



Area Planning Committee (Central and East)

Date Tuesday 14 March 2023
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 February 2023 (Pages 3 - 20)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/22/03636/PNT - Land south west of Kepier Community Clinic, Kepier Crescent, Gilesgate Moor, DH1 1PH (Pages 21 - 32)

Prior notification for installation of 15m Phase 9 monopole together with wraparound cabinet at base, 3no. ancillary equipment cabinets, and associated ancillary works.
 - b) DM/22/01537/FPA - The Orchard, Hallgarth, High Pitington, Durham, DH6 1AB (Pages 33 - 50)

Change of use of dwelling (Use Class C3) to spa facility (Use Class E(e) including removal of existing front door and installation of new entrance door to northern elevation.
 - c) DM/21/04262/FPA - Mount Oswald Golf Club, South Road, Durham, DH1 3TQ (Pages 51 - 82)

9 no. dwellings and alterations to existing access road.

- d) DM/22/03456/FPA - First Floor And Second Floor, 84 Claypath, Durham, DH1 1RG (Pages 83 - 102)
Conversion of first and second floors to form two 5-bed HMOs (Use Class C4) including window changes to lightwell elevation.
- e) DM/22/02761/FPA - Fernhill, Newcastle Road, Crossgate Moor, Durham, DH1 4JZ (Pages 103 - 132)
Proposed redevelopment of stables to provide 1 no. 3 bed dwelling.
6. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

Helen Lynch
Head of Legal and Democratic Services

County Hall
Durham
6 March 2023

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

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

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

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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 February 2023** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

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

1 Apologies for Absence

Apologies for absence were received from Councillors LA Holmes and C Marshall.

2 Substitute Members

There were no Substitute Members.

3 Minutes

The minutes of the special meeting held on 20 December 2022 and meeting held 10 January 2023 were confirmed as correct records by the Committee and signed by the Chair.

4 Declarations of Interest

In respect of Item 5b, Councillor A Surtees noted she was one of the Local Members and would speak on the item then leave during the consideration of the item by the Committee.

In respect of Item 5d, Councillor L Brown noted she was a Member of the City of Durham Parish Council, however, she had not been party to their representations on the application.

In respect of Item 5d, the Chair, Councillor D Freeman noted he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not had any input into their submission in objection.

In respect of Item 5a, Councillor I Cochrane noted he was one of the Local Members and would leave during the consideration of the item, with the Committee Services Officer to read out a statement on his behalf.

Councillor I Cochrane left the meeting at 9.35am

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

a DM/20/02681/FPA - Land North of Windsor Drive, South Hetton, DH6 2UU

The Senior Planning Officer, Laura Eden (LE) 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 erection of 80no. dwellings with associated works (revised description 16/11/2021) and was recommended for approval, subject to the conditions and s106 Legal Agreement as set out in the report.

The Senior Planning Officer (LE) noted that an additional condition was requested in relation to the provision of six car parking spaces replacing the seven spaces that would be lost as a consequence of the development, with those six to be completed prior to first occupation. She added that an amendment to the condition relating to drainage materials would be required as they had been agreed and therefore the condition would be for adherence, rather than agreement.

The Chair thanked the Senior Planning Officer (LE) and asked the Committee Services Officer to read out a statement from the Local Member, Councillor I Cochrane.

"I wish to confirm the withdrawal of my previous objections to the intention to build dwellings at the land north of Windsor Drive, South Hetton.

Now that the developer has reduced the number of properties to eighty, and all my other concerns have been addressed, I am happy to support the progression of this development".

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

Councillor L Brown noted paragraph 106 of the report referred to the Building for Life Supplementary Planning Document (SPD), adding she felt the number of 'amber' ratings was too high. The Senior Planning Officer (LE) explained that there had been no 'red' ratings and the application had passed the threshold test, but also had included a number of enhancements. Councillor L Brown reiterated she felt eight amber ratings was a lot and noted she would have been happier with four or five.

Councillor C Kay asked as regards the total number of properties within South Hetton, in order to understand the scale of the development. Officers noted that they would find the information while other comments and questions were made.

Councillor A Bell noted that there were s106 contributions in relation to primary school places and asked as regards the position in respect of secondary school places. He also asked as regards any s106 for onsite or offsite play areas. The Senior Planning Officer (LE) noted that the School Places Team had indicated insufficient primary school places, hence the s106 in that regard, however the number of secondary school places had been deemed sufficient. In relation to open space, it was noted that it was proposed for an enhancement to existing provision. Councillor A Bell asked if such was not onsite, whether it would be ringfenced to the Electoral Division. The Principal Planning Officer, Graham Blakey noted it would be within the Shotton and South Hetton Division. The Senior Planning Officer (LE) explained there were five types of open space set out within the Open Space Needs Assessment (OSNA) adding that the onsite provision was only for open space, natural or green space. She noted that the calculation for the other four types had produced the figure within the report, to be ringfenced for the Electoral Division as stated. She added that the reason for no onsite play space was due to an existing play space nearby to the site.

Councillor J Elmer noted that, where the entrance to the proposed development would be created, there would be the loss of a number of trees in addition to loss of trees where parking would be provided. He asked if the parking could be provided within the site and therefore retain those trees and vegetation. The Senior Planning Officer (LE) referred Members to the proposed site plan and explained that the access proposed was the only option, being between two existing properties. Councillor J Elmer asked as regards the seven parking spaces from Ravensworth Court and loss of trees and whether Officers felt the conditions were sufficiently robust in terms of planting, landscaping and maintenance, noting the latter was often something not followed up with by some developers.

The Senior Planning Officer (LE) noted the condition within the report relating to landscaping and management, with residents contributing to a management fund. In respect of biodiversity, she explained the s106 referred to a s39 Agreement relating to 30 year management and monitoring of biodiversity.

Councillor J Elmer noted the design of the buildings, complying with Part L of Building Regulations and asked what was being done in relation to County Durham Plan (CDP) Policy 29. The Senior Planning Officer (LE) noted that previous application would seek 10 percent reduction in CO₂, however, Part L regulations would provide greater benefits and therefore conditions under Policy 29 were not required. Councillor J Elmer asked as regards solar panels, battery storage and electric vehicle (EV) charging points. The Senior Planning Officer (LE) noted that EV charging could be provided at all properties and there was also outside cycle storage provision.

