widths, parking provision, road surfacing and adoption but requests an autotracking plan in relation to DCC refuse vehicles.
61. *Northumbrian Water* – No objection subject to the development being carried out in accordance with the proposed engineering layout plan.
62. *Drainage and Coastal Protection* – Advise that the surface water management proposed for the development is acceptable but request a construction phase surface water management plan and hydraulic calculations all of which they consider can be required by condition in relation to a surface water drainage strategy document.
63. *Coal Authority* – Have no objection subject to conditions being imposed to ensure the measured outlined in the Coal Mining Legacy & Mitigation Review are undertaken and retained and that a signed statement or declaration prepared by a suitably competent person confirming the completion of the mitigation works is submitted prior to commencement of development or use.

INTERNAL CONSULTEE RESPONSES:

64. *Spatial Policy* – Advise that the site is allocated for housing under policy ref:h4 of the CDP with an estimated yield of 50 dwellings and therefore consider the principle of housing on the site is supported. The Officer points out the need to comply with the design requirements of policy 29 and Residential Amenity standards as well as the 3 requirements of policy 4. It is advised that a total of 12 affordable homes are required (5 for affordable home ownership and 7 for affordable rent. Officers advise that 32 units would be required to be built to M4(2) standard and 5 units would be required to be a house type suitable for older persons. In respect of open space contribution, this would amount to £75,556.80 for off-site play space for children and youths, parks, sports and recreation grounds and towards allotments. It is advised that the need to ensure sufficient choice of school places is a material consideration. The Officer points out that the NPPF contains policy justification to seek mitigation in respect of essential services such as GP provision. It is advised that regard should be had to the Strategic Cycling and Walking Delivery Plan and to the views of Highways in relation to assessment against policy 21 of the CDP. The Officer confirms the need for a CMRA.
65. *Landscape Officer*- The Officer originally had concerns that the higher housing yield was putting too much pressure on landscape elements, available open space and the creation of a quality landscaping scheme and that the application failed to detail improvement to the green belt and land within the AHLV with likely adverse impacts.

In response to amended plans and further landscaping details the Officer now notes that landscape proposals provide both ornamental trees, hedges and shrubs which are considered likely to enhance the street scene and garden frontages. Native structure planting is proposed, which the Officer advises would retain the character of the land surrounding the site, maintain a strong boundary with the Green Belt and replace the loss of mature Ash trees on the site caused by die back disease. It is considered that plant species proposed and planting notes relating to establishment are appropriate. The Officer suggests the use of root barriers for protection and the relocation of two trees within the recent landscape plan to areas with less shading.

66. *Trees Officer* – Requested amendments to the layout to prevent removal of mature trees and pressures for future removal of trees.
67. *Design* - The Officer considers that the current layout is considered to be a positive amendment to the original submission. The proposed material palette reflects that of phase 1 and is considered acceptable from a design and conservation perspective.
68. *Housing Delivery* – Advise that the area has a need for more 2 and 3 bedroomed affordable properties to rent and 3 bedroomed affordable home ownership and that there is high demand for bungalow accommodation in comparison to neighbouring areas. It is identified that this site is in an area which has a high demand for affordable rented properties in comparison to neighbouring areas and that a third of those actively seeking affordable rented properties are aged over 55, therefore it is advised that provision should be made which meets the demands of older persons.
69. Officers consider the affordable housing mix to be suitable, however, there are concerns that as the size of the units listed as affordable may cause difficulties with disposal to a Registered Provider, therefore, preference would be for some of the larger units to be affordable. There are no concerns with the distribution. It is recommended in the event of units not being sold that all eventualities be explored before cascade to open market housing.
70. *Archaeology* – No objection.
71. *Ecology* – Officers consider the Ecological Mitigation Plan and GCN working methods statement are sufficient to inform the application and advise that both should be conditioned if the application is approved. The Officer considers that residents from this development are likely to utilise Hoppers Wood LWS adjacent the site for recreation and dog walking and support the request for financial contribution from DCC Countryside for the maintenance of footpaths within the woodland.
72. *Environment, Health and Consumer Protection (Air Quality)* – Confirm that an air quality assessment will not be required. Officers request however that the method of dust monitoring needs to be agreed with the Council in the event of complaints.
73. *Environment, Health and Consumer Protection (Pollution Control)* – Consider the CMP and associated documents provide some level of noise control measures and monitoring and request that these be made subject to condition. Further conditions are advised in relation to operating hours and piling operations.
74. *Environment, Health and Consumer Protection (Contaminated Land)* – Advise a conditional approach in relation to land contamination.

75. *Public Rights of Way* – Advise that there are no recorded or claimed public rights of way affected by the proposal. It is advised that the cycle route to the east would be adversely affected if there were a road connection from the north east of the site.
76. *School Places Manager* – It is considered that the development is likely to produce 15 primary pupils and 6 secondary pupils. Based on the projected rolls of the schools, taking into account the likely implementation of the development, build out rates and other relevant committed development there would be sufficient primary places available, but insufficient places at the nearest secondary school. Consequently, a contribution of £99,324 (6 x £16,554) towards education provision is therefore required.
77. *Sustainable Travel Officer*– Request surface, signage and environmental improvements to the adjoining shared path and regrading of key route. It is advised that link paths should be suitable for pedestrian and cyclists and there should be path links between Carterhouse Road to Flambard, additional lighting of footpaths and more facilities for pedestrian and cyclists at Dryburn roundabout. Whilst the Officer acknowledges that the site would not warrant a travel plan it is considered that the site should fall under the umbrella of the overall site travel plan.
78. *Sustainable Development and Energy Officer*– *No comments to date.*
79. *Parks and Countryside Officers*– Confirm they are happy in principle with the connections, numbers, locations and whin dust material proposed on the scheme. They request a financial contribution for infrastructure improvements to the adjacent nature reserve (Hoppers Wood) for a new path from the site to the multi user path, a new all-weather surface within the reserve, drainage improvements, improvement works to 3 ponds and field drains, installation of a directional ditch and the installation of two additional seats amounting to £21,000.
80. *Corporate Property & Land* – No comments to date.

EXTERNAL CONSULTEE RESPONSES:

81. *NHS* – Advise that the nearest GP practice is at full capacity and that 106 funding would support creating extra capacity to provide appropriate services to patients, this amounts to a contribution of £23,184.
82. *Police Architectural Liaison Officer* – Raise some concerns over the pedestrian links to the north and a lack of surveillance. They also outline a series of recommendations from a Secured By Design perspective.
83. *Campaign for the Protection of Rural England* – Raise concerns over the lack of details of planting for Green Belt and Hopper's wood and lack of detail of maintenance of landscaping and over the pressure to remove further trees in the future. The group also consider that it is inadequate just to say that the proposal will not lead to a loss of biodiversity. To comply with the NPPF (and the future law when the Environment Bill is enacted), there must be some gain that is over and above a planning requirement. They consider that the development falls short of what is required and should be refused.

PUBLIC RESPONSES:

84. The application has been advertised by way of a press and site notice and individual notification letters to neighbouring residents.

85. 13 no. letters of objection have been received from residents, The Durham City Trust and the County Durham Green Party. The main concerns raised by the objectors can be summarised as follows:

Principle of development

- Lack of need to develop this site.

Access/Highways

- Query the capacity of the local network and Aykley Heads roundabout to accommodate the additional traffic arising as a result of the development.
- Traffic will be a risk to children.
- Parking will overflow onto the adjacent housing phase which has narrow roads.
- Residents of phase 1 will have to continue with an unfinished access road and its use by HGV'S and machinery for several more years.
- Lack of detail regards footpath links to current footpaths.
- The garage sizes for three house types fall short of the current 2019 parking standards.
- Houses without garages would not satisfy the requirements for cycle and mobility aid storage, a requirement of policy T3 of the DCNP.

Residential Amenity

- Increase in noise pollution from traffic and other pollution caused by human population.

Other issues

- Loss of wildlife and habitat on site.
- Impacts to nearby nature reserve and Green Belt.
- Loss of trees, impacts upon tree belt
- The application fails to consider the Neighbourhood Plan and views and visibility of the site.
- Loss of view.
- Light pollution from additional street lighting.
- Presence of affordable housing will impact on property prices.
- Lack of community consultation from developer.
- All new buildings should have heat pumps, solar panels, ev charge points/facilities given the climate emergency.
- There should be more bungalows and smaller homes.
- Poor accessibility to public transport and facilities and lack of funding for improvements.
- Lack of bus provision as part of the proposals.
- Lack of community engagement does not equate to there being unanimous support.
- Local Hospital and A&E are already over stretched.
- NHS doctor and dental surgeries and local schools and colleges may not have capacity to take on further numbers.
- This will mean the advert flags and boards at the entrance to the estate will be maintained on site for longer.
- The submitted documentation has not been updated to reflect plans changing.
- Conflict with CDP policies 21 and 29 and DCC's Emergency Response Action Plan.

