



Special Area Planning Committee (Central and East)

Date Thursday 25 November 2021

Time 1.30 pm

Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest, if any
4. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/21/02127/FPA - Land At Rowen Court And The Oaks, Esh Winning (Pages 3 - 32)
Development of 89 no dwellings including hard and soft landscaping, public open space, highways and associated works.
 - b) DM/21/02227/FPA - 12 Silver Street, Durham, DH1 3RB (Pages 33 - 50)
Change of use of upper floors to a 5 bed HMO (use class C4), retail to remain at ground floor and installation of new access door in existing shop front.
 - c) DM/21/02109/FPA - New College Durham, Framwellgate Moor, Durham, DH1 5ES (Pages 51 - 64)
Erection of a 4.5m high FA standard football pitch boundary fence.
 - d) DM/21/00185/VOC - Evergreen Park, Crimdon, TS27 4DW (Pages 65 - 82)
Removal of Condition 5 (holiday home occupancy restriction) of planning permission DM/15/01520/FPA for the siting of 16 executive holiday lodges (resubmission).

- e) DM/21/02693/FPA - 37 Seaside Lane, Easington Colliery, Peterlee, SR8 3PG (Pages 83 - 100)

Change of use from betting shop to hot food takeaway and 2 no. flats, to install new front door and roller shutter and flue to rear.

5. 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
17 November 2021

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

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

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

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/21/02127/FPA

FULL APPLICATION DESCRIPTION: Development of 89 no dwellings including hard and soft landscaping, public open space, highways and associated works.

NAME OF APPLICANT: James Litherland c/o Placefirst

ADDRESS: Land at Rowen Court and The Oaks Esh Winning

ELECTORAL DIVISION: Deerness

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

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The site comprises approximately 2.1 hectares of previously developed land located on the western edge of Esh Winning to the north of Ridding Road, Esh Winning. The proposed development is located on land formerly occupied by 61 dwellings, known as The Oaks and Rowan Court. However, that estate has now been demolished, with the site now comprising of a mixture of grassland with remains of areas of hard surfacing, roads and footpaths. The topography of the site is relatively steep, with levels dropping by approximately 3-6 metres from west to the east.
2. The surrounding area is largely characterised by residential development with existing residential development to the south, east and north of the development site. To the east of the site is open fields with Dene Park located to the north.
3. The site is in relatively close proximity to Esh Winning Primary school, and local amenities.

The Proposal

4. The proposed development is for the erection of 89 dwellings on land north of Ridding Road, Esh Winning, Durham.
5. The proposal comprises a Build to Rent development comprising of a mix of two-bedroom bungalows and three-bedroom two storey dwellings. The proposed split onsite is as follows:
 - 54 bungalows; and
 - 35 two storey dwellings.
6. Access to the site will be taken via two separate access points on Ridding Road, the proposal will include 105 unallocated parking space for residents and visitors..

PLANNING HISTORY

7. No relevant site history

PLANNING POLICY

NATIONAL POLICY

8. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social, and environmental, each mutually dependent.
9. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
10. 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.
11. 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.
12. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

13. NPPF Part 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
16. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

LOCAL PLAN POLICY:

18. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
19. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
20. Policy 6 (Development on Unallocated Sites) supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
21. 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.

22. 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.
23. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
24. Policy 25 (Developer Contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
25. Policy 26 (Green Infrastructure) states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
26. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
27. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.

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

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

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

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

28. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
29. 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.
30. Policy 33 – Renewable and Low Carbon Energy – states that renewable and low carbon development energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associated developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
31. 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
32. 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.

33. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
34. Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains. Proposals must protect geological features, have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity.

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

35. Policy 56 (Safeguarding Mineral Resources) states 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. This is unless it can be demonstrated that the mineral in the location concerned is no longer of any current or potential value, provision can be made for the mineral to be extracted satisfactorily prior to the non-minerals development taking place without unacceptable adverse impact, the non-minerals development is of a temporary nature that does not inhibit extraction or there is an overriding need for the non-minerals development which outweighs the need to safeguard the mineral or it constitutes exempt development as set out in the Plan. Unless the proposal is exempt development or temporary in nature, all planning applications for non-mineral development within a Mineral Safeguarding Area must be accompanied by a Mineral Assessment of the effect of the proposed development on the mineral resource beneath or adjacent to the site of the proposed development.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY AND INTERNAL RESPONSES:

36. The following comments were received following consultation with Statutory and Internal consultees.
37. **DCC Highways** - The applicant has provided a site plan of 89 dwellings for highways comments which are as followings. I am aware that discussions have be held with DCC Highways in the past in relation to these proposals. There are two highway accesses proposed for the 89 units from Ridding Road which is street lit and traffic calmed with speed reduction features. The proposed level of car parking provision across the proposed development is set out as non allocated. A main parking court with a turning head feature is proposed next to plot 50 and is to be put forward for adoption. The turning head is however deemed substandard in terms of its design size, the tracking paths of the refuse vehicle provided clearly shows overrunning of the area next to plot 50.

There are 23 grouped communal parking spaces provided to serve the adjacent plot rows at plots 50, 51, 89 and 42 with private footway links leading into this area from the plot frontages. As it is more convenient to park on the main highway Ridding Road in the main at this part of the site rather than future residents walk along the private footway links to access the carpark a 1.0m wide strip is proposed to be added to Ridding Road. This strip is for half on half off parking on the running lane of the highway to leave a width of 4.8m for two vehicles to pass each other.

Generally the site plan provided has poor parking design measures. Parking to the fronts of plots 43-50 and plots 41, 42 and 83-89 would present parking and accessibility highway layout issues. The in-curtilage car parking space for a number of proposed plots appear to be some distance from the property entrance. This is likely to lead to indiscriminate on-street parking. A parking court has also been put forward for adoption however the Council as highway authority do not normally taken on private parking courts and the swept paths demonstrate this does not work for refuse wagons turning either. The overall layout does not seem to fit with the Councils current minimum parking standards for in curtilage and non-allocated provision requirements. The standard of which is 1 in curtilage space for a two bedroom dwelling with 0.33 space for non-allocated parking and 1 in curtilage parking space for a 3 bedroom dwelling with 0.66 space for non-allocated parking.

Overall throughout new estate roads the parking space design should be useable and accessible with well distributed non allocated parking spaces. Also in regards to EVC provision future access is generally needed for a combination of both active and passive charge points. The applicant is working around site level constraints and is introducing terraced rows on higher points with off curtilage shared non allocated parking, this does not lend itself well for a balanced parking design.

In summary It is recommended that the applicant review the concerns set out above, changes are needed of the proposed development layout as appropriate. Servicing would need to take place to the rear of the development. Given the central location, I would not object to the proposal on highway grounds.

Following submission of additional information the following comments were received:

In regards to our conversation the other day I have now discussed the housing scheme proposals at length with our Highway Adoption Engineer. All the issues raised we are now satisfied can be broadly dealt with at the Sections 38/278 detailed design stage. Whilst it is regrettable this was more drawn out in part the adoptions engineer is now aware of the layout and level issues arising from the scheme and at least they have been flagged up at this early stage come technical approval subject to permissions being granted. I would therefore suggest a condition is imposed similar to as follows.

No development shall commence until full engineering, drainage, highway structure details, street lighting and constructional details of the streets proposed for adoption by the local highway authority have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.

38. **DCC Env. Health Statutory Nuisance** - I can confirm that I have assessed the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990 and would comment as follows:

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

Noise, dust and lighting associated with the construction of the development are likely to give rise to nuisance without adequate controls.

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

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

Sirius (October 2012) Preliminary Geoenvironmental Appraisal Report for land at The Oaks, Esh Winning, County Durham

Tier Environmental Ltd. (5 November 2019) A ground investigation report for Riddings Road, Esh Winning

Terra97 (30/06/2021) A Phase 1 Preliminary Assessment for land at Riddings Road, Esh Winning, Durham

The Sirius report was prior to demolition. Demolition has now taken place and the Tier report post demolition. The Tier and Terra97 reports make recommendation for remedial works in relation to a clean cover system and ground gas protection measures. Given the above, the following contaminated land condition should apply.

40. **Drainage and Coastal Protection** – The surface water management for the proposed development as identified in the Flood Risk and Drainage Strategy Report is acceptable. However, to assess the proposal in full we require:

- All plot connection points to be identified with levels.
- Construction details of all SuDS features.
- Hydraulic calculations in digital format with the limiting surface water discharge from the proposed development complying with greenfield QBAR Rural Rate for up to the 1 in 100 year event plus 40% climate change and also 10% urban creep.

A Defender should also be included near the last Chamber before the outfall to treat highway drainage that is not directed through a swale.

Following the submission of further information the following comments were received:

Further to previous comments of 22nd July 2021, we still advise that the construction details of all SuDS features are supplied and the hydraulic calculations in digital format together with a fully detailed drainage plan is submitted for audit.

41. **Landscape** - There are fundamental layout issues relation to existing trees that need to be resolved before any further detailed landscape comments can be made.
42. **Trees** - It is accepted that tree 6, 15,16,17, 26,27 & 28, will need to be removed to facilitate development however, trees 7,14,18 & 19 must be retained; these trees warrant individual tree preservation orders as they add high amenity and maturity within the internal areas of the site.

Depending on the location layout some root incursion is shown (tree retention strategy). 20% complies with BS 5837 2012. If root protection is complied with and ground protection is placed along with protective fencing, retained trees should be adequately protected throughout construction (depending on layout choice).

Proposed footpath through trees 7,8,9 & 10 should not be implemented and remain as grass only, further construction within this small area will only increase compaction causing the eventual decline of mature trees.

Conclusion:

Tree retention within the site and the site boundary is paramount for mature tree cover within the site. Retention of mature oaks give the development height and maturity in terms of tree cover, the site will not then depend on young trees where a high percentage fail leaving a new development without its green infrastructure.

Proposed footpath through trees 7, 8, 9 & 10 should not be implemented.

43. **Ecology** - The ecological report by Rachel Hacking Ecology confirms the site is low risk for protected species however no information is supplied regarding biodiversity net gain.

No BNG assessment of either the extant habitats , or the proposed habitats has been made to detail how the applicant intends to achieve BNG as per the NPPF.

The applicants ecologists should use the DEFRA Biodiversity Metric 3 to determine if the development meets net gain requirements as per para 170 (d) of the NPPF, and planning policy. Ideally net gains should be achieved on site, if this is not possible an off-site location will be required to provide any compensatory habitats. Any required mitigation will need to be agreed prior to determination of the application. The LPA will also require an outline Biodiversity Management and Monitoring Plan to have confidence that all semi-natural habitats either on site or off site will be managed over a minimum of 30 years, and that target habitats are deliverable.

Following the submission of additional information the following comments were received: I'm happy to include the proposed bat and bird boxes as a contribution towards BNG and sign this off however I am not keen on the Schwegler 2F tree mounted units. The are not permanent and where they have been installed in other areas often appear missing after a couple of years, presumably vandalised. I've never heard of these boxes actually being used by bats either.....

I would much prefer some ridge tile or roof tile bat units installed into the fabric of the house or a bat roost unit attached to the apex of the gable wall. They are much more long lasting and potentially cheaper. I would suggest that the units are installed on the houses adjacent the woodland on the northern edge of the development.

44. **Public Rights of Way** - No recorded PROW are affected.
45. **Education** – Based on the methodology set out in the Council's adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 89 dwellings would produce 27 pupils of primary school age and 11 pupils of Secondary age.

In relation to primary school pupils:-

The development is located within the Durham West local school place planning area, of which the following schools could serve the development based on a 2 mile safe walking distance:-

Esh Winning Primary School

In relation to secondary schools.

The development is located within the Sacriston – Ushaw Moor local school place planning area. The nearest schools to the proposed the development are

Durham Community Business College

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 it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.

This reflects the current position based on information known at the time of responding. The council reserves the right however to review this if factors change before a final application is approved.

NON-STATUTORY RESPONSES

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

47. **Northumbrian Water** - Having assessed the proposed development against the context outlined above we have the following comments to make:

At the time of consultation, no drainage documents were available. Consequently, the planning application does not provide sufficient detail with regards to the management of foul and surface water from the development for Northumbrian Water to be able to assess our capacity to treat the flows from the development. We would therefore request the following condition:

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

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

48. **Durham Constabulary (Architectural Liaison Officer)** – The majority of dwelling burglaries occur at the rear of the property, because of this SBD encourages private backs and public fronts when designing the layout of houses. Research has shown that houses set out in small cul-de-sacs not linked by footpaths are less likely to suffer crime.

It is recommended that the rear garden spaces are protected with a 2m high fence, this would be encouraged for the plots that back onto public space. Where more surveillance is needed from rear gardens, trellis topped fencing is recommended. Rear gardens should be fully enclosed with lockable gates.

Any communal alleyways are recommended to be gated at the start of the communal area, with lockable gates to every secondary gate accessing a private garden space.

Lighting is recommended to each dwelling elevation that contains a doorset and can also assist in identifying the door and operating locking mechanisms. The use of LED light sources is recommended with a colour temperature of no more than 4000 Kelvin and ideally below.

Consideration should be given to if the amount of pedestrian walkways proposed are necessary. From a crime prevention through environmental design (CPTED) point of view it looks to be excessively permeable. Although this will give the residents shorter routes to walk, this will also give potential criminals more entrance/ escape routes from the area. We recommend these links are reduced and the links that are kept are well overlooked by the proposed dwellings.

There are several areas on the proposed plan where the fencing to rear alleyways looks to turn at right angles, this could create hiding places and is recommended to be as straight as possible. As noted previously communal alleyways should be gated at the very start to denote private space.

49. **NHS** - I am writing in response to the above planning application currently being evaluated by you. Please see below for the required contribution to healthcare should the scheme be approved. Local surgeries are part of CCG wide plans to improve GP access and would be the likely beneficiaries of any S106 funds secured.

Local GP Practices are keen to maintain/improve their access, and an increase in patient numbers may require adjustments to existing premises/access methods. Please be advised that we would be unable to guarantee to provide sustainable health services in these areas in future, should contributions not be upheld by developers.

In calculating developer contributions, we use the Premises Maxima guidance which is available publicly. This assumes a population growth rate of 2.3 people per new dwelling and we link this increase to the nearest practice to the development, for ease of calculation. We use the NHS Property Service build cost rate of £3,000 per square metre to calculate the total financial requirement.

The Local GP Practice (The Medical Group) is struggling with space requirements to deliver services. S106 funding would assist them to provide appropriate services to patients. A contribution of **£42,987** is required to meet the patient increase created by this development.

50. **Coal Authority** - The Coal Authority's Planning Team concurs with the conclusions of the Ground Investigation Report; that coal mining legacy poses a potential risk to the proposed development and that remedial measures are required in order to ensure the safety and stability of the development.

As such, should planning permission be granted for the proposed development, we would recommend that the following conditions are included on the Decision Notice:

1. No development shall commence until remedial stabilisation works to address land instability arising from shallow coal mining legacy have been carried out in full in order to ensure that the site is made safe and stable for the development proposed. The remedial works shall be carried out in accordance with authoritative UK guidance.

2. Prior to the first use of the development a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

The Coal Authority therefore wishes to withdraw its objection to the proposed development subject to the imposition of the above conditions. This is our recommendation for condition wording. Whilst we appreciate that you may wish to make some amendment to the choice of words, we would respectfully request that the specific parameters to be satisfied are not altered by any changes that may be made.

PUBLIC RESPONSES

51. The application has been publicised by way of site notice, press advert and notification letters sent to neighbouring properties, in response 3no. letters of objection, were received a summary of the points of objection are as follows:

Objection

- Detrimental impact on environment and wildlife habitats through re-development of the site
- Loss of open land used for recreational purposes by local residents
- Unallocated site, that will put additional strain on local services and facilities
- Unsustainable location, requiring a dependence on private vehicles
- Deficit of in parking provision
- Highway safety concerns
- Access issues for HGVs and Emergency vehicles in poor weather
- Cramped layout with minimal dedicated garden space
- No identified need for the development contrary to County Durham Plan
- Contrary to Policy 6 of the Country Durham Plan, in loss of open space, inappropriate scale of development, prejudicial to highway safety, reliant on private vehicles, does not minimise climate change
- Coal mining area safety issues

52. **Local Ward Members –**

Cllr Dan Nicholls - I write in support of this development. The development will provide a large number of greatly needed Bungalows within Esh Winning and for the the wider ward area of Deerness more broadly. The land in question is a brownfield site, making it ideal for redevelopment. The land was previously used for social housing and significant work has been undertaken to allow it to be utilised once again. In addition, great effort has been made by the developers to minimise any environmental damage and to retain many key ecological features such as the Oak trees

Cllr Marion Wilson - I write in support of this application. This development will be located on the site of previous social housing and will bring much needed bungalows and housing to the Deerness Ward. Building 89 homes will help to support and retain local businesses and bring economic benefit to the area.

APPLICANTS STATEMENT:

53. Placefirst is an award winning regeneration specialist. Our track record of placemaking and building sustainable communities is reflected in our plans for Esh Winning; the largest delivery of bungalows in a generation, as well as larger family homes for rent on a heavily constrained brownfield site which has laid vacant for over a decade.

Other housebuilders have dismissed the site and planning permission for its redevelopment back in 2013 was never implemented due to its inherent viability constraints.

Placefirst see the potential of the site and have been discussing the project with the Council for over two years. We come with a new approach; an investment for the long term of over £12m for a multi-generational neighbourhood which is managed and maintained by Placefirst in perpetuity, where residents can thrive and put down roots.

A core principle of our masterplan is placemaking and fostering community engagement and inclusion. The Oaks will be a neighbourhood where residents can enjoy the company of one another within unique open spaces framed by existing and new landscape features including high value Oak trees and Sustainable Urban Drainage features including swales.

Placefirst create places, not just homes. Our approach to public realm, landscape and communal areas allows our neighbourhoods to address issues of social isolation and loneliness which have become increasingly prevalent during the COVID-19 pandemic. We remain ingrained within our communities via our dedicated resident service managers, who on top of the day-to-day management of the neighbourhood, promote community events, local campaigns and charity fundraisers. This plays an invaluable role in integrating new neighbourhoods within existing communities.

We welcome the proactive approach officers have taken during the application period and their recognition of the overriding benefits of the development. We are also pleased with the support received from ward members with whom we have been in regular discussions with during the development of the project.

The site's constraints (namely levels, the need for remediation including drilling and grouting, existing trees and drainage), make the development particularly challenging from a viability perspective. We have been fully transparent with the Council on the costs involved in redeveloping the site and how our long term investment model can deliver and bring about wide reaching socio-economic benefits to Esh Winning.

