



Area Planning Committee (Central and East)

Date Tuesday 12 July 2022
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 14 June 2022 (Pages 3 - 12)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/21/02982/FPA - Sunridge Farm House, Thornley, Durham DH6 3EE (Pages 13 - 30)
Change of use from agricultural to off road motorcycle training centre, with creation of motor track.
 - b) DM/22/00042/FPA - 48 Highgate, Durham, DH1 4GA (Pages 31 - 42)
Construction of roof balcony and first floor bay window to front and installation of first floor balcony and French doors to rear (resubmission of DM/21/01877/FPA).
 - c) DM/22/00139/FPA - The Beauty Spot, Saddlers Yard, Saddler Street, Durham, DH1 3NP (Pages 43 - 62)
Proposed 4 Bed HMO with accompanying communal living area and kitchen in existing loft spaces. A dormer link will be formed to connect the two loft spaces (Amended Proposal).
 - d) DM/21/01141/FPA - Land to the rear of Rock Terrace, New Brancepeth, DH7 7EP (Pages 63 - 86)
Erection of 11 bungalows.

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

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
4 July 2022

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

Councillor D Freeman (Chair)
Councillor L A Holmes (Vice-Chair)

Councillors L Brown, I Cochrane, J Cosslett, S Deinali, J Elmer, C Hood, C Kay, D McKenna, R Manchester, C Marshall, J Quinn, K Robson, K Shaw and A Surtees

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in the **Council Chamber, County Hall, Durham** on **Tuesday 14 June 2022** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors L A Holmes (Vice-Chair), L Brown, J Cosslett, S Deinali, J Elmer, C Hood, C Kay, D McKenna, C Marshall, J Quinn, K Shaw and A Surtees

1 Apologies for Absence

Apologies for absence were received from Councillor I Cochrane.

2 Substitute Members

There were no substitute Members.

3 Minutes

The minutes of the meeting held on 10 May 2022 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

Councillor L Brown noted in respect of Item 5a she was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to the application. In respect of Item 5b she noted she was a Member of the City of Durham Parish Council and had been a member of their Planning Committee at the time when they had requested that the application be considered by Committee. Accordingly, she noted she would withdraw from the meeting at that point and take no part in the consideration of that item.

She added that the objections that had been made related to access arrangements, however, if the Parish had been reconsulted on revisions to the access arrangements made in October 2021 then the objections would have been withdrawn and the application may not have needed to be considered by Committee.

The Chair, Councillor D Freeman noted in respect of Item 5b that he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not been party to their submission in objection to the application. He noted he was also a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to the application.

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

a DM/22/01296/PNC - Agricultural Building to the south of High Grange Farm, Shincliffe, DH1 2TD

The Planning Officer, Michelle Penman, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the change of use of existing agricultural barn to 1 no. dwelling and was recommended for approval, subject to conditions.

The Planning Officer noted that the application was for prior approval and explained that permitted development rights were available through Schedule 2, Part 3, Class Q of the Town and Country Planning (General Permitted Development) (England) Order 2015 which allows the change of use of existing agricultural buildings to residential dwellings without the need for an application for planning permission but subject to a prior approval process. She explained that the Order also includes provision for those building operations reasonably necessary to convert the building to the proposed use. She added that in order for the stated permitted development rights to apply the building must meet a number of criteria as set out within the Committee report. The Planning Officer noted that it was felt the application did meet the requisite criteria and therefore was recommended for approval, subject to conditions.

The Chair thanked the Planning Officer and asked Mr R Ormerod, in his capacity as Clerk to Shincliffe Parish Council, to speak in relation to the application.

Mr R Ormerod thanked the Chair and Committee and explained that the Parish Council noted that the application represented development in the south east of the green belt, near to an area of high landscape value (AHLV) and was not screened and therefore highly visible from the A177. He added that the National Planning Policy Framework (NPPF) stated that inappropriate development was by definition harmful to the green belt and should not be granted unless there were special circumstances. He added the Parish Council did not feel there were special circumstances, and that such development was the 'thin end of the wedge' in terms of further development in the green belt and therefore asked that the Committee reject the application.

The Chair thanked Mr R Ormerod and asked Mr A Moss, representing residents in objection to the application, to speak as regards the application.

Mr A Moss thanked the Chair and Committee and noted he was in attendance to speak against the application on behalf of Mr and Mrs Oxenham. He noted a detailed letter of objection had been submitted and was available with the Committee papers. Acknowledging the time available, he noted he would focus on three main areas.

He explained he would firstly respond to paragraphs 31 to 35 within the Committee report. He noted that to be able to benefit from the permitted development rights, the site must have been used solely for the purposes of agriculture. He added that if that was not the case, the permitted development right was not available. Mr A Moss explained that in the case in hand it was not certain that the site had been used solely for the purposes of agriculture. He added in that respect a property letting business was registered at Moor House Farm with the contact being 'SC and LG Seymour', with Mr S Seymour of Moor House Farm being the applicant. He noted that additionally, photographs of domestic paraphernalia being stored in the building were submitted in documentation submitted as part of last year's application. Mr A Moss noted that he was advised by his client that household equipment had been stored around the farm. He noted that was indicative of mixed agricultural / storage use which would mean the permitted development right was not available. He added that last year's application was refused for reasons including that insufficient evidence had been provided to demonstrate that the building had been solely used as part of an established agricultural unit on 20 March 2013. Mr A Moss noted that the onus was on the applicant to provide sufficient information. He added that it was necessary for the issue to be explained by the applicant and considered by the Council, there being no reference to the letting business or domestic paraphernalia storage in the application or the report. He noted that while an Officer visited the site last month, it was possible that the household storage use which was ongoing last year ceased before the current application was submitted and livestock brought in.

Mr A Moss noted a second point was in relation to paragraphs 42 to 45 of the report, noting that in the ruling of *Hibbitt and Another v Secretary of State for Communities and Local Government and Rushcliffe Borough Council*, the Judge said; *“There will be numerous instances where the starting point (the agricultural building) might be so skeletal and minimalist that the works needed to alter the use to a dwelling would be of such a magnitude that in practical reality what is being undertaken is a rebuild. In fact a more apt term might be a fresh build...”* He noted the full text was set out in the submitted letter of objection.

Mr A Moss noted that applying that to the case in hand, after preparatory works had been undertaken, all that would remain of the building would be its floors, its steel frame and possibly 1.6 metre high block work walls on the side elevations and limited parts of the front and rear elevations either side of the doors. He added there would therefore be very little left of the building and the amount of remaining block work would further be reduced through the insertion of 11 new openings in the side elevations to accommodate windows. He noted that the Addendum Structural Report found that: the concrete floor slab was suitable to provide support to partitions; and the additional loads that would accrue on the main steel superstructure and the existing foundations were acceptable. Mr A Moss noted that report did not comment on the blockwork walls, and he noted that if a floor and steel frame could be reused, that did not make a building capable of conversion. He added that was what the *Hibbitt* case was about. Mr A Moss explained he disagreed with the Council’s Structural Engineer that the building was suitable for conversion. He added that the floor and frame of the existing building may be capable of re-use, however, that was not the point, it would be skeletal and minimalist to use the words of the Judge in the *Hibbitt* case which found that the permitted development right was not available acknowledging the scale of the proposed works. Mr A Moss continued, noting it was his view that the proposed works go a very long way beyond what might sensibly or reasonably be described as a conversion.

Mr A Moss explained the development was in all practical terms starting afresh with only a modest amount of help from the existing building of which only the floor, steel frame and possibly a small amount of block work wall would remain. He added that acknowledging the scale of the works required the proposal was in breach of criterion (i) and was not permitted development. He noted he had submitted a copy of an appeal decision which supported that assessment on a similar building with his letter of objection.

Thirdly, Mr A Moss referred to paragraphs 62 to 67 and noted he agreed with the statement in paragraph 66 that the building is in a prominent location and would be highly visible from Strawberry Lane that passes 100 metres to the west.

He added he also agreed with the statement in paragraph 67 that the dwelling would be a prominent feature in the field and that there would be visual effects. He noted it was his view that the proposed dwelling would, amongst other things, appear out of character and highly intrusive in its setting and the wider landscape to the detriment of issues of acknowledged importance. He noted the proposed development was therefore undesirable in that location.

Mr A Moss noted therefore he would be request that the Council:

1. find the proposal is not permitted development for the reasons of it not having been demonstrated that the building has been for sole agricultural use, and acknowledging the scale of works it is not a conversion and it does not consist of building operations reasonably necessary to convert the building to residential use.
2. that due to its location and associated impacts the development is undesirable for the building to change of use from agricultural use to a dwelling house.

Mr A Moss concluded by noting that in the alternative he would ask that the Committee defer consideration to enable a Committee site visit to be undertaken such that Members could, in particular, review the works that would be necessary to provide a dwelling in the location.

The Chair thanked Mr A Moss and asked Mr R Wood, Agent for the applicant to speak in support of the application.

Mr R Wood thanked the Chair and noted he would focus on the points raised by the objectors. He noted the Parish Council objected as the application was in the green belt, however the site is not in the green belt and green belt policy is not a consideration in this case and therefore the application was not required to demonstrate special circumstances nor were they required to be considered.

Mr R Wood referred to Mr A Moss's claims in terms of the use of the building. Mr R Wood noted that the sole use had been agricultural use, with the information provided by the applicant showing a tractor and farming paraphernalia. He added there was a letter from WA Clarke and Sons noting the use for managing livestock, as recent as last year. In respect of claims of alternative use for household storage, he noted that the S Seymour referred to by Mr A Moss was Mr Steven Seymour, not the applicant Mr Stuart Seymour. He reiterated the building was not used for a household storage business, rather the applicant may have stored a few of their broken chairs in their building. He noted the application had demonstrated the use was agricultural.

Mr R Wood noted Mr A Moss had referred to the Hibbett case and explained that case had been in reference to a mono-pitched barn / lean-to with only one wall. He added that the application before Members had a structural survey that included calculations and a scope of works that articulated how the conversion would be achieved and make reuse of the materials and walls. He added that legislation allowed for insulation, replacement, windows, walls, drainage and so on and that was what the scheme before Members exactly did. Mr R Wood reiterated that the Council's Structural Engineer had stated the building was capable of conversion.

In reference to visual impact, Mr R Wood noted that as a prior notification landscaping was not included in the legislation. He noted it would be consistent as would the character, looking like agricultural buildings. He concluded by noted it was felt that the application met all of the relevant criteria.

The Chair thanked Mr R Wood and asked Officers to respond to the points raised.

The Principal Planning Officer, Paul Hopper reiterated the comments of the Planning Officer, noting the type of application, permitted development rights and the prior notification procedure. He added that planning permission was not required, however the Local Planning Authority could apply conditions. He added that Mr R Wood was correct in stating that green belt policy did not apply in this case. The Principal Planning Officer noted that in determining the application, it was felt by Officers that the development was permitted development in terms of Class Q, having been assessed. He added that Officers assessed the points against the seven criteria and noted that the Authority was satisfied that the building was in agricultural use at the time, with a number of pieces of evidence having been submitted including an agricultural holding reference number, grants provided, the use of the land by a local farmer, and photographic evidence of pens sub-dividing the space. The Principal Planning Officer noted that the proposed works would retain the existing block walls, with a slight extension, and added that timber would be salvaged and cleaned and replaced as necessary. He noted the likely replacement of the roof, should it be found to contain asbestos and reiterated that Officers had confirmed the permitted development and therefore had put forward a positive recommendation to Members.

The Chair thanked the Principal Planning Officer and asked the Committee for their comments and questions.

Councillor L Brown noted she was not a structural engineer, however, she noted the points raised by Mr A Moss and added that a site visit may be beneficial to see if the application was in line with policies.

She noted that the Principal Planning Officer had noted there were no grounds, however, she found it strange a 2015 Order superseded the NPPF and Policies 10 and 20 of the County Durham Plan (CDP).

Councillor J Quinn asked, through the Chair, as regards the provision of solar panels, and insulation that would be provided in the scheme. The Chair noted he would allow the Agent for the applicant to respond. Mr R Wood noted that renewables would be used as far as possible and would be looked at, though were not included in the scheme, noting the need to be mindful in terms of the visual aspect of the scheme. In reference to materials, Mr R Wood noted that insulation that met building regulations would be provided, with the steel material to be used having an insulating backing layer such to meet efficiency standards. Councillor J Quinn thanked Mr Wood and noted he agreed with Councillor L Brown in terms of visiting the site. The Chair noted that in order to accommodate a site visit the application would need to be deferred. The Principal Planning Officer noted that in terms of timescales for determination there was no scope for a deferral, rather for Members to approval or refuse the application.

Councillor K Shaw noted he understood the concerns raised, however, he felt a site visit would not make Committee Members any more expert on structural engineering and therefore he would move the application be approved as per the recommendations and conditions set out within the report. Councillor S Deinali seconded the motion for approval.

Councillor J Elmer thanked Officers for the clarification as regards the rules relating to the application, it being for prior notification and not the usual type of application Members considered at Committee. He noted the 2015 Order referred to permitted development not being intended for new structural elements. He noted that he felt there were new elements and, while the building was capable of conversion, there was significant new building works required. He added that should the roof contain asbestos and that too would then require replacement, even more significant structural work. He asked why a survey had not been done prior to the application in terms of asbestos in the roof as he felt should it need to be replaced that would represent significant structural works. He also asked as regards the potential for replacement walls, noting there appeared to be a lot of unknown quantities Members were required to consider.

The Principal Planning Officer noted that the Local Planning Authority was satisfied that replacement of the roof would form part of conversion and in terms of the structural report, the Council's Structural Engineer had been satisfied. He reiterated the style of the building was agricultural and that the proposals were considered to be reasonable. Councillor J Elmer noted it seemed to him they were in conflict with the permitted development rights as in the Order.

The Principal Planning Officer noted from the survey, the building, the concrete pad and steel were capable of conversion, and that existing block and timber work would be cleaned and replaced as required, and the roof would be replaced if asbestos was found, and that was within the scope of the General Permitted Development Order.

The Lawyer (Planning and Highways), Neil Carter noted that an expert structural report had been provided, and as it was understood the Committee were not necessarily experts on structural engineering, it was reasonable for Members to rely upon the structural report. He noted that the potential replacement of the roof was specifically within the scope of Class Q and Officers had noted that such replacement would not take the application outside of the Class Q permitted development regime.

Councillor C Kay noted that while he was an engineer, he was not a structural engineer. He added that he respected the opinions of fellow engineers and therefore he felt the grounds for conversion of the building were sound. In terms of whether the development was permitted development, he noted Officers had stated that it was permitted development and therefore he would be supporting the motion for approval.

Upon a vote being taken it was:

RESOLVED

That prior approval be required for the matters listed in the report and **APPROVED** subject to the conditions set out within the report.