The Principal Planning Officer (GB), in reference to the question from Councillor C Kay, that the population in South Hetton was approximately 1,500, with that split into three roughly equal population areas, therefore the development represented 80 additional properties within an area of around 500 existing properties. Councillor C Kay thanked the Officer and noted that he was not minded to support any refusal, especially given the support for the scheme by the Local Member. He did note that it was interesting that the development was considered undeveloped land, and was not being considered under CDP Policy 4, rather with CDP Policy 6 appeared to be superseding.

Councillor A Bell noted there had been little objection to the scheme, the Local Member supported the development and therefore he would propose that the application be approved, subject to the conditions and s106 as set out within the Officer's report. Councillor K Shaw seconded the proposal and upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions and s106 Legal Agreement as set out within the report.

Councillor I Cochrane entered the meeting at 10.00am

b DM/22/01768/FPA - Land and Buildings West of Hallfield Drive, Hall Walk, Easington Village

The Senior Planning Officer, Lisa Morina (LM) gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer (LM) advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the demolition of existing agricultural buildings and erection of 38no. dwellings (Class C3) with associated access and landscape works and was recommended for approval, subject to the conditions and s106 Legal Agreement as set out in the report.

The Senior Planning Officer (LM) noted that an outline permission had been granted in 2019 for a smaller area, though that had now lapsed, and permission for 24 dwellings had been refused in 2020 with impact on residents and future residents, as well as a lack of ecological information having been cited.

The Chair thanked the Senior Planning Officer (LM) and asked Councillor A Surtees, Local Member to speak in respect of the application.

Councillor A Surtees noted that development in principle was the right type, including a mix of properties and affordable homes. She noted, however, there were traffic issues and explained that while the proposed entrance may appear to be at a shallow angle on the photographs within the presentation, in was actually very steep. She added that she had concerns with the access on to the B1283, Hall Walks, with the road being wide and with a 30mph limit. She explained that a survey over one week in November 2021 had shown that 61 percent of vehicles were travelling at over 30mph, and with 20 percent being over 36mph. Councillor A Surtees noted three separate instances of speed awareness activity, with 17 drivers having to attend court, 105 fixed penalty notices being issued, 1,047 drivers having to attend speed awareness courses and with 7.084 vehicles having been shown to be above the 30mph limit. She noted she had tried to speak with Planning Officers to note disappointment as regards no allocation of s106 monies for traffic works to improve the situation. She noted the proposed development, and during its construction, would exacerbate the traffic situation. Councillor A Surtees explained as regards the single track access to the 12 properties on Durham Lane and her concerns relating to the impact of addition traffic.

She reiterated that the development in principle was good, however, she thought it would be better placed within Easington Colliery rather than the proposed location within the Village, it was the right development in the wrong place adding there was also the impact on the Conservation Area (CA). Councillor A Surtees noted that if the application was approved she would continue to fight as regards traffic issues raised.

Councillor A Surtees left the meeting at 10.12am

The Chair asked Julie Catterall, Local Resident to speak in relation to the application.

J Catterall noted that in respect of the previously refused application, the impact of noise levels had been a major issue, and they had not been rectified with this current application. She explained that the A19 adjacent to the site was in an elevated position, with the traffic visible above the application site. She noted the danger in terms of the number of accidents on that stretch of the A19, and a fear that vehicle could come over the top of barriers and into the application site. She explained that 2019 data showed that there were around 72,000 vehicles daily travelling on the A19 and that Department for Transport (DfT) data had shown a significant increase in the traffic levels over the last 10 years. She noted the gardens of the proposed properties would border the A19 and the noise from traffic could heard as a roar and no work appeared to have been done to mitigate that.

The Chair thanked J Catterall and asked Graeme Hill, Local Resident to speak in relation to the application.

G Hill explained he was a resident of Mill Terrace and that the proposed development was not wanted and was not needed. He added that 57 objections demonstrated the strength of feeling on the matter, alongside the objections from the Parish Council and residents in all areas. He noted there were already a number of developments at Easington Village and residents were felling 'under siege', with this development being a step too far. G Hill noted that Planning Officers had dismissed the 57 objections, however, had not made a great deal in terms of establishing need, in short the views of local residents were being swept aside in favour of the landowner and developer. He concluded by hoping that Members would have regard for residents and the damage to the wellbeing of residents that would be caused and put people before profit.

The Chair thanked G Hill and asked Lee Fulcher, Planning Agent on behalf of the applicant, to speak in support of the application.

L Fulcher explained that the development was proposed by a local developer, for social housing in conjunction with Believe, with the demolition of some agricultural buildings and the erection of 38 new affordable dwellings, helping to meet the Council's targets in that regard. He reminded Members that Believe were also developing another scheme in Easington, adding that demand for such properties was very high, with 90 bids per property and 500 enquiries for rent to buy schemes. He referred to the previous refusal and noted that the issues relating to noise and landscaping had been addressed within the current application, and the Council's Highways Team and Highways England had offered no objections to the current application. He explained that a construction management plan (CMP) was conditioned, and the scheme proposed included a range of house types, noise mitigation and landscaping. He noted that the principle of development had been established with the previous outline permission and the current application was in accord with CDP Policy 6.

L Fulcher explained that the developer had taken onboard feedback received, with an example being the removal of the pedestrian link. He noted the scheme had a number of benefits: 100 percent affordable housing; bungalows; open space; New Homes Bonus; additional Council Tax receipt; and future residents using the amenities in the area. He noted biodiversity net gain for the site, with a 30 year management plan and low carbon buildings with improved insulation. L Fulcher concluded by reiterating that the proposals were in accord with local and national policies and asking that the Committee vote in favour of the application.

The Chair thanked L Fulcher and asked Officer to respond to the points raised by the speakers.

The Senior Planning Officer (LM) noted that in terms of any 'need' for the development, there was no policy requirement to do so. In respect of noise, she noted a noise assessment had been submitted and Environmental Health had stated the proposals were acceptable, albeit with a condition for further information to be submitted (Condition 12). In relation to traffic, she noted the CMP at Condition 5 and no objections from Highways England in respect of the application.

The Principal DM Engineer, David Battensby noted the proposed access to the site from Hall Walk / B1283 and explained that when assessed there were specific design criteria that were looked at. He added such criteria included the capacity of the highway, vehicle speeds and visibility. He noted that in terms of capacity there were no issues, and that an extension to the protected right turn would help in that regard. He noted that the vehicle speeds on the B1283 at this location were high due to the lack of credibility of the speed limit.