Three residents have objected to the development. In response to points raised on highways we have worked closely with County Highways to ensure all matters have been addressed. In relation to landscaping and ecology we have integrated as many high value trees as possible into the layout and will be planting an additional 40 trees as well as native landscape planting and biodiversity enhancement measures including 20 bird and bat boxes and log piles.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

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

Principle of Development

55. Policy 6 of the County Durham Plan supports development on sites which are not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement, stating that such development will be permitted provided it is compatible with uses on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
56. As detailed above policy 6 of the CDP permits development on unallocated sites provided it meets the criteria set out within the policy. In this regard it is considered that the proposal can draw in principle support from this policy given that the site is located within close proximity to compatible residential uses and would not be prejudicial to any existing or permitted adjacent uses (criteria a), it is within the existing built framework of Esh Winning and would not lead to coalescence with neighbouring settlements (criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c) and has easy access to sustainable transport and local facilities (criteria f). The site makes best use of previously development (criteria i). Consideration of criteria d, e, h of policy 6 is considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.
57. It is therefore considered that the principle of residential use in this location is acceptable subject to the relevant material considerations as set out below.
58. Policy 15 of the CDP 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.
59. The applicant has submitted a detailed viability assessment and business model to support the application, this highlights that the business model is a build to rent methodology. Paragraph 65 of the NPPF states that where developments are purely build to rent the requirement to provide affordable housing should be waived. This assessment has been considered by CP Viability, who have agreed that the scheme is not viable. As such it is considered that the proposal is acceptable with this element of Policy 15.

60. Policy 15 additional requires that all housing developments provide a minimum of 66% of the units to be Building Regulation M4(2) compliant and 10% suitable for older persons. In this regard the applicant has provided detailed assessment of the dwellings against the M4(2) requirements, that shows that whilst the dwellings are not fully compliant, they only fail to meet the requirements in the two storey units not having level access showers, and the bungalows not having outward opening doors in the bathroom, and reduced circulation space width in the bedrooms.
61. In relation to the older persons the proposal provides contain over 50% of the units as level access bungalows, and as such would comply with Policy 15.
62. However, given the that the proposal in not fully compliant with all aspects of Policy 15 it must be considered that the application is contrary to Policy 15.
63. Policy 19 of the County Durham Plan requires that developments 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. In this regard the development has provided sufficient evidence to identify a need for the types of dwelling proposed as part of this development. It is therefore considered that the mix of two storey and bungalows proposed is acceptable and in accordance with the provision of Policy 19.

Developer Contributions

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

Open space / Green Infrastructure

65. 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.
66. In accordance with Policy 26 and having regards to the Councils Open Space Needs Assessment (OSNA) it was considered that the development should provide a minimum **3,034.9sqm** of amenity/natural green space which should include **97.9sqm** of play space for children on site, and a financial contribution of **£131,773.00** towards off-site facilities such as allotments, parks, sports and recreation grounds and youth play space.
67. In response the applicant has confirmed that the proposal will provide **4,092sqm** of opens space for public and communal space, that will include an area of children's play space where natural wooden obstacle course like equipment will be provided. Whilst it is acknowledged that this is an over provision of open space, this space is compensatory space in lieu of the reduced private amenity space (as detailed below). In addition, the applicants have stated that due to the constraints of the site and the financial viability they will not be willing to provide any contributions towards the development in relation to Open space and Green Infrastructure.

Education provision

68. Paragraph 95 of NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to proactively meet the requirement. The Councils Education team have confirmed that there is sufficient existing educational provision within the area and that no contributions are necessary.

Health Contributions

69. Paragraph 34 of the NPPF required Local Authorities to have regard to setting where contributions are necessary within the Local Plan. In this regard Policy 29(f) of the CDP requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users. The local NHS Clinical Commissioning Group (CCG) have confirmed that there is insufficient local health service facilities to accommodate future residents of the development, and have therefore stated that a financial contribution of **£42,987** towards additional healthcare facility space is necessary.
70. The applicants have stated that they will not be providing the requested contribution, citing the constraints and viability of the site if required to provide the contribution.

Developer contribution conclusion

71. As detailed above Policy 25 of the CDP specifically states that the requirement to provide financial contributions towards site specific and infrastructure mitigation cannot be negated by viability concerns. Therefore, whilst the Local Planning Authority agrees with the submitted viability assessment following independent analysis; it is considered that the proposal fails to make adequate contribution to mitigate the effects of the development as required by Policy 25, 26 and 29(f) in relation to green infrastructure and not ensuring the health needs of future residents are met and that this conflict will need to be considered in the planning balance.

Impact upon Residential Amenity

72. Policy 29 (Sustainable Design) of the CDP requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.
73. Policy 29 also requires that new major residential development are assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'.

74. In addition to the above policies within the CDP, the Local Authority has adopted a residential design SPD which sets out the Councils expectation in relation to privacy distances and private outdoor amenity space (Gardens). In this regard the development would need to achieve a minimum of 21.0m between two storey buildings and 18.0m between bungalows, and provide rear garden lengths of at least 9.0m.
75. The above policies and SPD are in broad accordance with paragraph 130 of the NPPF which requires that planning decisions should ensure that developments will create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
76. Having regard to the above, the development proposes two style of dwelling types a 2 bed (3 person) bungalow and a 3 bed 5 person two-storey dwelling, as such the National Described Space Standards (NDSS) specify that the bungalows should provide a minimum of 61m² and the two storey units should provide 93m² of gross internal floor space. The submitted drawing propose the bungalow units to provide 53.5m² internal floor space (shortfall of 7.5m²) and the two-storey units provide 93.5m² (shortfall of 9.5m²). It is acknowledged that the application was submitted prior to the implementation of NDSS requirement deadline of October 2021. However, the CDP did provide for a 12-month implementation period to allow developers a grace period prior to the NDSS requirements being a requirement.
77. The applicant was requested to amend the scheme to comply with the minimum internal space standards as required by the NDSS and Policy 29, However, the applicants have stated that due to the financial viability of the scheme they were not prepared to increase the size of the units as this would have meant a reduction in the quantum of units on site. The proposal therefore is considered to fail to meet the requirements of Policy 29 in relation to amenity space standards, for the future occupants of the units.
78. The in relation to the Residential Design SPD adopted by the Council (as detailed above) the proposed site plan indicates that 58% (52 units in total) of the dwellings do not meet the minimum privacy distances as set out within the SPD. However, the applicant has provided cross sections of the bungalow units that show that due to the topography of the site the bungalow units will not have any direct intervisibility between the units given the significant changes in land levels, therefore it is considered that whilst the separation distance between 42 of the bungalows is significantly below the required levels (approx.. 14.0m), that the site specific topograpghy is such that the impact is mitigated. The remaining units whilst below the required distances have no direct overlooking of another units, or look onto blanks gables to be considered in this instance acceptable.
79. In additional to the above the SPD also requires private amenity garden space of at least 9.0m in length. The submitted plans show that only 7no. dwellings meet the required private amenity garden space. The remaining 82no. units have small garden / yards which provide space for bin storage, clothes drying and small seating space. The applicant has stated that the ethos of their developments is one of communal living, and that the development provides enhanced communal and public open space to allow residents to enjoy the outside space, and be part of a wider community.
80. It is therefore considered that whilst the proposal is contrary to the SPD in relation to the private amenity space, the site is a highly managed environment that in this instance the LPA are satisfied that the compensatory open space is satisfactory in this instance.

81. The Police Architectural Liaison Officer (PALO) for Durham Constabulary has raised concerns in relation to the layout of the development, and the lack of private secure rear gardens as research shows that developments of this nature are more likely to suffer from crime. The PALO requested that 2.0m high boundary fences are provided to the rear gardens of properties which back onto public spaces, communal alleys should be gated and rear garden space should be fully enclosed with lockable gate. They also recommended lighting to each dwelling elevation, and stated that the site was overly permeable which could allow easy ingress/egress routes for potential criminals.
82. This information was provided to the applicant, who produced a revised plan detailing 1.8m high boundary fencing to properties which backed on to public space, non-lockable gates to alleyways and 1.2m high fencing to the rear boundaries of all other properties. The applicant has said they would not provide 2.0m fences to all properties as this would not encourage the social interaction that is the ethos of this development.
83. Crime, and fear of crime are material planning considerations. Paragraph 92(b) of the NPPF states that planning decision should aim to ensure that developments provide health, inclusive and safe spaces that are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. In this regard it is considered that, given the concerns and recommendation by Durham Constabulary based on crime research, that the failing to meet the requested recommendations will lead to the occupiers of the development being likely to suffer from crime, and therefore the proposal does not meet the test of Paragraph 92 of the NPPF and Policy 29(m)(1 and 6) is providing a safe and defensible development.
84. The Council's Env. Health officer has accessed the development and concluded that the proposal has the potential to cause a statutory nuisance to the surrounding residents, however, subject to planning conditions the nuisances can be mitigated. As such it is considered that the proposal is acceptable in relation to the impact on the surrounding residents subject to the requested conditions.
85. 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.
86. The proposal contains unallocated parking through the development to permit residents to park anywhere they may wish, it is noted that a number of the parking spaces are located directly outside of bedroom windows of some residential units (some as close as 0.9m) this will have the potential to result in vehicle noise, and disturbance to be experienced by the residents of the dwellings created by other residents as they arrive or leave the development in the late or early hours this will be heightened further during the winter months where cars will be required to be de-iced, and made safe before leaving the site resulting in prolonged noise and disturbance. The applicants have said they are unable to provide allocated spaces to mitigate the impact, and therefore it is considered that the proposal does not comply with Policy 31 in relation to unacceptable impact on the living conditions and residential amenity of future residents.
87. Therefore, in conclusion it is considered for the reasons above that the proposal fails to meet the requirement of Policy 29 and 31 of the County Durham Plan, along with some conflict to the Residential Design SPD, and sections 8 and 12 of the NPPF.

Highway and Pedestrian Safety

88. Policy 21 of the CDP requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document
89. The Council's Highway Engineers have assessed the proposal and highlighted a number of areas concern in relation to the number of parking spaces, lack of EV charging provision and concerns of the layout. Following a protracted negotiation and the submission of additional information in relation to the demographic of developments of this type, and the car ownership levels with Esh Winning, it was agreed that the proposed level of parking was acceptable subject to it being unallocated despite being less than the minimum number of parking spaces required within the Parking and Accessibility SPD, and alteration to the layout to prevent parking on pavements, and allow for movement of large vehicles.
90. The Highways team have confirmed that the development will not cause a highway or pedestrian safety issue subject to planning conditions as detailed in their formal comments above.
91. In light of the above it is considered that subject to the conditions requested by the Highway Authority and conditions relating to Parking management and EV charging strategy it is considered that the proposal complies with Policy 21 of the County Durham Plan, and Part 9 (Paragraph 112) of the NPPF.

Impact on the character and appearance of the streetscene

92. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
93. With regard to the impact of the development upon the character and appearance of the surrounding locality and streetscene it is considered that the proposed development is acceptable in that it brings back into use a brownfield site, that formally contained houses. The design and appearance of the housing and opening spaces is considered to be acceptably in the context of the surrounding residential areas, and maintains an element of openness at this edge of settlement boundary with the open countryside.. As such the development is considered to accord with policy 29 in this regard.

Landscaping

94. Policy 39 (Landscape) of the CDP states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. 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.

95. The Council's Landscape team have considered the application and have raised fundamental concerns in relation to the layout of the development and the impact on trees on the site. The applicant has provided that the details to say that they have attempted to design the scheme to minimise the impact on trees, and the root protection areas, but that further alterations to the scheme is not possible due to the viability of the scheme.
96. It is therefore acknowledged that whilst the scheme will have a transformational impact on the character of the landscape when viewed from within the site, given this is primarily a cleared site, and proposes loss of trees within the site; the scheme does maintain existing trees and landscaping around the periphery of the site that is considered will provide screening from views of the site from the West and North. It is therefore considered that whilst regrettable that the proposal was not amended to address the concerns that the scheme does not cause and unacceptable harm to the character, quality of distinctiveness of the landscape or important feature and views.

Trees

97. Policy 40 (Trees, Woodlands and Hedges) of the CDP states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
98. The Council's Arborist has assessed the proposal and concluded that whilst some loss of trees is acceptable, there are 4 no. trees on the site that warrant protection due to their maturity and high amenity value they add to the character and streetscene and should be retained. The applicants supporting information categorises these trees as being A1 or B1 in their quality and longevity. The Arborists have also requested that the proposed footpath in the area highlighted as woodland green on the Landscape strategy document, is removed due to the potential to create soil compaction that will be detrimental to the trees 7, 8, 9 and 10.
99. The applicant in response to these comments has stated that they are unable to retain trees 14, 18 and 19 as these are fundamental in the layout of the development, and that the development could not proceed retaining these trees, although they are providing approx. 39 trees in compensation for any loss as part of the landscape scheme. The applicant have additionally stated they are unwilling to remove the footpath as requested as this is a key design feature of the development which allows residents to use the open space.
100. Therefore, in light of the above it is considered that the proposal is contrary to Policy 40 of the CDP unless the benefits of the scheme can outweigh the harm which is assessed as part of the planning balance below.

Ecology

101. Policy 41 (Biodiversity and Geodiversity) of the CDP restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. Development proposals where the primary objective is to conserve or enhance biodiversity or geodiversity will be permitted if they comply with other local plan policy. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

102. In relation to the above a County Ecologist has considered the proposal and following the submission of additional information has confirmed that the proposal will result in a bio-diversity net-gain subject to planning conditions in relation to the including of bird and bat boxes within the fabric of the building.

Drainage

103. 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.

104. Whilst Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.

105. The Council Drainage and Flooding section have assessed the scheme and concluded that the scheme is acceptable subject to conditions in relation to construction details of SuDS features, and Hydraulic calculations.

106. It is therefore considered that the scheme is acceptable in relation to Policy 35 and 36 of the CDP.

Residual Matters

107. The application is located within a High Risk Coal Mining area, following the submission of additional information The Coal Authority have confirmed that the development is acceptable subject to conditions.

108. Policy 29 of the County Durham Plan requires that all new residential developments shall not be permitted where it has scored one or more reds when assessed against the Building for Life SPD criteria, unless there are significant overriding reasons. In this regard the proposal has four red marks in relation to the working with the site and its context, car parking, public and private space and external storage. The development is therefore contrary to Policy 29(n) of the County Durham Plan, unless there are significant overriding reasons, which is assessed in the planning balance below.

Planning Balance

Section 38(6) of the Planning and Compulsory Purchase Act 2004 states that if a development plan is used as part of the determination of an application must be made in accordance with the plan unless material considerations indicate otherwise.

109. As detailed in the assessment above the scheme is not policy compliant in a number of matters, a summary of those matters are as follows:.

- Houses not fully M4(2) compliant to meet needs for older people
- Failure to provide any financial contributions towards open amenity space or facilities

- Failure to provide NHS contributions
- Dwellings do not meet National minimum internal space standards
- Reduced privacy and separation distances
- Insufficient private outdoor amenity space for a large percentage of dwellings
- Development fails to adequately protect residents from potential crime and the fear of crime.
- Potential impacts on amenity and disturbance of residents through unrelated vehicles being in close proximity to bedroom windows
- No Electric Vehicle charging point
- Loss of tree and potential impact on trees
- Failure to meet Building for life requirements

110. The following seeks to weigh the benefits of the proposal against, the disbenefits to allow for a detailed assessment of the planning balance.

Economic benefits

- £12m investment during the construction of the development and much more during its lifetime in terms of ongoing management and maintenance.
- Additional footfall and spend within the Village will support key amenities and services; An additional 89 economically active households in the Village will boost demand and spending locally, which will in turn support the retention and growth of existing and new businesses, services and local amenities
- Placefirst have indicated and estimated yearly spend in the local economy to be over £700k based on studies of other placefirst developments.
- Job creation during construction and the lifetime of the development, equating to Approximately 132 FTE jobs during construction open to local trades, including 3 local apprentices and 35% of construction supply chain from within the DH postcode area.
- Employment of two full time local Resident Services Managers for the neighbourhood (one senior and one assistant)
- Local SME businesses to take care of all our responsive maintenance requirements and landscaping.
- Additional Council revenue via Council Tax and the New Homes Bonus.

Social benefits

- Provision of bungalows, which are shown to be in demand within The County Durham Plan in the private rented sector to meet demand;
- Enhancing choice, competition and quality within the Private rental sector across Durham;
- Sustainable, energy efficient homes with low energy bills for residents.

Environmental

- Remediation and redevelopment of a previously developed site (Brownfield) within the settlement boundary of Esh Winning;
- Comprehensive SUDS scheme incorporated into the landscaping including e.g. a network of swales and permeable paving;
- Energy efficient homes utilising the building fabric and PV Panels to achieve 11.7% enhancement over minimum Building Regulation standards;
- Areas of open space (both public and communal)

111. In assessing the conflicts of the development against its benefits is a fine balance as the weight attributed to each conflict and benefit will differ given the site specific material considerations. However, in this instance it is considered that the economic and social benefits of the proposal outweigh the policy conflicts.

CONCLUSION

112. In summary it is acknowledged that whilst the scheme has a number of deficiencies in policy terms as detailed above, however, as this is a rental development the occupiers of the dwelling will have the ability to source other accommodation elsewhere in the rental market should the above matters become a significant concern. In addition, the development will bring significant long term economic and social benefits to the immediate and wider area, in providing approximately 132 FTE jobs (including 3 new apprenticeships), 2 FTE roles on site for the management of the site, along with a £12.5m investment in the area, which sources a minimum 35% of material from the local economy, and an anticipated increased spend of £700k per annum in the local economy from future occupiers.
113. Therefore, having taken into account the relevant material considerations and in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004, it is considered that the benefits of the scheme to the local and wider area, marginally outweigh the non-policy compliance, and issues highlighted.

RECOMMENDATION

That the application (DM/21/02127/FPA) be **APPROVED** subject the following conditions;

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 1, 6, 15, 19, 21, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

3. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:

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

2. Details of methods and means of noise reduction/suppression.

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

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

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

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

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

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

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

4. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

Reason: To ensure that the presence of contamination is identified, risk assessed and proposed remediation works are agreed in order to ensure the site suitable for use, in accordance with Policy 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that the development can be carried out safely.

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

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

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

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

7. No development shall commence until full highway engineering, highway drainage, highway structure details, street lighting and constructional details of the streets proposed for adoption by the local highway authority have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details,

Reason: To ensure a satisfactory form of development in accordance with Policy 21 of the County Durham Plan and Section 9 of the NPPF.

8. No development shall commence until remedial stabilisation works to address land instability arising from shallow coal mining legacy have been carried out in full in order to ensure that the site is made safe and stable for the development proposed. Thereafter the remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: To ensure a satisfactory and safe development in accordance with Policy 32 of the County Durham Plan.

9. No development shall commence until detailed drawings, including sections, showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), 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.

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

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

11. Notwithstanding any details of materials submitted with the application no development shall commence above damp proof course 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.

12. 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.

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

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.

14. 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.