Councillor L Brown left the meeting at 10.17am

b DM/21/00669/FPA - 115 Gilesgate, Durham, DH1 1QG

The Senior Planning Officer, Leigh Dalby, gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for the conversion of vacant dwelling to provide 4no. 2 bedroom residential apartments (C3), single storey extension to side, various external alterations, associated dual vehicle access points, off-street parking and landscaping and was recommended for approval, subject to conditions.

The Senior Planning Officer noted that following updates, the City of Durham Parish Council no longer objected to the application, however, further objections had been received referring to matters including the highway configuration, no areas for delivery/refuse vehicles, and no electric vehicle charging points. The Senior Planning Officer noted, if Members were minded to approved the application, that Officers would ask that an additional condition be made relating to renewable energy and carbon reduction.

The Chair thanked the Senior Planning Officer and noted there were no registered speakers. He asked the Committee for their comments and questions.

Councillor J Elmer noted he was pleased to see the change in terms of access arrangements and asked as regards cycle storage and renewable technologies, such air-source heat pumps and improved insulation. The Senior Planning Officer noted that cycle parking was covered under Condition 12 relating to the management strategy scheme for the development and that renewable energy technologies would be covered within the additional proposed condition.

Councillor J Elmer moved that the application be approved, he was seconded by Councillor J Quinn.

Upon a vote being taken it was:

RESOLVED

That the application be **APPROVED** subject to the conditions set out within the report and an additional condition relating to renewable energy and carbon reduction.

6 Special Meeting - July

The Chair noted that a special meeting of the Committee would be scheduled for Monday, 18 July 2022 at 9.30am, that being in addition to the scheduled meeting to be held Tuesday, 12 July 2022 at 9.30am.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/21/02982/FPA
Full Application Description:	Change of use from agricultural to off road motorcycle training centre, with creation of motor track.
Name of Applicant:	Claypath Property Company Ltd
Address:	Sunridge Farm House Thornley Durham DH6 3EE
Electoral Division:	Trimdon and Thornley
Case Officer:	Leigh Dalby (Principal Planning Officer) Tel: 03000 261 959 Email: leigh.dalby@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site consists of approximately 6.07ha of agricultural land located to the south of the main farm buildings of Sunridge Farm which itself is located approx. 0.45km to the North East of Thornley and 0.8km to the South East of Ludworth.
2. The site is surrounded by open countryside to the North, East and West with sporadic farm buildings, to the immediate South of the site is Thornley Cemetery which is currently in operation and frequented by visitors and mourners, with open countryside and the settlement of Thornley beyond.

The Proposal

3. The application is retrospective, with the track formation works having already been undertaken and the operation of the track having commenced. As such the application seeks planning consent for the change of use of the site from agricultural land for what has been described as a “Community off-road motorcycle training centre”.
4. As detailed above, the track and its layout has been constructed utilising banked turns, and land contouring to provide for events/training track for use by motor cyclists. The applicant also indicated that parking and storage spaces would be provided within the site for up to 16 cars; 20 motorcycles and 10 light vans.
5. Access to the site would be provided via the existing Sunridge farm access to the public highways and an internal access track.
6. The application has been called-in by Councillor L Hovvels due to level of local resident complaints to allow for Committee consideration.

PLANNING HISTORY

DM/15/02269/PNC Change of use of agricultural building to a dwellinghouse. Prior Approval Req'd and Refused 11th September 2015

DM/15/03147/PNC Change of use of agricultural building to 3no. dwellinghouses. Prior Approval is Required 1st December 2015

DM/15/03429/PNA 2 buildings with total floor space of 450 square metres.

DM/19/01478/PNC Prior approval of proposed change of use of agricultural building to 3 no. dwelling units Prior Approval Req'd and Refused 4th July 2019

PLANNING POLICY

NATIONAL POLICY

7. The Government has consolidated all planning policy statements, guidance notes and many circulars into a single policy statement, the National Planning Policy Framework (NPPF), although the majority of supporting Annexes to the planning policy statements are retained. The overriding message is that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three topic headings – economic, social, and environmental, each mutually dependent.
8. The presumption in favour of sustainable development set out in the NPPF requires local planning authorities to approach development management decisions positively, utilising twelve ‘core planning principles’. The following elements of the NPPF are considered relevant to this proposal;
9. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and

therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

10. NPPF Part 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 8 Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
12. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
13. NPPF Part 11 Making Effective Use of Land - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
14. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. NPPF Part 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:

16. The following policies within the County Durham Local Plan are considered relevant in terms of this proposal:
17. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
18. Policy 10 (Development in the Countryside) states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.

Provision for economic development includes: agricultural or rural land based enterprise; undertaking of non-commercial agricultural activity adjacent to applicant's residential curtilage. All development to be of design and scale suitable for intended use and well related to existing development.

Provision for infrastructure development includes; essential infrastructure, provision or enhancement of community facilities or other countryside based recreation or leisure activity.

Provision for development of existing buildings includes: change of use of existing building, intensification of existing use through subdivision; replacement of existing dwelling; or householder related development.

19. 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.
20. 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.
21. 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.

22. 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.
23. 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.
24. 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.

25. 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.
26. There is no relevant neighbourhood plan within this area.

CONSULTATION AND PUBLICITY RESPONSES

CONSULTEE RESPONSES:

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

Statutory and Internal Consultees

28. **DCC Highways** - While the principle of this development, and the end use itself would not raise any concerns over road safety, there is no information provided with the application as to how many users would be expected at facility at anyone time, and therefore it is difficult to try and quantify the impact on the highway network, and the access to the site, which it is noted is along a private track.
29. **DCC Env. Health (Nuisance)** - Motocross racing is inherently noisy and will have a significant impact in terms of amenity and additional noise generally in the environment depending on the number of motorcycles/quads racing.

The information submitted is not sufficient to allow full consideration against the thresholds stated in the TANS Noise TANS section 3.7 page 18, lighting TANS Section 3.0 page 11, Dust section 3 pg. 14. The applicant should provide the following information for consideration:

The Code of Practice on Noise from Organised Off-road Motorcycle Sport 1994 set out how noise may be managed from off-road motorcycle events.

A noise impact assessment should be submitted which demonstrates how noise maybe controlled from the development site. There is no specific methodology which sets out how motorcycle noise should be measured. Relevant guidance suggests the most effective way of minimising disturbance is to cut it down at source. This maybe done using quieter motorcycle silencers, screening/earth bunds/straw bales, consideration of the prevailing wind direction and use of the natural topography of the surrounding land

We suggest any future assessment should consider relevant background noise levels in conjunction with noise created from the motorcycle track, consideration tonal noise and overall noise levels and its impact on noise sensitive receptors. The aim of the noise mitigation measures, and noise impact assessment shall be establishing a low impact noise environment.

Details of external lighting should be submitted. The information submitted should demonstrate the light is not intrusive to nearby residence. Further guidance can be found in: Guidance Notes for the Reduction of Obtrusive Light GN01:2011

30. **DCC Landscape** - Given the site is well screened from public vantage points (particularly in summer months), the proposals would not have significant landscape or visual effects or conflict with policies dealing with those matters.
31. **DCC Spatial Policy** – The principle of the proposal has element of acceptability under parts of Policy 10 of the County Durham Plan. However, in this case, the motor track is situated adjacent to sensitive receptors (users of the PROW and cemetery) and the impact on their amenity in terms of noise and disturbance is

of paramount consideration, and would appear to conflict with other elements of Policy 10 and other policies within the County Durham Plan.

32. **DCC Public Rights of Way** - There are two Public Rights of Way close to this site, Shadforth Footpath 19 is to the East and Shadforth Footpath 41 is to the South. Shadforth Footpath 41 is in very close proximity to the site.

There appears to be a buffer between the site and the footpath however I do have some concerns regarding the noise potential. I note that to mitigate noise issues the motorcycles will be decibel tested and that hours of use will be limited. Given the close proximity of the site to the Public Rights of Way any further noise reduction measures would be encouraged.

33. **DCC Ecology** – No objections
34. **Thornley Parish Council** – No objection to the principle of the use, however, concerns are raised over the operating times and potential conflict with the cemetery through noise and disturbance.
35. **Durham Fire and Rescue** – No objection
36. **Durham Constabulary** – No objection to the principle as it removed the common complaint that ‘bikers have nowhere to go’, However, the following concerns are raised:
- 1) Noise for local residents from multiple motorcycles where baffles have been removed from the exhaust.
 - 2) Unroadworthy / un registered motorcycles travelling at speed and in an anti-social manner to the location along footpaths and bridal paths
 - 3) Has the track been reviewed from a safety POV by professionals? I note that it is being called a ‘training centre’ with instructors, however the presence of first aiders and marshals make it seem more like a pay as you go track with little control. Would be a proper registration system with registrations of the motorbikes and rider details, or non-registered vehicles only attending on trailers?

PUBLIC RESPONSES

37. The application has been publicised by way of neighbour notification (76no in total), site notice and press advert. A summary of the comments received are as follows:
38. Objections (31no in total)
- Loss of amenity through excessive noise generation;
 - Adverse impacts upon the enjoyment of nearby dwellings;
 - Adverse impact upon the amenity and enjoyment of sensitive locations nearby such as the nearby cemetery and footpaths;
 - Lack of consideration or submitted details in respect of impacts on local ecology;

- Site in operation as a motorcycle track since 2021 without planning permission
- Poor road signage to site.
- Operates at weekends

39. Support (5no in total)

- Good for local community and children
- Reduce Anti-social behaviour
- Riders use appropriate safety protection
- Noise has minimal effect
- Opportunity to engage with a organised hobby

APPLICANTS STATEMENT:

40. This application is in response to the growing anti-social behaviour of off-road motorcycle riders.
41. This has been the subject of a recent discussion in the House of Commons initiated by the local MP for Easington District Mr Grahame Morris (whose support we are seeking).
42. This is available from the House of Commons Library and through the link below.
43. Anti-social behaviour and off-road bikes Debate Pack 25 May 2022 Number CDP-2022-0097 By Fintan Codd, Lewis Pickett (specialist)
<https://www.grahamemorrismp.co.uk/2022/05/31/anti-social-behaviour-and-off-road-bikes>
44. Despite the fact that the Minister for State for Crime and Policing, Kit Malthouse MP, in December 2021, explained that the Government has provided the police, councils and other agencies with a “range of tools and powers” to response to anti-social behaviour, including “anti-social incidents involving off-road bikes.” the problem continues .
45. The main goal in promoting this application is to take these off-road motorcycles away from the public domain and off bridle paths, public footpaths and farm properties who regard their presence as a nuisance and trespass. Current legislation is not working, and both police and local authorities are stretched to their limits.
46. To deter anti-social behaviour all user members as a condition of their membership must sign an undertaking that they will not use their motorcycle on any public thoroughfare as in public footpaths, bridle paths, public road, trespass on farm fields.
47. The track will provide a safe, contained, fun facility and to get these motorcycles away from the public into a controlled regulated area.

48. Although demand is extremely high, in consideration of neighbour's comments, the opening times will be curtailed to one day per week at weekends. The opening times will be strictly limited to 10am until 4pm. This rather than the initial opening times on the application form.
49. Sunridge Farm, Thornley is in total 45 acres of grassland presently, it is in the sole ownership of Anne McCarrol along with the farmhouse which is the family residence. Her son Stuart McCarroll has always had an interest and indeed a passion for motor cross trial type off road motorcycles. In the past his parents would allow him, and a few friends use the private tracks around the farm to enjoy their motorcycles. Off road bikes can legally be ridden on private land with the owner's permission.
50. On an occasion Mrs McCarrol noticed that they had strayed off their land and were also using a bridle path nearby. She immediately stopped this activity. The young men complained that they felt curtailed in the confines of the farm track and that everyone else with trials type motorbikes were using public footpaths, bridle paths and generally trespassing on fields and paths all over the area.
51. She agreed to allow her son to create a winding track on an area of the farm in approximately 15 acres of field not currently in use. This would mimic a winding pathway around the field as some competition tracks do. This track was completed and is used on a regular basis. The word spread and requests were received from all over the area to use the facility.
52. It has now become so popular that it has become necessary to regulate it and on advice from council officials this planning application has been submitted.
53. All other regulatory measures implemented as follows:
54. Welfare facilities are available, these include toilet facilities, changing area, hot and cold water, first aid room and administration office.
55. Marshals will always be employed and deployed for track days and personnel on site. This will provide part time employment to approximately 5 individuals from the county community.
56. Mrs McCarrol wants this facility to succeed whilst causing as little disruption to neighbours as possible so she has sought advice from the industry body and will strictly adhere to the following:
 - the correct insurances will be in place,
 - a decibel meter will be deployed and all motorcycles will be decibel tested according to requirements in Appendix 1 below and rated prior to being allowed to use the track
 - no motorcycles will be allowed on the facility unless they pass the industry decibel check
 - the riders will be examined for competent ability to use the facility.

- training instructors will be on site at all track days to offer full training of the safe use of motorcycles on the track and to ensure riders pass a competent rider test.
57. A charge will be made on track days to cover the cost of marshals, first aiders, instructors, checking mechanic. The point of this application is to provide a safe, contained, fun facility and to get these motorcycles away from the public into a controlled regulated area.
 58. Current legislation allows the track to be used for 14 days per annum but demand has been so great that this has been exceeded and Mrs McCarroll is seeking to regulate this through this application.
 59. The applicant has read the comments from consultees listed below and will seek to adhere to any advice.
 60. Nuisance Action Team have requested a noise impact assessment, In response the applicant will commission a Noise Impact Assessment and adhere to the recommendations
 61. Highways development management have no objections in principle but would like further information which will be provided

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

62. 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, the character and appearance of the area and visual amenity and highway safety.

Principle of Development

63. Policy 10 (Development in the Countryside) states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.

64. As detailed above the site lies within a rural location detached from any nearby conurbation. Policy 10 states that “development in the countryside will not be permitted unless allowed for by specific policies in the Plan, relevant policies within an adopted neighbourhood plan relating to the application site or where the proposal relates to an exception listed in the policy”.
65. Policy 10 criterion g) supports development of development of a new, or the enhancement of, an existing countryside based recreation or leisure activity which will improve access to the countryside for all in terms of walking, cycling, horse riding and sailing without giving rise to adverse environmental impacts. Policy 10 also advises that “new development in the countryside must accord with all other relevant development plan policies and by virtue of their siting, scale, design and operation must not” conflict with criteria l) to r) and advises that “New development in the countryside must also:” accord with criterion s) and t). Criterion l), p) q) and r) all appear applicable.
66. In respect to criteria l) Policy 10 advises that development must not “give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for;” In this regard whilst the Council Ecologist has not objected to the proposal in terms of biodiversity; it is considered that the proposal would by virtue of the noise and disturbance created by the motor cycles have a detrimental impact on the character and tranquillity of the Countryside. The proposal would therefore fail to comply with criteria l) of Policy 10.
67. Criteria p) of Policy 10 states that development must not “be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport”
68. It would appear that the proposal would be in direct conflict with criterion p) as visitors to the proposal would appear to be solely reliant upon unsustainable modes of transport. The criterion also advises that, “New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport”. However, it is considered that criterion p) need to be considered in light of the advice set out in paragraphs 84, 85 and 110 of the NPPF.
69. The relevant part of paragraph 84 of the NPPF requires that planning policies and decisions should enable the development and diversification of agricultural and other land-based rural businesses; and allow for sustainable rural tourism and leisure developments which respect the character of the countryside.
70. NPPF Paragraph 85 recognises that decisions relating to rural business in locations that are not well served by public transport ensure that any development is sensitive to its surroundings, does not have an unacceptable

impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport).