The above is not intended to repeat every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at:

<https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=QU6BIIGD0BK00>

APPLICANTS STATEMENT:

86. This proposed development offers the opportunity to create a new sustainable desirable residential development within the Centre of Durham as well as associated infrastructure works, which includes new footpaths and footbridge crossings. The development of the site has been restricted to the Brownfield part of the site.
87. The proposed application site sits to the North of the Aykley Heads Phase 1 Persimmon Homes Residential Development known as Aykley Woods and is located on the former skid pan and parking area of the former Aykley Heads Police Station.
88. The sites proximity to the Durham City Centre, approximately 1 mile away shows that the site is highly sustainable in relation to local amenity, with a wide variety of services, facilities, open space, recreational facilities, and local schools within all located within walking distance. Furthermore, the proximity to bus routes provides sustainable transport options for future residents.
89. The site is designated for residential development under policy H4 of County Durham Plan.
90. The proposal for 48 dwellings provides an excellent range and choice of dwellings to satisfy current and future housing needs of Central Durham. With a selection of 2-5 bed properties of varying sizes and types proposed the development also seeks provides type and size of dwelling which are currently under provided within the housing market.
91. As a result, the development is based upon the design principles outlined within the NPPF which seek to create a high quality, attractive development which aims to be respectful and complementary of the surrounding area. As such the development will continue to employ the use of building materials to achieve a level of complementary development with the surrounding area.
92. Although positioned on the edge of historic Cathedral City the area surrounding the proposed development site is defined by modern architectural design characterised by the employment buildings at Aykley Heads, the new Police Headquarters and the residential development within the earlier phase of this development site.
93. Taking inspiration from this surrounding context the previous phase 1 residential development at Aykley Woods established a strong contemporary design approach developed in conjunction with the planning and urban design officers which was well received by the public and purchasers. It is logical to continue through this next phase of the development. The key architectural features leading this design style being a carefully selected range of brick colours to give a crisp contemporary appearance to properties, the contrasting bricks to achieve a verticality to the overall elevations in combination with the window frames and doors. Certain dwelling types are further enhanced by the addition of balconies to with stainless steel and glazes screens again maintaining the contemporary theme either utilising the flat roof where there is a low lever projection or being supported by the feature "fin" walls.
94. The variety of short terraced, semi-detached and detached housetypes will form a rich and interesting residential environment whilst the inclusion of 2 and 2.5 storey dwelling will result in a varied roofscape.

95. Persimmon Homes Durham is also providing a significant landscaping and planting regime to meet the Ecological requirements both locally and nationally as well as meeting the requirements set out in the site's allocation in the County Durham Plan. The landscape scheme has been agreed with Durham's Senior Landscape Officer, Senior Tree Officer and Ecologist.
96. Persimmon Homes has worked closely with the planners in Durham Council, as well as council and statutory external consultees. Through adaptation of the proposal and submission of additional reports, plans and information, such that there are no outstanding objections from any of these bodies.
97. Finally, the impacts of the development have been fully mitigated by the development or via a planning gain package which includes an Education Contribution, NHS Contribution, Offsite Public Open Space contribution, Infrastructure Implementation Contribution and a policy compliant onsite Affordable Housing provision such that there are no adverse impacts which would significantly and demonstrably outweigh the benefits.
98. We as the applicant contend that the site is highly sustainable in its location and the proposal will result in a high quality, visually attractive development which will help boost the supply of housing and meet more closely the identified housing needs of the area. Furthermore, there are no technical issues of any kind associated with the development.
99. The scheme has appropriately considered relevant policy and surrounding residents and land uses.
100. As there are no adverse impacts which would significantly and demonstrably outweigh the benefits of developing this site to deliver much needed family housing within the area.

PLANNING CONSIDERATIONS AND ASSESSMENT

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

The Principle of the Development

The Development Plan

102. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) and the Durham City Neighbourhood Plan together form the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The DCNP was adopted in June 2021 and provides the framework for the Durham City Neighbourhood up until 2035.

103. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:-
- c) approving development proposals that accord with an up to date development plan without delay; or
 - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:
 - i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
 - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
104. Policy 4 (Housing Allocations) of the CDP sets out sites allocated for housing to deliver the new homes required to meet our Local Housing Need (LHN). It states that planning applications for housing on these allocations, that are in accordance with the site-specific requirements in this Policy and any infrastructure constraints identified in the Infrastructure Delivery Plan, will be approved if the proposed scheme is in accordance with other relevant policies in the Plan.
105. The application site is allocated for housing for 50 units in Policy 4 (Reference H4) of the CDP, therefore, the principle of housing on the allocated site is acceptable. This policy sets out the following requirements for this site:
- provide a new Green Belt boundary in the form of a native species hedge to the perimeter of the site;
 - retain the existing tree belt within the middle of the site and provide additional tree planting in gaps within the tree belts to the north, east and south-east of the site;
 - provide compensatory improvements to remaining Green Belt in the vicinity including providing new native woodland to consolidate Hopper's Wood to the north and west of the site and developing new and improved footpaths in that area linking to the wider network.
106. Whilst originally 57 homes were proposed on this site, in order to address concerns over the impacts to trees and the landscape and design requirements the proposal has been reduced to 48 dwellings which better complies with this policy for 50 homes on the site. The development is now supported by a landscaping plan which details the planting of a native hedge to the north, west and eastern perimeter of the site bordering the Green Belt. The red line boundary of the site has been drawn to exclude the existing tree belt within the middle of the site and the landscaping drawing proposes woodland planting to the north and east of the site. New woodland planting is proposed to the north and west of the site. New footpaths are proposed within the western woodland and a footpath is proposed adjacent to the northern woodland. These footpaths will link via new footbridges to informal mowed paths on the opposite site of the Beck. A further two footpaths are proposed to the multi-user route to the east which links to the wider footpath/cycle network.

107. The native structure planting proposed would retain the character of the land surrounding the site, maintain a strong boundary with the Green Belt and replace the loss of mature Ash trees on the site caused by die back disease. Plant species proposed and planting notes relating to establishment are considered appropriate. Landscape Officers are now satisfied with the proposed landscaping scheme and concerns raised in relation to tree removal have been addressed. In respect of the proposed permissive footpath links, these are considered by Officers suitable to meet this policy requirement, although the final location, design, materials and engineering details are required in relation to the footpaths and bridges and these can be agreed via condition. With such a condition imposed, it is considered that the proposal would accord with Policy 4.
108. One of the principles of Policy S1 of the DCNP a) is that economic well-being will be promoted through uses which meet development needs identified in the Local Plan. The CDP has identified that there is a need for this housing site, therefore, the development of the site also gains neighbourhood plan support in principle.
109. Paragraph 73 of the NPPF maintains the requirement for Local Planning Authorities (LPAs) to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement set out in adopted strategic policies, or against their local housing need where the strategic policies are more than five years old.
110. It was established under the adoption of the CDP that the Council can demonstrate in excess of 5 years housing land supply (6.3 years). The CDP was adopted in October 2020 and therefore, in accordance with paragraph 74 of the NPPF, a five year supply of deliverable housing sites, with the appropriate buffer can be demonstrated. Local residents consider that there is no need for housing on this site, however, as this allocation has been identified as required to deliver the new homes required to meet our Local Housing Need this should be given significant positive weight.
111. Overall, it is considered that the development is acceptable in principle in accordance with Policy 4 of the CDP and DCNP Policy S1 and the aims of the NPPF. However, it is also the case that proposals must accord with the plan as a whole. The overall acceptability of the scheme or otherwise can only be considered following an examination of all of the issues and consideration of applicable policies as set out below.

Locational Sustainability of the Site

112. Policy 21 of the CDP requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. Policy 22 of the CDP aims to reduce the dominance of car traffic through transport interventions in Durham City through the use of measures such as travel plans and encouraging sustainable transport modes through improvements to infrastructure and walking, cycling and public transport improvements. Policy 29 of the CDP requires that major development proposals provide convenient access for all users whilst prioritising the needs of pedestrians, cyclists, public transport users, people with a range of disabilities and, emergency and service vehicles whilst ensuring that connections are made to existing cycle and pedestrian networks. Policy S1 criteria n) of the DCNP requires the location and layout of developments to maximise public transport, walking and cycling opportunities and provide paving, lighting and signs which meet all needs. The NPPF sets out at Paragraph 105 that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. At paragraph 110 the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken whilst paragraph 112 amongst its advice seeks to facilitate access to high quality public transport.

113. The application site has been considered in terms of its sustainability in the SHLAA and, as part of the assessment of the County Durham Plan and has been considered acceptable for residential development in this regard.
114. Although outside of the defined town centre, the site lies on the outskirts of Durham City and within the Neighbourhood Plan area. Despite this central location the application has had to incorporate new links to surrounding areas to improve upon the accessibility for pedestrians to public transport and services.
115. The developers are proposing to create four new footpath links. Two foot/cycle links are proposed to the multi-user footpath to the east of the site which is lit up to Newton Hall. Two further footpaths and new pedestrian footbridges are proposed to gain access to Framwellgate Moor to the west and the play park to the north.
116. In respect of employment, the site is well placed for access on foot or by bike to the hospital, DCC council offices, Police HQ and the Aykley Heads Business Park. The presence of the multi-user path adjacent the site allows for the possibility of cycling to employment in Durham City or to the train station, which has secure bike storage, therefore there are sustainable options to access employment further afield.
117. With the proposed new links to the multi-user path to the east Newton Hall primary school is 800m away, which is considered within a desirable /acceptable walking range as set out in the Chartered Institute of Highways and Transportation (CIHT) documents including 'Guidelines for Providing for Journeys on Foot' 2000 and 'Planning for Walking' 2015. Framwellgate secondary school at 832m away is just over the preferred acceptable range within this guidance were pupils to take the multi-user path route, and within the acceptable range were they to use to footpath and footbridge link. These educational establishments would, therefore, be accessible on foot or bicycle along well-lit routes with no traffic.
118. These new footway/bridge connections would help to reduce the distance to access shops to an acceptable 558m. The play park at 336m distant would be within the desirable range. Public transport would be closer at 629m, although this still exceeds the 400m distance as set out in the Council's Building for Life SPD.
119. There are no plans to introduce new formal footpaths on the opposite side of the Beck or between areas of Framwellgate Road as presently most pathways in this area are mown paths rather than formal footpaths and there is a need to avoid introducing urban elements into the Green Belt. The applicants are not proposing improvements to the multi-user route or facilities at the Aykley Heads roundabout.
120. The new footbridge walking routes to the facilities and services within Framwellgate Moor would not be along adopted well-lit footpaths and there are some topographical restrictions outside the site which may discourage future residents from accessing these facilities on foot. There are also limits to the accessibility of these links due to the topography and pedestrian only footbridges being proposed.
121. 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.