15. Prior to first occupation of the dwellings hereby permitted, details of the Hydraulic calculations (in a digital format) along with a full detailed drainage plan shall be submitted to the Local Planning Authority for audit purposes.

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.

16. Prior to commencement above damp proof course details of the required bat and bird boxes within the fabric of the buildings along the Northern Edge of the development shall be submitted to and approved in writing by the Local Planning. The agreed scheme shall thereafter be implemented prior to the first occupation of any part of the building and maintained in accordance with the agreed details for the lifetime of the development.

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

17. Prior to the first use of the development a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the completion of the remedial works and any mitigatory measures necessary to address the risks posed by past coal mining activity.

Reason: To ensure a satisfactory and safe development in accordance with Policy 32 of the County Durham Plan.

18. Prior to the first occupation of the dwellings hereby permitted, a detailed management strategy scheme for the development (which shall include but not be limited to a parking management strategy (including means of electronic vehicle charging), the residents charter, and details of the ownership/tenancy arrangements) shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the agreed scheme shall be implemented in accordance and maintained for the lifetime of the development.

Reason: The applicants special circumstances allow this development to be approved in compliance with Policies 1, 6, 15, 19, 21, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

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 Policies 26 and 29 of the County Durham Plan and Parts 8 and 12 of the National Planning Policy Framework.

20. The development hereby permitted shall be constructed for the purposes of Build to Rent only as defined in Annex 2 (Glossary) of the National Planning Policy Framework 2021 and retained as such for the lifetime of the development.

Reason: The applicants special circumstances allow this development to be approved in compliance with Policies 1, 6, 15, 19, 21, 27, 29, 31, 32, 35, 36, 39, 40 and 41 of the County Durham Plan and Parts 2, 4, 5, 8, 9, 11, 12 and 15 of the National Planning Policy Framework.

21. In undertaking the development that is hereby approved:

No external construction works, works of demolition, deliveries, external running of plant and equipment shall take place other than between the hours of 0730 to 1800 on Monday to Friday and 0730 to 1400 on Saturday.

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

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

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

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

22. 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.

23. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until a tree protection plan has been submitted and approved in writing by the local planning authority. All trees and hedges, indicated on approved tree protection plan as to be retained, shall be protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010. Any works within the root protection areas shall be the subject of a detailed construction methodology which shall be submitted to and approved in writing before any such works commence and shall be undertaken thereafter entirely in accordance with the approved construction details.

No operations whatsoever, no alterations of ground levels, and no storage of any materials are to take place inside the fences, and no work is to be done such as to affect any tree.

No removal of limbs of trees or other tree work shall be carried out.

No underground services trenches or service runs shall be laid out in root protection areas, as defined on the Tree Constraints Plan.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

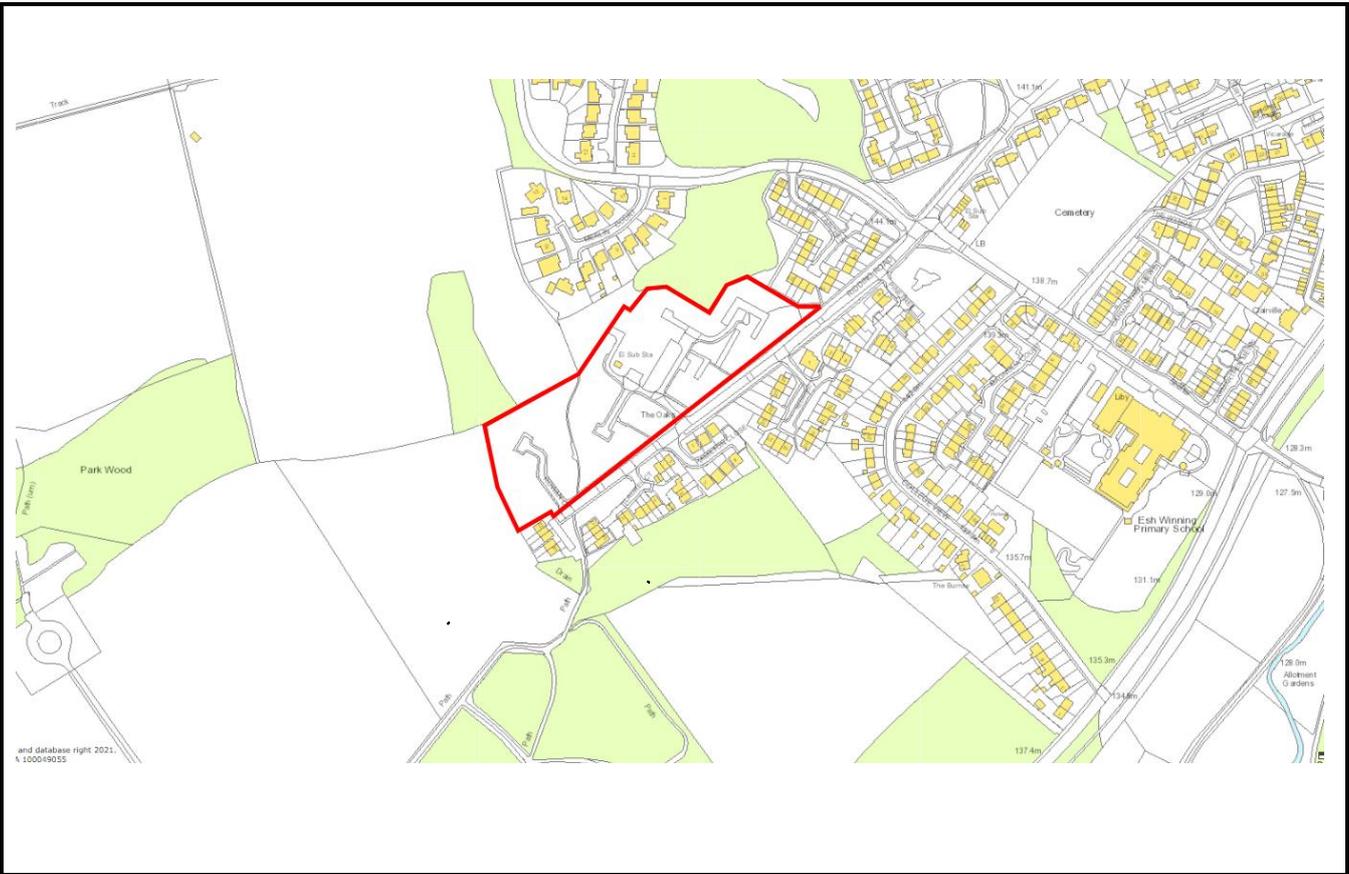
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Development of 89 no dwellings including hard and soft landscaping, public open space, highways and associated works.</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Land at Rowen Court and The Oaks Esh Winning</p>	
	<p>Date 16.11.2021</p>	<p>Scale NTS</p>

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/21/02227/FPA
FULL APPLICATION DESCRIPTION:	Change of use of upper floors to a 5 bed HMO (use class C4), retail to remain at ground floor and installation of new access door in existing shop front.
NAME OF APPLICANT:	Mr Harper - Spoils Pension Fund
ADDRESS:	12 Silver Street Durham DH1 3RB
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Lisa Morina Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The property relates to a four storey, terraced building located on the eastern side of Silver Street which is one of the City's oldest and most historically important streets that connects the medieval Market Place to the outer borough of Crossgate. The ground floor of the property is currently in use as an A1 retail shop and the upper floors are used for ancillary storage, staff room, office accommodation.
2. The property is grade II listed and the street includes a number of listed buildings and others whilst not listed, remain of historic and architectural interest. The application site is 4-storeys to the front that is carried back as a wing with a gable onto Moatside Lane to the rear. The site is located within the commercial centre of Durham City and also within the Durham City Conservation Area as well as being within the setting of the UNESCO World Heritage Site (WHS) at Durham Castle and Cathedral.

Proposal:

3. Planning Permission is sought for the change of use of the upper floors to a 5 bed HMO falling into use class C4 as defined by the Town and Country Planning Use Classes (Amendment) (England) Regulations 2020. Whilst the main thrust of the proposed alterations would take place internally, a new access door is proposed to the existing shop front in order to allow access to the HMO whilst retaining the current retail use to the ground floor.

4. The application is referred to the Committee at the request of the City of Durham Parish Council as they consider that the proposal should be refused unless improvement works are carried out to Moatside Lane which frames the application building to the rear.

PLANNING HISTORY

5. DM/21/02228/LB Listed building consent to allow internal alterations for the change of use of upper floors to a 5 bed HMO (use class C4), retail to remain at ground floor and installation of new access door in existing shop front.
6. DM/18/02734/FPA Conversion of second and third floors into a flat for a house in multiple occupation C4 including external alterations to form a door on the second floor to the rear. Approved 12th November 2018
7. DM/18/02735/LB Internal and external alterations to facilitate the conversion of the 2nd and 3rd floors into a flat including a rear access at second floor level. Approved 12th November 2018

PLANNING POLICY

NATIONAL POLICY

8. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
9. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. NPPF Part 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.
11. NPPF Part 5 – Delivering a wide choice of high quality homes. The Government advises Local Planning Authority's to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
12. NPPF Part 6 Building a Strong, Competitive Economy - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
13. NPPF Part 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.

14. 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.
15. 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.
16. 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.
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 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.
19. 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:

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.

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

LOCAL PLAN POLICY:

County Durham Plan

21. Policy 6 Development on Unallocated Sites states that the development of sites within the built up area that are not allocated in the plan or in a neighbourhood plan will be permitted provided they accord with all relevant development plan policies and meet specific criteria in relation to existing permitted uses, coalescence of settlements, loss of land with identified value such as in relation to ecology or recreation, is appropriate, is not prejudicial to highway safety, has good access to sustainable modes of transport to relevant services and facilities, does not result in the loss of the settlements last community building, minimises vulnerability and provides resilience to impacts resulting from climate change, maximises the effective of previously developed land and where appropriate reflects priorities for urban regeneration.
22. Policy 9 - Retail Hierarchy and Town Centre Development seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county
23. Policy 21 - Delivering Sustainable Transport requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development to have regard to Parking and Accessibility Supplementary Planning Document.
24. 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
25. Policy 29 - Sustainable Design requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.
26. Policy 31 - Amenity and Pollution sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
27. Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.

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 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.
29. 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.
30. Policy 45 - Durham Castle and Cathedral World Heritage Site seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value (OUV) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.

Neighbourhood Plan

31. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
32. 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.
33. Policy H1 Protection and Enhancement of the World Heritage Site requires development proposals within the Neighbourhood to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views. its Outstanding Universal Value and to support the current adopted management plan.
34. 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.
35. 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.

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

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

37. Durham Constabulary – make a number of recommendations in relation to door sets, access controlled system, preferred glazing and lighting.
38. Highways – raise no objection.
39. City of Durham Parish Council originally raised objection to the proposal for a variety of reasons although some of these issues were withdrawn following the submission of a revised heritage statement. However, concerns still remain regarding the steps to the rear of the development which are considered to be unsuitable as an emergency exit and concern regarding significant water ingress issue to the ground floor retail space which has not been addressed and must be so, prior to any works commencing.
40. The Parish also raised concern over the poor condition of Moatside Lane and feel that improving Moatside Lane would enhance the setting of the WHS and help meet the requirements of County Durham Plan Policy 45.

INTERNAL CONSULTEE RESPONSES:

41. Environmental Health (Nuisance) Section – No objection subject to conditions
42. HMO Officers – No objection
43. HMO Data – 77.3% of properties are exempt within 100m.
44. Design and Conservation Section – No objection subject to conditions.

PUBLIC RESPONSES:

45. The application has been advertised by means of site notice and by notifying neighbouring residents by letter.
46. To date, a single letter of objection has been received from the City of Durham Trust in that the trust are not satisfied that the proposed fire escape arrangements are safe and Moatside Lane needs improvements to its surface and lighting if it is to be used for this purpose.

APPLICANT'S STATEMENT:

47. We have owned this store in equal partnership between Ms F Harper & Spoils Pension Fund since June 2001. In the past it was a well let store to a strong retail trader, Granada, in a thriving high street location. Unfortunately Durham City Centre has declined and our investment is under threat. We have had to consider our requirements as pensioners to ensure a future income from our building. Our plan is to invest and enable the retention of the small retail space at ground floor and introduce high quality residential accommodation to the upper floors, protecting the existing building fabric. This is the background as to why we have spent time, energy and money considering the use of our building and how best to bring it back to life. It is a beautiful building and one of the oldest stores in the City centre.
48. A retail occupier is required to pay rent and rates. Rates remain a significant overhead for anyone taking a store anywhere in the country and when that is added to the rent it is unlikely that we will find another tenant to take a lease of our complete building. Our tenant is a local trader called Moon Jewellery who we are keen to retain and protect. Their trade since Covid has been virtually non-existent and therefore we as landlords would like to realise a method to gain some income to enable us to accept a lower annual rent from Moon Jewellery and thus keep them trading on Silver Street.
49. Our property is a prominent small four storey building with a total area 208.42 sq m (2243 sq ft). The ground floor of 56.17 sq m (605 sq ft) is 27% of the total building. Since our ownership (20 years) the building has never traded on the upper floors, it has simply been a small shop fronting Silver Street. The upper floors are poorly maintained and not used. The new planning application submitted will enable the ground floor retail space to be retained with a reduced footprint by using a small section to provide access to the upper floors and residential above to utilise the complete building in use.
50. We did obtain planning consent in November 2018 for the upper floors to be converted to residential use with access from Moatside Lane at the rear. Whilst we have consent for the upper floors to be converted to residential, we are deeply concerned that the passage to the rear is potentially dangerous and unsafe, we would feel extremely uncomfortable letting our residential accommodation to any tenants, especially students. If the Council is not prepared to upgrade the alleyway significantly then we have no option but to seek consent for an access to the upper floors from Silver Street for safety reasons.
51. Our property agents, Harper Dennis Hobbs, have been marketing our store on and off since October 2013 seeking a permanent tenant since Accessorize (they replaced Granada) moved into the Prince Bishops shopping centre to share space with their sister company Monsoon. The retail market has been decimated by the rise of online shopping, the increase of out of town shopping and the over-provision of retail units within Durham City centre. This has directly resulted in more retail units being available to let on Silver Street than at any time in our knowledge over the last 35 years. At its peak the building commanded a rent in excess of £52,000pa and today we are receiving less than half that. Some Landlords on Silver street have stores on offer at nil rent! Today Silver Street is a shadow of its former self and the number of competent retail traders is tiny. There is a significant number of stores that are shut and successful brands like Pret A Manger, that did trade adjacent, tried Durham and then moved away. A lot of the loss of trade can be blamed on the Durham out of town retail parks and competing city centres.

52. No one wants to see Silver Street falling into disrepair with vacant stores and I hope we are doing our part by investing heavily into the refurbishment of the upper floors, thereby contributing to life returning to Silver Street, maybe one day it can regain its position in the retail hierarchy. We are a long term investor and owner in the centre of Durham. Our proposal has the obvious advantage that we are able to keep the lights on in the City centre, bringing people that spend money, helping our adjacent stores.
53. We believe that our planning application is in line with the aspirations of the Local Community, the Local Authority, the University and all those who live in Durham. By offering modern student accommodation it benefits the economy by the spend brought to the City centre. It also brings students to the City centre where they can reduce their carbon footprints and populate the local facilities. Bringing life back to the high street must be the most important decision of all councils at the current time-especially in Durham.
54. The building will also be preserved and by being occupied, will be looked after. We will meet with and appoint a competent letting agent to make sure that the standard is high and we would be delighted to reference our developments in Bath and Nottingham which are all of a high standard and work within tight City centre requirements. We do have a waste management plan in that it will be serviced and collected via a private management contract and we anticipate appointing a management company locally who manage other properties in the City Centre.
55. Finally you may, in common with others, think that we should provide bike racks. Our building is too narrow and bringing bikes into the building could cause damage to the fabric. There are ample public bike racks nearby in the City centre and as we are central we would argue there is no need for bike racks. Affordable accommodation cannot be provided as the economic return and size of the building do not allow such considerations.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

56. 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.
57. 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 in this regard. The County Durham Plan is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
58. The County Durham Plan and the Durham City Neighbourhood plan are now both adopted and together are considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.

59. In this context, it is considered that the main planning issues in this instance relate to the principle of the development, impact on the host property and the streetscene including any designated assets, the impact of the development upon residential amenity, highway safety and any other issues.

Principle of Development

60. The proposal relates to the change of use of the upper floors of the building to a 5 bed HMO. An area of retail will be retained on the ground floor.

61. Policy 16 of the CDP is relevant to the application and part 3 of that policy states that in order to promote create and preserve inclusive, mixed and balanced communities, and to protect residential amenity, applications for changes of use from any use to Class C4 (House in Multiple Occupation), where planning permission is required, will not be permitted if:

- a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
- b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or
- c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.

62. The policy goes on to clarify that a change of use to a House in Multiple Occupation would not be resisted in the following circumstance:

- h. where an area already has a concentration in excess of 90% of council tax exempt properties (Class N), that this is having an unreasonable impact on current occupiers and that the conversion of remaining C3 dwellings will not cause further detrimental harm to the residential amenity of surrounding occupants; or
- i. where an existing high proportion of residential properties within the 100 metres are exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.

63. In terms of the current application, 77.3% of properties within 100m of the site are in use as HMO's being Class N exempt from Council Tax and there is also a Halls of residence within 100m of the site. It should be noted, however, that the site falls within the town centre and as such commercial uses are predominant within the 100m area, therefore the exemption set out in criteria (i) of Policy 16 would apply in this instance. Development of student accommodation in this location is therefore unlikely to have a detrimental impact upon the balance of the existing locality and the principle of development considered acceptable in accordance with policy 16 of the CDP.

64. Policy 9 (Retail hierarchy and Town Centre Development) of the CDP is also relevant and defines a hierarchy of commercial centres in the County, with Durham City identified as a Sub Regional Centre. The Plan looks to support new town centre development across all of the county's centres that will improve choice and bring about regeneration and environmental improvements.

65. Within the Primary Shopping Areas, as shown on the policies map, A1 (retail) uses will be supported and other uses will be permitted where they preserve the vitality and viability of the Primary Shopping Areas.
66. The approach to defining a retail hierarchy is consistent with the guidance within paragraph 86 of the NPPF which states a need to define a 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 (including housing) and reflects their distinctive characters. This paragraph also recognises that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.
67. In respect of the Durham City Neighbourhood Plan, it is considered that Policy E3 (Retail Development) of the Plan supports A1 (retail) (now falling within Class E of the 2020 Use Classes Regulations) as the predominant use within the Primary Frontage and development proposals that provide residential accommodation in upper floors of commercial properties, as long as they do not have a negative impact on retail, commercial and tourism activities and the general amenity of neighbouring properties and residential amenity including noise impact.
68. The proposal would retain the commercial use to the ground floor and as such would not undermine the commercial function of the City Centre in accordance with the aims of policy 9 of the CDP and policy E3 of the DCNP.
69. Therefore, the proposal to convert the upper floors of the existing building to student accommodation in a highly sustainable location, readily accessible to the university site would be deemed acceptable in principle in accordance with policies 9 and 16 of the County Durham Plan, policy E3 of the DCNP and Part 7 of the NPPF subject to other considerations below.