71. NPPF Paragraph 110 advises that in assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:
 - a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
 - b) safe and suitable access to the site can be achieved for all users;
 - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code; and
 - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.

72. In regard to the above paragraphs the NPPF is clear that rural diversification and enterprises should respect and be sensitive to the character of the area and the surroundings and should seeks to promote sustainable modes of transport. It is considered that the proposal due to its noise and dust generating nature does not respect the location, particularly in relation to the neighbouring cemetery and will have an adverse impact on the character of the Countryside in this location. It is therefore considered that the proposal fails criteria p)

73. Criteria Q of Policy 10 relates to highway safety, that will be considered in detail below,

74. Criteria R of Policy 10 requires that development will not have an adverse impact upon residential or general amenity, in this regard the proposal has been in operation for approx. 12months, and as evidenced within the objections has been the cause of significant nuisance in terms of noise, that has impacted the residential amenity of the dwellings close to the site, in addition concerns have been raised in relation to the general amenity of the area and tranquillity that should be afforded to the adjoining Cemetery to allow services and visitors to undertaken their activities on site in the peace and tranquillity that a place of this nature should be given.

75. The Council's Env. Health section have raised concerns in relation to the acceptability of the use, and that further noise studies and mitigation works would be required to ameliorate the current noise nuisance being caused. It is therefore considered that the proposal fails to comply with Criteria R of Policy 10 due to the adverse impact on the proposal due to the noise generation associated with a use of this nature on the residential and general amenity of the area.

Principle of Development Conclusion

76. It is considered that the principle of the proposed use as a moto-cross / cycle training and track facility is unacceptable due to being contrary to the provisions of Policy 10 of the Country Durham Plan as detailed above.

Impact upon Residential Amenity

77. 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.
78. 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.
79. The Council's Env. Health officer has accessed the development and concluded that Moto-cross activity is inherently noisy and will have a significant impact in terms of amenity and additional noise generally in the environment depending on the number of motorcycles/quads racing. They have confirmed that insufficient information has been submitted to fully assess the proposal and requested that full noise assessments and proposed mitigations measures would be required to fully assess the suitability of the proposal.
80. However, given that the use of the site was in principle considered unacceptable due to the reasons as set out above, it was considered unreasonable and perverse to require the applicant to go to the expense of providing this documentation, which would not overcome the overriding concerns in relation to the principle of the development.
81. In relation to Policy 31 it is considered that the proposal is likely to generate noise, dust and odour (in the form of engine exhaust fumes) that will have a detrimental impact on the natural environment, and will have a detrimental impact on the neighbour uses, particularly the cemetery direct adjoining the site which is considered to be a sensitive site.
82. Therefore, in conclusion it is considered that the proposal as presented is unacceptable in relation to the requirements of Policy 29 and 31 of the County Durham Plan and sections 8 and 12 of the NPPF. In that the proposal will have a detrimental impact on the residential amenity of nearby residents and will impact the amenity of the natural environment and the neighbouring uses.

Highway and Pedestrian Safety

83. 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
84. The Council's Highway Engineers have assessed the proposal and concluded that further information is necessary to fully assess the proposal, as detailed above it is considered that requiring this additional information would be unnecessary and perverse as it would not address the principle concerns in relation to the proposal. However, if the principle were to be considered acceptable this information could be secured by way of planning conditions to ensure that the scheme would not create a detrimental impact on the highway.
85. In light of the above it is considered that at present the scheme is contrary (due to insufficient information) to Policy 21 of the County Durham Plan, and Part 9 of the NPPF.

Impact on the character and appearance of the streetscene and landscape

86. 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.
87. 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.
88. In relation to the impact on the proposal on the character and appearance of the area and landscape. The Council's Landscape team have considered the application and confirmed that the development would be well screened from public vantage points (particularly in summer months), and that the proposals would not have significant landscape or visual effects. It is therefore considered that the proposal is acceptable in relation to Policy 29(a) and 39 of the Country Durham Plan.

Ecology

89. 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 of deterioration of irreplaceable habitats will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.

90. In relation to the above a County Ecologist has considered the proposal and concluded that the use is acceptable offering no objections. The scheme is therefore considered acceptable in relation to Policy 41 of the County Durham Plan.

CONCLUSION

91. It is considered that the proposal for a moto-cross/cycle training facility and track within this rural location is unacceptable by reason that the proposal would fail to comply with Policies 10, 21, 29 and 31 of the County Durham Plan which require that new development will not be permitted in rural locations where it will result in an unacceptable impact, either individually or cumulatively, on the character and tranquillity of the area, the residential amenity and general amenity of neighbouring land users and natural environment, and relies on unsustainable modes of transport and where it is not demonstrated that the development can be integrated effectively with any existing business, residential and community facilities (Ludworth Road Cemetery)

RECOMMENDATION

That the application be **Refused** for the following reason

1. The proposal due to its nature would cause unacceptable harm to the intrinsic character and tranquillity of the Countryside, be reliant on unsustainable mode of transport, and result in a detrimental impact on both the residential amenity of nearby residents and the general amenity of the area, specifically in relation to the amenity for users of the Ludworth Road Cemetery which is considered to be a sensitive location contrary to Policies 10, 21, 29 and 31 of the County Durham Plan, and sections 6, 8, 9, and 12 of the NPPF.

STATEMENT OF PROACTIVE ENGAGEMENT

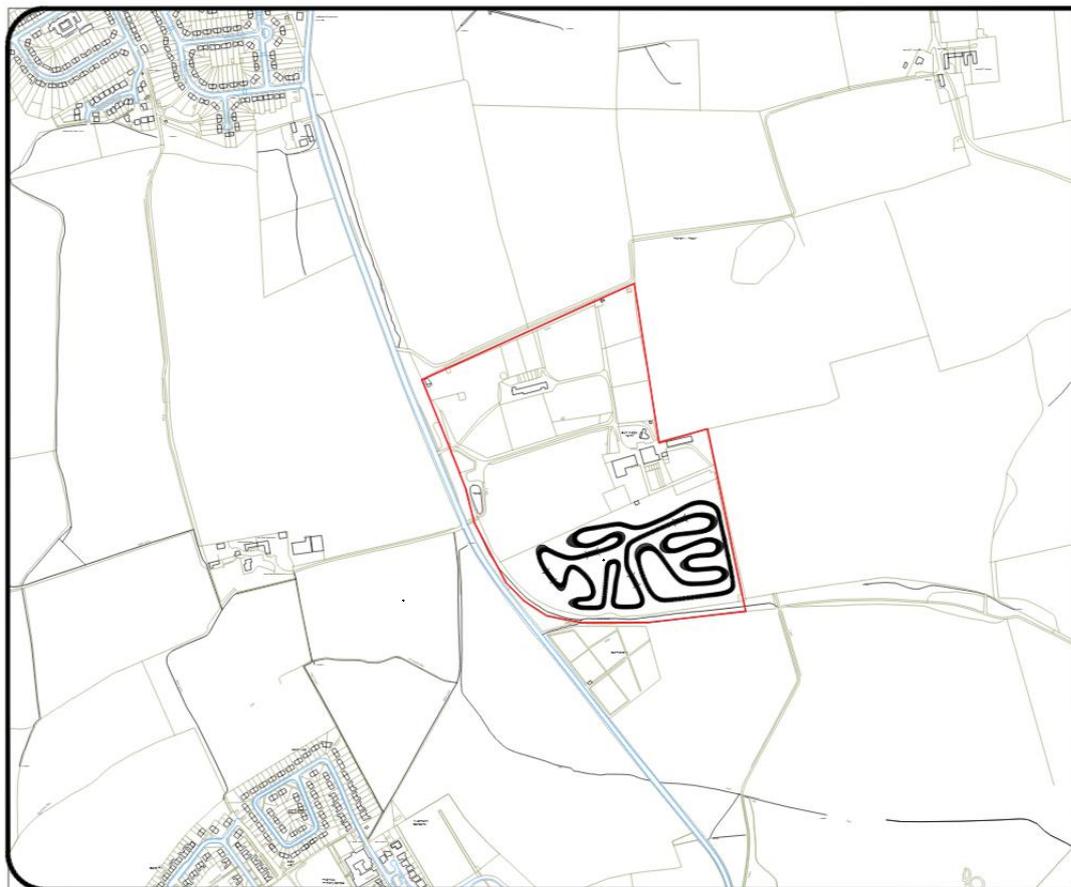
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

BACKGROUND PAPERS

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

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes
County Durham Plan (2020)
Statutory, internal and public consultation responses



Project Name and Address
Proposed Bicycle Track to
Sun Ridge Farm, Thornley,
DN4 3BB

Title
Biking Location Plan

Date: Sep 2021 Drawing No:
Scale: 1:2000 01

Planning Services

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Sunridge Farm, Thornley, Durham

Date June 2022

Scale NTS

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/00042/FPA
FULL APPLICATION DESCRIPTION:	Construction of roof balcony and first floor bay window to front and installation of first floor balcony and French doors to rear (resubmission of DM/21/01877/FPA)
NAME OF APPLICANT:	Mr Barry Grimes
ADDRESS:	48 Highgate Durham DH1 4GA
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site relates to a mid-terrace residential town house, located within the relatively recent, high-quality, modern development of Highgate, which is of traditional styling and modelled on Durham vernacular examples. The site is located within Durham City Conservation Area (CA) and also contributes to the inner townscape setting of Durham Cathedral and Castle World Heritage Site (WHS).
2. The existing dwelling is a three-storey property finished in brick with a slate roof and includes white sash windows with stone cills to the front and rear and is situated in an elevated, visually prominent position presenting a principal elevation to Framewellgate Peth.

The Proposal

3. Planning permission is sought for the construction of a roof terrace and first floor bay window to the front of the dwelling along with the installation of a first-floor balcony and French doors to the rear. The current application is a resubmission of planning application DM/21/01877/FPA which was withdrawn in August 2021 due to concerns raised by the LPA in relation to the impact of the proposal upon the CA and WHS. It is noted that the design of the proposed bay window element has been amended from that previously proposed but that in all other respects the proposal remains unaltered.
4. The application is referred to Planning Committee at the request of Cllr R Ormerod on the grounds that other houses in the area have bay windows, the proposed rear

balcony does not impact on any other houses' views of the WHS, the roof balcony is similar to the roof terrace in the building opposite and at Riverwalk, and it is not visible from the road.

PLANNING HISTORY

5. DM/21/01877/FPA - Construction of 2 no. balconies including a roof balcony, installation of box window and loft conversion. Withdrawn 27.08.2021.
6. 4/12/00038/FPA - Satellite dish low to front east facing elevation. Approved 07.03.2012.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. NPPF Part 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.
10. 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.
11. NPPF Part 16 Conserving and Enhancing the Historic Environment - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

12. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance

Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; historic environment; design process and tools; determining a planning application; natural environment; neighbourhood planning; noise; and use of planning conditions.

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

LOCAL PLAN POLICY:

The County Durham Plan

13. Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards
14. 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.
15. 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.
16. Policy 45 (Durham Castle and Cathedral World Heritage Site) seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal values (OUVs) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.

Neighbourhood Plan

17. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
18. 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.

19. Policy D4 (Building Housing to the Highest Standards) seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and the improvement of energy efficiency and the reduction of carbon dioxide emissions.
20. Policy H1 (Protection and Enhancement of the World Heritage Site) requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces.
21. 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.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

22. Durham City Parish Council have not responded.

INTERNAL CONSULTEE RESPONSES:

23. Design and Conservation – the proposed development would fail to preserve or enhance the character, appearance, and significance of the CA. The proposal would therefore be contrary to NPPF Section 16, Policy 44 of the County Durham Local Plan and Policy H2 of the Neighbourhood Plan. By virtue of the harm identified to the CA, as this informs the inner townscape setting of the WHS, there would be a minor effect on the quality and significance of the inner setting of the WHS in conflict with CDP Policy 45 and Policy H1 of the Neighbourhood Plan.

PUBLIC RESPONSES:

24. The application has been advertised by means of site notice and by notifying neighbouring residents by letter.
25. A representation has been received from the City of Durham Trust who object to the application on the grounds that the roof terrace and bay window have a negative impact on the Framwellgate Peth frontage. The concerns raised are summarised as follows:
 - The proposed roof terrace would be prominent and does not fit with the building or conform to a traditional styling.

- The roof terrace would strip out a large section of traditional-style roof thereby affecting the otherwise positive contribution the Highgate roofscape makes to the Conservation Area.
- Although the bay window follows the pertaining style it does not follow the local design code.
- Together the bay and terrace will create a negative impact on the house frontage and thus will have a negative impact on the Conservation Area.
- The Highgate development otherwise makes a positive contribution to the inner setting of the World Heritage Site (WHS).
- The proposals are considered to fail against Policies 44 and 45 of the CDP and DCNP Policies D4, H1, H2 and S1.
- The Trust sees no issues with the rear window and balcony alterations that work well in a 'mews' setting.

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

APPLICANT'S STATEMENT:

26. The proposed alteration is to enhance the home and the look of the property in line with other houses in the street. The bay window has been carefully designed to incorporate the street scape of other properties and the random style of windows. The window is the same design as other properties within the street in a 2 over 2 formation. There are examples across the estate where windows do not align and also reflect the building across the road at Milburngate.

The incorporation of the balcony to the roof space is to provide a family home with sufficient bedrooms in line with current guidance. The home is currently 3 bedrooms and was converted to a family home from a HMO. The balcony in the roof space will not be visible from the road and has been designed without invasion on neighbouring properties.

The balcony to the rear of the property considers the privacy of neighbours and is reflected in the receipt of no comments from neighbours. This balcony is in keeping with balconies across the city and reflect their design and impact. Durham City Trust comment that the balcony to the rear of the property will enhance the mews style of the houses and enhance the street appearance.

Throughout the last 8 years we have lived within a circle of development from the park to Riverside Walk development, the conversion of the County Hospital, Milburngate demolition and the subsequent construction and most recently the bus station living with all the associated dust, noise etc. During this time, we have through actions of officers within the county council had our car parking permits removed which has resulted in having to park on the drive. This drive even though it is at a substantial angle provided some outside sitting space. These actions have eradicated this sitting space, resulting in a total lack of outside space and the associated impact on our mental health.