He explained that in terms of visibility, that there were criteria in respect of the measured 85th percentile speed, with those requirements being met in this case. The Principal DM Engineer noted that in respect of the gradient of the access, there was an established Durham County Council (DCC) Design Guide, and that the developer would be required to put in shallower access in line with that guide. He explained that the 12 properties at Durham Lane only represented 10 trips at peak times and therefore he was not concerned in terms of capacity. He concluded by noting there were no grounds for a highways objection to the proposals.

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

Councillor C Kay noted the application was a full planning application and noted often an outline application would be received where highways or traffic issues would be noted and asked whether there had been an outline permission sought in this case. The Senior Planning Officer (LM) noted that the application had been submitted as a full planning application, adding there was no requirement to submit in outline as a first stage and the application before Members contained all the necessary details in order for determination.

Councillor J Elmer noted reference to the site being adjacent to the Easington CA and asked what the Council's response was in terms of impact upon the CA. The Senior Planning Officer (LM) noted it had been considered to be 'less than substantial harm', with agreement to the proposals from the Design and Conservation Team being set out at paragraphs 138 to 149 of the report. She added it was felt the minimal levels of harm were outweighed by the benefits of the scheme and therefore Officer felt that the proposals were acceptable.

Councillor J Quinn noted the application was a tough one, being able to see both sides of the argument in terms of the proposals. He noted he had sympathy with local residents, however, there was a need for such affordable housing.

Councillor A Bell agreed with Councillor J Quinn, and while he too had sympathy with residents and acknowledged the number that had objected, there were no policy reasons to refuse the application, and therefore if refused the application would likely be successful at appeal. He agreed there was a need for affordable housing of all, including young families, and therefore it would be difficult decision in terms of the application. He noted that Councillor A Surtees had referred to traffic issues and the Principal DM Engineer has spoken on the matter. He asked if there was any opportunity to be able to enhance any element of the scheme, such as improved road markings, to help in terms of the concerns raised.

The Principal DM Engineer explained that the speed limit already lacked credibility and that the proposed development, as one drove into the village, would hopefully provide additional frontage properties that had been demonstrated to encourage lower speeds by drivers. He noted as the road in question was classified as a B Road with strategic importance, with the road linking to the A19. As such, he explained that there were limits in terms of what could be done regarding the provision of physical traffic calming. He noted there would be appropriate signage and reiterated that the existing protected right-hand turn would be extended. Councillor A Bell asked as regards options for signage or road markings to help. The Principal DM Engineer noted that the location was on the rotation for the speed visor equipment and there had been considerable efforts from Durham Constabulary, as heard, in terms of enforcement. He added that road markings went hand in hand with speed limit credibility, with such signs and road markings being shown to only impact around one mph on speeds, given the width of the road. He noted that the provision of rumble strips was not appropriate due to the noise generated during quiet night time periods affecting adjacent properties.

Councillor R Manchester noted the comments from Councillor A Bell as regards affordable housing and asked as regards any comments from Durham Constabulary, who had objected, in relation to the application and whether there had been any discussions with them in terms of road improvements. The Principal DM Engineer noted that there was not a history of personal injury accidents in the area and in the last 10 years there had been one such accident. He added that therefore the area was not considered one that need intervention. The Senior Planning Officer (LM) note that Durham Constabulary had objected to the originally proposed footpath link, now removed from the scheme.

Councillor A Bell asked as regards the sustainability of the site, access to schools, shops, bus stops and other amenities. The Senior Planning Officer (LM) noted the links to the village and close proximity to bus stops and other amenities.

Councillor L Brown explained she felt the Principal DM Engineer had dealt with the issues relating to highways and therefore she would propose that application be approved as per the Officer's report.

Councillor S Deinali asked whether accidents on the nearby stretch of A19 were included when looking at incidents, and whether the development would impact in that regard. The Senior Planning Officer (LM) noted Highways England, as the relevant body had been consulted in respect of impact upon the A19 and, subject to the CMP conditions they had raised no objections.

The Principal DM Engineer noted that the A19 was controlled by Highways England, not the Council, and noted that in respect of the potential issue raised in terms of vehicle leaving the carriageway there was a dense vegetation belt providing separation.

Councillor J Elmer agreed with other Members that it was a difficult application to determine given the high level of community opposition, however, it was for the Committee to consider proposals against policy and material considerations and that if the application was refused when in accord with policy it was likely such a decision would be overturned at an appeal. He noted he would comment on the issue of need brought up by the local resident, that the affordable housing to be delivered by Believe, a reputable provider, would meet a clearly identified need. He noted he would second the proposal for approval. The Senior Planning Officer (LM) noted paragraph 88 of the report referred to consideration of affordable housing provision in respect of the application. The Team Leader (Central and East), Sarah Eldridge noted that policy requirement was 10 percent affordable, and that the fact that development would be 100 percent affordable could not be given weight, rather simply that the application was in line with the policy requirement in that regard.

Councillor K Shaw explained while he understood the local residents and had sympathy with their concerns, there needed to be material reasons in objection to the application if it was to be refused. He noted that the Principal DM Engineer had explained as regards the highways issues and therefore he would be supporting the application as there were no policy reasons not to.

Councillor J Quinn he would echo the comments from Councillors J Elmer and K Shaw, noting that if the application were refused, it would likely be approved at appeal, with costs to the Council and ultimately the taxpayer, therefore he too would be minded to approve.

The Chair noted the application had been proposed for approval by Councillor L Brown and seconded by Councillor J Elmer, upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions and s106 Legal Agreement as set out within the report.

Councillor A Surtees entered the meeting at 10.46am

c DM/22/00987/FPA - Land adjoining Snook Acres, Front Street, Witton Gilbert, DH7 6SY

The Senior Planning Officer, Jennifer Jennings (JJ) gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer (JJ) advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for residential development for 29 dwellings and associated works (amended title) and was recommended for approval, subject to the conditions and s106 Legal Agreement as set out in the report.

The Senior Planning Officer (JJ) explained that the proposed site was an allocated site within the Witton Gilbert Neighbourhood Plan (WGNP) and all properties would have photovoltaic (PV) cells and comply with Part L Building Control Regulations, with options for all properties to have EV charging, four properties proposed to have such provision as part of the development.

The Chair thanked the Senior Planning Officer (JJ) and asked Helen Heward, Agent for the applicant to speak in support of the application.