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

70. Local Authorities have a duty to preserve or enhance the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 of the same Act requires a similar duty to have special regard to preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
71. Policy 44 of the CDP seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets.
72. Policy 45 of the CDP seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value of the site in terms in relation to the immediate and wider setting and important view into, and out of the site.

73. Policy 16 3f) of the CDP states that new HMO development will only be permitted where the design of the building or any extension would be appropriate in terms of the property itself and the character of the area.
74. Both approaches display a broad level of accord with the aims of Part 16 of the NPPF which states that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).
75. Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
76. The DCNP Policies H1, H2, and H4 seeks to ensure that proposals within the Durham Cathedral and Castle World Heritage Site, Durham City Conservation area, and affecting heritage assets should sustain, conserve, and enhance its Outstanding Universal Value, the significance of the Conservation Area and not have detrimental impact on the assets and their setting.
77. As already noted, the property is a listed building and the impact of the development on the host property needs to be considered. The development is subject to an associated listed building application which falls to be determined by the Council's scheme of delegation and the decision is being held in abeyance until the determination of this application.
78. In 2018 Listed Building Consent was granted for the conversion of the second and third floors into a flat for a house in multiple occupation including internal alterations. The main change between the previous and current applications relates to the installation of a new staircase within the front part of the building from ground floor to first floor in the location of the party wall with No 11 Silver Street. This part of the listed building is of high heritage significance.
79. The complete side elevation of No 11, visible in a series of cupboards etc, in No 12, is the remains of a medieval building (C15) that was demolished in the 1950s or 60s. The remains have been recorded as that of a double-jettied building of rubble and timber-frame. There are surviving construction elements such as the bracing, moulded beams, jetty bracket, and a timber mullioned window etc, and it was perhaps the home of a moderately wealthy merchant wanting a good "pitch" location close to the Market Place. The side wall must be untouched and preserved and further information was requested in response to concerns raised.
80. Amended drawings were submitted along with an updated Heritage Statement and these have alleviated those concerns, in particular the Heritage Statement presents a convincing argument that the significance of the listed heritage asset would be preserved. It recognises there are remnants of a former medieval building within the party wall with No 11 Silver Street, with historic fabric (masonry, timber framework, bracing, and timber mullioned window) visibly exposed in specific locations within No 12 Silver Street. It is stated that those presently contained within cupboard areas would be preserved as such with the main changes being within the ground and first floor levels.

81. Within the ground floor the photograph provided within the statement shows that the medieval party wall consists of a solid historic rubble stone construction. This would be conserved in situ and would be physically unaffected due to the proposed new staircase and stud wall, segregating the upper floor residential access, both standing independently from it. Regarding the cutting of timbers within the ground floor ceiling to create the new stair opening, the photograph provided shows that these are more modern timber joists and floorboards. Therefore, no important historic fabric that contributes to the significance of the listed heritage asset would be removed.
82. The existing staircase to the rear part of the ground floor is proposed to be removed and is stated in the heritage statement as being a modern intervention. While no photograph has been provided to show this staircase, the building is known to have been refurbished in the 1990s and officers have been inside the building in recent years. Therefore, its modern construction can be confirmed. Its removal would not therefore harm the significance of the listed heritage asset while providing a benefit by slightly enlarging the usable retail space. The upper floor staircases to be retained are thought to be older.
83. At first floor level the proposed removal works are identified as not relating to original or historic fabric or features, but rather 20th century fabric. The new service provisions would connect to the existing service runs minimising the impact. Again, all of the alterations in the areas of the party wall at this level are confirmed to have no physical impact on the medieval fabric. There would be changes to the building plan form, but the historic layout has already been altered and is not intact, so is more adaptable without causing harm. Some of the alterations would relate to re positioning existing stud wall interventions in different position, the impact of this neutral compared to the existing impact.
84. Previous comments by the City of Durham Trust correctly stated that the interior of the building contains surviving historic timber panelled doors and as part of the listed building application it was confirmed that there were not proposed to be removed. In respect of new internal doors a condition has been added to the listed building consent which requires details to be provided prior to commencement of the development with the external doors subject to condition attached to this application.
85. The building is presently vacant, and the upper floors have been empty for some time. When historic buildings are left vacant, they are at greater risk of continued damage and decay. The best way to protect a historic building is to keep it occupied and in active use reducing the risks and in theory significantly increasing the chance of regular maintenance. Furthermore, vacant buildings are a blight on the locality and unattractive, and this one is within a medieval street at the heart of the conservation area and the main pedestrian approach to the WHS. As such securing the buildings full active sustainable re use would provide a benefit to the listed heritage asset itself and the surrounding historic environment amounting to an enhancement to the Conservation Area and the WHS in accordance with policies 44 and 45 of the CDP and H1 and H2 of the CDNP.
86. Regarding the external alterations. Even though the shop frontage is modern (C20) it is of a good quality design made from timber following a traditional model, that contributes positively to the listed building. The proposed new entrances appear naturally integrated into the existing shopfront design by virtue of the new retail entrance utilising the area of glazing in the short return elevation, and the new residential entrance using the existing main doorway. This essentially leaves the main shop front to the street untouched, while the difference in the styles of the respective doors helps to differentiate the two different uses in the same building.

This would ensure that the modifications proposed would conserve the positive contribution the shop frontage makes to the building and street scene with the reintroduction of a positive use the remainder of the building effecting an enhancement.

87. Overall, it is considered that the significance of the designated heritage asset would be enhanced in accordance with the principles of NPPF Section 16 and County Durham Plan Policy 44 subject to the conditions.
88. Taking all the above into consideration it is considered that the proposal would have an acceptable impact on the host property and the streetscene in accordance with policies 44 of the County Durham Plan and policy H2 and H4 of the Durham City Neighbourhood Plan. In relation to Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal is considered overall to preserve the character and appearance of the Conservation Area. It is also considered that the impact on the World Heritage Site is considered acceptable in accordance with policy 45 of the CDP and H1 of the Durham City Neighbourhood Plan in that it would deliver an enhancement.

Impact on Residential Amenity

89. Policy 31 of the CDP 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.
90. Policy 16-3e) states that development will only be permitted where they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues.
91. Paragraph 130 of the NPPF requires that planning decisions avoid noise from giving rise to significant adverse impacts on health and quality of life as a result of new development; and mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions.
92. The proposal is set within the context of a mixed use area framed by a variety of uses and activities. Therefore, any increase in noise or activity would be negligible against the background activity and noise level typical of a city centre location.
93. In terms of internal amenity space, the proposed HMO is considered to meet with licensing standards and also complies with the recently introduced space standards therefore, is considered acceptable.
94. With regard to the impact of existing uses upon future occupiers the Council's Environmental Health Officer has noted that the student accommodation would be situated above a commercial use and therefore noise from the commercial use could cause disturbance to the residential units proposed. However, it is considered that any impact in this regard could be mitigated to acceptable levels via a scheme of noise mitigation measures the submission and agreement of which could be ensured through planning condition.

95. Residential amenity is considered reasonable but below the current policy standards identified in Council's Residential Amenity SPD. The front elevation of the building looks across Silver Street to the upper floors of other commercial premises on Silver Street and the historic street layout on Silver Street leads to a separation distance of 5.4 metres which is below the current standards for separation distances but one that has historically been accepted in the city centre to bring upper floors back into residential use. On the rear elevation the existing windows are utilised on the side elevation that look towards other commercial properties on Silver Street which again falls below the minimum separation distance identified in the SPD. However, living within the established dense urban framework of buildings and narrow streets, future occupiers would have an expectation of this as opposed to the openness associated with suburban areas, and seeking to rigidly apply the guidance set out in the SPD would not be a pragmatic approach in this context. The disbenefit of this would be outweighed by the convenience associated with this city centre location and ready access to University buildings, services and night time economy. In addition, there is some benefit to reintroducing a positive use to the upper floor of the listed property and this would outweigh the shortfall in the distances advised by the Council's SPD.
96. Therefore, the proposed development is considered to accord with the requirements of policy 31 of the CDP, and paragraph 130 of the NPPF in respect of impact on residential amenity. Soundproofing conditions as identified were requested as part of the Listed Building application and it is not considered that it is necessary to add this to this application due to this.

Highway Safety

97. Paragraph 34 of the NPPF which requires that plans and decisions ensure developments which generate significant vehicle movements are located where the need to travel will be minimised and the use of sustainable transport modes maximised.
98. Policy 21 of the CDP requires all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document.
99. In addition, Policy T1 of the DCNP seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility and design.
100. The proposed residential development sits in a central highly accessible and sustainable location within the City's controlled parking zone. No car parking provision is therefore considered to be required due to this. No parking permits would be issued to residents and therefore, they would be subject to car parking charges and as such car ownership is unlikely. In respect of servicing provision this would be subject to existing restrictions on Silver Street.
101. Given the above, no objection has been raised from the Councils highway team and as such the proposal will accord with Policy 21 of CDP, Policy T1 of the DCNP and Part 4 of the NPPF.

Other Issues

102. Concern has been raised regarding the condition of the steps to the rear of the property which have been identified as an emergency exit. The plans do state that the steps will be repaired and a condition to reflect this has been added.

103. Concern was also raised regarding water ingress to the ground floor commercial property. No alterations are proposed to this part of the building and it is noted that there is no requirement to undertake any works to resolve this perceived issue. Whilst essentially a maintenance issue outside of the scope of the this application the applicant has advised that steps have since been undertaken to satisfactorily resolve the issue.
104. Request was received from an interested party that a Section 106 Agreement be included which requires the submission and agreement of a scheme to improve Moatside Lane. However, it is not considered that the development would result in any significant increase in the use of this lane given it would not include any direct access to it, with the exception of the emergency access ,which itself is unlikely to be used in cases other than an emergency. In addition, it is noted that the highways officer has previously confirmed in response to other similar applications in the locale, that the existing vennel was not lit and historically had not been lit. There are no reported accidents on the vennel, even though it was not lit, and noted the public highways of Silver Street and Saddler Street were both lit to public highway standards P4 and P6 which are the Council's standard for lighting. It is therefore not considered that this is necessary or appropriate to request as part of this application.

CONCLUSION

105. The proposed development is considered acceptable in principle and would not have any adverse impact upon the vitality and viability of Durham City Centre. The proposal would also not have an unacceptable impact upon residential amenity or highway safety in accordance with the requirements of policies 9, 16, 21, 29 and 31 of the County Durham Plan.
106. In addition, it is considered that the proposal would enhance the character and appearance of Durham City Conservation Area, the host property being a listed buildings and World Heritage Site in accordance with policies 44 and 45 of the County Durham Plan and Paragraph 132 of the NPPF and Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 subject to the inclusion of appropriate planning conditions.
107. Whilst the concerns raised by the City of Durham Parish Council and the City of Durham Trust are noted, it is not considered that a refusal of the planning application for this reason could be sustained. The proposal is therefore recommended for approval.

RECOMMENDATION

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

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 16, 29 and 31 of the County Durham Plan and policies 9, 12, 15 and 16 of the NPPF.

3. Prior to the commencement of the development, full details, including cross sections at a scale of 1:20 and details of colour finish of the proposed external doors shall be submitted to and approved in writing by the Local Planning Authority. The doors shall thereafter be installed in accordance with the approved details.

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

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

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

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

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

5. No development shall commence until a scheme detailing the scheme of improvement/repair works to the rear access steps have been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved plans.

Reason: In the interest of residential amenity and to provide safe and adequate means of access to the development in accordance with policy 29 of the CDP and paragraph 105 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

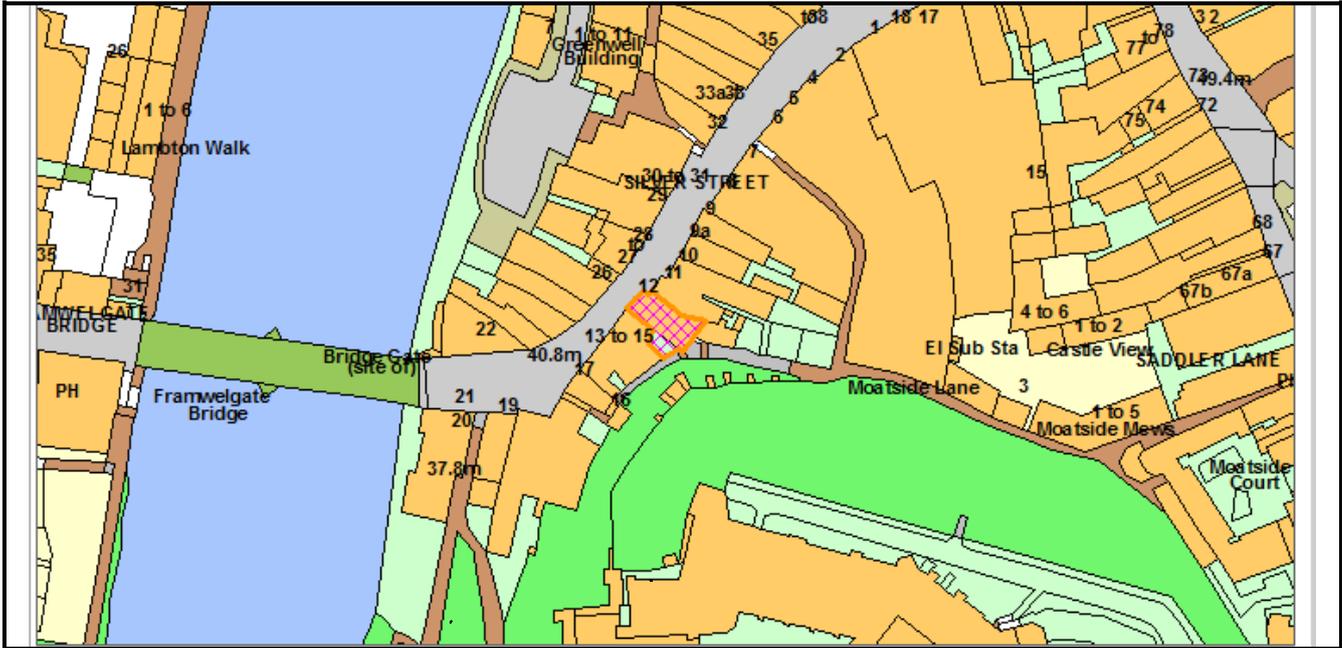
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Change of use of upper floors to a 5 bed HMO (use class C4), retail to remain at ground floor and installation of new access door in existing shop front at 12 Silver Street Durham, DH1 3RB Application Reference: DM/21/02227/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Date: 25 November 2021</p>	<p>Scale NTS</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/21/02109/FPA
Full Application Description:	Erection of a 4.5m high FA standard football pitch boundary fence
Name of Applicant:	Mr David Norton
Address:	New College Durham, Framwellgate Moor, Durham, DH1 5ES
Electoral Division:	Framwellgate and Newton Hall
Case Officer:	Leigh Dalby (Senior Planning Officer) Tel: 03000 261 959 Email: leigh.dalby@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site comprises part of an existing and well established college facility at New College Durham, Framwellgate Moor, Durham. The school offers a wide variety of educational courses and higher education qualifications ranging from construction and engineering workshops, health and beauty salons, sports and performing arts and general teaching and it is understood that the facility is used by both students and the local community.
2. The site is located to the north west of Durham City Centre and is bounded by the A167 and open space to the west and housing to the north, south and east, the latter being separated from the existing buildings by several sports pitches.
3. In terms of existing buildings, the site comprises a large main building of notable footprint which is set to the north of 2 smaller buildings of three storey height set parallel to the A167 to the west. In addition, the site also includes a large college car park between the main entrance to the south and the buildings to the north.

4. With regards to access the site is served by a vehicular access taken from Dryburn Road and it is also noted that a public right of way bisects the site north–south between the buildings and sports pitches.
5. This application relates to the sports pitch to the north east of the main college building which is surrounded by grassed land to the north, east and south, with residential properties beyond this to the north at the end of the cul-de-sac Bridgemere Drive and to the east at Alexandria Close.

The Proposal

6. The application seeks planning permission for the erection of a 4.5m double mesh powder coated metal fence around the perimeter of the existing sports pitch to the north east of the main college building. The fence is proposed to be dark green in colour.
7. The application is reported to the Planning Committee at the request Cllr Wilkes who raised concerns regarding impact of the proposal upon residential amenity and the openness of green spaces.

PLANNING HISTORY

8. There is no planning history relevant to the current application.

PLANNING POLICY

National Policy

9. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.
10. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal;
11. *NPPF Part 4 - Decision-making*. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

12. *NPPF Part 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.
13. *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.
14. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. *NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change.* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
16. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

Local Plan Policy:

17. The following policies of the County Durham Plan are considered relevant to the determination of this planning application:
18. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.

19. *Policy 26 Green Infrastructure*: Development will be expected to maintain and protect, and where appropriate improve, the county's green infrastructure network. This will in turn help to protect and enhance the county's natural capital and ecosystem services. Development proposals should incorporate appropriate Green Infrastructure (GI) that is integrated into the wider network, which maintains and improves biodiversity, landscape character, increases opportunities for healthy living and contributes to healthy ecosystems and climate change objectives.
20. *Policy 29 Sustainable Design* details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
21. *Policy 31 Amenity and Pollution* states that new development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and should be integrated effectively with any existing business and community facilities.

Neighbourhood Plan

22. 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:

23. The Coal Authority: considers that the content and conclusions of the Phase I Geo-Environmental Site Assessment are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development, and as such offers no objection.
24. The Framwellgate Moor Parish Council object to the application on the grounds that the height of the fencing would adversely affect the amenity of neighbouring residents and have an overbearing impact on public space.

Internal Consultee Responses:

25. Public Rights of Way: advise that public footpath no. 4 and bridleway no. 3 Framwellgate Moor Parish pass in close proximity to the playing field, to the west and north respectively and that the application documentation suggests that neither of the above public rights of way will be directly affected by the proposed fencing. Comments that there may be some adverse impact with regard to the current open aspect of footpath no. 4, given that the height of the fencing.