All the alterations are designed to provide a family home whilst enhancing the property considering street appearance, locality and impact on the World Heritage Site.

PLANNING CONSIDERATIONS AND ASSESSMENT

27. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the impact on the character and setting of the Durham City Conservation Area (CA) and World Heritage Site (WHS), and residential amenity.
28. The NPPF is a material planning consideration in this regard and advises at Paragraph 213 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF. Paragraph 11 requires development which accords with an up-to-date Local Plan to be granted planning permission without delay.
29. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area along with the Durham City Neighbourhood Plan which is also now adopted, both are the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP and NP.

Impact on the conservation (CA) area and world heritage site (WHS)

30. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the Act) requires that in discharging their planning responsibilities an LPA must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
31. Policy 44 (Historic Environment) of the County Durham Plan (CDP) seeks to ensure that developments contribute positively to the built and historic environment and Policy 45 (Durham Castle and Cathedral World Heritage Site) seeks to ensure that developments within the setting of the world heritage site sustain and enhance the significance of the designated asset. Whereas Policy 29 (Sustainable Design) relates to sustainable design and states that all proposals will be required to achieve well designed buildings and places.
32. Policies H1 (Protection and Enhancement of the World Heritage Site) and H2 (The Conservation Areas) of the Durham City Neighbourhood Plan (DCNP) seeks to ensure that proposals within the setting of the Durham Cathedral and Castle World Heritage Site and Durham City Conservation area sustain, conserve, and enhance its Outstanding Universal Value and the significance of the Conservation Area respectively. In addition, Policy D4 (Building Housing to the Highest Standard) seeks to ensure that all new housing, extensions and other alterations to existing housing must be of a high-quality design.
33. The application property is located within the Highgate development and is described in the Durham City Conservation Area Character Appraisal (Character Area 2: Framwellgate) as a modern housing development designed in the late Georgian/Victorian townhouse pastiche style. It is a dense urban development of two to three storey tall townhouses/apartments and mews apartments where the buildings are grouped around courtyards and squares, with one central access point from Framwellgate Peth. The development occupies an elevated position above street level which enhances its visual prominence. The buildings have strong building lines within the development and strong continuous frontages.

34. The City of Durham Trust has raised objection to the application citing that it would have an adverse impact upon the Durham City Centre Conservation Area and WHS.
35. The Council's Design and Conservation officer was also consulted on the proposals and, concurs with this view, confirming that the wider development of Highgate is of a high-quality design as a pastiche of the Durham vernacular, its significance relating to its architectural and aesthetic values. The officer notes that it makes strong references to the historic streets within the city centre and the Georgian/Victorian properties they feature, with a good attention to detail. By default, it therefore makes a positive contribution to the townscape and conservation area that informs the inner townscape setting of Durham Cathedral and Castle World Heritage Site (WHS).
36. In terms of the proposed roof terrace balcony, this is proposed to be constructed in the eastern roof slope of the dwelling facing Framwellgate Peth. The Conservation officer advised that this element would be an intrusive intervention that adversely modifies the original and most noticeable roof plane, and thus its form and its traditional appearance. It is inherently modern as a long horizontal open-cutting into the roof that is clearly at odds with the Durham vernacular style and character of building, and it has a very uncomfortable relationship with the traditional half-dormers. It would therefore be considered an incongruous feature in the visually prominent roofscape at Highgate, which itself is void of any roof interventions or alterations since its original construction. It should be borne in mind that the Highgate development displays an important staggered roofscape in the context of the CA that should be preserved in its current quality and unaltered traditional form.
37. The current proposals include a bay window to the front eastern elevation, replacing the box style window that was previously proposed. The Conservation officer acknowledges that in-principle the replacement of the existing window with a bay arrangement could be accommodated. However, the bay window as proposed is not considered to be of a sympathetic design and does not reflect other bay windows in Highgate as it is out of scale and inappropriately designed. For example, the existing bays in Highgate are consistent in terms of including only one window opening in the front of the bay, either in a Victorian or slightly wider Georgian style, whereas the proposal is for a bay with two window openings in the front part separated by a central mullion. As a result, it appears too wide and out of proportion in the elevation and positionally, it unbalances the original fenestration that is vertically aligned reflective of the Durham vernacular. Furthermore, the 2-over-2 window style within the bay does not match the other windows in the elevation that are 3-over-3. It would therefore not be a sympathetic modification to the existing front elevation.
38. The Conservation officer suggested that the concerns raised in relation to the bay window could be addressed by amending the design to more accurately reflect the theme of traditional bays within Highgate. On that basis, the applicant was given the opportunity to alter the proposals, however, no amendments were forthcoming.
39. Turning to the rear elevation it is proposed to install a balcony at first floor level with French doors providing access. The Conservation officer considers that the proposed balcony will disrupt the characteristics of the rear elevation, which was designed to reflect the Durham Vernacular, by elongating the right-hand-side opening, installing double doors along with a balcony across the width of the elevation. This will serve to weaken the elevations original architectural design and rear streetscape consistency, adding a new projecting feature not found elsewhere in Highgate. While it is acknowledged that this relates to the rear elevation, it is considered that Highgate's layout was designed to be permeable in terms of pedestrian connectivity providing good quality access routes. As such, during the development of Highgate, due

consideration was given to the design of the property's rear elevations which are visible from the public realm within the development.

40. For the above reasons, the proposals would be considered to have a detrimental impact upon the high-quality architectural design of Highgate, the success of which was dependant heavily on the authenticity of form, proportion, balance, and authenticity of detail that has remained conserved across the development since it was constructed. It is also noted that permitted development rights were removed via the original planning permission, which emphasises the desire to conserve the architectural quality of Highgate in perpetuity.
41. Policy H2 of the Durham City neighbourhood plan is clear that it requires proposals to enhance the conservation area and provides a set of criteria to consider in this regard. For the reasons discussed above, it is clear that the development would not accord with criteria 'a' or 'b' in that it fails to sustain or enhance the architectural qualities of the host dwelling or the existing prominent roofscape. In terms of criteria 'j' and 'k' it would not have detailing appropriate to the context and setting and nor would it use high quality design sympathetic to the character and context of the Highgate and the surrounding conservation area to which it contributes.
42. In addition, the Heritage Statement does not include any analysis of the contribution of the building and Highgate to the significance of the CA, and makes no reasoned case as to how the proposal would be appropriate in terms of conserving and enhancing the CA. The Heritage Statement places the emphasis on the fact that the significance of the CA lies in the preserved medieval/historic layout, period housing, listed buildings and their group value and suggests that as the proposal is located remote from these assets its significance is not adversely affected. However, the statement takes no account of the positive contribution made by various phases of later expansion and modern developments, including Highgate, within the wider city that add to the overall architectural diversity, aesthetic appeal, and character of the CA.
43. Taking the above into account, it is considered that the proposed development would fail to preserve or enhance the character, appearance, and significance of the conservation area and would result in significant harm to the CA and minor affect to the inner townscape setting of the WHS. Therefore, the development would be contrary to Sections 12 and 16 of the NPPF, Policies 29, 44 and 45 of the CDP, Policies H1 and H2 of the DCNP and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Impact on residential amenity

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

Supplementary Planning Document (SPD) referred to in Paragraph 5.303 of the CDP. This sets down standards for alterations, extensions and distances between new dwellings.

47. The proposed roof balcony terrace to the front elevation will be set into the roof and would overlook the highway to the front and new development opposite. It is not therefore considered to have any adverse impact on neighbouring amenity. The bay window would replace an existing window and would not therefore result in any additional impacts on residential amenity. In terms of the rear balcony by reason of its scale and siting, together with the privacy screens proposed to either end of the balcony, it is not considered that the development would permit any views into the rear windows of the neighbouring properties. That being said, the balcony would potentially permit some additional overlooking into the rear external amenity space of the neighbouring dwelling but not to a degree which would warrant refusal.
48. In summary, it is not considered that the proposals would be unacceptably harmful in terms of the amenity of neighbouring occupants and mutual privacy is considered to be suitably protected. The proposals are therefore considered to accord with policies 29 and 31 of the County Durham Plan and the SPD in this regard.

CONCLUSION

49. 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.
50. In summary, the development would have an adverse impact upon the Durham City Centre Conservation Area and as such would fail to preserve or enhance the character, appearance, and significance of the CA. In addition, the development would also have a minor adverse impact on the quality and significance of the inner setting of the World Heritage Site. As such the development would be contrary to Parts 12 and 16 of the NPPF, Policies 29, 44 and 45 of the County Durham Plan.
51. In addition, it is considered that the development would fail to sustain, preserve and enhance the Durham City Centre Conservation Area and World Heritage Site contrary to Policies H1 and H2 of the Durham City Neighbourhood Plan.
52. In light of the above, the application is reported to the Committee with a recommendation to refuse the application.

RECOMMENDATION

That the application be **REFUSED for the following reasons:**

1. The development would fail to preserve or enhance the character, appearance, and significance of the Durham City Conservation Area and would result in a minor impact on the quality and significance of the inner setting of the World Heritage Site. As such, the development would be contrary to Parts 12 and 16 of the National Planning Policy Framework, Policies 29, 44 and 45 of the County Durham Plan and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
2. The development would fail to sustain, preserve and enhance the significance of the CA and WHS contrary to Policies H1 and H2 of the Durham City Neighbourhood Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

Statutory, internal and public consultation responses

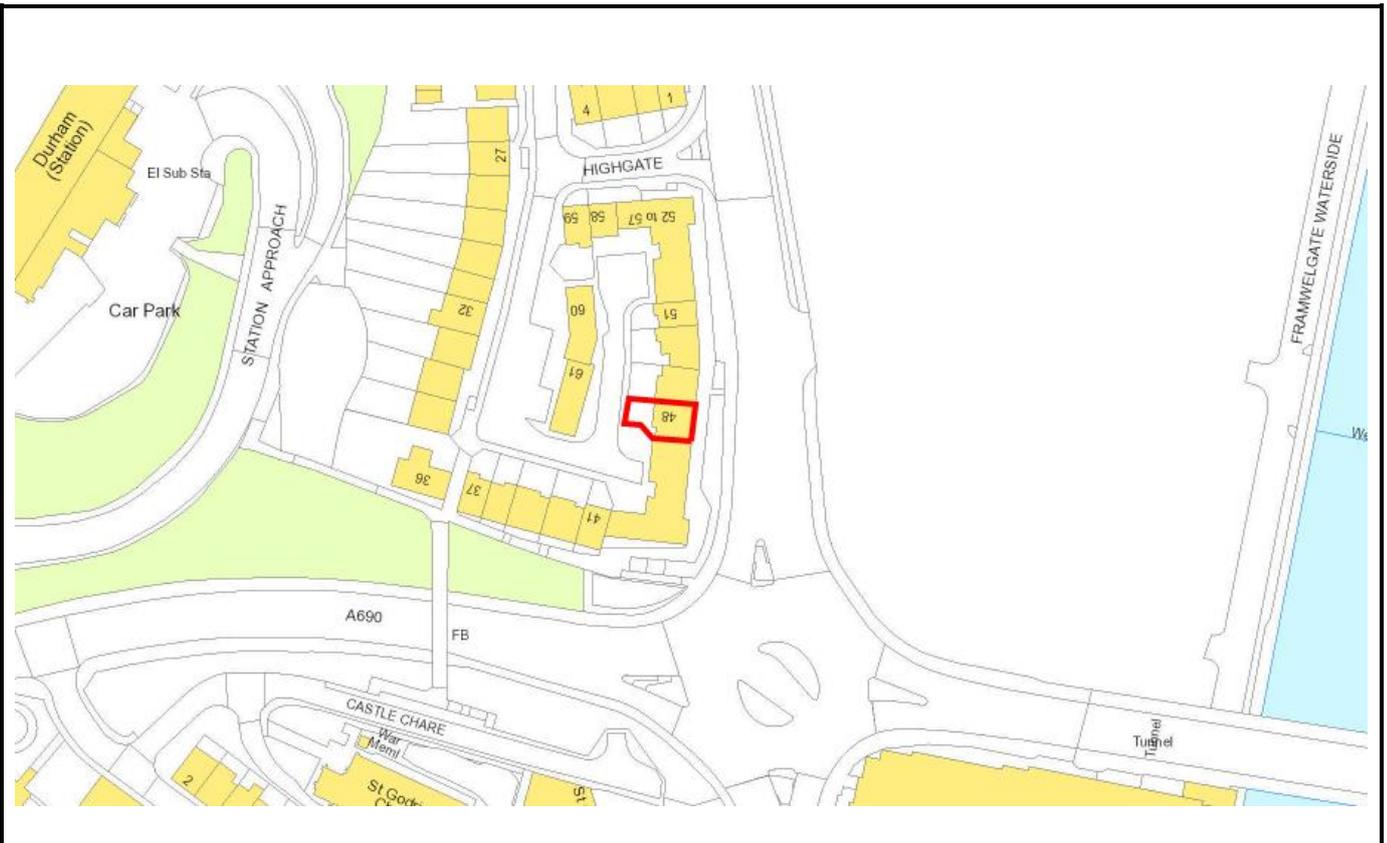
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Residential Amenity Standards SPD (2020)

Durham City Neighbourhood Plan (2021)



<p>Planning Services</p>	<p>48 Highgate Durham DH1 4GA</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. 100049055 2005</p>	<p>Construction of roof balcony and first floor bay window to front and installation of first floor balcony and French doors to rear (resubmission of DM/21/01877/FPA)</p>	
	<p>Date July 2022</p>	<p>Scale NTS</p>

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/22/00139/FPA
FULL APPLICATION DESCRIPTION:	Proposed 4 Bed HMO with accompanying communal living area and kitchen in existing loft spaces. A dormer link will be formed to connect the two loft spaces. (amended proposal)
NAME OF APPLICANT:	Mr Oliver Morgan
ADDRESS:	The Beauty Spot, Saddlers Yard, Saddler Street, Durham, DH1 3NP
ELECTORAL DIVISION:	Elvet and Gilesgate
CASE OFFICER:	John Russell (Senior Planning Policy Officer) Tel: 03000 263 428 Email: john.russell@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is currently a vacant first floor retail unit contained within the loft space of the Beauty Spot, Saddlers Yard, Saddler Street, Durham which is located in the centre of the Durham City. The site is also located within the Durham City Centre Conservation Area and lies within the inner setting of the UNESCO World Heritage Site.