H Heward thanked the Committee and noted that the proposals by Homes by Carlton would provide housing on an allocated site which was highly sustainable that would address a local housing need. She explained the developer had engaged with the Parish Council and local community and the final application reflected feedback received, with 25 percent affordable homes, with two bungalows. She noted that trees would be retained where possible and there would be landscaping and amenity space, with hedgerows replaced. She noted good amenity space, with all properties having in-curtilage parking and garden space compliant with the Council's latest Residential Amenity Supplementary Planning Document (SPD). She added here was visitor parking dispersed throughout the development, and the layout was such to allow access for emergency and refuse vehicles. She noted that all properties exceeded Nationally Described Space Standards (NDSS), 66 percent of the properties met M42 Accessibility Standards, with 10 percent being suitable for elderly persons. H Heward noted the proposed footpath link, integrating the development, and renewable energy via PV, and EV infrastructure being in place for the development. She concluded by noting no objections from Technical Officers, subject to conditions and the s106 Agreement, that there was support from the Parish Council, and that as the proposals were in line with policy, she would ask the Committee to approve the much needed development.

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

Councillor A Bell explained he was very familiar with the site, and he felt the application was a well thought through scheme and it was brilliant that the developer had engaged positively with the Parish Council and local community. He moved that the application be approved.

Councillor J Quinn noted there had only been one objection to the application and therefore he would second the approval of the scheme.

Councillor J Elmer noted he would make the following points in respect of the application. Firstly, that the development was an example of development up to the edge of a bypass and how the chance of infill development could be increased as a result. Secondly, in relation to CDP Policy 29(c) and reaching carbon neutrality, PV was welcomed, however he would hope that air or ground source heat pumps would be used in addition, rather than connect to the mains gas supply. His third point related to Northumbrian Water Limited (NWL) not objecting to surface water draining into their sewer. He noted while not objecting, it was an opportunity for them to look for contributions to help with capital works to improve and modernise the sewer system. Councillor J Elmer added that densifying the tree boundary was welcomed, noting that shade tolerant species would be needed. He explained that it was very important to recognise that the proposals were supported by the WGNP, and for the Committee to look to support neighbourhood plans as they are the result of long consultation exercises. He noted he would support the application as presented.

The Senior Planning Officer (JJ) noted that there had been discussions with NWL on the application and they had agreed the proposals were acceptable. She added the landscape plan in terms of shrubs was already conditioned, however, there would be discussions with the Landscape Team as regards what would be appropriate. She noted that there was no requirement not to have gas boilers within properties, rather to met policy requirement and Part L Building Regulations. H Heward confirmed that the proposals were for gas boilers, however, the comments from Members would be taken forward in future developments.

The Chair noted the application had been proposed for approval by Councillor A Bell and seconded by Councillor J Quinn, upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions and s106 Legal Agreement as set out within the report.

d DM/22/02364/FPA - 1 St Monica Grove, Crossgate Moor, Durham, DH1 4AS

The Planning Officer, Michelle Hurton gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change from dwellinghouse (C3) to small house in multiple occupation (C4) including conversion of the garage into a habitable room and single storey extension to rear and was recommended for approval, subject to the conditions.

The Chair thanked the Planning Officer and asked Parish Councillor Susan Walker, representing the City of Durham Parish Council, to speak in relation to the application.

Parish Councillor S Walker thanked the Chair and Committee and noted that in terms of car parking, the NPPF was clear that parking and transport were key to make a high quality development. She added that displaced parking was a known issue in Durham City and was specifically an issue in this area. She reiterated that car parking should be integral to development, especially in an area with known parking issues. She added that the Parish Council suggested that the Council's Parking Standards should be followed both in principle and spirit, in this case where a residential dwelling is being changed for use as a house in multiple occupation (HMO) and there was no proposed in-curtilage parking but would be a dropped kerb, actually decreasing on-street parking. Parish Councillor S Walker noted that the DCC Parking Standards referred to two parking spaces and a double garage for such developments and therefore the proposals were not in the spirit of the policy. She added there were additional issues, such as the loss of garden space, which could impact on flooding on the A167, already an issue in that area, risking conflict with CDP Policy 35. She explained that CDP Policy 31 related to amenity and pollution and as the new development could lead to additional traffic and congestion, this was in addition to the already significant traffic issues in the area. It was added that the area and junction specifically was part of the walking route to Durham Johnston School and therefore there would be an increased risk and perceived risk to children and therefore likely to lead to increased use of cars to drop children off at school, contrary to CDP Policy 21.

Parish Councillor S Walker noted that DCC had declared a Climate Emergency, something the Parish Council supported, and therefore all development should meet the requirements of CDP Policy 29. She added it was not clear how this particular application met that policy.

She explained that it was clear that if the application was allowed there would be impact upon residential amenity, with five unrelated adults generating significantly more noise and disturbance than a single family. She added that the CDP referred to 'mixed and balanced communities' and noted the Parish Council found it hard to find that within this application. She referred to the comments from Durham University in relation to a recent application for the Apollo Bingo in that there were sufficient properties to meet their projected need in terms of student accommodation. She noted the need for family homes in Durham City and asked that Members refuse the application, it being contrary to CDP Policy 16(3) relating to the quantity of cycle and car parking provided (referring to the Parking and Accessibility SPD) and on the basis of the many objections from residents to the proposals.

The Chair thanked Parish Councillor S Walker and asked Kate Gorman, Local Resident to speak in relation to the application.

K Gorman noted she was a homeowner living on St. Monica Grove and she was representing the 62 homeowners living in the area opposing the change of a family home into an HMO. She explained that their community was a stable, diverse and mixed community with those that worked, school age children and those that had retired. She noted the area was within walking distance of the school and was exactly the type of house for families. She added that the Council policies relating to protecting against the proliferation of HMOs were welcomed and explained that there were already four HMOs within 100 metres of the property in question and echoed the comments from the Parish Council in that student residents were very different from families. K Gorman noted that the application was contrary to CDP Policy 16(3) and represented an assault upon residents' amenity. She noted it was contrary to CDP Policy 29 in terms of sound proofing not addressing the additional noise from comings and goings of the student residents, and also in terms of separation distances and garden size not being sufficient. She added the proposals were not suitable.