122. In this instance, the proposed development would likely have impacts upon the disabled given the length of the only fully accessible routes to shops and public transport. Given the site constraints this cannot be overcome, although the distances have been shortened with the links to the multi-user route which is suitable for mobility scooters. However, it should be considered that the site, at present, is unoccupied and provides no function or housing. Should, for instance, a disabled person move into the new development, there may be some detriment to them in the absence of quick and easy access to public transport and services. However, equally it is the new development generating that position.
123. Some of the proposed connections to the informal footpaths and multi-user path falls outside the application site, however, on land either within the developer or Council ownership. The application is limited in detail regards these new connections as raised by some objectors. A 106 agreement and conditions would be required to secure the implementation of these routes and new footbridges alongside details of their construction, especially given the significant land level changes in this area.
124. This lack of accessibility to public transport is a central concern of objectors who feel that there should be a financial contribution to improve access to public transport. The Sustainable Transport Officer has instead suggested improvements to walking and cycling rather than to public transport, some of which have been proposed /agreed to such as link paths to the multi-user route and new footpaths linking to the wider area. The Officer advises that the site follow the Travel Plan for the neighbouring site.
125. The size of the site is not substantial enough to require a Travel Plan, however, many of the requirements of the neighbouring phase travel plan including, pedestrian and cycle connections, low vehicle speed measures, storage space and EV charge points, are incorporated into this scheme and can be controlled via condition.
126. Taken in the round, it is recognised that with the proposed new footpath and footbridge links that schools, facilities, services and employment would be located in what are generally considered to be acceptable walking distances and the site benefits from good links to cycle routes to schools and employment. Access to public transport would still exceed accepted walking distances. Furthermore, the nature of walking routes to bus stops and some services from the extremes of the site are still such that, it is unlikely that the development would promote accessibility by a range of methods for all prospective residents, including those with protected characteristics and, would not give all future residents realistic alternative options to the private motor car, contrary to Policies 21, 22 and 29 of the CDP and Policy S1 of the DCNP and Paragraphs 105, 110 and 112 of the NPPF. This is considered to represent a negative impact of the development to be given weight in the planning balance.

Highways Issues

127. Policy 21 of the CDP expects developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes.

128. Policy T1 of the DCNP seeks to ensure developments are accessible, mitigate any adverse transport impacts and be designed to be permeable, minimise car traffic and vehicle speeds and create a safe family friendly environment. In respect of car parking, DCNP Policy T2 requires off street parking to be carefully designed and that any on street parking is in bays or small groups separated by hard/soft landscaping features and designed with safety in mind. It suggests the use of communal off-street parking areas in place of in-curtilage parking where there is no garage. The policy also requires any EV charging provision to not be obtrusively sited in respect of access or character of the area. The Policy encourages the use of car club spaces for residents. Policy T3 of the DCNP requires development to provide cycle parking in line with DCC Parking and accessibility standards and storage areas for mobility aids with access to power. Any communal storage should accord with the style and context of the development.
129. Specifically, in terms of highway safety the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states 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.
130. Concerns have been raised by residents over the increase in traffic and the capacity of the road network and infrastructure to cope. A Transport Statement has been submitted to consider the potential highway and transport related impacts associated with this proposal and any mitigation required. Overall, the information included within the assessment and methodology used have been considered acceptable. The impact upon the Aykley Heads/B6532 roundabout has been assessed and would continue to work within their design capacity with the traffic from this development added to the local road network. Whilst the additional traffic from the proposed development does add to traffic at the assessed roundabout, it is considered that the impact of this additional traffic would not be classified as 'severe' as set out in the policy test of paragraph 111 of the NPPF, with the impact of the additional traffic from the site resulting in an increase of some 29 two way vehicle movements at peak hours. Overall, the Highway Authority conclude that the additional vehicle trips are not material to the existing highway network and the development should not, therefore, be refused on transport and highway impact grounds.
131. Vehicular access to the development would be provided via Woodward Way, which is a 5.5m spine road running through phase 1 with footways on both sides and dropped kerb crossing points at junctions. The existing priority junction access onto Aykley Heads would be retained. The road through the site would follow the line of the former road into the Skid Pan areas with traffic calming measures installed, this layout is accepted by the Highway Authority.
132. Internally, the scheme has been amended to address the concerns initially raised by the Highway Authority. In the event of an approval, a condition to secure the estate roads being designed and constructed to meet current highway standards and two informatives relating to the creation of a 20mph speed limit controlled by a Traffic Regulation Order and entering into an adoption agreement would be required.
133. Local residents have raised concerns that new resident parking may overspill on street into the first phase of the scheme, however this is unlikely as the parking numbers meet parking standards and the Highways Officer has not raised such concerns.
134. It has been highlighted by objectors that the garage sizes for three house types fall short of the current DCC parking standards, and this is the case, nonetheless the Highway Authority has not raised concerns in this respect.

135. Another issue highlighted by objectors is that houses without garages would not satisfy the requirements for cycle storage required by Policy T3 of the DCNP and DCC parking standards nor would the mobility scooter storage and electric charging for mobility scooters required by Policy T3 of the DCNP be met. DCC standards require 2 long stay cycle spaces per 5 bedrooms where no garage is provided which meets the minimum garage size. This is not a concern shared by the Highway Authority and Sustainable Transport Officers. In respect of the mobility scooter storage spaces and charging facilities for mobility scooters etc there is conflict with the DCNP in this respect, however, this is not a requirement of DCC parking standards and the Highway Authority have not objected on this basis.
136. There are also concerns that the estate road for phase 1 will not be completed and would be damaged by continued construction traffic. The roads for phase 1 are now complete. It is unlikely that significant levels of construction traffic would need to use this road every day given the location of the compound. Any road damage would be the responsibility of the developer given that the road is not yet adopted.
137. Overall, despite the concerns over storage and conflict with the DCNP Policy T3, the highway impacts of the proposed development are considered to be acceptable and in accordance with Policies 6, 21 and 29 of the CDP as well as Part 9 of the NPPF.

Landscape and Visual Impact

138. Policy 39 of the County Durham Plan states proposals for new development will 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 would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Policy 26 outlines developments are expected to provide new green infrastructure and ensure provision for its long-term management and maintenance. Similar requirements are outlined in Policy 29. Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided.
139. Criteria c of Policy S1 of the DCNP requires all development proposals to include soft landscaping.
140. Parts 12 and 15 of the NPPF promote good design and set out that the planning system should contribute to and enhance the natural and local environment. Paragraph 131 sets out that planning decisions should ensure that new streets are tree-lined.
141. The site lies in the Wear Lowlands Character Area which forms part of the larger Tyne & Wear Lowlands National Character Area (NCA 14). It lies in the Urban Road character type which belongs to the Incised Lowland Valley Broad Landscape Type. The site is made up of urban Local Landscape Type. The site does not lie within an area covered by any national or local landscape designations however the site lies adjacent areas designated as Green Belt and Areas of High Landscape Value. The site lies within an area identified in the County Durham landscape Strategy 2008 as developed.
142. Trees within the north western area of the site are covered by a Tree Preservation Order (TPO). The Councils Trees Officer has advised that Trees and groups must be retained within the site as large groups add high amenity value which can be seen from various public viewpoints from within and outside the development. Potential loss of trees and impacts to the Greenbelt is a significant concern raised in representations.