The Proposal

2. Planning permission is sought for the change of use of the existing loft space to a create a 4 bed HMO along with the erection of an associated link dormer.
3. Upon submission of the application there was some discussion surrounding the extent to which the building might be considered Listed or curtilage Listed. As a consequence, the Council's Design and Conservation Section has undertaken appropriate investigations in order to determine whether or not the application site forms part of the grade II listed building at No. 68 Saddler Street. In this regard it is noted that the listing description for No. 68 Saddler Street mentions the rear gable-end wing which indicates the building was surveyed at the time of listing and does not reference the subject building. It has therefore been concluded that the application property could not be deemed as curtilage listed given how tightly developed the rear of Saddler Street is with a wide mixture of building ages, types and uses compacted into a relatively small area. As such listed building consent is not considered to be required.
4. Various other minor alterations are proposed to the external elevations of the property and these relate principally to the creation of the dormer extension and the introduction

of mechanical ventilation. All other works required to facilitate the extension are internally located to create the 4 bedrooms, kitchen and living area.

5. The application is reported to the Committee at the request of the Parish Council who consider that the proposal conflicts with the development plan to the extent that the application should be refused without delay. A full summary of those objections are included in the appropriate section of this report.

PLANNING HISTORY

6. The application site has no planning history.

PLANNING POLICY

NATIONAL POLICY

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

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

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

NATIONAL PLANNING PRACTICE GUIDANCE:

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

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

LOCAL PLAN POLICY:

19. The County Durham Plan (CDP) was adopted by Full Council on the 21st October 2020. The following policies of the CDP are considered relevant to the determination of this application.
20. 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.

21. 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
22. Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation) seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.
23. 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.
24. 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.
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 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.

28. 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

29. The following policies of the Durham City Neighbourhood Plan are considered relevant to the determination of this application.
30. 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.
31. 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.
32. 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.
33. 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.
34. 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:

35. Highway Authority raise no objection, confirming that the proposal raise no concerns in relation to highway safety.
36. The City of Durham Parish Council have raised objection to the application and query whether or not the building is Listed, and that limited information has been presented to demonstrate sufficient bin and cycle storage would be provided. Concerns are also raised regarding lighting and ventilation and lack of cross section to provide an indication of ceiling heights. No information has been provided as to how the construction phase would be managed.

INTERNAL CONSULTEE RESPONSES:

37. Spatial Policy highlight various national and local policies that are relevant to the proposal. These being policies 16, 44 and 45 of the CDP and Parts 12, 15 and 16 of the NPPF.
38. HMO officer confirms that the proposed dwelling will form a 4 bed 2 storey house in multiple occupation and whilst the property will not be required to be licensed under Part 2 of The Housing Act 2004, they have provided advice and guidance to ensure compliance with all relevant amenity and fire safety standards for an HMO of this type. These include a full Fire Risk Assessment must be carried out for the property and a suitable means of escape and appropriate other fire precaution facilities and equipment must be provided of such type, number and location as is considered necessary, to the satisfaction of Durham County Councils and the Fire Authority. Regarding Space and Other Standards, each bedroom/study is required to be a minimum of 6.51m², kitchens used by 1-5 persons shall be a minimum of 7m² and living rooms used by 1-5 persons shall be a minimum of 11m².
39. HMO Data has confirmed that the application site does not benefit from any exemption for HMOs. In addition, within a 100m radius of, and including the application site, 68.5% of properties are Class N exempt student properties as defined by Council Tax records. There is a single approved application, reference DM/21/00104/FPA at 7 - 8 Silver Street, Durham, which has not yet implemented, and this would increase the number of HMOs to 70.4%.
40. Environmental Health (Nuisance Action Team) requested that a noise assessment be undertaken and the results have been reviewed by the officer. It has been recommended that windows in the elevations facing the courtyard should be non-opening to preserve the level amenity currently enjoyed. In addition, the drawings lack detail in relation to the acoustic attenuation that will be provided by the ventilation systems shown; section 5 of the noise assessment details acoustic mitigation measures that will be required, including detail in relation to ventilation methods and an appropriate condition should be included if approval is recommended.
41. The Council's Design and Conservation Section offers no objection to the application and consider that the proposal accords with the requirements of policies 44 and 45 of the NPPF, policies H1 and H2 of the DCNP, Part 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990 subject to the inclusion of pre-commencement conditions requiring the submission, agreement and subsequent implementation of the exact specification for the ventilation system and window openings.

42. The Council's Building Control officer advises that the application demonstrates that it is possible to provide mechanical ventilation and a means of safe exit in the event of fire (eg sprinkler system). However, further details and calculations would be required as part of a building regulations application and any recommendation for approval of this application would include an appropriately worded informative in this regard.
43. The Council's Ecology Officer offers no objection to the application subject to the inclusion of a planning informative relating to bats be attached to any recommendation for approval.
44. Durham Constabulary have noted that the design and access statement the scheme is designed in accordance with Secured by Design Homes 2014 and that the development be carried out in accordance with this guidance;
 - Secured by Design Homes 2019 guide can be found at the following location: <https://www.securedbydesign.com/guidance/design-guides>
 - It is recommended that all doorsets allowing direct access into the building are certificated to STS 202 Issue 6:2015 Burglary Rating 2 (or equivalent), (Without compromising the means of escape in case of fire). An access control system is recommended, with key fob entry or similar with self-closing doors.
 - Each individual private bedroom door is advised to be secured against unauthorised entry recommended to certification BS 8621:2017 (or equivalent). (Without compromising the means of escape in case of fire).

PUBLIC RESPONSES:

45. The application has been advertised by means of site notice, press advert and by notifying neighbouring residents by letter.
46. The City of Durham Trust object to the application based on insufficient information having been provided, a perceived negative impact on the retail unit on the ground floor and the lack of sufficient bin and cycle storage. In addition, they consider that there is no clear demonstration of the need for more student accommodation or whether the development is necessary for supporting retail use. No public benefit is shown. A 1800mm head height is only shown for the communal lounge/kitchen and bedroom 4. It is not possible to verify whether these proposals meet national space standards when ceiling height is taken into account for all the rooms. The relevant standard is NDSS paragraph 10(i) which requires that the minimum floor to ceiling height is 2.3m for at least 75% of the Gross Internal Area. Saddlers Yard can be secured from Saddler Street by door and gate. The management arrangements are not submitted and if the yard is locked outside of trading hours, means of access needs to be shown. The route for the emergency escape through No 68 saddler Street is not shown.

APPLICANTS STATEMENT:

47. The proposal is for a 4 bed HMO, along with accompanying communal living space and kitchen. The dwellings have been designed in accordance with standards set out in: Durham City Plan & DCC Sustainable Design SPD where feasible. As the building is within the Durham City Conservation Area, it is important to ensure the form of the existing building is maintained as much as is reasonably practicable, in order to mitigate the impact on the local vernacular. All detailing, such as stonework, openings etc. are to be retained and cleaned/repaired where necessary.

PLANNING CONSIDERATIONS AND ASSESSMENT

48. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on the World Heritage Site, Conservation Area, surrounding Listed Buildings and Non Designated Heritage Assets, impact on amenity of neighbouring occupiers including commercial uses and future residents, highway safety and ecology.

Principle of Development

49. The County Durham Plan (CDP) was adopted in October 2020 and, along with the City of Durham Neighbourhood Plan represents the up to date local plan for the area and the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP and the DCNP.
50. The NPPF is a material planning consideration. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay.
51. The proposal is for a 4 Bed HMO within the loft space of the existing building including the formation of a dormer link at the first floor of the Beauty Spot, Saddler Yards, Saddlers Street, Durham. The application has been subject to minor amendment since its original submission to demonstrate compliance with the NDSS and that the building can satisfactorily accommodate building regulations requirements to the deliver mechanical ventilation and means of escape.
52. Policy 16 states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for a change of use to a Class C4 HMO where planning permission is required, will not be permitted if, in accordance with part a), including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from Council tax charges (Class N Student Exemption). It further states in part b) that a change of use will not be permitted where existing unimplemented permissions for HMOs within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10 per cent of the total properties within the 100 metres area; or, in accordance with part c), less than 10 per cent of the total residential units within 100 metres are exempt from council tax charges (Class N) but the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.
53. The policy further states in part i) that changes of use to HMO would not be resisted where an existing high proportion of residential properties within 100 metres are

exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.

54. From assessing the percentage in HMO use within 100 metres of the site, it is confirmed that 68.5% are in HMO use and that this increases to 70.4% when planning permissions capable of implementation are taken into account. Whilst this is greater than the 10% stated in policy 16 it is noted that given the site is within the primary shopping area of Durham City, it falls to be considered under part 3 i) of Policy 16 which supports changes of use in such circumstances. The principle of development in this location is therefore considered acceptable and would accord with policy 16 of the CDP.
55. Whilst the development would result in the loss of the first-floor retail space, which is regrettable, it is noted that the unit has no active frontage and that there are a number of vacant units within the city centre at this time. As such it is considered inappropriate to insist on its retention for this purpose particularly given policy 9 of the CDP supports residential uses within town centre locations.
56. Given the development proposes the conversion of the upper floor of the property to student accommodation in what is a highly sustainable location with ready access to the university it is deemed acceptable in principle, subject to other considerations below.
57. Whilst it is noted that the City of Durham Trust raise concern that the applicant fails to demonstrate any additional need for further HMOs within the city centre, it is nevertheless noted that there is no policy requirement in this regard. Consequently, no weight can be attached to this matter in the determination of this application.

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

58. Local Authorities have a duty to preserve or enhance the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 of the same Act requires a similar duty to preserve or enhance Listed Buildings or their setting or any features of special architectural or historic interest which it possesses. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
59. In line with this duty, Policy 44 (Historic Environment) of the CDP seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
60. Policy 45 (Durham Castle and Cathedral World Heritage Site) of the CDP seeks to ensure that developments within the World Heritage Site (WHS) sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value (OUV) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.
61. Both approaches display a broad level of accordance with the aims of Part 16 of the NPPF which states that when considering the impact of a proposed development on

the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be).

62. Neighbourhood Plan policies H1 and H2 relate to the World Heritage Site and Conservation Areas respectively, however, both set that policy test slightly higher in that they require development proposals to both sustain and enhance the special interest and significance of both the WHS and CA, applying a number of criteria where relevant.
63. Policy 29 is also relevant and relates 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.
64. The Council's Design and Conservation Section raised initial concern at the potentially listed status of the application building and the connection to the grade II listed building at No. 68 Saddler Street which was echoed by the City of Durham Parish Council and City of Durham Trust. However, based upon the additional information provided by the applicant and a further desk-based assessment by the Design and Conservation Officer the LPA is satisfied that the subject building is not listed and does not form part of the grade II listing at No 68 Saddler Street.
65. Specifically, with regard to the south block to the rear of No 68 Saddler Street, it is noted that the area is part of the bishop's borough (and area of many tenements in private hands with some tenements being traced back to late C13) No. 68 was possibly one such building as 2 former houses of the C18, the rear dwelling access via a vennel. On the Ordnance Survey map No 68 Saddler Street and the subject building appear to form a single long continuous building. However, this is misleading and not the case. Whilst they are subject to physical connection this is via a modern glazed link extension infilling what looks like former historic yard space. This link extension is possibly part of the extensive remodelling that took place in the early 1990s. Based on their respective built forms and constructions they are evidentially 2 different and separate buildings with the end of No 68 clearly distinguishable.
66. In light of the above, it is considered that the extent of the listing for No 68 relates to the main front 4-storey 1-bay block that is then taken back as a full width gable-end wing, part rendered, and incorporating a sash window in an original opening, and a blocked attic window that can clearly be seen. The listing description for No 68 mentions the rear gable-end wing and indicates that the rear of the building was surveyed at the time of listing, and it does not reference the building which is the subject of this application. Based on the above the subject building appears to be of a much later construction (perhaps C20) compared to the C18 listed building.
67. It is therefore considered that the building could not be deemed curtilage listed given how tightly developed the rear of Saddler Street is with a wide mixture of building ages, types and uses compacted into a relatively small area. The subject building is not directly associated with the principle listed building in a physical or historical sense, is not in ancillary use to it, and they are under different ownerships.
68. The applicant has sought to keep external works to a minimum in order to retain the existing fabric of the building and as such most of the works required to facilitate the

change of use are internal. With this in mind it is considered that the development would not have any adverse impact upon any Listed Building and as such the development accords with policy 44 of the CDP and Part 16 of the NPPF.

69. The City of Durham City Parish Council and the City of Durham Trust both consider the development to have a detrimental impact upon the special historical value of the CA and WHS.
70. In terms of those external alterations the proposal includes the installation of a dormer extension to link two areas of roof space affected by the conversion. The proposed dormer roof extension is low scaled in comparison to the size and massing of the respective roofs, and it has been designed to give clear subordination to minimise the impact. The surrounding roofscape is mixed with horizontal and vertical forms, steep and shallow dual pitched roofs, mono-pitched roofs, and flat roofs visible at different scales, along with a variety of dormer roof extensions, and rooflight interventions. The proposed dormer would not be considered to harm this character as the linear plan form of the respective buildings echoing the historic burgage plot patterns would remain and the traditional dual pitched roof forms sustained. The provision of a natural slate roof covering and natural slate cheeks would help to visually bind the dormer into two roofs. Roof-lights are fairly commonplace within the surrounding roofscape, and given the back land location, the proposed rooflights would be considered to cause no adverse effects. In light of the above it is considered that the proposal would accord with the aims of policies 44 and 45 of the CDP, Part 16 of the NPPF and S66 and S72 of the Planning (Listed Building and Conservation Areas) Act 1990 in that the proposal would deliver a slight enhancement to the heritage assets identified through the reintroduction of a positive use to that part of the building.
71. Whilst consideration of the impact of the development upon residential amenity is considered in more detail elsewhere in this report, it is nevertheless important to note that in order to secure an appropriate level of amenity for future residents of the HMO and that the adjacent commercial use is not unacceptably restricted as a result of complaint, the Council's Environmental Health Section has advised that those windows within the elevation facing the Saddlers Yard courtyard should be non-opening. This could be secured through planning condition. However, to do so would potentially restrict the potential for natural ventilation and in order to ensure that the unit benefits from appropriate provision in this regard the applicant has confirmed intention to install mechanical ventilation. It is understood that this would require the installation of airbricks to the walls and roof and the applicant has provided updated elevation plans showing their position to which neither the Council's EHO or Design and Conservation Section have raised any fundamental objection. However, precise detail of these features should be secured through planning condition. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the requirements of policies 44 and 45 of the CDP, Part 16 of the NPPF and Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990 in that the proposal would deliver a slight enhancement to the heritage assets identified through the reintroduction of a positive use to that part of the building.
72. With regard to policies H1 and H2 of the DCNP the latter requires proposals to enhance the conservation area and provides a set of criteria to consider in this regard, outlining where such criteria are relevant. The stated criteria is as follows:
 - a) sustaining and enhancing the historic and architectural qualities of buildings, and
 - b) sustaining and enhancing continuous frontages, street patterns, boundary treatments, floorscapes and roofscapes; and
 - c) respecting historic boundaries and curtilages;

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

73. Proposed changes to the external appearance of the building are limited and it is not considered that the development would have any impact to the contribution that the building currently makes to the conservation area. The introduction of a positive use to parts of the building which are currently unused would secure its long-term maintenance. As such, given the relatively small-scale nature of the proposal and the fact that the use of appropriate materials will be secured through planning condition, points i - l are considered to be met. In respect of points c, d, f and h it is considered that these are not relevant in the determination of this application.