K Gorman noted there was another application for 3 St. Monica Grove by the same applicant for a seven-bed HMO and therefore it would be appropriate to defer the application for 1 St. Monica Grove and for them to be considered together. She explained that the current application contravened CDP Policy 6(e) in terms of creating issue for access for emergency vehicles by exacerbating parking issues. She noted that the area was a direct route into the City Centre and part of the National Cycle Network. She noted comments from the Vice-Chancellor of Durham University who had stated that purpose build student accommodation (PBSAs) was only at around 50 percent occupancy, therefore there was no need for additional student properties. She asked that Members protect residents and allow them to grow old in their City, maintaining the strong balanced community that existed in the area.

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

Councillor J Elmer thanked the Officer and speakers for their comments. He noted concern as regards car parking, pushing cars on to the road as a result of a loss of parking. He noted the issue raised in terms of the application next door for similar development and whether the application should be considered together. He asked as regards cycle storage, waste bin and recycling storage in curtilage. He noted concern there were room sizes that did not meet NDSS and asked for clarity from the Officer. He asked as regards privacy, with separation distances of 15 metres where 21 metres was the requirement. Councillor J Elmer noted that he felt there was not much effort being made with the application in terms of CDP Policy 29 and carbon neutrality. He concluded by noting he could not see how the application identified a need, certain not the need of the area, which was not a student area.

The Principal Planning Officer, Paul Hopper noted there was some confusion in relation to space standards. He confirmed that the application was compliant with the NDSS and that separation distances were deemed acceptable as they were existing separation distances, the 21 metres could not be applied retrospectively and accordingly, the arrangements were considered satisfactory. He added that in relation to CDP Policy 16(3), need was not a requirement.

The Principal DM Engineer explained that while there were adjacent applications, each would be looked at on their own merits. He noted that in terms of parking, if additional parking was provided and there was a dropped kerb, there potentially would be a loss of on-street parking. He noted that the existing white 'H'-bar lines would extend across the proposed access driveway and therefore there would not be a loss of parking if drivers were complying with the rules. He explained that the application did comply with the Council's parking standards in terms of providing one additional space, the double garage requirement was for new development and therefore the application was acceptable from the Highways perspective.

The Principal Planning Officer (PH) noted that cycle and bin storage would be on-site, and Officers were comfortable as regards the condition managing the property, though the condition could be amended to contain precise details if Members were so minded.

Councillor L Brown noted it was a very difficult application for her, having been brought up living in St. Monica Grove and would wish for the impact on residents to be mitigated. She asked as regards the parking proposed and whether it would require a new dropped kerb.

The Principal DM Engineer noted a new drop kerb, with an informative to be included within any permission granted.

Councillor L Brown noted that would be a double entrance and asked if a condition could be put to ensure that any surface within the property was permeable, that and EV charging point be provided, and that at Condition 6 the start time of works be changed from 7.30am back to 8.00am and to finish at 2.00pm on Saturdays. She noted that parking on St. Monica Grove was an issue as it was the nearest street to Durham City Centre without a controlled parking zone. She noted that also its proximity to Durham Johnston School meant there were many parents that used the street for parking. She noted that there had been an attempt to get a controlled parking zone for the area, however, that had not been successful. She noted that further attempts would be made should the applications for 1 and 3 St. Monica Grove be successful, as it was becoming increasingly difficult for residents to park, with some people leaving their cars in the street and then going into Durham to commute to work at Newcastle via rail. She accepted there were no material concerns and therefore she hoped only to mitigate some of the issues faced by residents.

The Principal Planning Officer (PH) noted that it would be possible to add a condition relating to the surface material for the driveway and noted that the condition relating to hours of work was a standard condition and if Members wished to alter then a specific reason would help in that regard. In respect of a requirement for EV charging, it was not policy for development of this scale and therefore it would be for Members to explain why on a policy basis.

Councillor L Brown noted it was a shame in relation to the EV charging point, however, the reason in relation to 8.00am start times and 2.00pm finish on Saturday was as the development was near to existing family homes and would also be in line with the conditions as set out in the Witton Gilbert application previously considered. The Principal Planning Officer (PH) noted 8.00am start times Monday to Saturday and with a 2.00pm finish on Saturdays. The Lawyer, Planning and Highways Neil Carter noted those conditions were within the gift of the Committee to alter as they saw necessary. Councillor L Brown asked if the cycle/waste storage was already conditioned, the Principal Planning Officer (PH) noted that Condition 5 relating to the management plan could be amended regards cycle/waste storage. He asked if Councillor L Brown would wish for 2.00pm finish on Saturday to include internal works non-audible to outside the property, she confirmed that was the case.

The Chair noted that while additional HMOs were not wanted in the city centre, there did not appear to be grounds for refusal in this case. He noted that there had yet to be a motion in relation to the application.

Councillor S Deinali moved that the application be approved, subject to the additional condition and amended conditions as set out by Councillor L Brown, she was seconded by Councillor K Shaw and upon a vote being taken it was:

RESOLVED

That the application be **APPROVED**, subject to the conditions as set out within the report, with an additional condition relating to permeable driveway surface and amended conditions making reference to cycle storage and permitted hours of development, with 8.00am start times and 2.00pm finish time on Saturdays.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/03636/PNT
FULL APPLICATION DESCRIPTION:	Prior notification for installation of 15m Phase 9 monopole together with wraparound cabinet at base, 3no. ancillary equipment cabinets, and associated ancillary works.
NAME OF APPLICANT:	CK Hutchison Networks (UK) Ltd
ADDRESS:	Land South West Of Kepier Community Clinic Kepier Crescent Gilesgate Moor DH1 1PH
ELECTORAL DIVISION:	Belmont
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 the public footpath within the adopted Highway to the front of Kepier Community Clinic in Kepier Crescent, Gilesgate Moor. The site is within a predominantly residential area, with the exception of the adjacent Clinic and Durham Gilesgate Primary School which is located approximately 100m to the north of the site. A public right of way (Belmont no. 5) lies to the north of the site and runs between the community clinic and primary school. The site lies outside of the conservation area and is not otherwise subject to any formal planning designation.

The Proposal

2. Prior notification is given to the Local Planning Authority of the applicant's intention to install a 15-metre-high Phase 9 monopole, together with wraparound equipment cabinet at the base, 3 no. ancillary equipment cabinets, and associated ancillary works. The proposed installation is required to provide effective network coverage and capacity, most notably in relation to new 5G services.
3. As a result of concerns with regards to the visual impact of the development, the scheme has been amended during consideration of the application which has resulted in the monopole being reduced from a height of 20 metres to a height of 15 metres. It is also noted that while the various equipment cabinets are included within the description of development these elements alone would be permitted development under the

provisions of Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order (GDPO) 2015 as amended.