143. The site forms part of the former Durham Constabulary HQ complex with the land being most recently used as a compound area for the Aykley Woods Residential development. The site is visible at close range through small gaps in vegetation when looking west from the cycleway on the south east site boundary. The site is visible from roadside footpaths, from informal paths within the open spaces to the north and north east and from the recreation ground on Carterhouse Road. The site is visible from residential properties in Lilac Avenue and Frankland Road to the west and north-west, from Ghyllfield Road and Carterhouse Road to the north, from Bek Road, Fordham Road and Farnham Close to the north-east and from Little Court, immediately to the south of the site. Areas of the site are partially screened by the adjacent Hopper's Wood and by trees within and surrounding the site.
144. The site area currently has a wooded character with urban elements confined to former road surfaces. Whilst the development would introduce urban built form and thereby a change in character and result in some tree removal, with permanent landscape effects, the application has positively evolved with a reduction in the number of dwellings to allow for more tree retention and with a full detailed landscaping scheme whereby the impacts are no longer considered to be significant adverse.
145. The proposed development would be experienced by recreational receptors using the cycleway to the east and using open spaces and recreation ground to the north. Receptors would experience views of the proposed housing in the midground and background, surrounded by trees with permanent visual effects, however, new woodland planting and replacement woodland planting to replace Ash trees with die back would, in time, reduce the impacts to an acceptable level.
146. The proposed housing would be partially visible in the background from dwellings in Framwellgate Moor and Newton Hall with receptors experiencing permanent visual effects however this would be mitigated to an acceptable level with the proposed woodland planting landscaping scheme.
147. The proposed dwellings would be visible at close range from existing housing to the south and considering the change in the view, some adverse and permanent effects are anticipated, given the wooded baseline views. However, the landscaping scheme proposed would now help to assimilate the built form better into the current environment by ensuring that existing mature trees of high amenity value are retained and managed and that new and appropriate supplementary tree planting is undertaken to retain existing landscape character and provide visual softening of proposed facades. The landscaping would be secured by way of condition and a section 39 agreement.
148. It is noted that objections refer to DCNP Policy S1 and the need to conserve important views, however, this policy relates to views of designated and non-designated heritage assets, of which there are none in the vicinity that would be affected.
149. The landscape proposals internal to the site provide both ornamental trees, hedges and shrubs to enhance the street scene and garden frontages in line with the NPPF requirements.
150. Development in this location would have a transformative impact on the immediate local landscape. However, the native structure planting proposed and required by Policy H4, would retain the character of the land surrounding the site, maintain a strong boundary with the Green Belt and replace the loss of mature Ash trees on the site caused by die back disease. Plant species proposed and planting notes relating to establishment are considered appropriate. Landscape Officers are now satisfied with the proposals.

151. Natural amenity landscaped open space is located within the site in the north east and to the west. Both of these areas are fronted onto by dwellings.
152. Overall, the proposal would now respond positively to the landscape and wildlife habitats, mitigate and soften views of the new built form and create a robust settlement boundary and ensure the retention of mature trees on the edge of the Green Belt and AHLV. The proposals would therefore accord with Policies 26, 29, 39 and 40 of the CDP, Policy S1 of the DCNP and Parts 12 or 15 of the NPPF.

Layout, Design and Sustainability credentials

153. Policy 29 of the CDP outlines that development proposals 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.
154. DCNP policy S1 criteria c requires developments to harmonise with its context. Policy H3 of the DCNP requires developments to make a positive contribution to the character and distinctiveness of an area, to use high quality design and have appropriate scale, density, mass, form, layout, materials, landscaping and open space. Policy D4 of the DCNP requires housing to be built to the highest standards.
155. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 130 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
156. Policy 29 of the CDP sets out that major new build residential development should achieve CO₂ reductions of 10% below the Dwelling Emission Rate (DER) against the Target Emission Rate (TER) based on current Building Regulations. Criteria g) of DCNP Policy S1 requires the use of local and renewable building materials. Criteria h) of Policy S1 of the DCNP requires wherever possible, on-site renewable energy generation, minimising energy consumption and carbon emissions and securing the local sharing of technologies such as district heating schemes. Part 14 of the NPPF advises that the planning system should support the transition to a low carbon future
157. In recognition of national planning advice and to achieve high quality housing developments DCC has adopted an in-house review process to assess schemes against the Building for Life 12 (BfL 12) Standards. The Building for Life Supplementary Planning Document (2019) (BfL SPD) formalises the review process and establishes the guidelines and standards for its operation and is linked to the Sustainable Design Policy (29) in the County Durham Plan.
158. The scheme was considered against the BfL standard through a series of 12 questions. The scoring is based on a traffic light system with the aim of the proposed new development to secure as many "greens" as possible, minimise the number of "ambers" and avoid "reds". The more "greens" achieved the better the development will be, "ambers" are usually concerns that can be raised to "green" with revisions, whereas a "red" gives a warning that a particular aspect needs strong reconsideration. After amendments, the scheme has scored more positively achieving 6 "greens" and 6 "ambers" subject to conditions regarding drainage and footbridge location and provision.

159. The development is, therefore, now considered to represent good design and there are significant areas where both the overall design and layout has been improved. In response to earlier feedback the developer has reduced the number of dwellings on site by 9, repositioned dwellings for better privacy, increased garden depth for some properties, proposed an alternative materials palette to reflect the woodland setting, improved surveillance, proposed connections, bin storage and collection details and, a full landscaping scheme with more mature tree retention.
160. The Council's Urban Design Officer considers that the amended layout is a positive amendment to the original submission and that the proposed material palette reflects that of phase 1 and is considered acceptable from a design and conservation perspective.
161. In respect of climate change, the applicants have submitted a sustainability checklist which details that on average a 10% reduction would be achieved over the whole of the development to include combi boilers, gas heat recovery systems, 36% southern orientation, low energy lighting , double glazing, SuDS, tree retention and landscaping, passive charge points for ev vehicles, waste management plan and the sourcing of local materials. Given the climate change emergency declared by the Council in 2019 and subsequent action plan, objectors feel that additional measures such as heat pumps, solar panels etc should be incorporated into the Design. As the development is in line with 10% policy requirement further measures to minimise energy consumption are not considered necessary in this case however a condition can ensure that the detailed measures are incorporated.
162. With the imposition of such a condition the proposal would generally accord with Policy 29 of the CDP and Policy S1 of the DCNP and Part 12 of the NPPF in this respect.

Making Effective use of land

163. One of the principles (f) of Policy S1 of the DCNP is to maximise opportunities for the redevelopment of brownfield sites. The vast majority of the site is previously developed land, therefore, the proposal gains support in this respect. Paragraph 120 of the NPPF advises that substantial weight should be given to using suitable brownfield land within settlements for homes. The proposal therefore fully accords with these policies.

Heritage and Archaeology

164. Policy 44 of the CDP sets out 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, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate.
165. The NPPF advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.

166. There are no designated or non-designated heritage assets within close proximity of the development site and given the previously developed status there is low potential for archaeological remains. Durham City Conservation Area is located approximately 700m to the south of the proposed built development. The nearest listed buildings, the Grade II* Aykley Head House lies approximately 560m to the south west. There would be no intervisibility between the development site and these assets due to existing vegetation, built form and typography.
167. It is, therefore, considered that the proposal would have no adverse impact on heritage assets within the vicinity of the site in accordance with Policy 44 of the CDP and Part 16 of the NPPF. Design and Conservation and Archaeology Officers raise no objection to the scheme on these grounds. The proposal would be considered to comply with Policy 44 of the CDP and Part 16 of the NPPF.

Residential Amenity

168. Policies 29 and 31 of the CDP outlines that developments should provide high standards of amenity and privacy, minimise the impact of development upon the occupants of existing adjacent and nearby properties and not lead to unacceptable levels of pollution. A Residential Amenity Standards Supplementary Planning Document (SPD) has been adopted by the Council.
169. DCNP Policy S1 criteria i) requires developments to avoid air pollution and waste and criteria m) requires developments to incorporate a secure by design layout.
170. Parts 12 and 15 of the NPPF require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.
171. Guidance within the SPD advocates separation distances of 21m between facing principal elevations and 18m between bungalows, 13m between principal and two storey gable elevations and 10m to a single storey. Separation distances with properties external to the development are comfortably achieved, and internally they generally exceed the distances of those advocated by the SPD apart from a couple of corner units where there is not a significant shortfall (plots 306 and 318). There are, therefore, no concerns that adverse impacts, such as overlooking, overshadowing or overbearing impact could arise leading to adverse amenity standards for future residents. The proposal is, therefore, in general accordance with the SPD, Policies 29 and 31 of the CDP and Parts 12 and 15 of the NPPF in these respects.
172. There is the potential for disturbance during the construction period, however a construction management plan (CMP) has been submitted and Environmental Health Officer are satisfied that subject to the controls and monitoring detailed within the CMP being controlled by condition and a condition controlling hours of working and separate hours for piling operations that the development would not result in a statutory nuisance. The conditions would also mitigate any significant adverse impacts to residential amenity. Local residents have raised concerns over noise from other sources, however given the nature of the site and the scale it is not considered that noise pollution would be a concern once constructed.

173. Environment, Health and Consumer Protection have confirmed that an air quality assessment is not necessary. The inclusion of dust control measures within the Construction Management Plan is welcomed. Environmental Health Officer consider that the dust control measures are numerous and align well with those recommended in IAQM construction dust guidance. The proposed dust monitoring to be undertaken if there are substantiated complaints associated with the site, or if there is clear evidence of dust generated by site works depositing beyond the site boundary is considered appropriate however the method of monitoring will need to be agreed with the Council in advance. Both the monitoring requirement and methodology can be made subject of a planning condition. Therefore, it is considered that with appropriate conditions that there would not be an adverse impact on the environment.
174. Local residents are concerned about other sources of pollution such as light pollution but the impacts from this or any other types of pollution are not likely to be significant given the nature and scale of this development.
175. With regards to noise, disturbance and air quality, the development would not lead to a significant reduction in residential amenity for existing or future residents subject to appropriate conditions therefore the proposal would comply with Policies 29 and 31 of the CDP, Policy S1 of the DCNP and Parts 12 and 15 of the NPPF.