74. With regards to Policy H1 of the DCNP, this seeks to ensure development proposals throughout Our Neighbourhood sustain, conserve and enhance the setting of the World Heritage Site and provides a set of criteria to consider in this regard which are as follows:

- e) carrying out an assessment of how the development will affect the setting of the World Heritage Site, including views to and from the World Heritage Site; and
- f) protecting important views; and
- g) taking opportunities to open up lost views and create new views and vistas.

75. The proposal would not be visible in any important views towards the WHS and as such the development would comply with criteria 'f', and it is not considered that criteria 'e' and 'g' are relevant in the determination of this application.

76. In light of the above it is considered that the significance and setting of the heritage assets identified, both designated and non-designated, would be either sustained, conserved or enhanced where appropriate. As such, the proposals are deemed to accord with the principles set out in Part 16 of the NPPF, CDP policies 44, 45, 16 3f) and 29, Neighbourhood Plan Policies H1 and H2 and sections 66 & 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 subject to the imposition of those planning conditions identified.

Impact on amenities of neighbouring occupiers and future residents

77. Policy 29 requires that all development achieves well designed buildings and places having regard to supplementary planning documents and: e) provide high standards of amenity and privacy and minimises the impact of development upon the occupants or existing adjacent and nearby properties. Distance standards are outlined within the Residential Amenity Standards Supplementary Planning Document (SPD).

78. Policy 31 states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance, or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and / or community facilities do not have any unreasonable restrictions placed upon them as a result.
79. Policy 16 states that development will only be permitted where it provides acceptable arrangements for bin storage and other shared facilities. Criteria 16-3g) states that the applicant is also required to show the security of the building and its occupants has been considered, along with that of neighbouring local residents.
80. The City of Durham Trust raise concern that the proposal fails to meet minimum space standards as set out in the NDSS citing limited ceiling heights in some of the rooms. Detailed floor plans have been submitted indicating that all room and shared areas are of appropriate size in line with HMO licencing requirements. The layout has been amended to ensure all bedrooms are NDSS compliant and the agent has confirmed that the internal heights of rooms is 2670mm, reducing slightly to 2400mm in the areas that will be the proposed Kitchen/ Living and Bedroom No. 4. These are also viewed as being compliant with space standards and requirements.
81. A noise assessment was submitted in support of the application which demonstrates that, with windows closed the use of the courtyard area by the neighbouring café would not have a detrimental impact internally to residents of the HMO. In addition, it provides suggested measures that could be incorporated within the design of the HMO. The Council's Environmental Health Officer has reviewed that assessment and offers no objection to the application subject to a condition which requires all windows facing the courtyard in Saddlers Yard to be non-opening as per the conclusion of the assessment and that other mitigation measures are implemented prior to first occupation. As already noted, this will require alternative means of ventilation to which the applicant has agreed to provide via mechanical solution, the precise details of which will be secured through planning condition and the Council's EHO has no objections to this approach. In addition, it has also been confirmed that a sprinkler system would be installed to provide a safe means of escape.
82. The amended floor plans submitted show that bin storage will be provided internally by the entrance to the property and an updated Design and Access Statement advised that cycle storage will be provided at the lower level of the stairwell. This had been raised as a concern in objection by both the City of Durham Trust and the Parish Council. In order to maintain amenity and character and appearance of the area, a condition is proposed to be included to prohibit the storage of cycles and bins outside the property.
83. Durham City Parish Council and the City of Durham Trust also raise objection to the application citing concerns that the instruction of the residential use would have a harmful impact upon the adjacent retail units. As noted, a scheme of appropriate sound attenuation could be secured via planning condition to ensure there would be no adverse impact from noise and disturbance, and basic details in this regard have been provided to demonstrate an acceptable solution could be achieved. Full details would be secured through planning condition.

84. Given concern raised by City of Durham Trust regarding the construction phase and to protect the amenity of neighbouring properties it is considered appropriate to apply further conditions requiring the submission, agreement and implementation of a construction management plan and restriction hours of working.
85. Durham Constabulary have noted that the design and access statement the scheme is designed in accordance with Secured by Design Homes 2014 and offer no objection to the application. The applicant will be advised by way of an informative to the most up to date Secured by Design Homes guidance, along with the recommendations of Durham Constabulary.
86. In light of the above it is considered that the proposed development is acceptable in terms of the impact of existing and future residents subject to the conditions stated and would accord with the requirements of policies 16, 29 and 31 of the CDP, policy S1 of the Neighbourhood Plan and Part 15 of the NPPF.

Parking, Access and Highway Safety

87. Policy 16 of the CDP requires development to demonstrate that the quantity of cycle and car parking provided has regard to the Council's Parking and Accessibility Guidelines. Policy 21 of the plan has similar requirements in relation to cycle parking, and also states that development should provide appropriate, well designed, permeable and direct routes for walking, cycling so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. It further requires that development ensures the creation of new or improvement to existing routes and facilities do not cause unacceptable harm to the natural, built or historic environment.
88. As already noted, the site is centrally located with ready access to a range of shops, services and the university campus. There are ample opportunities for access to public transport as you would expect from a city centre location, with direct routes for walking and cycling, in accordance with policy 21. As part of the proposal, secure cycle parking is to be provided within the building and whilst there is no in curtilage car parking provision this is not considered unacceptable given the city centre location and the Highway Authority raises no objection to the application in this regard. The proposal is therefore considered to accord with the aims of policies 16 and 21 of the CDP, T1 of the DCNP and Part 9 of the NPPF.

Ecology and Impact Upon Protected Species

89. LPAs have a legal duty to European Protected Species (EPS) when determining planning applications and must have regard to the Habitats Directive in the exercise of its functions. EPS, such as bats, are afforded the highest level of protection under the Habitats Directive. In assessing case law on this matter, the Supreme Court ruling associated with R (Morge (FC)) v Hampshire County Council [2011] UKSC 2 comments that an LPA is not expected to duplicate the licensing role of Natural England. The ruling further states that an LPA should only refuse planning permission where a criminal offence relating to EPS is likely to result from the development and where a licence from NE is unlikely to be granted. In all other cases EPS should not present a bar to planning permission.
90. The Council's Ecology Section has reviewed the proposal and raises no objection to the application subject to the inclusion of the standard informative relating to bats should planning permission be granted.

91. Policy 27 of the CDP requires new residential development to be served by a high speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located within the centre of Durham City and surrounding by a mix of residential and commercial properties. Similar requirement in terms of broadband connectivity would also apply to these uses and broadband connectivity unlikely to be unduly restricted in this wider context. As such it does not appear that there any significant constraints to delivering the connectivity in accordance with the requirements of policy 27 although the submission and agreement of precise detail in this regard could be secured through planning condition. Subject to the inclusion of a planning condition in this regard the development is considered to accord with the aims of policy 27 of the CDP.

CONCLUSION

92. The development is considered acceptable in principle and would accord with the requirements of Policy 16 3i) of the CDP as although 70.4% of properties within 100 metres of the site are Class N exempt from Council Tax as being wholly occupied by students or are subject to extant planning permission for a change of use to HMO, this is a result of these being predominantly commercial. In addition, it is considered that the development could be satisfactorily accommodated without adverse impact upon residential amenity, adjacent occupiers, the vitality and viability of the retail centre or highway safety in accordance with the aims of policies 16, 21, 29 and 31 of the CDP, policies E3, S1 of the DCNP and Parts 9, 12 and 15 of the NPPF.
93. The proposal is also considered to accord with Sections 66 and 72 of the Planning (Listed Building and Conservation Area) Act 1990, Policies 44 and 45 of the CDP, Policies H1 and H2 of the DCNP and Part 16 of the NPPF in that it would preserve, sustain and enhance the special historic value, significance, setting and character of the CA, WHS and nearby Listed Buildings subject to the conditions stated.

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

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

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

4. Windows in all elevations of the development hereby approved facing Saddlers Yard shall be non-opening.

Reason: To protect the amenities of residents and the occupiers of adjacent commercial properties in accordance with policies 9 and 31 of the County Durham Plan.

5. No development shall commence until precise details of all mechanical ventilation have been submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be carried out in full accordance with the detail agreed.

Reason: To protect the amenities of residents in accordance with the aims of policy 31 of the County Durham Plan.

6. Ensure all sound attenuation measures detailed in the noise assessment produced by LA Environmental Consultants entitled 'Conversion to Residential at The Beauty Spot Saddlers Yard, Durham' reference LAE1181.1 dated 12 May 2022' are fully implemented prior to the beneficial occupation of the development and 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.

7. No development shall take place until a scheme of noise mitigation has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include sufficient measures to 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.

8. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
 - i. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 - ii. Details of methods and means of noise reduction/suppression.
 - iii. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.

- iv. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
- v. Designation, layout and design of construction access and egress points.
- vi. Details for the provision of directional signage (on and off site).
- vii. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
- viii. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
- ix. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
- x. Routing agreements for construction traffic.
- xi. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
- xii. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
- xiii. Management measures for the control of pest species as a result of demolition and/or construction works.
- xiv. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

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

9. There shall be no storage of bins of cycles outside of the areas indicated on Drawing No. approved plans and Design and Access Statement.

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.

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

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

11. In undertaking the development that is hereby approved:

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

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

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

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

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

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.

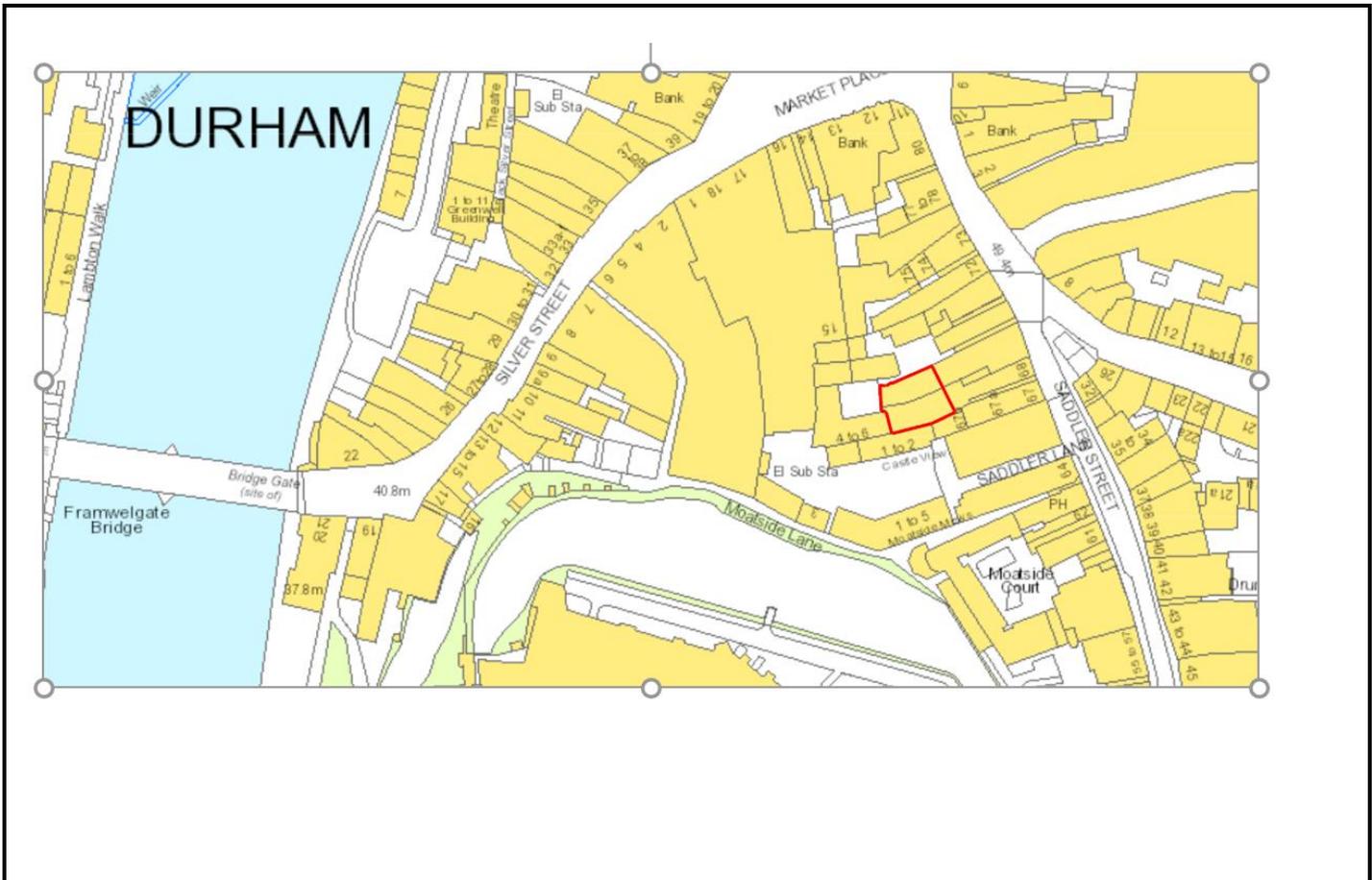
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (Adopted 2020)

Durham City Neighbourhood Plan

Statutory, internal and public consultation responses



Planning Services

Proposed 4 Bed HMO with accompanying communal living area and kitchen in existing loft spaces. A dormer link will be formed to connect the two loft spaces. (amended proposal), The Beauty Spot, Saddlers Yard, Saddler Street, Durham, DH1 3NP

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Comments	
Date	27 th June 2022

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/01141/FPA
FULL APPLICATION DESCRIPTION:	Erection of 11 bungalows.
NAME OF APPLICANT:	DP Contractors
ADDRESS:	Land To The Rear Of Rock Terrace New Brancepeth DH7 7EP
ELECTORAL DIVISION:	Deerness
CASE OFFICER:	Lisa Morina Senior Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises a rectangular area of open undeveloped land positioned in a predominantly residential area between two linear terraces at Rock Terrace and Edward Terrace, New Brancepeth, Durham.
2. The site is framed by dwellings to all sides and occupies an inverted 'L' in terms of its layout with the smaller 'leg' extending to the south. In addition, it is noted that there is a significant change in levels across the site which falls from north to south.
3. Whilst not allocated for any use in the County Durham Plan it is understood that in the past the site has been used sporadically as private garden in association with some of the neighbouring terraces, and as such several buildings of varying construction style and quality have been erected across the site during this time. More recently the visual amenity of the site has deteriorated and the Council has served a number of Section 215 notices relating to untidy land.
4. In terms of planning history, it is of note that there have been a number of previous planning permissions relating to the redevelopment of the site with the most recent in 2019 granting outline planning permission for a mixed use development comprising retail and residential.