26. Archaeology: raise no objections.

Public Responses:

27. The application has been publicised by way notification letters sent out to neighbouring land owners. 9 objections have been received, raising the following concerns:

- The fencing would have an adverse visual impact to the detriment of the amenity open space, the character of the area and the wider open space setting,
- The proposal would see development to the east of the PROW, contrary to the design principles of the development of the wider New College site,
- The fencing would have a strong urban appearance in an area that is characterised by its openness, appearing as a visually intrusive barrier to the residents of North Terrace and Alexandria Close,
- The sports pitch was raised by approximately 1.5m as part of the original College redevelopment so the fencing would appear as 6m tall from the gardens of Alexandria Close,
- There are no benefits of or justification for the fencing,
- The sports pitch was built on top of rubble and topsoil and surface water runoff from the sports pitch floods some of the adjoining garden areas in the winter and further development could exacerbate this,
- Questions whether this is the first stage of a wider proposal to come forward in the future involving an artificial pitch and floodlighting,
- New College have justified the lack of maintenance of its boundaries with Alexandria Close by claiming that the area created a natural wildlife corridor linking the college's open space with the surrounding countryside, the fencing would lead to further neglect of this open land.
- Users of the sports pitch have been observed urinating on the side of the pitch and any development that would increase the use of the field is unacceptable.

Applicants Statement:

28. With reference to the above application this statement sets out the applicant's responses to the objections and questions set out. The College is investing significant amounts of money into the maintenance and treatment of the football pitch in question as the surface has been raised as a concern by students. The erection of a fence will prevent unauthorised use and eliminate the nuisance of dog owners allowing their animals to defecate on the field and not clean up afterwards, which is both unpleasant and potentially unsafe, and again this has been a complaint received by the College from its students.

29. The National Youth League and the Community Education Football Alliance (EFL) require teams to have a pitch that is enclosed so having this facility supports our students in competing at a national and regionally high level without having to play at an alternative venue 23 miles from the College.

30. Enclosing the pitch will ensure that the surface is used in a controlled way that supports its ongoing maintenance as a high quality playing surface, which has not been possible in the past. The erection of a fence also stops the pitch; and goals, being used outside of College hours without due supervision which can and has led to anti-social practices (quad bikes for example) that has damaged the pitch or goals, which can make them unsafe or unsuitable for future use and/or has had a negative impact on our neighbours. Over the years the College has received complaints from residents on Newcastle Terrace, for example, regarding footballs landing in and damaging their gardens from unauthorised and unsupervised, as well as authorised use of the pitch.
31. The college currently hire our sports hall to support the development of youth and grass route football i.e. Little Kickers, who support active participation from 18 months to 7 years, and Durham City Juniors, who have teams from under 7 to under 17. Both of whom have requested and would benefit from a safe and suitable outdoor facility. As well as this, the curriculum work closely with the County Durham Schools Sports Partnership to host a number of activities to encourage physical activity through games, sports, play and movement facilitated by our staff and led by our students.
32. The capacity of the sports hall is often the limiting factor in our ability to support this and again, a safe and high quality outdoor playing surface would allow us further scope to further enhance these opportunities for both our students and young people in the local area. The fence will be designed and constructed in line with Sports and Play Construction Association (SAPCA) and Football Association (FA) guidelines. The rationale for a 4.5m fence is in line with the only available guidance from the FA which the College accepts is mentioned for 3G Football Turf Pitch (FTP) but given the size and scale of the playing surface is identical to this and in the absence of any further guidance 4.5m is what was submitted. The fencing will be constructed from twin bar super-rebound panels or rolls that are supported by box section posts. Twin bar supe-rebound panels are used, as it is better suited to the repeated impact of footballs hitting the fence. The steelwork will be galvanised to minimise corrosion and the College will plastic coat to improve the appearance. The colour of the fence was initially expected to be green however during the application period the College have been informed that black makes the fence less visible to the eye. Soft planting will also be installed to the east side of the fence so as to allay concerns from the residents of Alexandra Terrace as to the view from their rear windows.

PLANNING CONSIDERATION AND ASSESSMENT

Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making.

Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, the impact on , character and appearance of the surrounding area, residential amenity and highway safety.

Principle of Development

33. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise with the NPPF representing a material planning consideration in this regard. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up to date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.
34. The application site comprises an established sports pitch that is designated as open space within the Council's Open Space Needs Assessment 2018 under the education typology. In relation to the education typology, the document advises that:
35. *'Many schools and colleges have open space and sports facilities within their grounds. This may range from a small playground to large playing fields with several sports pitches. More often than not, public access to these spaces is restricted and in many cases forbidden. Nevertheless, many of the sports facilities are used by local people on both an informal and formal basis. Sports clubs may have local informal arrangements with a school to use their pitches, and in some cases more formal 'dual-use' agreements may be in place. School grounds can also contribute towards the green infrastructure and biodiversity of an area.'*
36. *'Quantity and access standards have not been proposed for education sites. This is because they are not openly accessible to the public and whilst important to the local community, there is less opportunity for the Council to influence their provision and management. However, their existence is still an important factor of local provision, and as such they will be subject to the same policy considerations as publicly accessible space.'*
37. Therefore, Policy 26 of the County Durham Plan (CDP) is relevant which relates to Green Infrastructure. The glossary defines green infrastructure as 'A network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.' Policy 26 sets out that development proposals which would result in the loss of open space or harm to green infrastructure assets will not be permitted unless the benefits of the development clearly outweigh that loss or harm and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements.

38. The intention of this policy is supported by the NPPF in which Paragraph 91 identifies safe and accessible green infrastructure as a means to support its aim of enabling and supporting healthy lifestyles. Policy 26 refers to open space as an asset that can contribute to the green infrastructure of an area.
39. The application seeks planning permission for the erection of fencing around the perimeter of an existing sports pitch. Therefore, whilst the proposal would separate the sports pitch from the grassed land to the east, it would not result in the loss of open space. The fence would not prevent the use of the sports pitch and would see the grassed land to the east retained, so neither would the proposal be considered to harm the open space.
40. Therefore, the proposal is considered to be acceptable in principle, according with CDP Policy 26 and NPPF Paragraph 91, subject to the considerations discussed below.

Impact on the Character and Appearance of the Surrounding Area

41. Paragraph 126 of the NPPF advises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. 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.
42. CDP Policy 29 requires development to (in part): a) contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and b) create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
43. Concerns have been raised by various residents at Alexandria Close to the east of the site regarding the impact of the proposed fencing on the character and appearance of the area. In particular, concerns were raised regarding the development being to the east of the PROW, introducing a strong urban appearance in an area that is characterised by its openness.
44. The fencing is proposed to be erected around the entire perimeter of the sports field, at a height of 4.5m and finished in metal mesh coloured dark green. This style of fencing is not an unusual means of enclosure around sports pitches, with its mesh style allowing views through it and its dark green finish helping it to appear as visually recessive as possible. A condition (number 4) is recommended to secure details of a planting scheme along the boundaries of the sports pitch to help soften the appearance of the fencing and further assimilate it with its surroundings.

45. It is accepted that the sports field lies to the east of the PROW outside of the main developed part of the New College site, and that the fencing would represent a change to the boundary of the sports pitch that would be visible from the gardens of the residential dwellings at Alexandria Close and Bridgemere Drive. However, a large area of open space would remain as a buffer between the sports pitch and the residential dwellings, retaining the open character of the area; with the style, colour and recommended condition regarding a planting scheme considered to minimise the impact of the fencing to a level that, whilst visible, would not cause harm to visual amenity or the character of the area.
46. As such, the proposal is considered to accord with CDP Policy 29 and Part 12 of the NPPF.

Residential Amenity

47. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
48. In line with this, 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.
49. In addition, criterion e) of Policy 29 requires all development proposals to provide high standards of amenity and privacy, and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
50. Concerns have been raised by various residents at Alexandria Close to the east of the site regarding the proposed fencing appearing as a visually dominant feature that would adversely affect their amenity in terms of loss of outlook and an overbearing impact. This is by virtue of the proposed height of the fencing at 4.5m, the lower ground level of the properties at Alexandria Close (stated by objectors to be approximately 1.5m), and the proximity of the fencing to the boundaries with these dwellings.
51. It is noted that the south east corner of the sports pitch is approximately 23m away from the rear boundary of 20 and 21 Alexandria Close, with the north east corner of the sports field being approximately 56m away from the rear boundary of 28 and 29 Alexandria Close. The middle of the eastern length of the sports pitch is approximately 38m away from the rear boundary of 24 Alexandria Close. The north east corner of the sports pitch is approximately 27.5m away from the boundaries of the properties at Bridgemere Drive. The southern boundary of the sports pitch is approximately 15m away from the boundary of 26 North Terrace.

52. Whilst it is acknowledged that a height of 4.5m is considerable for boundary fencing, given the distance away from the boundaries of the dwellings at Alexandria Close, Bridgemere Drive and North Terrace it would not be considered to diminish the outlook from these rear gardens or to have an overbearing impact that would adversely affect the amenity of the occupants. In addition, the recommended condition to secure details of a planting scheme along the boundary of the sports pitch would help to soften the appearance of the fencing from these rear gardens.
53. Therefore, the proposals are considered to accord with CDP Policy 29(e) and 31 and Part 12 of the NPPF.

Highway Issues

54. Paragraph 111 of the NPPF advises 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.
55. CDP Policy 21 relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network. This displays a broad level of accord with the aims of Paragraph 110 of the NPPF which states that planning decisions should ensure development provides safe and suitable access to the site can be achieved for all users.
56. The application relates solely to the erection of perimeter fencing to the existing sports pitch of an established education site. Therefore, given the nature of the proposals they are not considered to have any highway or transport related adverse impacts. Therefore, the proposals accord with CDP Policy 21.

In Response to Objectors Concerns

57. Concerns have been raised regarding the discharge of surface water from the sports pitch to the adjoining garden areas which are situated on a lower level. However, the erection of fencing is not considered to have any impact on surface water run-off and so this is not considered a material consideration to which weight could be attached in the determination of this planning application.
58. Concerns have been raised over a lack of maintenance over the boundaries of the site. The proposal consists of the erection of fencing around the perimeter of the existing sports pitch and so the maintenance of the grassed land beyond this is not relevant to this planning application.

59. Concerns have been raised over the poor behaviour of some of the users of the sports pitch. However, the sports pitch is already established and this application is for the erection of perimeter fencing which in itself would not affect the extent to which the pitch could be used. It is considered that the behaviour of the users of the sports pitch could be suitably addressed and managed by the applicant.
60. Concerns have been raised over this application being the first of a wider scheme of proposals for the site which could include the installation of floodlighting to allow the pitch to be used in the evenings during the winter months. This application does not propose any floodlighting, which would require planning permission in its own right should it be the applicant's intention to provide these in the future. The potential impacts of this if proposed at a later date would be considered under a separate planning application.

CONCLUSION

61. The proposed fencing would not result in the loss of or harm to, existing open space. Whilst of considerable height and with available views from residential gardens, given the mesh style and dark green finish, along with a condition recommended to secure details of a planting scheme, the fencing is not considered to harm visual amenity or adversely affect the character and appearance of the area. Given the distance from the residential dwellings, the fencing is not considered to have an overbearing impact on or reduce the outlook from the neighbouring rear gardens.
62. Therefore, the proposals are considered to accord with Policy 21, 26, 29, and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12, and 15 of the NPPF and as such the application is recommended for approval subject to conditions.

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 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 26, 29, 31, and Parts 2, 4, 8, 12, and 15 of the National Planning Policy Framework.

3. The fencing shall be finished entirely in the materials and colour specified on the Proposed Elevations North Pitch plan.

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

4. Prior to the commencement of the works hereby approved, a planting scheme for trees and hedging along the eastern, northern and southern boundary of the sports pitch shall be submitted to and approved in writing by the Local Planning Authority. The planting scheme shall be carried out within the first planting season following completion of the works hereby approved. These shall be planted and maintained in accordance with good practice to ensure rapid establishment- including watering in dry weather, and replaced if they fail within 5 years of initial planting, not later than the following planting season.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

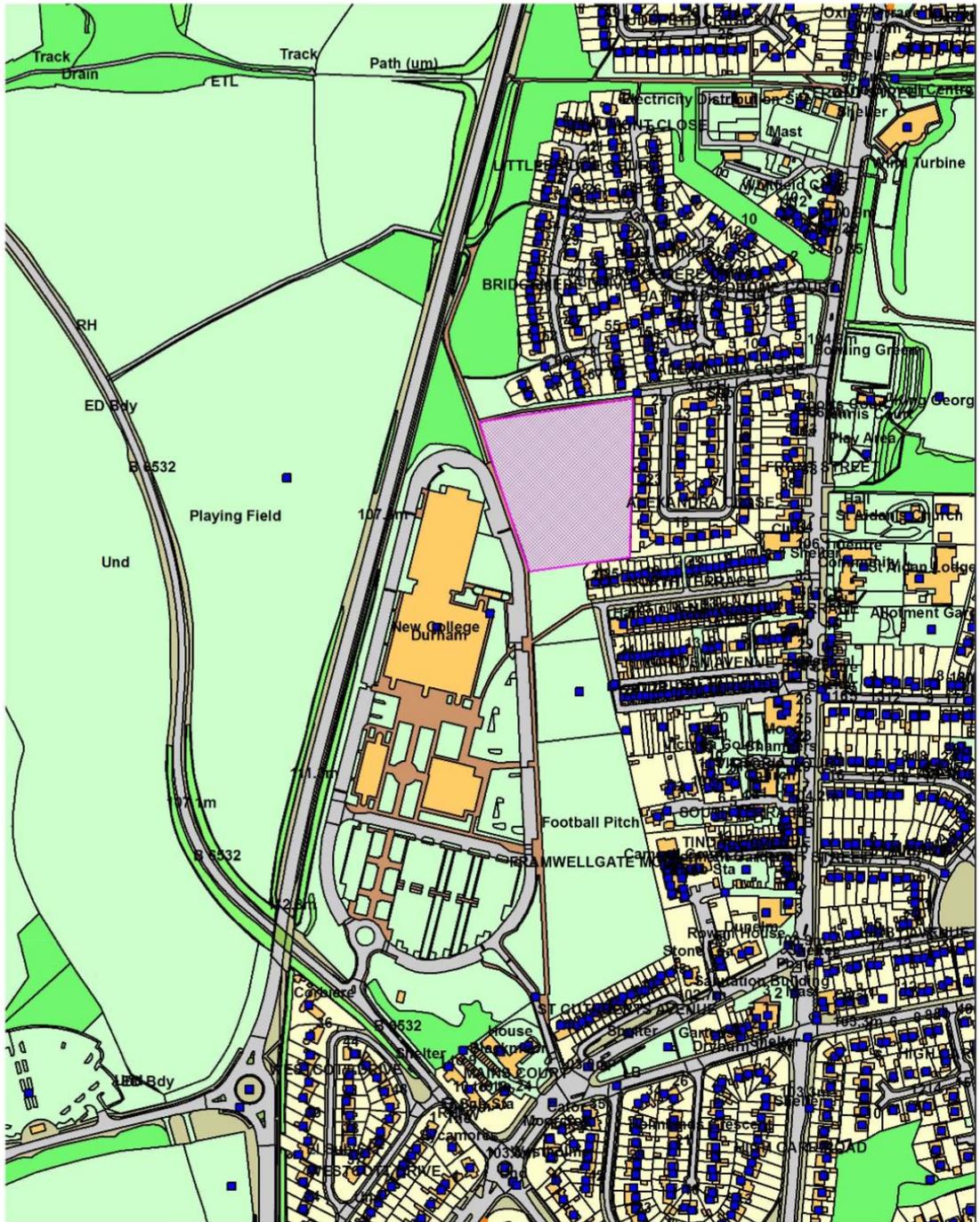
Submitted application form, plans supporting documents and subsequent information provided by the applicant.

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses



 Durham County Council Planning Services		New Collge Durham	
		Not Set	
Comments		Not Set	
Date	05 November 2021	Scale	1:4298

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/00185/VOC
FULL APPLICATION DESCRIPTION:	Removal of Condition 5 (holiday home occupancy restriction) of planning permission DM/15/01520/FPA for the siting of 16 executive holiday lodges (resubmission)
NAME OF APPLICANT:	C/o Agent, Mr Ross Sandbach of AMS Planning, Architecture and Development Consultants.
ADDRESS:	Evergreen Park Crimdon TS27 4DW
ELECTORAL DIVISION:	Blackhalls
CASE OFFICER:	Jennifer Jennings Planning Officer Telephone: 03000 261057 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is situated off the Coast Road in the Crimdon Dene area to the south east of the former District of Easington. It is not within a settlement boundary and would therefore be classed as located in the countryside for planning purposes.
2. Evergreen Park, located directly south of the application site, is owned and managed by the applicant and is an established rural business which operates as a residential caravan park with some 25-30 residential properties on site. The majority of these are inhabited by retirement age residents who live on site permanently.
3. The application site currently benefits from planning permission for the siting of 16 executive holiday lodges, which has been implemented and the site cleared and laid to grass. Hardstandings and service points have been installed for each proposed mobile holiday lodge and an access road leading from the existing Evergreen Park installed which provides access to the site.

The Proposal

4. The application seeks permission to vary condition 5 of the planning permission DM/15/01520/FPA which granted consent for the siting of 16 holiday lodges. This condition states: 'The lodges hereby approved shall be occupied for holiday purposes only, and shall not be occupied as a person's sole, or main place of residence.' The applicant seeks to vary this condition to allow full time residential occupation of each of the units.

5. Justification for the removal of the condition relates to applicant's assertion that there is no longer demand for the units as holiday lets evidenced by a failed period of marketing.
6. The application is being reported to Planning Committee at the request of the local ward member, on the grounds of sustainability.

PLANNING HISTORY

7. Planning history at neighbouring Evergreen Park site:

5/79/610 General improvements and new amenities block Approved 12th November 1979

5/PLAN/2006/0302 Certificate of lawfulness for existing use as residential caravan park Approved 28th November 2006

5/PLAN/2008/0554 Relocation of dwelling Approved 6th February 2009

8. Planning history at application site:

DM/15/01520/FPA Change of use from materials storage area to permit siting of 16 executive holiday lodges. Refused 22nd October 2015 Appeal Allowed 21st July 2016

DM/19/03697/FPA Removal of Condition 5 (holiday home occupancy restriction) of planning permission DM/15/01520/FPA for the erection of 16 executive holiday lodges
Withdrawn

PLANNING POLICY

NATIONAL POLICY

9. The following elements of the NPPF are considered relevant to this proposal.
10. *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.
11. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
12. *NPPF Part 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.

13. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. *Developments* should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
14. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. *Developments* that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
15. *NPPF Part 11 – Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
16. *NPPF Part 12 – Achieving well-designed places* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. *NPPF Part 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.
18. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

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

LOCAL PLAN POLICY:

County Durham Plan

20. Policy 6 (Development on unallocated sites) development on sites not allocated in the Plan or Neighbourhood Plan but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological etc. value; is appropriate in scale, design etc to character of settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration
21. Policy 10 (Development in the Countryside) will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
22. Policy 11 (Rural housing and Employment Exception Sites) states that new housing which is contrary to Policy 10 will be permitted where it can be demonstrated that it meets criteria a-d.
23. Policy 15 (Addressing housing Need) requires all qualifying new housing proposals to provide a percentage of Affordable housing on sites of 10 or more units. Table 8 of this policy identifies a 10% requirement in low value areas. Off site contributions may be considered where there would be five or fewer affordable homes on the site.
24. Policy 19 (Type and Mix of Housing) supports the opportunity to facilitate custom build schemes.
25. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development to have regard to Parking and Accessibility Supplementary Planning Document.
26. Policy 25 (Developer Contributions) supports development where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations.
27. Policy 26 (Green Infrastructure) states that proposals for new residential development will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the council will require financial contributions secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality.

28. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD and sets out 18 elements for development to be considered acceptable, including: positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
29. Policy 31 (Amenity and Pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as ensuring light pollution is minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
30. Policy 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 also 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
31. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted which 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 reason and appropriate compensation.
32. Policy 41 (Biodiversity and Geodiversity) highlights that development will be expected to provide net gains for biodiversity.
33. Policy 42 (Internationally Designated Sites) identifies the need to protect internationally important sites and species. Since the previous application was approved, the Council has developed a coastal avoidance and mitigation strategy. This implements a programme of monitoring and mitigation measures to address potential adverse effects on County Durham's coastal European Protected Sites, which can be caused from increased visitor pressures resulting from new planned residential and tourist development. Although comments were provided by specialist colleagues in relation to the original application, as the site falls within 0.4 and 6km from the boundary of the protected sites, further clarification should be sought in relation to a residential development in this location. This is to ensure that legal obligations are met in relation to the HRA.
34. *Residential Amenity Design Standards SPD* – As part of the County Durham Plan, a Supplementary Planning Document is adopted for residential amenity standards to inform residential development layouts.

NEIGHBOURHOOD PLAN:

35. There is no Neighbourhood Plan in force in this area.

The above represents a summary of those policies considered most relevant in the Development Plan the full text, criteria, and justifications of each may be accessed at

<http://www.durham.gov.uk/article/3269/Easington-Local-Plan>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

36. *Highway Authority* – advise that condition 5 of the previous planning permission does not impact on highways operation or safety, therefore from a highway safety perspective there is no opposition to the removal of the condition.

37. *Northumbrian Water* – offers no comments.

INTERNAL CONSULTEE RESPONSES:

38. *Spatial Policy* – comments that the proposal should be determined as an application for new residential dwellings rather than simply a removal of a planning condition, particularly as housing development of the proposed scale should normally be supported by suitable infrastructure provision and an appropriate level of developer contributions to accord with appropriate planning policy.

39. As they confirm that provision of housing in this location is not supported through policies in the County Durham Plan and therefore the removal of the occupancy condition (which would essentially change the purpose of the development from visitor accommodation to permanent residential dwellings) is not endorsed. The planning inspectors appeal decision in March 2016 mentioned that the development would address an identified tourism need and provide some limited economic benefits. However, this was the only benefit resulting from the development which would be lost should the condition removing occupancy be removed.

40. As the lodges have not yet been built out the Spatial Policy Section note that the permission could remain largely unimplemented until such time as demand increased.

41. In terms of contributions, it is confirmed that open space provision is expected to be provided off site for a scheme less than 19 dwellings. The off-site contributions have been calculated on the basis of an occupancy of 35 residents. This has equated to £27,667.50.

42. *Ecology* –advise that since the application was originally approved the Council has developed a coastal avoidance and mitigation strategy to implement a programme of mitigation measures to address potential adverse effects caused by increased visitor pressure on the coastal European Protected Sites. This development is within the 6km Durham Coast Habitats Regulations Assessment (HRA) buffer. If the application is approved the financial contribution for this development is £12,105.76 (16 units x £756.61) and should be secured through a Section 106 Agreement or Unilateral Undertaking.

43. *Environment, Health and Consumer Protection (Contaminated Land)* – confirm there is no requirement for a land contamination condition but recommend an informative be included relating to the steps required should unforeseen contamination be discovered during construction.

44. *Housing Delivery* - there is need for affordable housing in this area, however the use of mobile homes is not a suitable product. Discussions with Registered Providers has confirmed that the properties would not be suitable for their clients. In addition, discussions with estate agents and mortgage brokers indicate that these units would not be suitable for affordable purchase.
45. Given the nature of the site and proposed dwellings, on site provision would not be practical. In such circumstances an off-site contribution would be required to be secured through a section 106 agreement.
46. *Landscape* – consider the proposals would represent an incursion into the open countryside that would be harmful to the rural landscape. Policy 39 provides criteria for the prevention of unacceptable harm to the landscape and expectations for landscape and visual mitigation. A hedgerow along the north of the site would help to form a new boundary between the site and remaining countryside.
47. *School Places Manager* – No response at time of writing but no contributions were deemed required in relation to previously withdrawn application.

EXTERNAL CONSULTEE RESPONSES:

48. *NHS* – indicate there is sufficient space to accommodate any increase in patient numbers from the development and as such no financial contributions is required in this regard.

PUBLIC RESPONSES:

49. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents. Two letters of support and one of objection from Campaign for Protection of Rural England had been received.
50. One letter of support has been received from the local ward member who comments that all reasonable attempts have been made to sell the lodges but these have been unsuccessful. Removing the occupancy condition would enable the sale of the lodges to the benefit of residents on the adjoining site, through reduction in noise and disturbance from visitors. It is also stated within the letter that the proposals would allow downsizing and free up properties in higher demand areas, whilst supporting and sustaining the local economy. The letter also comments on the regular bus service adjacent to the site.
51. The letter of support states that the proposals would have a positive impact on the community and offer the older population the choice and benefits of smaller housing in a beautiful location. The site is well maintained surrounded by coastal views and nearby amenities. Transport links are good with bus stops nearby. Allowing permanent residential use would free up larger family homes in areas of high demand and would boost the local economy which is positive for the local community.
52. The main concerns raised by the CPRE are summarised as follows:
 - The residential use of the adjoining site results from a Certificate of lawfulness under Section 191 of the Town and Country Planning Act 1990. While of course this means that this development has the benefit of this Certificate which amounts to a planning permission, we represent that it cannot establish any precedent for any other development.

No planning decision provides a precedent for other similar development and this must be particularly relevant in respect of any “permission” that is acquired as a result of something escaping attention and so enforcement action for the relevant period of time.

- Considers the applicant always intended permanent occupancy of the holiday park extension as the applicant states in support of this application that the proposed holiday usage would impact on the permanent residents through noise and disturbance.
- Reference made to a Court of Appeal judgement from 2019 whereby Variation of Condition applications cannot be used to change the description of the development. In this case, the description of the approved development was for 16 holiday lodges, which would be changed to permanent dwellings. The application should not be determined through this VOC route.

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

APPLICANTS STATEMENT:

53. I make the following case for this application to be granted.

54. The planning was originally granted at Appeal, with a full costs award, for 16 Holiday Lodge units. The relevant condition is limited for holiday use only.

55. Out of the 16 bays which have been installed, 10 of them are now sold under the holiday use restrictions. This leaves only 6 bays / units currently unsold.

56. Due to the covid situation and the repeated requests of the Holiday Lodge Owners, it is necessary for this application for full residential use to be granted. The only issue appears to be the Council Officers making unrealistic demands for S106 contributions, which our professional advisers do not feel are justifiable. These contributions render the matter unviable. Council Officers are demanding that the S106 contributions apply to all 16 units. Our advisers feel that this is unreasonable and may be unlawful; it is certainly a grey area in planning terms.

57. What we are advised is that the S106 could potentially apply to the remaining 6 bays – but, as planning permission has already been granted and we are only applying for a variation of condition – then really, the S106 payments are neither justified nor lawful.

58. The S106 payments would not be due for only 6 units.

59. Furthermore, as the area is crying out for more affordable accommodation, then we would be able to support this with the comparison of the units we supply versus the price for houses in the area.

60. There is no adverse impact to this variation being granted that would ordinarily apply to a new permission as the fall-back position is that we can continue to sell the remaining bays / units in the fullness of time.

61. Thus, on the balance of probabilities, with no adverse impact, the application should be granted.

PLANNING CONSIDERATIONS AND ASSESSMENT

62. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that regard is to be given to the development plan and 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.
63. The proposal seeks to remove an occupancy condition thereby allowing permanent residential accommodation on a site with permission for 16 holiday units. The proposals should therefore be considered as an application for new residential dwellings.
64. The main issue for consideration is therefore whether the condition is reasonable and necessary having regard to the policy context. In this context, the main planning issues for determining the acceptability of removing this condition relate to: the principle of the development of permanent housing in this location, impact on the character and appearance of the area, residential amenity, locational sustainability and highway safety and access. Other material planning considerations should also be assessed including the requirement for planning obligations.

The Principle of the Development

65. The statutory development plan for this area is the County Durham Plan (CDP) which was adopted on 21st October 2020. The relevant policies for consideration are detailed below.
66. Policy 6 for development on unallocated sites sets out criteria for development of sites which are not allocated in the Plan but are well-related to a settlement. In this case the site is located in the open countryside and is both visually and physically detached from any recognised settlement. The site is therefore not well related to an existing built up area and as such the proposal should not be determined against this policy but instead Policy 10 of the CDP relating to development in the countryside.
67. Policy 10 states that development proposals located in the countryside will not be permitted, unless they meet one of a number of specific exceptions set out in the policy, or unless the proposed development would be allowed by another policy in the Plan. The specific exceptions within policy 10 include development necessary to support economic development, infrastructure development and development of existing buildings.
68. None of the exceptions listed in policy 10 would apply in this case. In particular, although the proposals seek to remove a condition changing the lodges / chalets from holiday accommodation to full time residential accommodation, and could thus be construed as developing existing buildings, there are a number of clear distinctions that should be highlighted. At the outset, the lodges are temporary structures and not permanent buildings. As such, planning permission was granted for the use of the land to site non-permanent holiday lodges on this land. The exception within Policy 10 for the development of existing buildings is therefore not applicable to the circumstances in this case, which was in essence a change in use of the land to the siting of caravans. Furthermore, the main thrust of this policy 10 exception is to retain permanent buildings that make a positive contribution to the character and appearance of the countryside by allowing a viable alternative use for them. The use of holiday lodges for full time residential occupation would not meet the aims this policy, given that they are not permanent buildings and do not make a positive contribution to the character and appearance of the countryside. On this basis, there is no exception within policy 10 that would provide support for the removal of the condition to allow the units to be used as full-time residential properties.

69. In terms of other policies in the plan that may allow development in this rural location, the most relevant is Policy 11 relating to rural housing and employment exception sites, which states that new housing which is contrary to Policy 10 will be permitted where it can be demonstrated that it meets a number of criteria, including; being well related to a settlement, and meeting an identified need of affordable or specialist housing. The development proposal is not consistent with these criteria and as such would not be supported in the context of this policy.
70. Having assessed the principle of the development to remove the planning condition to allow permanent residential occupation of the units against the policy context of the County Durham Plan, it is evident that no policy support exists.

Residential Amenity

71. County Durham Plan policy 29 states that development should provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties. In addition, the Council has also adopted the Residential Amenity Standards supplementary planning document providing guidelines on amenity distance standards.
72. The layout and density of development on the site is clearly suited for holiday occupancy. The close layout of the plots, their orientation and limited outdoor privacy space are deemed appropriate for temporary stays by touring visitors and are an accepted standard for this purpose. However, such an arrangement would not be deemed suitable or acceptable for permanent residential occupation. From assessing the layout on site, the distance between plots measures at no more than six metres, with the distance between plots across the access road on site measuring 13.5 metres. These fall far short of distance requirements detailed within the adopted Amenity Standards which require 10 metres between habitable windows and blank walls and 18 metres between habitable windows of single storey dwellings. The layout as approved does not achieve this. As such there are concerns that the proposed removal of the condition would not allow for an appropriate high standard of amenity required for future occupiers and as such fails to accord with SPD and policy 29 of the CDP.
73. In terms of impact on existing residents in the adjacent caravan site, the existing general layout has been previously agreed. The expected impacts of removal of the occupancy condition on existing permanent residents is likely to have some benefits through new occupants having similar day to day patterns and activities as these residents along with familiarity with the occupiers rather than a more transient population. However, it should be noted at the time of the appeal that allowed this development to progress as a holiday park, the impact of holiday accommodation on existing permanent residents was not raised as an issue.
74. Notwithstanding these points, it is clear that the original conception of development at this site was as a holiday park, which has different amenity considerations from what is expected of permanent residential dwellings. The substandard distancing conditions on site for full time residential use are considered unacceptable in this circumstance and conflict with policy 29 of the County Durham Plan, the Residential Amenity Standards document and NPPF policy in this regard.

Locational Sustainability and Highway Safety and Access

75. 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.

76. Paragraph 105 of the NPPF states that the planning system should actively manage patterns of growth in support of focussing significant development on locations which are or can be made sustainable through limiting the need to travel and offering a genuine choice of transport modes.
77. As already stated, the application site is in open countryside beyond any defined settlement. The adjacent caravan park, originally occupied as holiday accommodation, now provides permanent residential units, regularised through a Certificate of Lawful Development granted in 2006. It should be noted that the granting of a lawful development certificate is not an assessment of the planning merits or acceptability of the scheme but rather confirmation that the identified use has been established for sufficient duration to be considered exempt from enforcement action and lawful as a consequence. On this basis, the residential use of the neighbouring site does not set any precedent as to the acceptability of residential development in this location.
78. The application site, together with the adjacent neighbouring site, sit as an isolated form of development at this side of the Coast Road at this part of Crimdon and appear at odds with, and disconnected from, the established pattern of development. An existing cluster of permanent dwellings is located 650 metres to the north of the site, and they appear to have historically evolved around a junction on the Coast Road. At one time a public house also existed here, but this building has remained empty for some years and is now largely derelict. A car garage with some car sales and repairs exists at this junction also. The remainder of this developed area is given over to a large expanse of holiday park land with provision for over 1000 caravans, extending east and southwards from this small area of development. This holiday parkland is contained along the eastern side of the main north-south Coast Road, taking advantage of its coastal location. Apart from services within the holiday park that cater only for visitors staying at the site, there are no services or facilities within the vicinity. It is therefore clear from this that existing permanent residents, including occupiers at the Evergreen site, already have poor access to shops, services, education and employment opportunities. Adding an extra 16 permanent dwellings would further exacerbate this situation.
79. The nearest settlements offering such services are located in Blackhall Rocks, 1.8 kilometres to the north. This village benefits from a couple of small local shops. To access schools and doctor surgeries, however, requires a further 1.2 kilometre journey north into Blackhall Colliery where a greater range of services exists. The nearest main shopping area in Hartlepool is approximately 3.5 kilometres to the south with some smaller local shops over 2 kilometres away. Access to the nearest school is just over 2 km to the south east whilst the nearest doctor's surgery appears to be almost 4 km to the south.
80. In terms of access to these services using alternative means of travel, it is noted that the Coast Road benefits from street lighting along its length to the nearest settlements. Whilst a footpath also exists along this length, it appears to alternate to different sides of the road, meaning that pedestrians would be required to cross the road on several occasions. The footpath is also noted as being relatively narrow, located directly adjacent to the carriageway and given that the Coast Road is a derestricted main route, traffic will travel at speed, likely resulting in safety concerns for any prospective pedestrians or cyclists using this route. It is not considered that the route provides a particularly appealing means of travel to nearest settlements, and given their distance from the application site, it is unlikely that future occupiers would access these sites by means of walking, although cycling may be slightly more feasible.

81. It is noted that two bus services run past the site along the Coast Road, running hourly and connecting Hartlepool to Sunderland and Durham. This would provide an alternative sustainable mode of travel to the private car and whilst this aspect weighs in favour of the proposal, it does not outweigh the significant concerns regarding permanent residential housing in this location, given how poorly it relates to the existing pattern of development and the lack of access to services. It is considered that the degree of separation and disconnection from the settled area would potentially result in a greater likelihood of prospective residents being overly reliant upon trips by private vehicle to access day to day services.
82. Assessing the different levels and patterns of activity associated with full time residential by comparison to visitor occupation is difficult to quantify exactly. In terms of the expected level of activity associated with visitors staying at the holiday park, given the lack of services, there would remain a need to travel a reasonable distance to get provisions. However, visitors would not be at the site year round. Indeed, it might be expected that occupation of the site by visitors would not exceed 8 months in any given year. In such circumstances there would be an overall reduction in the amount of journeys taken from the site for access to basic services. In addition, the location of the holiday site within walking distance to the coast would provide opportunity for any visitors to easily access leisure activities without requirement to travel by car on some days during their stay. By comparison, full time residential use would entail these general activities 12 months a year, along with other day to day travel to places for education, work etc. It is considered that residential use would increase the overall requirement for travel from the site.
83. The proposed removal of the condition would result in full time residents living at what is considered an unsustainable location due to it being poorly served by key services. With year round occupation, this would likely result in a net increase in day to day travelling from the site for basic requirements and increased trips by private vehicle.
84. Highways assessed the proposals and raise no objections given that sufficient parking is available on site and safe access can be gained onto the highway. No issues have been raised with regards the impact of the removal of the condition in terms of highway safety in this regard.
85. In consideration of these various issues, the removal of the condition to allow permanent residential use of the site can meet with policy requirements to a degree in terms of alternative means of access to services, however, there remain safety concerns for pedestrians and cyclists that would make these routes less attractive and convenient, meaning a higher reliance on private vehicles, contrary to policy aims to promote sustainable modes of transport.
86. Overall, the proposed removal of the condition is considered to display conflict with the sustainable transport aims set out in Policy 21 of the CDP. However in highway's terms, sufficient parking and vehicle access to the site can be achieved in accordance with other requirements of policy 21.

Impact on character and appearance of surrounding area

87. Policy 29 of the County Durham Plan requires that development should achieve well designed buildings and places and contribute positively to an area's character, identity, heritage significance and landscape features. In addition, landscape proposals should respond creatively to topography and existing features of landscape interest as well as take opportunities to create attractive views of and from the site.

88. As noted the application site benefits from a planning approval for 16 holiday lodges and is largely laid out to accommodate this. As such the proposed variation of condition to remove the occupancy condition would not alter the design, lay-out and scale of development at the site. It is expected however that the removal of the condition would result in differing uses of the outdoor curtilage areas by permanent residents over what would be expected of tourist visitors attending the site. For example, permanent residents would introduce a range of outdoor paraphernalia such as garden furniture and sheds that would introduce visual clutter. That being said, it is noted that whilst the application site sits at a higher level to the existing residential caravan site, it is well screened from public views, with no public access or rights of way to the north and west of the site as well as an existing embankment with mature established planting along the Coast Road significantly limiting views into the site from the east and south.
89. Whilst there is greater potential for the site to become more suburban in character through permanent occupation of the holiday lodges, the degree to which this would alter the character of the wider area beyond the impacts of what is currently approved on site is not considered excessive. There may be some opportunities to provide planting along the north boundary to provide some level of screening protecting the amenities of the wider countryside. Overall, however the extent of conflict that removal of the condition would have with policy 29 of the County Durham Plan is considered limited.