4. Notwithstanding the above, under provisions of the prior approval process detailed through Part 16 of the GDPO, the Local Planning Authority (LPA) are only able to determine whether the prior approval of the LPA will be required as to the siting and appearance of the development, not the principle of development itself, as this is established by The Town and Country Planning (General Permitted Development) (England) Order 2015. The current application before the committee therefore relates solely to considering whether or not prior approval is required in relation to the siting and appearance of the proposal. In determining the application, the LPA must take into account any representations made to them as a result of consultations and those notices undertaken.
5. The application is referred to Planning Committee at the request of Councillors Eric Mavin and Lesley Mavin and Belmont Parish Council who consider the impact upon residential and visual amenity to be such that the application be considered by the committee.

PLANNING HISTORY

6. No relevant planning history.

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 10 Supporting High Quality Communications - The development of high-speed broadband technology and other communications networks also plays a vital role in enhancing the provision of local community facilities and services. Local planning authorities should support the expansion of electronic communications networks, including telecommunications and high-speed broadband.
10. NPPF Part 12 - Achieving Well-Designed Places. The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
11. NPPF Part 15 - Conserving and Enhancing the Natural Environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at

unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

12. The Government has consolidated several 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; design process and tools; determining a planning application; healthy and safe communities; natural environment; neighbourhood planning; noise; public rights of way and local green space; and use of planning conditions.

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

LOCAL PLAN POLICY:

The County Durham Plan

13. Policy 21 (Delivering Sustainable Transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
14. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) states proposals will be permitted for new or extensions to existing energy generation, utility transmission facilities, telecommunication masts or other broadcast and broadband equipment which facilitate the electronic transfer of data where: it can be demonstrated that the scheme will not cause significant adverse impacts or that its benefits outweigh any adverse negative effects; where a new site is required applicants must demonstrate to the council's satisfaction that the use of existing sites in the area have been fully explored and are not feasible, and equipment must be sympathetically designed and camouflaged and not result in visual clutter; and where applicable, it does not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation operated in the national interest.
15. 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
16. 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.

Neighbourhood Plan

17. The application site does not lie within a neighbourhood planning area with a plan to which regard must be had.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

18. Highway Authority – This application raises no concerns over road safety.

INTERNAL CONSULTEE RESPONSES:

19. Environment, Health and Consumer Protection (Nuisance Action Team) Section – notes that the applicant has provided a certificate of conformity with ICNIRP Public Exposure Guidelines and are satisfied, based on the information submitted with the application, that the development is unlikely to cause a statutory nuisance.
20. Landscape Section – following the reduced height of the monopole, advised that although the mast would still be taller than the street lighting columns, trees, and houses in the vicinity, it would have a fairly slim and uncomplicated profile, with a shrouded antenna, which in the context of this urban setting would not be dissimilar to the existing lamp posts and telegraph poles and would not be as visually obtrusive or as dominant as the previous proposed elevations.
21. Ecology Section – raise no objection.

PUBLIC RESPONSES:

22. The application has been advertised by means of site notice displayed at the site, an advertisement published within The Northern Echo, and individual notification letters sent to neighbouring residents.
23. To date, 7 no. letters of objection have been received in relation to the application, including from Cllrs Eric and Lesley Mavin, Cllr Christine Fletcher, Belmont Parish Council, Durham Gillesgate Primary School, Gillesgate Residents Association, and Kepier Community Clinic. The concerns raised are summarised as follows:
 - The monopole would be visually intrusive and disproportionate in height when compared to adjacent structures and buildings.
 - The monopole is within 100m of Gillesgate Primary School and at the entrance to Kepier Community Clinic.
 - There is a lack of clarity in terms of potential risks to public health and there is a growing body of scientific evidence showing the potential health impacts of 5G EMF radiation on children, the elderly, and vulnerable adults.
 - There are more suitable sites available within the locality and limited consideration has been given to those alternatives.
 - The monopole is incompatible with the design and use of Community Clinic.

- The monopole will cause a significant loss of visual amenity to residents, particularly those living in 1, 2 and 57 Musgrave Gardens, and in 120-124 Bradford Crescent

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?keyVal=RMJ67PGDHZ200&activeTab=summary>

APPLICANT'S STATEMENT:

24. None provided.

PLANNING CONSIDERATIONS AND ASSESSMENT

25. Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015, as amended, makes provision for the installation of certain telecommunications equipment. Such provision is subject to a prior notification procedure; however, the Local Planning Authority (LPA) are only able to determine whether the prior approval of the LPA will be required as to the siting and appearance of the development. In determining the application, the LPA must also take into account any representations made to them as a result of consultations and notices undertaken.
26. Part 10 of the NPPF supports high quality communications. Paragraph 114 advises that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Paragraph 115 states that where new sites are required, equipment should be sympathetically designed and camouflaged where appropriate.
27. Para 117 advises that applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:
- a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and
 - b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or
 - c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.
28. Paragraph 118 goes on to advise that Local Planning Authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

29. Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) of the County Durham Plan (CDP) states that proposals for new telecommunications masts will be permitted where:
- a) it can be demonstrated that the scheme will not cause significant adverse impacts or that its benefits outweigh any adverse negative effects.
 - b) it is located at an existing mast or transmission site, where it is technically and operationally feasible and does not result in visual clutter. Where a new site is required, applicants must demonstrate to the council's satisfaction that the use of existing sites in the area have been fully explored and are not feasible. Equipment must be sympathetically designed and camouflaged and not result in visual clutter; and
 - c) where applicable, it does not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation operated in the national interest.
30. In addition, Policy 29 (Sustainable Design) relates to sustainable design and states that all proposals will be required to create 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.
31. As outlined above, the local planning authority are only able to determine whether prior approval will be required as to the siting and appearance of the development, not the principle of development itself, as this is established within The Town and Country Planning (General Permitted Development) (England) Order 2015.