Proposal:

5. Planning permission is sought for the erection of 11 bungalows at the site comprising 9 No. two bed units and 2 No. one bed units. The dwellings are proposed to be semi-

detached properties set out in 5 pairs with a single detached bungalow located to the south-east of the site.

6. The dwellings would comprise of red brick built dwellings with tiled roofs. Front and rear gardens would be provided with small pockets of landscaping provided. Boundary treatments would consist of brick walling around the edges of the site between 900mm and 1200mm in height with close boarded fences provided internally between the dwellings.
7. Eight of the units would be accessed from Edward Terrace to the south and be served by 2 short cul-de-sacs with associated parking. The remaining 3 units would be accessed from 'The Bungalows' to the east and be served by a total of 6 parking spaces. In total the development would include 26 parking spaces including 2 disabled spaces.
8. Outline planning permission was previously granted in 2019 for a mixed use development at the site which included dwellings and retail.
9. The application is reported to planning committee as it is considered major development.

PLANNING HISTORY

10. 4/13/00351/OUT 18 Dwellings (Outline) Application Withdrawn 27th August 2013
11. DM/14/03245/OUT 18 Dwellings (Outline) - Resubmission 4/13/00351/OUT
12. DM/19/00607/OUT Mixed use development for C3 (dwellings) and A1 (retail) Approved 9th August 2019

PLANNING POLICY

NATIONAL POLICY

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

16. *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.
17. *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.
18. *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.
19. *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.
20. *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.
21. *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.
22. *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.
23. *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.

NATIONAL PLANNING PRACTICE GUIDANCE:

24. 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

25. Policy 1 (Quantity of Development) outlines the levels of employment land and housing delivery considered to be required across the plan period.
26. Policy 6 (Development on unallocated sites) states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
27. 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.
28. Policy 19 (Type and mix of housing) advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self build or custom build schemes.
29. Policy 21 (Delivering sustainable transport) 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.
30. Policy 25 (Developer contributions) advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.

31. Policy 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.
32. 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.
33. 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.
34. 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.
35. 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.
36. Policy 36 (Water infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
37. 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
38. 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.

39. Policy 41 (Biodiversity and Geodiversity) states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
40. Policy 43 (Protected Species and Nationally and Locally Protected Sites) development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
41. Residential Amenity Standards SPD (2020 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

Neighbourhood Plan

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

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:

43. Highway Authority – raises no objection to the application after the proposals were amended to include a footway around the periphery of the site connecting to existing provision. In addition, they also note that whilst plot 11 would occupy the position of an existing vehicular link between Edward Terrace and The Bungalows this does not appear to form part of the adopted highway. However, they do note that in the event this has been subject to the passing and repassing of vehicles and pedestrians for 20 years or more it could be considered Highway by use and require formally Stopping Up under Section 247 of the Planning Act. Notwithstanding the above, it is nevertheless noted that this does not have any material impact upon the acceptability or otherwise of the proposals in terms of highway safety and the Highway Authority raises no objection in this regard.
44. Northumbrian Water Limited (NWL) – No objection subject to the inclusion of a planning condition requiring the submission and agreement of precise means of foul and surface water drainage.

45. Lead Local Flood Authority (LLFA) – Offers no objection to the application subject to the inclusion of a planning condition requiring the submission, agreement and implementation of a drainage strategy.
46. Coal Authority – No objection subject to conditions requiring intrusive site investigative works.
47. Durham Constabulary Police Architectural Liaison Officer (PALO) – Has not commented.
48. NHS – No objection and no contribution required.

INTERNAL CONSULTEE RESPONSES:

49. Environmental Health Section (Contamination) – No objection subject to conditions requiring the submission and agreement of a Phase 1 Contaminated Land Risk Assessment and intrusive investigation, remediation and verification where need is identified.
50. Environmental Health Section (Noise) – No objection subject to conditions to control environmental impacts during the construction phase.
51. Environmental Health Section (Air Quality) – No objection in principle however dust management plan still required.
52. Ecologist – No objection subject to the inclusion of a bat roost which could be secured through planning condition.
53. Affordable Housing Team – Confirms the requirement for affordable housing to be provided in accordance with policy 15 of the CDP.
54. Landscape Section – Raise some concern noting that there would be no allocated public space as new bungalow frontages would be dominated by hard parking areas and access roads and footpaths. The dwellings would have private garden spaces which would provide an opportunity for green elements at the discretion of the occupants. The proposed bungalows would therefore not front onto any green space. The layout would be stark in character, dominated by car parking and hard landscape elements, which would bring about high and adverse landscape effects.
55. Consequently, they consider that the scheme should be revised to consider a less stark design solution, which could include green space(s) with active frontages. This approach would ideally release some space for general amenity and enable the incorporation of street trees.
56. Spatial Policy Section – Confirms the development should principally be considered against the requirements of policy 6 of the CDP and that 7 of the units must be built to M4(2) standard with 10% be multi-generational. In addition, they also confirm that a financial contribution of £19,130.1 is required to be spent on open space within the locality in lieu of on site provision, in accordance with policy 26 of the CDP.
57. Local Education Authority – Confirm there is sufficient primary and secondary school places available within the locality and as such there is no requirement for any financial contribution in this regard.
58. Public Rights of Way Section – No objection.

PUBLIC RESPONSES:

59. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. To date, four letters of objections have been received with the following comments:
- Concerns regarding access problems and existing problems accessing and departing properties with vehicles and will obstruct garage and access to front and side of dwellings
 - The potential rise in traffic and parked cars and the issues above are now becoming dangerous
 - The land should be converted to parking
 - There is no other place for kids to play and the grass should remain
 - Is one of the roads not a public right of way as it has been used by pedestrians and vehicles.
 - The site should be cleared and made into some sort of play area.
60. One letter of support has also been received stating the bungalows are welcomed for the ageing community and the proposal will remove an area of untidy land.

APPLICANT'S STATEMENT:

61. The applicant site comprises an area of derelict land, unfortunately used as a dumping ground, creating a prominent unwanted eyesore. The application is to provide modest, affordable housing, with garden space and parking.
62. The applicant contends the proposals will enhance the overall area and provide much needed residential accommodation. The applicant requests that the planning authority offers a positive response and approval of the application.

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

63. 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.
64. The County Durham Plan (adopted in 2020) is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF.
65. In this context, it is considered that the main planning issues relate to the principle of development, developer contributions (including open space and affordable housing), impact upon residential amenity, design, the character and appearance of the surrounding area, highway safety and public rights of way, landscape, land contamination and stability, drainage and ecology.

Principle of the Development

66. Policy 6 of the County Durham Plan supports development on sites which are not allocated in the 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 the following:

- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration
67. 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 sits adjacent to a built-up area (so is well related to a settlement) and is located within close proximity to other compatible residential uses (criteria a), is an infill development that 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). Consideration of criteria d, e, h and i of policy 6 are considered elsewhere within this report. It is not considered that criteria j is appropriate in relation to this proposal.

Locational Sustainability

68. The site is located in New Brancepeth which is considered a sustainable location with good access to shops, services, employment opportunities and public transport links. It is there considered to be capable of accommodating residential development of the scale proposed and as such the principle of residential use in this location is acceptable subject to the relevant material considerations as set out below.

Affordable Housing / Mix of Dwellings and Developer Contributions

69. 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.
70. On sites of 10 or more units, 10% of the homes provided should be for affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership). Any contribution above 10% should be provided as

affordable housing for rent. New Brancepeth is defined as a low value area where 10% affordable housing is required and therefore one affordable property should be provided.

71. The 'Housing Needs Statement' states at para 4.16 that *"This application, like other applications for major development, is however in West Durham Delivery Area, in a settlement within an area where viability of development is known to be challenging. Since the application is only just above the stipulated threshold for the provision of affordable units and; because the site is presently in such poor condition and because it proposes the delivery of bungalows, in high demand and short supply, it is not proposed to provide any affordable units. Nor is it considered appropriate to prove this through the provision of a viability appraisal for the reasons given"*.
72. This is not considered sufficient justification and as such, the proposal would only be acceptable subject to a section 106 agreement to secure one affordable housing property which would be a discounted market sale unit. An amended plan has been received which identifies a one bed property which is considered acceptable from the Council's Affordable Housing Team. The applicant has also agreed to this.
73. Policy 15 states that on sites of 5 units or more 66% of dwellings must be built to Building Regulations Requirement M4(2) (accessible and adaptable dwellings) standard. The current proposal comprises a total of 11 units and as such in order to comply with the requirements of policy 15 in this regard 7 of those units would be required to be built to M4(2) standard which is achieved. In addition, on sites of 10 units or more, a minimum of 10% of the total number of dwellings on the site are required to be of a design and type that will increase the housing options of older people. These properties should be built to M4(2) standard and would contribute to meeting the 66% requirement set out above. They should be situated in the most appropriate location within the site for older people. Appropriate house types considered to meet this requirement include level access flats, level access bungalows; or housing products that can be shown to meet the specific needs of a multi-generational family.
74. With regard to the current planning application one unit is required to be a house type suitable for older people. As the scheme comprises solely of bungalows the development exceeds the requirements of Policy 15 of the CDP in this regard.
75. 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.
76. In this regard the development comprises entirely of one and 2 bedroom bungalows, for which there is an identified need in the locality, it is considered that the proposal is appropriate in this instance.
77. In light of the above the development is considered to accord with the requirements of policies 15 and 19 of the County Durham Plan.

Open space / Green Infrastructure

78. Paragraph 98 of the NPPF states that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities and that planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities

for new provision. The Council prepared its Open Space Needs Assessment (OSNA) in 2018 as part of the preparation of the County Durham Plan and as such it is considered that this is the most up to date assessment of need for the purposes of Paragraph 98 of the NPPF.

79. Policy 26 (Green Infrastructure) reflects those targets and states that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. 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.
80. In accordance with policy 26 and having regard to the Councils Open Space Needs Assessment (OSNA) Based on the OSNA and an average occupancy of 2.2 people per dwelling (Co. Durham average household size, 2011 Census), a scheme of 11 dwellings would generate 24.2 people (11 x 2.2). This scheme falls into the 1st category of Table 19 where a contribution should be sought for all typologies of open space in lieu of onsite provision.
81. A contribution to improving existing facilities within New Brancepeth (bearing in mind the layout shows no on-site open space provision) would amount to £19,130.10 (24.2 x £790.50) to be secured by S106 legal agreement which the applicant has agreed to enter into.

Education Provision

82. Paragraph 95 of the 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.
83. The Council's Education Team have confirmed that in relation to both primary and secondary school pupils and based on the projected rolls of the schools, taking into account the likely implementation timeframe of the development, build rates and other committed development there would be sufficient space and therefore, a contribution for additional secondary and primary school teaching accommodation is not required.

Health Contributions

84. Paragraph 34 of the NPPF allows local plans to set out the contributions expected from a development, which includes health. 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.
85. The NHS have not requested any payments in regard to this application.

Developer contribution conclusion

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

Impact on Residential Amenity

87. CDP Policies 6 and 31 seek to prevent development that would have an unacceptable impact upon the amenity of existing neighbouring residents and only allow development where adequate amenity for future occupiers is provided. Section 11 Paragraph 119 of the NPPF requires planning decisions to ensure healthy living conditions and paragraph 124 emphasises the importance of securing healthy places. Paragraph 174 of section 15 requires decisions to prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of pollution such as noise pollution.
88. Paragraph 185 seeks to ensure that new development is appropriate for its location taking into account the likely effects of pollution on health and living conditions. In terms of noise, paragraph 185 advises that planning decisions should mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development - and avoid noise giving rise to significant adverse impacts on health and the quality of life.
89. 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.
90. Policy 29 also requires that new major residential development achieves reductions in CO2 emissions and be built to at least 30 dwellings per hectare subject to exceptions. It also states that all new residential development should meet Nationally Described Space Standards (NDSS).
91. The dwellings are proposed to be located within a primarily residential area. There is a commercial/takeaway located at the end of Edward Terrace, however this business is already situated within close proximity to sensitive receptors and it is not considered that this proposed development would interfere with the operation of that business.
92. It is noted that during the construction phase the development could lead to negative impact upon existing residential receptors due to their close proximity. However, it is considered that this could be mitigated by the submission of a Construction Management Plan secured by pre-commencement planning condition and also a condition regarding the hours of construction. Subject to the inclusion of planning conditions in this regard the Councils EHO raises no objection to the application.
93. In addition to the above policies of the CDP, the Council has adopted a residential design SPD which sets out minimum requirements in relation to privacy distances and private outdoor amenity space (Gardens). Given the nature of the proposal being bungalows, a minimum of 18m should remain between facing elevations containing windows to habitable rooms and 10m between habitable room windows and single storey blank gables. Garden lengths of at least 9m should also be provided.

94. 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.
95. In respect of adjacent properties at Edward Terrace to the south, all properties meet the requirements of 10m which is outlined in the SPD. The 10m is met on most properties from main two-storey build line of Edward Terrace to the gables of the proposed dwellings which are blank however, some of Edward Terrace have single-storey additions which reduces these separation distances however, the proposal is still considered acceptable given the majority of these views are over garden area or parking spaces and therefore are considered acceptable. There was conflict with one dwelling therefore, given this, this has been reduced to be a one bed dwelling only to meet the separation distances required.
96. In respect of the neighbouring properties at Rock Terrace, it is noted that there is a change in levels across the site which fall to the north. The Council's SPD states at section 3.4 that where there is a significant change in levels, the minimum separation distance will increase by 1 metre for every 1 metre that the floor level of the development would be above the affected floor or ground level of the neighbouring property. A plan showing the site topography has been submitted in support of the application which identifies a 3 metre change in levels in this regard and as such a separation distance of 13 metres is therefore required in accordance with the SPD. Submitted plans show a distance of 13 metres can be achieved between the northern gable of the proposed dwellings and the rear facing elevations of those properties at Rock Terrace. As such the development is considered acceptable in this regard.
97. With regard to facing elevations containing windows to habitable rooms it is noted that separation distances of 18m can be retained between the proposal and those existing properties to the east and west. Between Plot 11 (which is the detached single dwelling) and Edward Terrace the end terrace being no. 31, separation distances of around 13 metres can be achieved. A ground floor window is in existence on this gable elevation however it is obscurely glazed therefore, the proposal is considered acceptable in this respect.
98. Objections have been raised regarding access to an existing neighbour's garage at no. 4 Model Cottages and access to the front of their property. However, the application has since been amended to retain access to this property.
99. An air quality report was submitted and the findings of this is considered acceptable however a Dust management Plan is still required which is considered to be incorporated within the Construction Management Plan which is added as a pre-commencement condition as part of this application.
100. In light of the above it is considered that the residential amenity of the neighbouring properties would not be compromised by the development although, given the constrained nature of the site and the proximity of existing residential properties it is considered prudent to remove permitted development rights relating to future extensions.
101. With regard to space standards and the requirement of policy 29 of the County Durham Plan that all new development accord with the Nationally Described Space

Standards, it is noted that the scheme has been designed to be fully NDSS compliant and the application provides sufficient information to demonstrate that this is the case.