Applicant's case to remove the condition

90. The case put forward by the applicant states that there has been limited demand for the purchase of the holiday lodges, despite rigorous advertising of the site over a number of months, commencing in March 2019. Evidence was provided demonstrating details of the advertisements put in place. On this basis the applicant is now seeking to change the use of the site to allow permanent occupation as a sole residence in the hope of attracting more interest so that all of the plots will be purchased.
91. Following site visits it was noted that the site was laid out in preparation for installation of holiday lodges, with tarmac drives and hardstandings in place along with service points. Also on site at the time were six holiday lodges, one of which appeared to be inhabited. More recent information submitted as part of a viability statement, indicates that 10 of the lodges have now been sold, and from assessing the sales particulars associated with the sites, these appear to have been sold on the basis of being holiday homes. With this in mind, the case put forward by the applicant to remove the condition appears hold limited weigh given market demand has increased to the point where the 10 of the units have been sold for their intended purpose as holiday lets. Whilst six lodges remain unsold the majority of the site is now occupied as holiday lets, and with the permission implemented, there now appears reasonable likelihood that the remaining lodges could also be sold for their intended purpose. Therefore, it seems the circumstances advanced in support of the removal of the condition no longer apply and are not deemed sufficient justification in planning terms to remove the condition and allow alternative residential use.
92. The applicant has submitted an appeal decision in support of the application which relates to a site in Suffolk where the Inspector allowed a change of use from holiday lodges to residential accommodation. However, it is noted that this example displays clear differences from the current proposals. For example, the Suffolk appeal site is noted as being in a more developed area, located in close proximity to a large business park site to its south and as such, does not lend itself as an obvious tourist attraction site. By comparison, the location of the application site on the west side of the Crimdon Coast Road forms part of a wider area that reflects a strong rural character, although the current Evergreen Park site does break this and appears somewhat anomalous on the landscape.

That aside, the Crimdon site has much more obvious tourism merits, being close to the coast and the rural surroundings, isolated from a working environment. The inspector making the appeal decision of March 2016 (APP/X1355/W/15/3140987) associated with the current application site, stated that the development would address an identified tourism need and provide some limited economic benefits within the area. It is noted that this was the only 'benefit' of the development identified by the Inspector, which would consequently be lost if the development were released to permanent residential use, not a defining characteristic of the area.

93. To reiterate this point, national and local policies only allow genuine tourism proposals in such isolated, rural locations, and schemes for residential dwellings are assessed against separate housing policies. The reasoning for this is that holidaymakers would support local shops, restaurants, bars and tourist attractions in the area. If the lodges were used as permanent residential accommodation, residents would be unlikely to spend in the local economy at the same level and in the same way as holidaymakers and less contribution to the local economy would therefore be expected. On the other hand, permanent households would put pressure upon local services, placing demands on local schools and social and health services that would not normally arise from visitors. Moreover, in remote locations the cost of providing these services is greater. The aim of these differing policy approaches is therefore to ensure suitable development in suitable locations, with appropriate financial contributions where applicable.
94. To this end, the inclusion of the planning condition to prevent full time occupancy of the lodges was therefore both reasonable and necessary at the time of the original approval. The intention to remove this condition would have clear impacts not least due to policy conflicts raised previously and as such the reasons for including the condition remain relevant.

Section 106 Obligations

95. As already highlighted this application to remove the occupancy condition and allow full time residential occupation of the units as sole residents, would effectively grant planning permission for new residential development. Such development, particularly at this scale must be supported with suitable infrastructure provision and provide an appropriate level of developer contributions. Indeed, policy 25 states that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs. The following details clarify the extent of contributions that would be required.
96. Policy 26 of the County Durham Plan states that proposals for new residential development will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space needs Assessment (OSNA), Where it is determined that on site provision is not appropriate, the council will require financial contributions secured through planning obligations towards the provision of new open space. Spatial Policy assessed the details of the proposal and calculated off site contributions on a reduced basis given the size of the dwellings as £27,667.50.
97. Policy 15 of the County Durham Plan requires all qualifying new housing proposals should contribute towards meeting the needs of the county's existing and future residents by providing a percentage of affordable housing. Affordable provision at 10% is considered to be at a level which would normally enable schemes to be developed viably in this part of the County.

This would equate to 2 affordable units out of the total of 16. However, it is acknowledged that given the nature of the site and proposed dwellings, any on site provision would be unlikely to be attractive to registered providers and as such an off-site contribution would be required to be secured through a section 106 agreement.

98. Policy 42 of the County Durham Plan seeks to mitigate against recreational pressure upon internationally designated sites, particularly along coastal areas. Ecology officers comment that due to the site's location within the 6 km Durham Coast HRA buffer, a screening assessment has been undertaken to determine whether development within the buffer zone would have a significant effect on the integrity of the Durham Coast SAC and Northumbria Coast SPA. This screening assessment confirms that mitigation would usually be required for all developments including new dwellings or holiday accommodation by means of a financial contribution towards Coastal Access Management Measures. However, in the current circumstances, the permission for 16 holiday lodges was granted prior to the introduction of these HRA mitigation measures and as such, it would not be deemed reasonable to retrospectively require these contributions. The proposal to remove the condition to allow full time residential occupation on site is not considered to create significant additional harmful effects to the internationally designated sites over and above what might be expected from occupants of the lodges as holiday accommodation. In ecology terms, therefore, the removal of the condition, does not create a significant material change to warrant these payments towards coastal access management.
99. In relation to the contributions for open space and affordable housing, the applicant was advised of these, but in his response, provided a viability statement which outlined why these payments would make the scheme unviable. Officers closely assessed the information provided but it was deemed unsatisfactory and not sufficient to warrant exemption from payment of the contributions. To reiterate policy 25 in relation to developer contributions, this specifies that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. As detailed, the development is already deemed to conflict with development plan policies and is therefore unacceptable, however, non-payment of the contributions necessary as mitigation for its impacts with limited evidence as part of the viability statement to back up non-payment brings the application further in conflict with policy requirements.

Other issues

100. Contaminated land section raised no issues with regards the development and require only an informative relating to unforeseen contamination.
101. With reference to the CPRE objection querying whether the development can be considered under a Section 73 variation of condition route, given that the proposal would change the description and character of the development, it is confirmed that in planning terms there is no use class difference between residential use and holiday use, hence the requirement to condition the extent of occupation. Permanent occupation at the site through removal of a condition brings the development into a different policy context that needs to be considered, but it does not prevent its determination under a variation of condition application.

CONCLUSION

102. 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.
103. When assessed against relevant policies of the County Durham Plan the development would conflict with policy 10 of the CDP in that it would result in unacceptable development within the open countryside that would not meet any of the criteria listed in this policy. The full-time occupancy of the lodges as inhabitant's sole residence would result in the housing within an unsustainable location where residents would be unduly reliant upon trips by private vehicles access everyday shops, services, education and employment opportunities and the scheme fails to provide adequate standard of amenity for occupiers. Whilst the applicant has sought to advance a case that there is no longer demand for holiday accommodation of this type as evidence by a failed marketing programme, the sale of 10 of the lodges seems contrary to this argument and fails to provide sufficient justification.
104. In light of the above it is not considered that material planning considerations are such that they would outweigh the conflict with policy as identified and in any in event the applicants failure to agree to the required developer contributions display further conflict with policies 15, 26 and 42 of the CDP.
105. Consequently, the requirements of condition 5 to prevent full time residency at the site remain reasonable and necessary in accordance with appropriate national and local planning policies.
106. The proposal has generated limited public interest with two letters of support having been received from both the current and former ward member. In addition, one letter of objection has also been received. The reasons for support and objection to the application have been taken into due consideration in presenting the recommendation to the planning committee and are detailed within this report.

RECOMMENDATION

107. That the application be **REFUSED**, and that Condition 5 remains unaltered, for the following reasons:
108. The removal of the occupancy condition in order to allow full time residential occupation of the lodges previously approved would result in permanent residential housing in what is an unsustainable location, poorly related to the existing pattern of development, to the extent that future occupiers would be heavily reliant upon trips by private vehicles to access shops, services, education and employment opportunities contrary to the requirements of Policies 6 and 10 of the County Durham Plan and paragraph 105 of the NPPF.
109. In addition, the removal of the occupancy condition would result in an unacceptable level of residential amenity provision for future occupiers which would normally be required for full time dwellings, particularly in relation to inadequate distancing standards between dwellings, contrary to the aims of policies 29 of the County Durham Plan, The Council's Residential Amenities Standards SPD (2020) and paragraphs 124 and 127 of the NPPF.

110. The development fails to provide affordable housing through provision of the required off-site contribution contrary to Policies 15 and 25 of the County Durham Plan and Part 5 of the NPPF.

111. The development also fails to make provision for adequate open space by means of off-site contributions in conflict with Policy 25 and 26 of the County Durham Plan and Part 8 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 in arriving at its decision to recommend refusal of this application have, without prejudice to a fair and objective assessment of the proposal, considered the proposal in relation to relevant planning policies, material considerations and representations received, however, in balance of all considerations, the issues of concern could not result in a positive outcome being achieved.

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
- Residential Amenity Standards 2020
- Statutory, internal and public consultation response



Planning Services

Removal of Condition 5 (holiday home occupancy restriction) of planning permission DM/15/01520/FPA for the erection of 16 executive holiday lodges

Evergreen Park
Crimdon
TS27 4DW

Ref: DM/21/00185/VOC

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Comments

Date 25 November 2021

Scale Not to Scale



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/21/02693/FPA
Full Application Description:	Change of use from betting shop to hot food takeaway and 2 no. flats, to install new front door and roller shutter and flue to rear
Name of Applicant:	Mrs Gemma Uyan
Address:	37 Seaside Lane, Easington Colliery, Peterlee, SR8 3PG
Electoral Division:	Easington
Case Officer:	George Spurgeon (Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site comprises a vacant former betting shop within the defined local centre of Easington Colliery. The premises is a large double frontage two storey mid terrace property that has been vacant since January 2020, with the glazing within the shop front having been boarded up.
2. To the rear, the premises features offshoots that cover the entire rear yard. To the western side of the rear elevation is a first floor offshoot that extends the full length of the curtilage. To the eastern side of the rear elevation is a 5.8m long first floor offshoot, with a ground floor offshoot taking up the remaining length of the curtilage. In between the two first floor offshoots there is a gap of 2.4m to 5.3m wide, leaving an 'L' shaped ground floor element with flat roof.
3. The premises fronts onto Seaside Lane and does not benefit from any dedicated parking spaces. The premises is located within an accessible location within the local centre of Easington Colliery and is adjacent to a bus stop providing a public transport option for access into Peterlee and Seaham.

4. To the west of the site adjacent to the host property lie two existing hot food takeaways, with further commercial premises to the east. To the south lies the Parish Church and to the north lies a parcel of amenity green space, with allotments beyond both to the north and south. To the north east, north west and south west lie residential dwellings, giving the area a mixed commercial and residential character.

The Proposal

5. The application seeks planning permission to change the use of the ground floor to a hot food takeaway and to convert the first floor into two residential units: a one bed flat and a five bed flat. The first floor is thought to have been previously used as an office and storage area connected to the betting shop operating from the ground floor.
6. As part of the proposals, the existing entrance to the ground floor would be widened to 1.8m, a new door would be installed to the right-hand side of the frontage, and the existing door within the rear elevation would be replaced with a widened roller shutter entrance to the bin storage area. A flue would be installed to the flat roof of the central ground floor rear offshoot.
7. The one bed flat is proposed to be occupied by an employee of the ground floor unit and would be accessed by the new door within the front elevation. The flat would comprise a bedroom, lounge, shower room and kitchen/dining area. The five bed flat would be accessed from the widened door to the left-hand side of the frontage, with alternative access available via the rear. This flat would comprise five bedrooms, a lounge and a kitchen/dining area, as well as a bathroom on the ground floor. The applicant has indicated that this flat is intended to be occupied by her and her children.
8. The application is reported to the Planning Committee at the request of the Easington Colliery Parish Council due to concerns over an over proliferation of hot food takeaways, parking and servicing, odour and noise, and anti-social behaviour and littering.

PLANNING HISTORY

9. None.

PLANNING POLICY

National Policy

10. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social and environmental, each mutually dependent.

11. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve 'core planning principles'. The following elements of the NPPF are considered relevant to this proposal;
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 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.
14. *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.
15. *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.
16. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
17. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
18. *NPPF Part 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.

Local Plan Policy:

19. The following policies of the County Durham Plan is considered relevant to the determination of this planning application;

20. *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.
21. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
22. *Policy 29 Sustainable Design* details general design principles for all development stating that new development should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
23. *Policy 30 Hot Food Takeaways*: states that within defined local centres consideration should be given to the impact that the proposed hot food takeaways would have in terms of the overall vitality and viability considering the numbers of existing hot food takeaways and will be refused if the impact is unacceptable. Where a proposed hot food takeaway is considered locationally acceptable, consideration will need to be given to the impact that the development would have in terms of amenity, particularly in relation to noise and odours.
24. *Policy 31 Amenity and Pollution* states that new development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and should be integrated effectively with any existing business and community facilities.
25. *Policy 42 Internationally Designated Sites* states that development that has the potential to have an effect on an internationally designated site will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. In these exceptional circumstances, where these tests are met, appropriate compensation will be required in accordance with Regulation 68. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site.

In determining whether a plan or project will have an adverse effect on the integrity of a site, the implementation of identified strategic measures to counteract effects, can be considered during the Appropriate Assessment.

Neighbourhood Plan

26. 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:

27. The Easington Colliery Parish Council object to the application on the grounds that the proposed hot food takeaway would result in an increase of noise at unsociable hours, anti-social behaviour, odour and litter; that parking to the front of the premises is limited and parking to the rear would adversely affect residential amenity, with servicing to front being questionable due to the busy road; and an over proliferation of takeaways with the introduction of a further takeaway adversely affecting the health of residents and the town centre.

Internal Consultee Responses:

28. *Highways*: comment that the proposals do not provide for any parking space and would therefore rely upon on-highway space for residential parking, with a car park area available to the rear of Ashton Street. Parking to the frontage is restricted by the location of a bus stop and double yellow lines to the west which extend round into the side street, which results in space on the B1283 Seaside Lane being at a premium due to residential properties above the shops. It would appear from the submitted plans that delivery drivers will have to use the space to the front where there are up to five other take-aways in close proximity. Whilst concerns were raised regarding the parking problems created by the potential inappropriate parking of delivery drivers, the issue is not considered to be severe enough for a highways objection to sustain an appeal under NPPF Paragraph 111.
29. *Ecology*: comment that the site is within the 6k HRA buffer therefore £756.61 Coastal Access Management Measures (CAMMS) contribution is required for every additional residential unit created.
30. *Nuisance Action*: consider that odour from the preparation and cooking of meals and noise from extraction equipment is likely to give rise to statutory nuisance without adequate mitigation. Noise transference between the ground floor and first floor premises commercial use is likely to be intrusive and cause nuisance to the first-floor residential use and recommend conditions requiring details of odour abatement measures, sound proofing measures, to require noise audible within the specified rooms and areas within the first floor flats to not exceed specified noise levels, and to restrict the operating hours of the takeaway to 0900 to 2330hrs on Mondays to Thursdays, 0900 to 0000hrs on Fridays and Saturdays and between 1100 to 2330hrs on Sundays.

31. *Police Architectural Liaison Officer*: no comments received.

Public Responses:

32. The application has been publicised by way notification letters to neighbouring landowners, and a site notice. One objection has been received, raising concerns that delivery drivers to existing hot food takeaways in the area park on double yellow lines every night from around 4pm and take no care when leaving and arriving at the current shops; that there are two takeaway shops next door to 37 Seaside Lane, and that there are too many hot food takeaways in the area which doesn't help with obesity.

Applicants Statement:

33. The submission is to bring back into operation a large premises within the business area. There are currently three takeaways in the street including No 38 one of which operates on a part time basis. We would be bringing employment to the area. I am currently living in a council house nearby which would be freed up when I move above the business. We have been successfully operating in the area for 11 years and hope to continue for many more.

PLANNING CONSIDERATION AND ASSESSMENT

34. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with Paragraph 212 of the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision-making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to the principle of development, the impact on residential amenity, highway issues, the character and appearance of the area and ecology.

Principle of Development

35. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise with the NPPF representing a material planning consideration in this regard. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up to date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up to date development plan to be approved without delay.

36. Paragraph 86 of the NPPF advises that planning policies 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 (including housing) and reflects their distinctive characters.
37. In line with this, Policy 9 of the County Durham Plan (CDP) sets out the hierarchy of town centres across the County. The policy defines the settlement of Easington Colliery as having a local centre in which the application site is located. The policy sets out that the council will seek to protect and enhance defined local centres. With regards to the evening economy, Policy 9 supports proposals that would positively contribute to the evening economy provided that they contribute to the vitality and viability of town centres, promote public safety and accord with all relevant policies in the CDP.
38. CDP Policy 30 relates to proposal for changes of use to hot food takeaways and seeks to restrict the number of new hot food takeaways receiving planning permission within the County. This is specifically within town centres (as defined within Policy 9) where there are already higher concentrations of hot food takeaways. With regards to defined local centres, Policy 30 states that consideration should be given to the impact that the proposed hot food takeaway use would have in terms of the overall vitality and viability considering the numbers of existing hot food takeaway uses and will be refused if the impact is unacceptable. Consideration should be given to the impact that such a proposal would have on the overall vitality and viability of the centre, reflecting on the mix of uses and also the levels of existing vacancies.
39. The Council monitor town centres on an annual basis and this provides an assessment of the mix of uses within town centres within the County, but local centres are not monitored in the same way. Therefore, as part of the assessment of this application, a site visit and walk around the local centre is important to observe the current balance of uses within the local centre before assessing whether this proposal would harm the vitality and viability of the local centre.
40. It is noted that since the Examination in Public and shortly before the Inspector's report was issued, changes to the use class order were announced which have now taken effect. The Inspector acknowledged this within his report and recognised that none of the policies in the Plan prevent the new regulations taking effect in the county. The Inspector went on to state that National Policy remains unchanged, and whilst implementation of some of the policies in the Plan will be affected, the full implications are not yet clear and will need to be thought through over time. From September 1st 2020, hot food takeaways are now defined as sui generis, but the policy is still however applicable to sui generis proposals that are clearly proposing a hot food takeaway. These will be hot food takeaways where their sole use is for the sale of hot food for consumption off the premises, as is the case for the proposed use applied for in this application.