Ecology

176. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites.
177. Policy S1 criteria e) and Policy G1 of the DCNP are concerned with protecting and enhancing the natural environment. Policy G3 of the DCNP supports proposals that improve the biodiversity of site in the Emerald Network which includes Aykley Heads and Hoppers Wood.
178. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
179. Many objections centre on the loss of wildlife, trees, local habitats and impacts to the nearby nature reserve and lack of biodiversity net gain.
180. A Preliminary Ecological Appraisal (PEA) has been submitted in support of the proposal. It notes there would be no direct or indirect impacts on statutory designated sites. It recognises that three local wildlife sites lie within 1km of the development these being in order of proximity, Hopper's Wood LWS (adjoins the boundary to the north and surrounds the site to the east and south east), Framwellgate Moor Carrs LWS (900m to the north) and Frankland Pond (1km to the south-west). A proposed drainage pipeline would extend alongside the boundary of the Hopper's Wood LWS and will discharge via a new outfall structure into a minor watercourse located approximately 2-3 m within the LWS boundary. The PEA concludes that none of the habitats for which the LWS is designated would be impacted by these works and given the very small area affected (approximately 3 m²), and temporary nature of any impacts (which will be related to the construction phase only), advises that no significant impacts to the LWS are anticipated and recommends mitigation measures during construction.

181. The PEA also considers that there is the potential for indirect impacts to Hopper's Wood LWS, as a result of an increase in recreational pressure, but concludes that given the alternative recreational opportunities in close proximity to the site, and the predicted increase in recreational pressure which may arise as a result of the development, that any potential impact is likely to be of negligible significance. The PEA suggests that no direct or indirect impacts on any of the additional LWS's are considered likely.
182. The PEA notes that the habitat on site is semi-improved grassland and hardstanding none of which are of particular ecological importance. Measures are recommended to offset the loss of habitats from within the site and to provide suitable enhancement. The report recognises the presence of ancient and semi-natural woodland present at the location of the proposed surface water outfall but finds no plant species characteristic of Ancient Woodland at the location. Given the findings and small areas that would be impacted the PEA suggests that there would be no loss or deterioration of ancient woodland as a result of the proposals. It recognises that additional woodland and minor watercourses are located outside but adjacent to the site boundary and recommends measures to ensure these habitats are adequately protected during development of the site.
183. It notes that there are no potential bat roosting opportunities on site and that habitats on site are of low suitability to support foraging and commuting bats. Given the proximity of three ponds in the locality with records of Great Crested Newts the report recommends a precautionary working method. Bird activity within the site is likely to be limited to foraging by species nesting within the adjacent woodland habitat (which is to be retained). Potential nesting habitat within the site is generally lacking and no significant impacts on nesting birds within the Site are anticipated. The proposed development would result in the loss of foraging habitat with the potential to be used by hedgehog which is a National and Local priority species. Measures are proposed to ensure that the species will retain access to foraging habitats during the occupational phase of the development.
184. The PEA outlines the potential impacts of the development to the Local Wildlife Sites, habitats and species as well as a series of recommendations to minimise these. The mitigation measures can be secured via condition and a section 39 agreement.
185. No interference with protected species is identified as a result of the development. A European Protected Species Licence is, therefore, not required as a result of the development, having regards to the requirements of the Habitats Directive brought into effect by the Conservation of Habitats and Species Regulations 2017.
186. The Council's Ecologist is satisfied with the submitted assessment but requests conditions in relation to mitigation and a financial contribution for the maintenance of footpaths within the woodland as he considers that there would undoubtedly be increased usage of the nearby nature reserve by pedestrians and their dogs. The applicant is willing to accept this contribution requirement and these works would be secured by way of a 106 agreement.
187. In terms of biodiversity net gains, a Biodiversity Net Gain Assessment has been submitted and calculates the change in biodiversity value of the site and the surrounding land 17.21% for habitats and for hedgerow units and increase of 1.20BU. The proposed development, both within the development site and, on land adjacent the site is expected to result in a net gain of over 10% for both area based habitats and hedgerows, therefore, satisfying policy requirements to achieve net gains.

188. Objections detail that the net gain on the actual site, rather than the surrounding land, is minimal, however, the Council's Ecologist has reviewed the submitted report and is satisfied that the net gains meet the requirements but requests the biodiversity net gain calculation to also cover the mitigation measures detailed for species to ensure the development provides ecological enhancement for species. This report has not been updated by the developer nor has a biodiversity management and monitoring management plan been supplied. The management and monitoring information is required in order to ensure that the stated level of net gains can be achieved in accordance with CDP Policy 26 and 41 requirements and Paragraph 174 of the NPPF. Once the approach is agreed, a detailed habitat creation and management document, including a monitoring strategy for a minimum of 30 years will need to be secured under Section 39 of the Wildlife and Countryside Act 1981. A condition can ensure the biodiversity management and monitoring plan is submitted and agreed and a 106 can require the developer to enter into such the section 39 agreement.
189. Subject to the imposition of condition to secure the mitigation strategy, management and monitoring plans and Section 39 agreement the proposal would comply with Policies 26,41 and 43 of the CDP and Part 15 of the NPPF.

Flooding and Drainage

190. Policies 35 and 36 of the emerging CDP relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
191. Policy S1 criteria k) of the DCNP requires developments to incorporate SuDS. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where a sequential test and some instances exception test are passed, informed by a site-specific flood risk assessment.
192. The application is accompanied by a Flood Risk Assessment (FRA) and Drainage Strategy which highlights that the application site is within Flood Zone 1 with a low flood risk probability. The drainage strategy includes the incorporation of Sustainable Urban Drainage (SUD's) including permeable paving, a swale on the access road and an end of line SuDS basin to treat and attenuate surface water runoff. Drainage and Coastal Protection Officers consider the revised proposals as an improvement but they would like to see more treatment and further details to be included in a further Surface Water Drainage Strategy which can be required by condition.
193. In relation to foul water, it is proposed to connect to the existing sewerage network, to which Northumbrian Water raise no objections subject to the imposition of a condition that the development accord with the proposed engineering layout plan.
194. Subject to condition regarding the drainage strategy there would be no concerns on the grounds of flood risk or drainage in respect of Policies 35 and 36 of the CDP and Part 14 of the NPPF.

Infrastructure and Open Space Provision

195. It is important to ensure that development proposals contribute to improvements in infrastructure capacity to mitigate for the additional demands that new development creates. By securing financial contributions through planning obligations, developers would help fund the physical, social and environmental infrastructure that is needed to make development acceptable and ensure that the development mitigates its impact upon existing infrastructure.
196. Policy 25 of the CDP supports securing developer contributions where mitigation is necessary to make the development acceptable in planning terms including for social infrastructure such as education and health facilities.
197. Paragraphs 55-58 of the NPPF explain the circumstances when it is appropriate for planning obligations to be used to mitigate the impacts of the development.
198. Policy 26 of the CDP outlines that new residential developments will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the Council will require financial contributions to be secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality.
199. Policy G1 of the DCNP supports development which will provide additional green assets such public open space, woodland, landscaped areas, footpaths, trees and measures to support species. The policy also requires proposals that impact on green corridors such as cycle paths to avoid significant harm to ecological connectivity. Policy G3 of the DCNP supports proposals that improve the amenity of sites in the Emerald Network including Aykley Heads and Hopper's Wood including that additional footpaths are provided within or between the sites.
200. Paragraph 98 of the NPPF highlights that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Paragraph 130 requires amongst its advice that developments function well and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
201. The Council's Open Space Needs Assessment (OSNA) 2018 is considered the most up to date assessment of need. It identifies the five typologies (allotments; amenity/natural greenspace; parks, sports and recreation grounds; play space (children) and play space (youth)), sets out requirements for public open space on a population pro rata basis and whether provision should be either within the site, or through a financial contribution towards offsite provision, in lieu taking into consideration factors such as the scale of the development, existing provision within suitable walking distances and the level of contribution sought.
202. The site layout demonstrates that large areas of green space (equating to 1.584ha) would be provided on site and the adjacent land in the applicant's ownership fulfilling the precise open space/natural green space (requirement is for 0.1584ha). Overall, the open space provision would likely to be attractive to future residents of the estate and provide footpaths between Aykley Heads and Hoppers Wood. The provision would be secured by way of a Section 39 Agreement.

203. The development is of a scale whereby non-equipped children's play space would be expected to be provided on-site. The development would not meet the play space for children requirement of 42sqm onsite. Notwithstanding, an equipped play area lies within the reasonable walking and cycling distances on land to the east of Carterhouse Road therefore in this instance a financial contribution to enhance existing facilities would be deemed more appropriate. The developer is willing to contribute money in lieu of on site provision to ensure improvements to current play areas in the facility and this is accepted as a more suitable alternative in this case.
204. In respect of other typologies (allotments, parks and recreation, play space -youth the developer is willing to enter into 106 agreement to contribute money in lieu of on site provision. A contribution of £75,556 would be required for off-site provision in lieu of those typologies not provided for onsite (allotments, Parks and Recreation, children and youth play space). Having regard to the OSNA, the availability and the proximity of existing facilities to the development this is considered to acceptable and in accordance with the Council's standard approach.
205. Details of the management of open space are not known. Conditions can secure the details of the future management and maintenance arrangements.
206. This would satisfy the OSNA requirements, Policy 26 of the CDP and Paragraph 98 of the NPPF with regards to the provision of public open space.
207. 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. This is a concern raised by local residents. The School Places Manager has advised that the proposed development is likely to generate an additional 15 primary age school pupils and 6 secondary age school pupils. Whilst there is sufficient capacity at the local primary schools to accommodate this need there is insufficient capacity at the local secondary school. A total contribution of £99,324 (6 x £16,554) towards education provision is therefore required.
208. Residents have raised concerns that local NHS services are at capacity. The Tees Valley Clinical Commissioning Group (TV CCG) advise that local GP practices are at full capacity with regards to space requirements to deliver services to their patient list size. A contribution of £23,184 is requested to support creating extra capacity for them to provide appropriate services to patients and to make the proposed housing expansion supportable from a health infrastructure perspective.