102. The proposal is therefore considered acceptable in respect of policy 29 and 31 of the CDP in respect of residential amenity subject to the conditions stated.

Highway and Pedestrian Safety/Impact on Public Rights of Ways (PROW)

103. Policy 21 of the CDP requires all development to ensure that vehicular traffic generated can be safely accommodated and to have regard to the Council's Parking and Accessibility Standards Supplementary Planning Document. In addition, policy 6 of the CDP requires new development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. This approach displays broad accordance with the aims of paragraph 110 of the NPPF.
104. Notwithstanding the above, the residents of neighbouring properties have raised concern at the limited availability of parking both within the development itself and the wider locality, which they consider to be an existing issue that would be compounded by the proposal. In addition, residents consider that the access into and out of the proposed dwellings would be limited and dangerous.
105. Notwithstanding the above, it is noted that the development would be served by 2 short cul-de-sac style streets providing access to parking provision which accords with the Council's Parking Standards and is therefore considered sufficient to serve the development. In addition, the level of traffic generated by the proposals would be limited and could be safely accommodated on the surrounding road network. As such the Highway Authority raises no objection to the application in this regard.
106. Whilst the application proposes a detached dwelling in a position where there is currently a vehicular link between The Bungalows to the east and Edward Terrace to the west, it is noted that this does not form part of the adopted highway. In the event that this has been open for the passing and repassing of vehicles and pedestrians for more than 20 years it may benefit from the legal status of Highway by use and as such this would need to be formally Stopped Up under Section 247 of the Planning Act.
107. Notwithstanding the above, it is noted that irrespective of the status of this part of the site the Highway Authority has confirmed the proposed arrangement is acceptable in highway safety terms in accordance with policy 21 of the CDP. As such an informative can be included to remind the applicant of the requirement to apply to formally apply to stop this area up should it be found to have legal status of Highway by use.
108. In light of the above the proposal is considered acceptable in respect of policy 21 of the County Durham Plan and part 9 of the NPPF.

Impact on the character and appearance of the streetscene

109. 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.

110. The site occupies a linear parcel of land set between 2 rows of terraced properties to the north and south and comprises a proposed layout consisting of 5 pairs of semi-detached bungalows that would present gable elevations to the facing elevation of Rock Terrace and Edward Terrace. Whilst the character of the surrounding area is one principally comprising long linear rows of terraces housing, it is nevertheless considered that the introduction of semi-detached bungalows in this location would provide some variety to visual amenity of the locale. In terms of design the proposed arrangement would be in keeping with surrounding properties despite being of a lesser scale and would use materials similar to others in the area, the submission and agreement of precise samples can be secured through planning condition.
111. In light of the above it is considered that the proposal would be an appropriate development for the area and would deliver some considerable benefits given the site is currently untidy to the extent it detracts from the visual amenity of the surrounding area.
112. The dwellings have been designed as bungalows which is considered acceptable given the change in land levels and would appear as a logical step up from Rock Terrace to the proposal and then again up to Edward Terrace.
113. A condition securing the submission and agreement of precise details of external materials and details of the means of broadband connection should also be included. The scheme has been amended since original submission to include solar panels to each property and a sustainability statement has also been provided which is considered acceptable. The proposal is therefore considered to accord with the requirements of policy 29 of the County Durham Plan and part 12 of the NPPF.

Landscaping

114. 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.
115. Concern has been received from the Council Landscape Section that the development fails to include any allocated public space as new bungalow frontages would be dominated by hard parking areas, access roads and footpaths. They consider that the proposed bungalows would not front onto any green space and that the development would be stark in character, dominated by car parking and hard landscape elements. Notwithstanding those concerns it is noted that the surrounding terraces by their nature have limited external amenity/green space and present hardstanding yards to the rear and that the development would sit within this context.
116. Amendments however have been received which shows grassed open space surrounding the proposed parking spaces and street trees are shown to the north-west of the entrance drives. Therefore, noting the narrow, constrained nature of the site, the proposed landscape scheme is considered a greener solution than the original scheme and would allow some visual permeability for safety and surveillance.
117. It should also be noted that the applicant has agreed to provide a financial contribution towards improving open space within the locality to be secured through a Section 106 Agreement.

118. With this in mind the proposal is considered acceptable in accordance with the aims of policies 6, 29 and 39 of the CDP and Parts 12 and 15 of the NPPF.

Land Contamination and Stability

119. Paragraph 183 of the NPPF advises that planning decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. In line with this, CDP Policy 32 states that development will not be permitted unless the developer can demonstrate that:
- a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;
 - b. 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; and
 - c. all investigations and risk assessments have been undertaken by an appropriately qualified person.
120. The application has been assessed by the Council's Contamination Land Section and whilst they offer no objection to the proposals, they do note that the submitted information amounts to a summary report, and that the phase 1 assessment itself has not been provided. In addition, they note that potential exists for there to be made ground associated with the previous use and that the site is partially located within in a coalfield high risk development area.
121. In light of the above, and due to the fact that the development constitutes a change of use to a more sensitive receptor, no objection is raised subject to the imposition of a planning condition requiring the submission and agreement of a Phase 1 Contaminated Land Risk Assessment along with intrusive investigations, site remediation and verification report where need is identified.
122. Subject to the inclusion of a planning condition in this regard the proposal is therefore considered to accord with policy 32 of the CDP.
123. With regard to land stability and previous mine works, and as already noted, the site lies within an area identified as being at high risk of previous mine workings as identified by the Coal Authority. Paragraph 183 of the NPPF states that planning policies and decisions should ensure that:
- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
 - b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
 - c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.
124. It goes on to state at section 184 that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
125. As noted part of the application site falls within the defined Development High Risk Area; therefore within the application site and surrounding area there are coal mining

features and hazards which need to be considered in relation to the determination of this planning application.

126. The Coal Authority records indicate the western part of the site is in the likely zone of influence from workings in 6 seams of coal at shallow to 167m depth, last worked in 1934 and within 20m of an off-site mine entry (CA shaft ref: 422541-006). The Coal Authority hold no treatment details for this mine entry and due to the historic source plans used to plots its current position, this could vary by several metres.
127. The Coal Authority have raised no objection to the scheme subject to the imposition of conditions which require the undertaking of intrusive ground investigations prior to commencement of development in order that the findings of the investigations inform the extent of any remedial and / or mitigation measures considered necessary to ensure that the proposed development will be safe and stable.
128. Therefore, subject to the addition of the pre-commencement conditions as requested by the Coal Authority, the proposal is considered acceptable with regard to policy 32 and 183 of the NPPF.

Drainage

129. 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.
130. 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.
131. The Drainage team acknowledged that there is no surface water outlet and therefore the connections will be to the combined system. They have also advised that the surface water need not be treated but it should be attenuated to a discharge rate equivalent to QBAR Rural rate.
132. A drainage strategy is therefore, required and normally this would be required prior to a decision being issued however in this instance the drainage team are satisfied that an appropriate scheme could be achieved, it is felt that this can be dealt with via a pre-commencement condition.
133. It is considered therefore, that subject to conditions the scheme is acceptable in relation to Policy 35 and 36 of the CDP.

Ecology

134. Part 15 of the NPPF seeks to ensure that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. Policy 41 of

the CDP seeks to resist proposals for new development which would otherwise result in significant harm to biodiversity or geodiversity, which cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. Proposals for new development will be expected to minimise impacts on biodiversity by retaining and enhancing existing biodiversity assets and features and providing net gains for biodiversity including by establishing coherent ecological networks. CDP Policy 25 seeks to ensure that new development is only approved where any mitigation necessary to make the development acceptable in planning terms are secured through appropriate planning conditions or planning obligations.

135. The Ecology report submitted by OS Ecology is considered acceptable and no further surveys are required subject to a condition requiring the recommendations to be carried out and integrated bat boxes installed to provide enhancement. Details of which have been submitted to the LPA therefore, a condition to control their installation will be added.

Other Issues

136. A number of residents have raised concerns that alternative uses for the site have not been explored and that these should be considered before the site is redevelopment for housing. In response it is noted that historically the site has been used informally as open space and for private amenity purposes but that in some cases these uses were unauthorised and have resulted in an untidy site. In any event the Local Planning Authority must determine the current planning application based on its planning merits and against relevant local and national planning policy. In this respect there is no requirement to consider alternative uses before residential redevelopment.

Public Sector Equality Duty

137. Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.
138. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

139. Section 38(6) of the Town and Country Planning Act states that planning applications should be determined in accordance with the Development Plan unless material considerations indicate otherwise. The County Durham Plan was adopted in October 2020 and a such represents the up-to-date local plan against which the development should be considered.
140. The site occupies a sustainable location with a good level of access to shops, services, education and employment opportunities for future residents and would deliver a scheme consisting entirely of bungalows for which is there is locally identified need. In addition, the development would reintroduce a positive use across a site which currently detracts from the visual amenity of the area. The development is considered to accord with the criteria listed in policy 6 of the CDP which is the principal policy against which the development should be considered.

141. In addition, it is considered that the development could be adequately accommodated by reason of design, layout, scale and materials without adverse impact upon the residential amenity of existing and future occupiers or adjacent land users, the character and appearance of the surrounding area, parking, access and highway safety, ecology, contaminated land and drainage in accordance with the aims of policies 6, 15, 19, 21, 25, 26, 29, 31, 32, 35, 36 and 41 of the CDP and Parts 6, 8, 9, 11, 12, 14 and 15 of the NPPF.

RECOMMENDATION

That the application be **APPROVED**, subject to a s106 agreement to provide affordable housing onsite through the provision of one discount market sale property and developer contributions of **£19,130.10** towards open space within the area, and subject to the following conditions:

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 6, 21, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

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

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

4. No development shall commence until a 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.

5. 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.

6. 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.

7. 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.

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

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

9. No development shall take place until intrusive site investigations have been undertaken to assess the ground conditions and the potential risks posed to the development by past shallow coal mining activity. A report shall thereafter be submitted to and agreed in writing by the Local Planning Authority setting out the findings of the intrusive site investigations including a scheme of remedial work where required. Thereafter the development shall take place in accordance with the agreed details.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable

appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with Policy 32 of the County Durham Plan and Paragraphs 178 and 179 of the National Planning Policy Framework.

10. Prior to commencement of the development, details of an electric car charging point shall be submitted and approved in writing by the Local Planning Authority. The charge point shall be installed, prior to occupation of the dwelling in accordance with the approved details.

Reason: To comply with parking guidelines in line with requirements set out in policy 21 of the County Durham Plan and part 9 of the NPPF.

11. No development shall be occupied 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.

13. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), no development under Schedule 2, Part 1 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) shall take place without the grant of further specific planning permission from the Local Planning Authority.

Reason: In the interests of the amenity of the surrounding area in accordance of Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

14. The proposal shall be carried out in strict accordance with section 6 Recommendations of the Preliminary Ecological Appraisal prepared by OS Consulting dated December 2021.

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

15. 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.

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

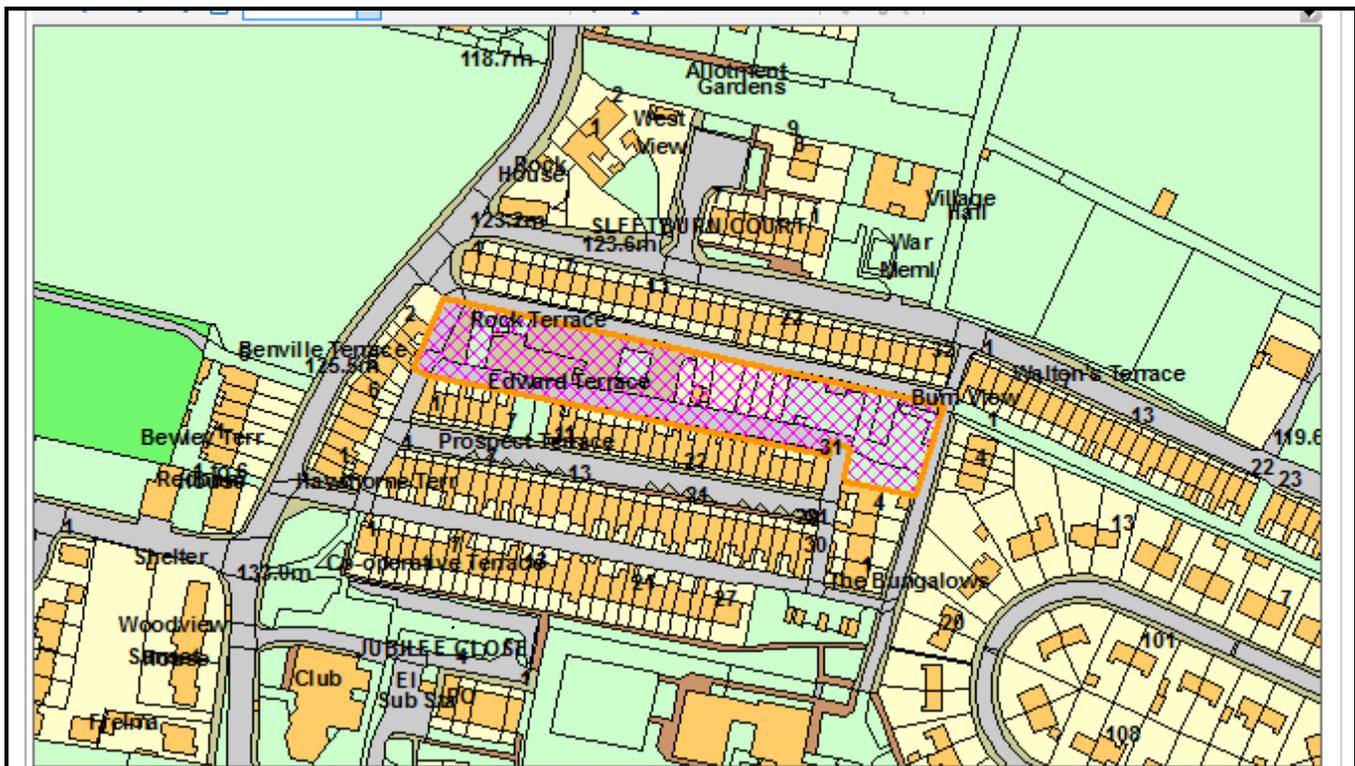
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

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>Erection of 11 bungalows at Land To The Rear Of Rock Terrace, New Brancepeth, DH7 7EP</p>	
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	<p>Date: 2022</p>	<p>Scale NTS</p>

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