41. A site visit was undertaken on the 13th August 2021 and it was observed that there are 5 existing hot food takeaways within the defined local centre, two of which operate from the premises immediately to the west of the application site. The applicant has indicated that the proposal is to relocate the existing hot food takeaway operating from the adjacent unit to the west, Pizza Mania, into 37 Seaside Lane. The applicant has stated that the intended future use of 38 Seaside Lane has not been decided at the current time, however given its current use as a hot food takeaway no further planning permission would be required for a new / different hot food takeaway to begin operating from this premises.
42. A total of 41 premises were counted within the local centre and so the introduction of a further hot food takeaway would result in just under 15% of premises being in use as a hot food takeaway. However, the local centre appeared to be in poor health with 14 vacant premises observed (including the application site). In the last 3 months of 2020, high street vacancies in England were 13.7% according to the British Retail Consortium and Local Data Company, with the vacancy rate in Easington Colliery local centre being substantially higher than this at over 30%. The application site has been vacant since January 2020 and so whilst it would not be considered to be a long-term vacancy (3 years) it has been vacant for a significant period of time and the proposal would result in the premises being brought back into use.
43. Given the high proportion of vacancies observed in the local centre, allowing this proposal for the introduction of a hot food takeaway in a currently vacant unit would not prevent opportunities for the introduction of additional retail / main town centre uses to come forward and operate from the other vacant units present within the local centre. It is acknowledged that there are limitations of the above data collection, but it is considered that sufficient evidence exists to demonstrate there is a high enough vacancy rate that the approval of this application would not prevent opportunities for retail uses to come forward. Accordingly, the principle of the proposed use in this location accords with CDP Policy 9 and 30.
44. In terms of the creation of the first floor flats, CDP Policy 9 is supportive of the introduction of residential uses to town centre where they can contribute to the overall housing supply and also to a centre's vitality and viability, whilst also increasing footfall. In this instance, the proposals would see the vacant ground floor brought back into commercial use and would use the vacant first floor as two residential flats. This would retain the property as a commercial premises with active street frontage whilst making use of the unused space above for residential use which would help to increase footfall within the local centre.
45. Therefore, although the proposal would potentially result in the collection of three hot food takeaways towards the middle of the defined local centre, in the context of the high number of vacant units within the local centre and the length of time the application site has been vacant with the proposal bringing the premises back into active use, in this instance the introduction of a further hot food takeaway is not considered to adversely affect the vitality or viability of the local centre.

Furthermore, the proposals would use the vacant first floor as residential flats, increasing footfall within the local centre. Consequently, the proposals are considered to be acceptable in principle, subject to the considerations discussed under the relevant headings below.

Residential Amenity

46. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
47. In line with this, CDP Policy 30 states that where a proposed hot food takeaway use is considered locationally acceptable, consideration will need to be given to the impact that the development would have in terms of amenity, particularly in relation to noise and odours. Where it is considered that the proposal would give rise to unacceptable impact, the application should be refused.
48. CDP Policy 31 also 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.
49. The development is of a type which can give rise to additional noise and odour generated by the cooking process and also as a result of increased disruption from the comings and goings of customers and deliveries, usually outside of core business hours. The Environmental Health Officer (EHO) commented that the information submitted with the application indicates that the development is likely to breach the thresholds within the TANS which indicates that the development may, without further controls, lead to a significant impact.
50. The proposal would see the introduction of another takeaway unit in a mixed commercial/residential setting. The intention is to operate seven days per week from 1100hrs to 0200hrs, with 2300hrs to 0200hrs being open for deliveries only. These times were objected to and it is also noted that to operate beyond 2300hrs would require a premises license. No detail has been provided in relation to the control of odour and noise which will be associated with the development, but odour will be associated with the extraction of cooking fumes and noise will be associated with the extraction system and with noise transference from the ground floor to the upper floors and adjacent neighbouring properties, as well as arising from the comings and goings of patrons. Furthermore, the applicant intends to convert the first floor into two flats.
51. The EHO considers that the granting of planning permission for the development may potentially result in a statutory nuisance being created through odour generated from the preparation and cooking of meals, noise generated from the operation of extraction equipment, and noise transference between the ground floor and first floor premises commercial use, without adequate mitigation.

52. However, conditions (number 3-5) are recommended to require details of sound proofing measures and fume extraction equipment, as well as to restrict operating hours to no later than midnight on Fridays and Saturdays and 11:30pm on any other day, which has been based on the opening hours of 38 Seaside Lane (Pizza Mania) restricted by condition 4 of reference 5/PL/2009/0433. These conditions are considered sufficient to mitigate the potential of a statutory nuisance or adverse impact upon amenity. With these conditions, it is considered that the proposals are acceptable with regards to noise and odour generation.
53. With regard to antisocial behaviour, the Parish Council have raised concern that there is already a problem with anti-social behaviour in the immediate vicinity where there are frequent instances of littering. They consider increased activity in the area arising from the proposed development would exacerbate these problems. Whilst these concerns are noted, it is considered that there is no direct association between the introduction of a single new hot food takeaway in the location proposed to any tangible likely increase in antisocial behaviour given its position within the defined local centre of the settlement. The Police Architectural Liaison Officer was consulted but no comments were received, and a planning condition is recommended to limit operating hours.
54. With regard to the requirement to contribute to healthy neighbourhoods, Policy 29 requires that proposals contribute towards a healthy neighbourhood and consider the health impacts of developments, whilst Section 8 of the National Planning Policy Framework (NPPF) acknowledges the role of planning in improving health. In this regard, it is acknowledged that whilst significant high levels of hot food takeaways within an area can have a detrimental impact on the physical health of residents within communities within this location it is not considered that there is an over proliferation of hot food takeaways in the immediate vicinity to a level that could be considered to have a direct detrimental impact on the physical health of the neighbourhood, to a level that could warrant refusal of the application.
55. CDP Policy 29 also requires all new residential development will be required to comply with the Nationally Described Space Standards (NDSS). In order to allow for an appropriate transition period, the NDSS will only be applied to outline or full applications approved one year after the Plan is adopted. The CDP was adopted on the 21st October 2020 and so the proposed residential units are required to comply with the NDSS.
56. The application proposes the conversion of the first floor into two flats, with a total of six bedrooms. One flat would contain five bedrooms intended to be occupied by the applicant and her children, whilst the other flat would contain one bedroom to be occupied by a staff member of the ground floor unit below.
57. In terms of the one bed flat, the bedroom would be served by a window to the rear looking across the flat roof of the existing ground floor rear offshoot. Either side of the window lies a flat roofed first floor rear offshoot to the west and a dual pitched first floor rear offshoot to the east. Due to the rear elevation facing north, this room would not directly receive any sunlight and daylight would be limited by the height and proximity of the offshoots either side.

58. In terms of the other habitable rooms, the kitchen / dining area would be served by a secondary window facing west towards the blank elevation of the first floor offshoot 2.8m away, but with the installation of a primary window proposed to the rear (north) to allow sufficient outlook and daylight for the future occupant. The lounge would benefit from a window within the front elevation (south) which would provide outlook and receive sunlight. Therefore, whilst the bedroom would not receive a great amount of light or provide a great amount of outlook, both the lounge and the kitchen/dining room would provide adequate levels of outlook and light and this is considered sufficient to ensure a good level of amenity for the future occupant.
59. In terms of the five bed flat, three bedrooms would be located to the front and be served by windows facing south, providing good levels of outlook and light. The kitchen / dining area would be located to the rear (north) and be served by three windows providing good levels of outlook and daylight. The lounge would be located towards the middle of the first floor to the west side and would be served by rooflights but no windows. Because of this, the lounge would receive light but would not provide outlook.
60. The other two bedrooms would not provide a great amount of outlook or receive a great amount of light. The middle bedroom would be served by a north facing window looking across the flat roof of the ground floor offshoot onto the wall of the first floor offshoot 2.5m away and the rear bedroom would be served by an east facing window looking onto the side elevation of 38 Seaside Lane 6.8m away. The windows serving both of these rooms would fall well below the relevant separation distance, however the Council's adopted Residential Amenity Standards SPD advises at Paragraph 3.6 that 'Distances may also be relaxed having regard to the character of an area. Shorter distances than those stated above could be considered in those urban areas typified by higher densities. It will however be important to ensure that the amenity of existing residents is not significantly impacted upon.'
61. The application site is located within an urban area and given that the proposal relates to the conversion of a vacant first floor above a commercial premises, there is limited scope to improve the proposals in terms of the outlook from and light entering the middle and rear bedrooms. It is noted that the applicant intends to reside in this flat with her children and that the two bedrooms with poor outlook and light could easily be converted to non-habitable rooms, or to form part of an extended lounge in the future through the removal of internal walls, whilst retaining the flat as residential accommodation with three bedrooms. Therefore, whilst two of the bedrooms would not provide high standards of amenity for the future occupants, the other three bedrooms and shared living space would and so given the above it is considered that the poorer outlook from and light levels within the middle and rear bedrooms could be accepted in this instance. The amenity of existing residents would not be significantly impacted upon by the proposed residential use to the first floor.

62. In terms of internal amenity space, the NDSS require a single bedroom is required to have a minimum width of 2.15m and a minimum floor area of 7.5m², with accommodation with more than 2 bedspaces expected to have one double bedroom with a floor area of at least 11.5m and a width of at least 2.75m. The largest bedroom within the five bed flat measures 4m by 3.3m with a floor area of 13.2m², and the smallest bedroom measures 2.5m by 3m with a floor area of 7.5m². The proposals therefore accord with the NDSS.
63. Therefore, subject to the inclusion of planning conditions, the proposed development is considered to accord with the requirements of CDP Policy 29, 30 and 31 and Sections 12 and 15 of the NPPF.

Character and Appearance of the Area

64. CDP Policy 29 requires development to 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
65. CDP Policy 30 also seeks to ensure that roller shutters and blank frontages are avoided where possible.
66. The submitted elevation drawings show a minor alteration to the shop front in terms of the installation of a door to replace a window and allow the existing door to provide sole access to the first floor residential flat; with the new door and window frames to be finished in black aluminium rather than white upvc. The shop front is currently in a poor state of repair with the glazing having been boarded up and these alterations are considered to improve the appearance of the shop front.
67. The application also proposes the installation of a flue to the flat roof of the central 'L' shaped ground floor rear offshoot. Whilst the flue would be visible from Ashton Street to the rear, this would not appear out of place in the context of Ashton Street where there are existing flues in place to serve the other hot food takeaways in the vicinity and it would not be visible from the front elevation and Seaside Lane as the main street. Whilst roller shutters are proposed to the rear, none are proposed to be installed to the shop front.
68. Objections have been received in relation to increased litter generated by the proposal which cite concerns regarding similar issues with the existing hot food takeaway already in operation. Whilst it is acknowledged that the nature of the use will result in customers leaving the premises with associated packaging that will require disposal, the area is well served by existing litter bins, with 4 bins being located within 200m of the site, including one to the front of neighbouring property 36 Seaside Lane. As shown by the floor plans, there is understood to be no provision to consume food within the premises and as such food will be taken away and consumed offsite. As such, it is considered that the proposal is located within an area whereby any customers arriving on foot will have opportunity to dispose of their waste appropriately.

69. It is therefore considered that the proposal is acceptable in line with Policies 29 and 30 of the CDP.

Highway Issues

70. Paragraph 110 of the NPPF advises that planning decisions should ensure development provides safe and suitable access to the site can be achieved for all users.

71. Paragraph 111 of the NPPF advises 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.

72. CDP Policy 21 is broadly in accordance with the above and relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network.

73. The application proposes the change of use from a former betting shop to a hot food takeaway and two residential units on the first floor. Parking to the front of the premises along Seaside Lane is restricted by the location of a bus stop and double yellow lines to the west which extend round into the side street. This results in space on Seaside Lane being at a premium due to residential properties above the shops.

74. Objections have been received from the Parish Council, and a resident citing concerns that highway safety would be adversely affected by the proposal as a direct result from an increase in visitors and an unsustainable demand for parking and servicing on the highway immediately in front of the premises.

75. The Highway Authority have been consulted and also raised concerns over the proposed uses not benefitting from any dedicated off-street parking spaces and the likelihood of delivery drivers using the space to the front of the premises where there are other takeaways in close proximity. Highways Officers note that the area to the rear of the premises on Ashton Street could be used for parking and note the location of a public car park diagonally opposite. The applicant has stated that the occupants of the residential accommodation would use the public car park, with delivery drivers and unloading taking place to the rear on Ashton Street. A condition is recommended to this effect.

76. Whilst it is likely there will be some increase in vehicular movements to and from the premises compared to those currently experienced, Highways Officers do not consider the extent of the increase to be severe enough to justify a highways objection and to sustain an appeal under NPPF Paragraph 111. A condition is recommended to restrict the occupation of the one bed residential unit to a staff member working in the ground floor commercial unit and this is likely to limit the number of vehicular trips generated by the occupant of this flat.

77. In light of the above it is considered that given the location of the application site, within the defined local centre of Easington Colliery and adjacent to a bus stop providing access to sustainable travel facilities, that the proposal would not adversely affect highway safety and would accord with the requirements of Policy 21 of the CDP, and Part 9 of the NPPF.

Ecology

78. CDP Policy 25 states that developers will be required to enter into Planning Obligations which are directly related to the development and fairly and reasonably related in scale and kind to the development, in order to secure the mitigation that is necessary for a development to be acceptable in planning terms.

79. CDP Policy 42 states that development that has the potential to have an effect on internationally designated site(s) will need to be screened in the first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment. Development will be refused where it cannot be ascertained, following Appropriate Assessment, that there would be no adverse effects on the integrity of the site, unless the proposal is able to pass the further statutory tests of 'no alternatives' and 'imperative reasons of overriding public interest' as set out in Regulation 64 of the Conservation of Habitats and Species Regulations 2017. In these exceptional circumstances, where these tests are met, appropriate compensation will be required in accordance with Regulation 68. Where development proposals would be likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats Regulations screening assessment and, where necessary, a full Appropriate Assessment will need to be undertaken to demonstrate that a proposal will not adversely affect the integrity of the site.

80. This development is within the 6km Durham Coast HRA buffer therefore Durham County Council (as a Competent Authority) are required to undertake a screening assessment to determine whether the development will have a significant effect on the integrity of the Durham Coast SAC and Northumbria Coast SPA.

81. Durham County Council has carried out initial screening (in conjunction with Natural England) in compliance with the Habitats Regulations for all housing allocations in the county. The 6km buffer allows development to proceed from 0.4-6km away from the coastal European Protected Sites provided certain mitigation measures are taken. This can include alternative green space that meets the Natural England SANG guidelines or a financial contribution of either £662.00 (for sites allocated in the County Durham Plan) or £756.61 per dwelling (for non-allocated sites) towards specific Coastal Access Management Measures identified in the Durham Heritage Coast Management Plan.

82. The proposals would result in the creation of two residential flats within the first floor of a vacant commercial premises, an unallocated site. Given the constrained nature of the site and limited footprint it is not considered that mitigation could be provided on site and as such it is considered appropriate to secure mitigation through commuted sum of £1513.22 to which the applicant has agreed, to be secured through S106 Agreement or Unilateral Undertaking. The development is therefore considered to accord with CDP Policy 42, the habitat regulations and the Council's developer contributions guidance.

CONCLUSION

83. The proposal relates to the conversion of a vacant betting shop within the defined local centre of Easington Colliery into a hot food takeaway with two residential flats above. Whilst there are two existing hot food takeaways operating from the adjacent premises to the west and another three elsewhere within the local centre, the proposal would bring a unit that has been vacant for almost two years back into use and given the high number of vacant premises within the local centre the introduction of a further hot food takeaway would not preclude the introduction of retail uses in the future. Furthermore, the creation of the two first floor flats would help to increase the footfall in the local centre. Therefore, the proposals are not considered to adversely affect the vitality or viability of the local centre, according with CDP Policy 9 and 30 and Part 7 of the NPPF.

84. Although the applicant has not provided any information relating to odour mitigation measures at the current time, EHO have recommended a condition to secure details of this as well as sound proofing measures to safeguard the amenity of the occupants of the first floor flats. A condition to restrict the operating hours of the takeaway is also recommended. With these conditions, the amenity of neighbouring land users is considered to be safeguarded, according with CDP Policy 30 and 31 and Part 12 of the NPPF.

85. Whilst Highway Officers have raised concern at the lack of dedicated parking to serve the development, the application site is considered to be a sustainable location within the defined local centre of Easington Colliery and adjacent to a bus stop, with provision for on-street parking and unloading to Ashton Street to the rear. The increase in vehicular movements to and from the premises is not considered to be of such significance to warrant the refusal of the application in the context of NPPF Paragraph 111.

86. Therefore, the proposed development is considered acceptable in principle and would not have an unacceptable impact upon the character and appearance of the area, residential amenity or highway safety in accordance with the requirements of policies 21,29, 30 and 31 of the County Durham Plan and Sections 2, 4, 6, 7, 8, 9, 12 and 15 of the NPPF 2021 and so approval is recommended subject to the inclusion of appropriate planning conditions.

RECOMMENDATION

That the application be **APPROVED** subject to a s106 agreement to secure the following:

- £1513.22 to be used towards the CAMMs Tier 2 Beachcare and Wardening programme.

And the following conditions;

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 9, 21, 25, 29, 30, 31 and 42 of the County Durham Plan and Parts 2, 4, 5, 6, 7, 9 and 12 of the National Planning Policy Framework.

3. No hot food shall be prepared or served at the premises until details of the fume extraction system, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems and DW172: specification for kitchen ventilation systems shall have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times thereafter when cooking is being carried out on the premises.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 30 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

4. Before any part of the development hereby approved is commenced a scheme of sound proofing measures shall be submitted to and approved in writing by the local planning authority to demonstrate that noise audible within the following specified rooms within the two first floor residential flats will not exceed:
 - o 35dB LAeq 16hr bedrooms and living room during the daytime (0700 - 2300)
 - o 30 dB LAeq 8hr in all bedrooms during the night-time (2300 - 0700)
 - o 45 dB LAmax in bedrooms during the night-time

The approved scheme shall be implemented and a verification report submitted to and approved in writing by the Local Planning Authority prior to the beneficial occupation of the development and shall be permanently retained thereafter.

Reason: To protect the amenity of future occupiers in accordance with Policy 29, 30 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

5. The premises shall not operate outside the hours of 0900 to 2330hrs on Mondays to Thursdays, 0900 to 0000hrs on Fridays and Saturdays and between 1100 to 2330hrs on Sundays.

Reason: In the interests of the residential amenity of surrounding properties in accordance with Policy 30 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

6. All deliveries and servicing (including those being despatched and received) shall be undertaken from the delivery area at the rear of the property. No deliveries shall be received or despatched from the site outside the hours of 1000 and 2330.

Reason: In order to ensure the highway safety in accordance with Policy 21 of the County Durham Plan.

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 (20182021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Statutory, internal and public consultation responses