Addressing Housing Need

209. Policy 15 of the CDP and Policy D3 of the DCNP requires affordable housing to be sought on sites of 10 or more units, for up to 25% of units in the highest value areas. On sites of 10 or more units, 10% of the homes provided should be for affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership). Any contribution above 10% should be provided as affordable housing for rent in order to meet the requirements of Policy of the CDP. As this site is within a high value area, this development would require 25% affordable housing, in the form of affordable home ownership and rent.
210. Policy 15 of the CDP and Policy D2 of the DCNP also requires that on sites of 10 or more units, a minimum of 10% of the units should be designed so as to increase the housing options for older persons and people with disabilities comprising of level access flats and bungalows or housing products which can be shown to meet the specific needs of a multi-generational family.

211. Policy 15 of the CDP also requires that 66% of dwellings should be built to Building Regulations Requirement M4(2) (accessible and adaptable dwellings) standard unless site specific factors indicate otherwise. All new residential development will be required to comply with the Nationally Described Space Standards (NDSS).
212. Policy 19 requires an appropriate mix of dwellings, types and sizes. Paragraph 61 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed. Part 5 of the NPPF is also clear that developments should help to address housing needs.
213. The Council's Affordable Housing department advise that the area has a need for 2 and 3 bedroomed properties for affordable home ownership and for bungalow accommodation and confirm there is a high demand for affordable rented properties.
214. Local residents do not consider that the scheme incorporates sufficient bungalows and smaller homes. The scheme would provide a total 12no. affordable units comprising of 7no. 2-bed properties for rent and 5no. three-bed dwellings for intermediate tenure. This would meet the requirements of both Policy 15 of the CDP and Paragraph 65 of the NPPF which directs that, on major schemes, 10% of the homes provided should be for affordable home ownership. Whilst only 3-bed properties rather than 2 bed properties are proposed for affordable ownership Housing Officers are satisfied with the proposed housing mix. The revised layout includes 5no. bungalows which meets the 10% policy requirement of housing options for older persons.
215. In respect to the Policy 15 requirements on M4(2) and NDSS the application is supported by an accessible and adaptable homes statement that confirms that 32 of the dwellings would meet the M4(2) standards which meets the 66% requirement of Policy 15. The application is also supported by a meeting Housing Needs Statement that confirms that NDSS would be met by this development.
216. Whilst concerns have been raised by Housing Officers over the willingness for Registered Providers to take on smaller rented units, the developers have confirmed that they have not found this to be the case on their other sites. In the event that this were to occur, the affordable housing statements suggests a cascade mechanism for other options to be explored and, this can be subject of a 106 legal agreement in relation to affordable housing provision.
217. In terms of housing mix, the development would provide a range of 2, 3, 4 and 5 bedroomed units including, detached and semi-detached houses, terraced properties and bungalows options in compliance with Policy 19 of the CDP and Part 5 of the NPPF.
218. Overall, the scheme does generally meet the identified housing needs of the County in accordance with the requirements of Policy 15 of the CDP and policy D2 of the DCNP and Part 5 of the NPPF.

Developer Contributions

219. Policy 25 of the CDP, Paragraph 57 of the NPPF and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The following obligations are considered to meet these tests and have been sought from the developer to mitigate the impacts of the development and to meet an identified affordable housing need in the County:

- £99,324 towards secondary education provision;
- £23,184 to increase GP surgery capacity;
- £75,556 off-site public open space contribution;
- £21,000 Infrastructure improvement works (Footpaths and drainage works in Hoppers Wood LWS);
- The delivery of 25% affordable housing, equating to 5 properties for affordable home ownership and 7 units for affordable rent;
- The requirement to achieve a minimum of 10% biodiversity net gains and enter into a S.39 Agreement to secure the long-term management and maintenance of the biodiversity land.

220. The applicant has indicated their acceptance to enter into such agreements and therefore it is considered that this scheme of 48 units would sufficiently mitigate its own impacts.

Contamination and Land Stability

221. Policy 32 of the CDP requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.

222. Given the sensitive end use of the site, a Phase 1 Risk Assessment and Phase 2 Geoenvironmental Appraisal and Ground Gas Risk Assessment were submitted in support of the application. Environmental Health Officers agree with the conclusions within the phase 1 report but require further details in respect of the car park areas. Therefore, further phase 2 site investigations are necessary and a Phase 3 remediation strategy is required to include details of ground gas protection measures and a method of phase 4 verification. Conditions can secure this, and an informative relating to unforeseen contamination would ensure that the site is suitable for its intended use taking account of any risks arising from contamination. The proposal would therefore accord with Policy 32 of the CDP and Paragraph 183 of the NPPF.

223. Paragraph 174 of the NPPF sets out that unstable land should be remediated and mitigated where appropriate. The application site lies within the coal mining high risk area with Coal Authority records indicating that coal seams are conjectured to outcrop across the site and the seams may have been worked in the past and could pose a risk in terms of instability and mine gas emissions.

224. The application is supported by a Coal Mining Legacy and Mitigation Review which aims to provide an assessment of the coal mining affects within the site and appropriate remediation measures. The Coal Authority, having reviewed the reports, advise that the mitigation measures proposed would ensure the safety and stability of the proposed development and recommend that these measures be made subject of condition. With such a condition it is considered that sufficient evidence has been provided to demonstrate that the site will be safe, stable and suitable for its proposed used. The proposal is therefore in accordance with Policy 32 of the CDP and Part 15 of the NPPF.

Other Considerations

225. Soil is a fundamental and finite resource that fulfils many important functions and ecosystem services and some of the most fundamental impacts on this resource can occur as a result of construction activity. Where development proposals are permanent it is important that soil resources are used effectively on undeveloped areas of the site for landscape, habitat or garden creation or used appropriately on other suitable sites. Policy 14 of the CDP requires all development proposals relation to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice. A soil resource management strategy can be secured by condition.
226. The site lies within a Mineral Safeguarding Area due to it lying within a coal resource area. Policy 56 of the CDP states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within such areas unless specific criteria apply. For criteria a) of the policy to be met, applicants should demonstrate to the satisfaction of the local planning authority that the mineral in the location concerned is no longer of any current or potential value as it does not represent an economically viable and therefore exploitable resource. A Minerals Assessment has accompanied this application, which concludes that given the very limited size of the development area and significant depth of the coal, fireclay, clay and shale present it is not considered economically or geotechnically viable to remove these minerals using opencast methods. Furthermore, removal would likely result in unacceptable impacts to residents and ecology, also access would be difficult. It is considered therefore that the application has sufficiently demonstrated full compliance with the Policy 56 and Part 17 of the NPPF.
227. Policy 27 of the CDP outlines that new residential development should be served by a high-speed broadband connection. Part 10 of the NPPF also has similar aims. A condition can be imposed to secure details of how the applicant intends to address connectivity issues.
228. The proposal has generated some public interest, with letters of objection having been received from local residents and other bodies. The objections, queries and concerns raised have been taken account and addressed within the report, where appropriate. Issues which have not previously been addressed are considered below.
229. Residents are concerned about the negative impact upon property values due to the affordable provision on site however this is not a material planning consideration.
230. Comments made in relation to a road connecting to the multi-user route are inaccurate.
231. Comments have been made by residents in relation to the lack of community consultation by the developer, however it is considered that a proportionate consultation exercise involving a letter drop was adequate given the size of the site. It is noted that there are concerns that the developer has detailed the lack of response as indicating support for the developer and that residents wish to ensure that the LPA know this is not the case.
232. Local residents fear that the proposal will lead to advert signs and flags at the entrance to the estate being kept on site for longer and detracting from the amenity of the estate. Advertisement consent is covered under the Town and Country Planning (Control of Advertisements) Regulations 2007. Any new flags/signs to advertise this further development would need to comply with class 7 of these regulations or require advertisement consent from the Council and would be considered at that stage.

233. It is noted that not all documentation has been updated to reflect the amended plans at stages in the application process, however, it is considered that the most critical documents have now been.

CONCLUSION

234. 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 now 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 11 c).
235. Through the course of this report, the overall acceptability of the scheme or otherwise has been considered taking account all of the issues and consideration of applicable policies. The development site is a brownfield allocated housing site and the proposal meets the landscape and infrastructure requirements of policy 4 of the CDP.
236. The development would ensure housing land supply including the provision of affordable housing and older persons accommodation.
237. Despite the additional four footway connections there are accessibility issues in terms of providing short and easy walking access for those with mobility issues to public transport and shops and there would undoubtedly be some future residents who would realistically have to use the car to access these services. However, it is recognised that with the proposed new footpath and footbridge links the local facilities, services and employment would be located in what are generally considered to be acceptable walking distances and the site benefits from good links to relatively short cycle routes to schools, public transport (Durham Railway Station) and employment. There would, therefore, be some conflict with CDP Policies 21 and 29 and DCNP Policy S1 and section 9 of the NPPF, which must be weighed in the planning balance. Having carefully assessed the impacts officers consider that the impacts upon individuals with protected characteristics are not such that it would warrant the application being recommended for refusal.
238. Generally, the parking provision is acceptable and meets DCC standards in terms of numbers and size for most plots. There is some conflict with CDP and DCNP policy requirements in terms of garage sizes on some plots and in terms of cycle parking facilities for some dwellings. In terms of the Neighbourhood plan there is also conflict in respect of the use of in curtilage parking over communal parking and in terms of lack of storage/charging areas for mobility aids etc. Nonetheless as neither Highways nor Sustainability Officers have requested amendments in these respects this is accepted.
239. There is unlikely to be adverse transport impacts to the network and the site has been designed to be permeable, minimise car traffic and vehicle speeds and create a safe family friendly environment. The development is therefore acceptable on transport and highway impact grounds.
240. Development in this location would have a transformative impact on the immediate local landscape. However, the native structure planting proposed and required by Policy H4 would retain the character of the land surrounding the site, maintain a strong boundary with the Green Belt and replace the loss of mature Ash trees on the site caused by die back disease. Plant species proposed and planting notes relating to establishment are considered appropriate. With such landscaping there would not be unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views.