Applicant's Case and Justification

32. In consideration of the points above, particularly relating to consultations with organisations (a), it is noted that the development is not within a statutory safeguarding zone and the applicant confirms, within their Site Specific Supplementary Information and Planning Justification Document (SID), that Durham Gilesgate Primary School (approximately 100m away) and St Hild's C of E Primary School were notified of the proposal prior to the submission of the application and no response was received.
33. In line with NPPF Paragraph 117 (b), the applicant has provided a certificate of conformity with ICNIRP Public Exposure Guidelines and as such officers do not raise concerns in relation to the development impacting upon the health of residents. It is acknowledged that objections have been received from residents in relation to the potential impacts of the development on public health. However, the NPPF is clear that local planning authorities should not determine health safeguards or set health safeguards different from the International Commission on Non-Ionizing Radiation Protection (ICNIRP) for public exposure. The applicants have confirmed that the proposal would be in full compliance with these guidelines, and this is accepted by the LPA.
34. Paragraph 115 of the NPPF advises that the number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. As already noted, Paragraph 117 advises that applications for electronic communications development (including

applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development.

35. The SID states that the site is required to provide new 5G coverage for H3G LTE, improving service in and around this area subject to this application and suggests that the cell search areas for 5G are extremely constrained with a typical cell radius of approximately 50m. The SID also states that they have adopted search criteria based on the sequential approach as outlined in the NPPF as follows:
- a) Mast and Site Sharing
 - b) Existing Buildings Structures
 - c) Ground Bases Installations

In compliance with its licence and the sequential approach outlined in the NPPF, the applicant states within the SID that attempts to utilise any existing telecommunication structures where they represent the optimum environmental solution have been employed. The SID explains that in this location 'existing mast sites are not capable of supporting additional equipment compliment to extend coverage reach across the target area and prospective 'in-fill' mast sites are extremely limited'. In further correspondence with the applicant, they have also stated that a search of existing structures suitable of accommodating the required telecommunications equipment have not identified any potentially suitable structures in this regard. Therefore, the development is considered to accord with the requirements of Paragraph 117(c) of the NPPF and Policy 27(b) of the CDP.

36. As such, it is considered by the applicant that the optimum solution from the perspective of cell planning and radio coverage has been put forward. The target search area and existing H3G (Three) UK sites are shown in Figure 4 of the SID, and this explains that the proposed installation must be located close to the area outlined therein. While there is no requirement for the applicant to provide an exhaustive list of new sites which have been considered, they have provided a list of 6 sites which were investigated but subsequently discounted. The reasons for those sites being discounted range from siting within a dense residential area or being located in close proximity to residential properties, to insufficient or unsuitable pavements, there being overhead cables above, or visibility splay issues.
37. It is noted that the proposed site is also located within a predominantly residential area and this was queried with the applicant who noted that the selected site, which is slightly outside of the cell search area and away from the nominal location, was chosen as it is considered less harmful than the sites to the north which are more densely populated by residential dwellings. The application site is considered to be more open with separation distances to residential properties slightly greater than other sites proposed. The footpath is also much wider in the location and will not therefore interfere with pedestrian movements.
38. Other potentially suitable sites have been put forward by those objecting to the current application, including a site adjacent to the A690, land adjacent to 93 Bradford Crescent and land to the east of Hornbeam Close. The applicant has confirmed that the A690 road is not suitable given it would not be possible to maintain the equipment safely once installed and with regards to the other sites, the applicant does not consider that these would be any less harmful in terms of impacts on outlook and amenity of neighbouring residents, and would be visible in more direct views from properties or appear more overbearing due to proximity to dwellings and private gardens and amenity spaces. The applicant has also noted that there is an existing mast (DUR018) which covers a separate area to the north-east (as shown in Figure 4 of the SID).

39. On that basis, it is considered that sufficient information has been submitted by the applicant to demonstrate that alternative sites have been considered and discounted for valid reasons. Therefore, the development is considered acceptable and that the evidence to support the application provided by the applicant, accords with the requirements of Paragraph 117 of the NPPF and Policy 27 of the CDP.

Siting and Appearance

40. Policy objectives within the NPPF are clear that sites for mast installation should be kept to a minimum consistent with efficient operation of the network and applications should be determined on planning grounds. On this basis, Part 12 of the NPPF requiring good design is applicable, whereby planning decisions should address the integration of new development into the natural and built environment (Paragraph 130).
41. As already discussed, Policy 27(a) of the CDP requires proposals to demonstrate that the scheme will not cause significant adverse impacts or that its benefits outweigh any adverse negative effects. Paragraph 5.272 of the supporting text of CDP Policy 27 advises that, in accordance with the NPPF, all new infrastructure installations should, where possible, minimise the number of masts and new sites required and be sympathetically designed and camouflaged where appropriate. Policy 29 requires development proposals to achieve well designed buildings and places and to create spaces that are adaptable to changing social, technological, economic and environmental conditions.
42. The proposed monopole, as amended, would have a height of 15 metres and be of a sleek design, finished in a visually recessive colour (RAL: 6009 Fir green). It would be sited at the back of a public footpath and adjacent to the front boundary with Kepier Community Clinic. The surrounding area is predominantly residential in character with the Community Clinic adjacent and Durham Gilesgate Primary School approximately 100m to the north. The properties in the immediate locality are generally a mix of single-storey and two-storey height.
43. Given the open and green character of the townscape and low built form in this part of Gilesgate, the development will be visible within the street scene and from multiple receptors including the well-used PROW (No. 3 Belmont), the school and Clinic. However, the monopole is of a slim and uncomplicated profile which will be viewed in the context of this urban setting and, although slightly taller, will not appear dissimilar to the existing lamp posts and telegraph poles. As such, it is not considered that the reduced 15 metre scheme will be as visually obtrusive or as dominant as the previous scheme and is not therefore considered to have any significant adverse impacts on the street scene or character and appearance of the surrounding area.
44. Policy 31 (Amenity and Pollution) of the CDP permits development where 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. 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.
45. It is acknowledged that concerns have been raised by objectors in relation to loss of outlook and amenity as a result of the proposed development. As already noted, the development will be visible within the street scene and from certain vantage points within the locality. The development will be sited to the front of the Clinic and will potentially be visible from neighbouring properties, in particular 1 and 2 Musgrave Gardens which are north facing and to the south-west of the development.