241. Section 106 and 39 legal agreements can ensure the development appropriately proposes to provide new green infrastructure and secure its long-term management.
242. A 106 can require a commuted sum in respect of open space provision, education , healthcare and infrastructure requirements needed to make development acceptable and ensure that the development mitigates its impact upon existing infrastructure.
243. The amended scheme would contribute positively to the area’s character, identity, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. The development has scored 6 greens and 6 ambers in relation to the Building for Life 12 (BfL 12) Standards.
244. A condition can secure additional CO₂ reductions required by CDP policy 29 and DCNP policy S1.
245. The proposal would not result in adverse impacts to designated or non-designated heritage assets, residential amenity, wildlife sites or protected species.
246. A section 39 agreement can ensure that the accepted Biodiversity net gain is achieved, managed and monitored appropriately.
247. The proposal meets policy requirements in terms of affordable housing provision, housing for older persons and M4(2) requirements.
248. Conditions can ensure that any drainage, contamination and land stability issues are addressed and there are no concerns over the loss of the mineral’s resources.
249. The proposal has generated public interest. The objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application in light of the benefits of the scheme and the ability to impose conditions and secure planning obligations under S106 of The Town and Country Planning Act 1990 (as amended) and secure net gains under S39 of the Wildlife and Countryside Act 1981 (as amended).
250. On balance, it is considered that proposals are acceptable and the application is recommended for approval.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a S106 Legal Agreement to secure the following:

- The requirement to enter into a S.39 Agreement to secure the long term management and maintenance, including monitoring strategy of the biodiversity land;
- the delivery of the permissive footpaths;
- The delivery of 25% affordable housing comprising of 7x 2 bedroom houses for rent and 5x 3 bedroom houses for affordable home ownership.
- £99,324 towards securing additional secondary education provision at Framwellgate School.
- £23,184 to increase GP surgery capacity in the area.
- £75,556 towards improving off site play space for children and youths and other space typologies in the Electoral division.
- £21,000 towards infrastructure improvement works (new footpaths and repairs to footpaths, drainage works and facilities in in Hopper’s Wood LWS) .

And subject to the following conditions:

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

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

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

Phase 2 Autotrac	22/04/2022
AH2-001 (REV K) Phase 2 Site Layout	20/04/2022
2572/10 (Rev G) Detailed Landscape Proposals – Phase 2	11/04/2022
2572/11 (Rev G) Detailed Landscape Proposals – Phase 2	11/04/2022
SUDS Maintenance Report	08/04/2022
Road Construction Details D700(REV3)	08/04/2022
Phase 2 Materials Layout AH2-002	26/04/2022
Mining Assessment report	14/03/2022
Arboricultural Impact Assessment	08/03/2022
AH2-000 (REV B) Phase 2 Location Plan	08/03/2022
D900 (REV 5) Suds Identification Plan	03/03/2022
D800 (Rev 20 S38 Agreement Plan	03/03/2022
D600 (REV6) Direct comparison cut & Fill	03/03/2022
D301 (REV6) Proposed Road Longsections sheet 2 of 2	03/03/2022
D201 (REV9) Flood Routing Plan	03/03/2022
D001 (REV12)	27/04/2022
Precautionary Method Statement for Great Crested Newts	02/03/2022
Affordable housing Statement	02/03/2022
Biodiversity Net Gain Assessment Report	02/03/2022
Ecological Appraisal and Mitigation Plan	22/04/2022
Sustainability checklist for developers	02/03/2022
Accessible and adaptable homes statement	02/03/2022
PH Brick Brochure	19/01/2022
PH Tile Brochure	19/01/2022
Meeting Housing Needs Statement	22/04/2022
D200 (REV7) Proposed Adoptable Manhole Schedules	14/12/2021
WW-WD17 (REV D) Plans and elevations	03/12/2021
WL-WD07+(REVG) Plans and elevations	03/12/2021
SW-WDC07 (REVG) Plans and elevations	03/12/2021
SW-WD17+(REV E) Plans and elevations	03/12/2021
SN-WD17 (REVG) Plans and elevations	03/12/2021
SE-WD07+ (REVG) Plans and elevations	03/12/2021
RV-WD17+(REV G) Plans and elevations	03/12/2021
HL-WD17 (REV C) Plans and elevations	03/12/2021
GM-WD17+ (REV F0) Plans and elevations	03/12/2021
DY-WD17+(REVE) Plans and elevations	03/12/2021
CW-WD17 (REV E) Plans and elevations	03/12/2021
Water Usage Calculations	03/12/2021
Basic Compliance Report (R20 Whiteleaf Cnr)	03/12/2021
Basic Compliance Report (R20 Whiteleaf)	03/12/2021
Basic Compliance Report (R20 Wentwood Semi)	03/12/2021
Basic Compliance Report (R20 Wentwood Mid)	03/12/2021
Basic Compliance Report (R20 Sherwood Cnr)	03/12/2021
Basic Compliance Report (R20 Sherwood)	03/12/2021
Basic Compliance Report (R20 Selwood)	03/12/2021

Basic Compliance Report (R20 Saunton End)	03/12/2021
Basic Compliance Report (R20 Rivington)	03/12/2021
Basic Compliance Report (R20 Haldon Mid)	03/12/2021
Basic Compliance Report (R20 Haldon End)	03/12/2021
Basic Compliance Report (R20 Glenmore)	03/12/2021
Basic Compliance Report (R20 Danbury End)	03/12/2021
Basic Compliance Report (R20 Danbury Cnr)	03/12/2021
Basic Compliance Report (R20 Charnwood)	03/12/2021
Hazardous Ground Gas Assessment Report	02/08/2021
Minerals Safeguarding Assessment Report	29/06/2021
Section 106 draft Heads of Terms	29/06/2021
Persimmon Homes and the Green Guide to Specification	29/06/2021
Construction Management Plan Note	22/04/2022
Construction Management Plan	22/04/2022
Tree Survey Report	01/06/2021
Transport Statement	01/06/2021
Phase 2 Geoenvironmental Appraisal Report	01/06/2021
Phase 1 Geoenvironmental Appraisal & Coal Mining Risk Assessment	01/06/2021
Flood Risk Assessment Report	01/06/2021
Sustainability Statement	01/06/2021
Open Space , Play and Leisure Assessment	01/06/2021

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 4 and 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

3. The Construction Management Plan and note dated 22/04/2022 shall be adhered to throughout the construction period and the approved measures shall be retained for the duration of the construction works .

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

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

In addition, piling operations should be restricted to the following hours:

No piling, including vibro-piling, operations shall be undertaken outside of the hours of 0900 and 1600hrs.

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.

5. No development, other than demolition, site investigations and site remediation works shall commence before details have been submitted to and approved in writing by the LPA of the methodology for monitoring dust levels. The development shall take place in accordance with the approved details.

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

6.No development, other than demolition, site investigations and site remediation works shall commence before detailed drawings, including sections, showing the existing and proposed site levels, and the finished floor levels of the proposed development, has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

Reason: In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

7.No development, other demolition shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 2 site investigation, if necessary and a Phase 3 remediation strategy, which shall include details of the ground gas protection measures to be installed and a 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 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.

8. 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.

9. The development hereby approved shall incorporate the measures set out in the supporting Coal Mining Legacy & Mitigation Review, in order to mitigate land instability arising from coal mining legacy. These measures shall be retained thereafter. All works shall be carried out in accordance with authoritative UK guidance.

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.

10. Prior to the occupation of the development, or it being taken into beneficial use, a signed statement or declaration prepared by a suitably competent person confirming the completion in full of the mitigation measures (required by condition 9) shall be submitted to the Local Planning Authority for approval in writing.

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.

11. No development, other than demolition and site remediation works, shall commence until full engineering details of the site access road including traffic calming measures have been submitted to and approved in writing by the Local Planning Authority. The works shall be completed in accordance with the agreed details prior to the first occupation of the dwellings.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the proposed development is served by a safe access.

12. No development, other than demolition and site remediation works, shall commence until full engineering details of the estate roads have been submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved scheme.

Reason: In the interests of highway safety in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the proposed development is served by a safe access.

13. Prior to the occupation of the first dwelling, details of the footbridges that are to be installed to allow access to the North and West of the Site shall be submitted to and approved in writing by the Local Planning Authority. This shall include details of materials of the structure and surface and engineering details including the width, depth of foundations, span and clearance, beam and handrails and timescales for implementation. All of which will need to comply with the current Design Manual for Roads and Bridges (DMRB). The footbridge(s) shall be installed in accordance with the approved details.

Reason: In the interests of sustainable transport in accordance with Policies 6, 21 and 29 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

14. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, scheduled for retention, have been protected in accordance with the details contained within the Arboricultural Impact Assessment dated 08/03/2022 and under the supervision of the Durham County Council's Arboriculture Officer. Protection measures shall remain in place until the cessation of the development works. The tree protection shall be retained throughout the construction period. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: In the interests of the visual amenity of the area and to comply with Policy 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the trees are adequately protected prior to the commencement of the development.

15. No development, other than demolition and site remediation works, shall commence until a detailed landscaping scheme, which should follow the parameters set out in drg. no's. 2572/10 (Rev G) and 2572/11 (Rev G) has been submitted to and approved in writing by the Local Planning Authority. Any submitted scheme must be shown to comply with legislation protecting nesting birds and roosting bats. The landscape scheme shall include accurate plan based details of the following:

Trees, hedges and shrubs scheduled for retention (including any gapping up and management works).

Planting of a native species hedge to the perimeter of the site;

Retention of the existing tree belt within the middle of the site and provision of additional tree planting in gaps within the tree belts to the north, east and south-east of the site

New native woodland to the north and west of the site.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.

Details of planting specifications and procedures including tree pits, irrigation systems, plant supports and plant protection.

Details of seeded or turfed areas and areas of habitat creation including specifications for ground preparation, seed or planting mixes, and sowing or planting rates and procedures.

Details of land and surface drainage.

The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

The local planning authority shall be notified in advance of the start on site date and the completion date of all external works.

Reason: In the interests of the visual amenity and character of the area and to comply with Policies 26, 29, 39, 40 and 44 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that a landscape mitigation takes place at an early stage of development.

16. All planting, seeding or turfing and habitat creation in the approved details of the landscaping scheme shall be carried out in accordance with a timetable to be submitted to and agreed in writing by the Local Planning Authority.

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 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 and character of the area and to comply with Policies 26, 29, 39, 40 and 44 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

17.No development shall commence until a soil resource management strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall clearly describe the proposed use of all soils on site and demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice. The strategy should detail soil handling, storage and replacement methods to be used appropriate to the grade of soil and intended after-use. The strategy shall also include details of the proposed soil depths upon replacement and plant and machinery to be used as well as, where appropriate, steps to prevent the spread of any soil-borne plant or animal diseases.

If soils are to be removed from site, then details of quantities and a programme for removal shall be submitted. Thereafter, development shall take place in accordance with the approved details.

Reason: In the interests of the protection of soil resources and to comply with Policy 14 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

18.No development, other than site investigations and remediation works, 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 and Part 10 of the NPPF.

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

Reason: In the interests of appearance of the area in accordance with Policy 26 and 29 of the County Durham Plan and Parts 12 and 15 of the NPPF.

20.No dwelling shall be occupied until a detailed specification for the new footpaths as shown on drg AH2-001 (Rev K),including engineering details of any steps/ramps as shown, has been submitted to and approved in writing by the Local Planning Authority. The footpaths shall be installed in accordance with the approved details and prior to the occupation of the first dwelling.

Reason: To secure new pedestrian routes and to comply with Policy 26 of the County Durham Plan and Parts 4 and 8 of the National Planning Policy Framework.

21.No development shall be carried out before the submission to and approval by the Local Planning Authority of a Surface Water Drainage Strategy for the site. The development shall take place in accordance with the approved drainage strategy.

Reason: In the interest of the adequate disposal of foul and surface water in accordance with Policies 35 and 36 of the County Durham Plan and Part 14 of the NPPF. Required as a pre-commencement condition to ensure that the suitable drainage is achieved for the site and any off site impacts are appropriately managed.

22.The development shall be carried out in accordance with the recommendations outlined within Section 5 of the Ecological Appraisal Report dated 22/04/2022 and the Precautionary Method Statement for Great Crested Newts dated 2/03/2022.

Reason: In the interests of ecology and ensuring no protected species are affected by the development in accordance with Policies 41 and 44 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

23.No development, other than demolition and site remediation works, shall commence until the submission to and approval of the LPA of a biodiversity management and monitoring management plan. The development shall take place in accordance with the approved details.

Reason: This information is required in order to ensure that the stated level of net gains can be achieved in accordance with CDP Policy 26 and 41 requirements and Paragraph 174 of the NPPF.

24. All of the dwellings hereby approved shall be provided with appropriate cabling and infrastructure to allow future installation of electric vehicle charging points.

Reason: In the interests of sustainable construction and in accordance with Policy 29 of the County Durham Local Plan and Part 14 of the National Planning Policy Framework.

25. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), no development falling within Part 1 (all Classes) and Classes A and C of Part 2 of Schedule 2 of the said Order shall take place without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 44 of the County Durham Plan and Parts 12, 15 and 16 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the development is suitably constructed.

26. The development shall take place in accordance with the approved details to minimise energy consumption detailed in the sustainability checklist dated 2/03/2022.

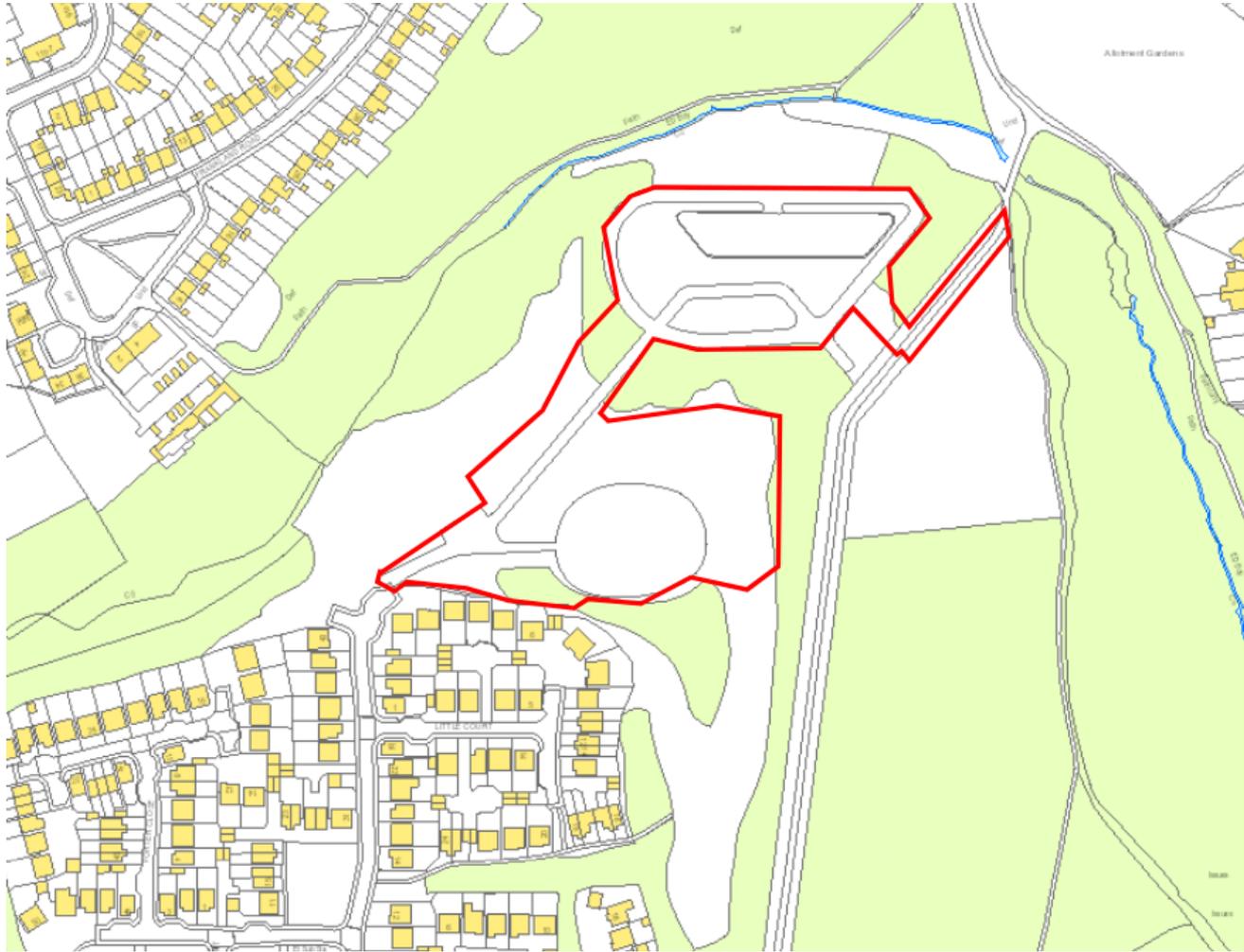
Reason: In the interests of minimising greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation in accordance with Policy 29 of the CDP and policy S1 of the DCNP Policy S1 and part 14 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- Durham City Neighbourhood Plan 2021
- Statutory, internal and public consultation response
- County Durham Strategic Housing Land Assessment Report (2019)
- County Durham Strategic Housing Market Assessment (2019)
- Open Space Needs Assessment (2018)
- Residential Amenity Standards SPD (2020)
- County Durham Building for Life SPD (2019)
- County Durham Parking and Accessibility Standards 2019
- County Durham Strategic Cycling and Walking Delivery Plan 2019




Durham
County Council

Planning Services

Proposed development of 48 residential dwellings with associated infrastructure, open space and highway improvements.
 Land at Former Skid Plan North of Woodward Way, Aykley Heads.
 Ref: DM/21/02034/FPA

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Comments

Date 9th May 2022

Scale Not to Scale