46. The equipment cabinets and base of the pole would be screened to a degree from the Clinic by the existing front boundary palisade fence and hedge, although it is acknowledged it will be visible above the boundary and when stood within the site to the front of the Clinic. The development may also be visible from 1-2 Musgrave Gardens; however, it is noted that it is not located directly to the north and there is a separation distance of approximately 25m. Generally, due to the orientation of properties within the vicinity of the application site, it is not considered that the development will feature in direct views from the front of properties and will generally be seen in the context of other lighting columns and telegraph poles in the area. As such, it is not considered that the development would result in any significant adverse impacts in terms of loss of outlook, overbearing or overshadowing impacts to a degree that would warrant refusal of the application in this instance.
47. Concern has been raised by residents that the health implications of equipment proposed is not fully understood, and that the application fails to adequately demonstrate that there would not be any adverse impact in this regard, particularly in relation to the elderly, very young children and vulnerable adults. Clearly those concerns raised are genuine. However, paragraph 118 of the NPPF goes on to advise that Local Planning Authorities must determine applications on planning grounds only. They should not seek to set health safeguards different from the International Commission guidelines for public exposure. This demonstrates the Government's view is that the planning system is not the place for determining health safeguards which are set elsewhere. In this instance the applicant has provided evidence to demonstrate that the monopole mast and associated equipment meets the ICNIRP guidelines for public exposure and as such is not considered to have any adverse impact upon human health. The Council's raises no objection to the application in this regard.
48. The development, as proposed, is considered to be the minimum required to bring the benefits of 5G to this area. Based on the above and the amended development, it is not considered that the proposals would have any significant adverse impacts on the character and appearance of the area or on residential amenity to a degree that would warrant refusal of the application in this instance and would in turn, provide some benefit in the roll out of 5G coverage within the locality. The development would therefore accord with Parts 10 and 12 of the NPPF and Policies 27, 29 and 31 of the CDP. As such, it is considered that prior approval of the LPA is required and should be granted in this instance.

CONCLUSION

49. In summary, the principle of the development is considered to fall within the provisions contained within Part 16 of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 as amended and it is considered that sufficient evidence has been provided to satisfy the LPA that the use of existing sites has been explored and discounted, and that a new site is required as a consequence.
50. The proposal has been assessed in terms of its impact having regard to the siting and appearance of the development. It is considered that the amended proposals would not result in an unacceptable level of visual clutter and would not have a significant detrimental impact on the character and appearance of the area or residential amenity in accordance with Parts 10 and 12 of the Nationally Planning Policy Framework and Policies 27, 29 and 31 of the County Durham Plan.

51. Whilst concerns of the local ward members, parish council and nearby residents are noted, for the reasons detailed in this report it is not considered that the issues raised are capable of sustaining refusal of prior approval as sought, taking into account the provisions of Part 16 of the GPDO.
52. On that basis, it is considered that the prior approval of the LPA is required in relation to the above matters, however, is considered acceptable and should therefore be granted to allow a condition to be attached to ensure the development is completed in accordance with the approved submitted plans.

Public Sector Equality Duty

53. 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.

In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That Prior Approval is required for siting and appearance of the development and granted subject to the following conditions:

1. Development under Part 16, Class A, must begin not later than the expiration of 5 years beginning with the date on which the approval was given.

Reason: Required to be imposed pursuant to Part 16, Class A, A.3(11) of the Town and Country Planning General Permitted Development Order 2015 (as amended)

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) 27, 29 and 31 of the County Durham Plan and Parts 10 and 12 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted application form, plans and supporting documents

Statutory, internal and public consultation responses

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

The Town and Country Planning (General Permitted Development) (England) Order 2015
(as amended)



<p>Planning Services</p>	<p>DM/22/03636/PNT: Prior notification for installation of 15m Phase 9 monopole together with wraparound cabinet at base, 3no. ancillary equipment cabinets, and associated ancillary works.</p>	
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	<p>Date 14 March 2023</p>	<p>Scale Not to Scale</p>

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/22/01537/FPA
FULL APPLICATION DESCRIPTION:	Change of use of dwelling (Use Class C3) to spa facility (Use Class E(e)) including removal of existing front door and installation of new entrance door to northern elevation.
NAME OF APPLICANT:	Mr Peter Shakeshaft
ADDRESS:	The Orchard Hallgarth High Pittington Durham DH6 1AB
ELECTORAL DIVISION:	Sherburn
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 is an existing dwelling which is an unlisted detached residential property located within Hallgarth which is a small hamlet adjacent to High Pittington. The site also falls within the Hallgarth Conservation Area.
2. The dwelling sits within generous grounds and vehicular access is taken from the front via a shared arrangement with a neighbouring dwelling. Residential properties surround the site on most sides however Hallgarth Manor Hotel sits to the north of the site and is also within the ownership of the applicant.

The Proposal:

3. Planning permission is sought for the change of use of the existing property from dwelling (falling with Class C3) to a spa facility (Class E(e)) and would include the removal and blocking up of the existing front door to be replaced by the installation of a new entrance door to northern elevation.
4. The spa would comprise café/bar facilities, beauty salon, sauna/steam rooms, lounge areas (indoor and outdoor), treatment rooms and a plant room and be occupied in direction association with Hallgarth Manor Hotel, forming an extension to the existing facility and with this in mind a footpath link is proposed from the existing manor to the host property, through which the majority of the access would be provided. The agent

has confirmed that sporadic visits will take place from the main entrance to the existing site, mainly for maintenance and deliveries. The proposed hours of operation are Monday to Saturday 0900 to 2100hrs and Sunday 0900 to 1900hrs.

5. The application is reported to planning committee at the request of Councillor David Hall who considered that due to the sensitive and historical setting of the proposals, the likely impact on local residents amenity from increased noise and other environmental impacts, the application should be determined by the planning committee.

PLANNING HISTORY

6. There is no relevant planning history on this site.

PLANNING POLICY

NATIONAL POLICY

7. 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.
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 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.
12. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive

communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

13. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 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.
15. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 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.
17. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
18. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

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

County Durham Plan

20. 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.
21. Policy 8 (Visitor Accommodation) supports new and extensions to visitor accommodation provided it is appropriate to the scale and character of the area and not used for permanent residential occupation. In the countryside such accommodation would also need to meet an identified need, support business viability (if an extension) or involve conversion and should respect the character of the countryside and demonstrate how the location can be made sustainable. For chalets, camping and caravanning development and infrastructure, in addition to the above criteria the development would need to provide flood risk details, not be unduly prominent, have appropriate layouts and have sensitive materials, colours and scale.
22. 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.

23. Policy 21 (Delivering sustainable transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated

by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.

24. Policy 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.
25. Policy 31 (Amenity and pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
26. Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

Neighbourhood Plan

27. 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:

28. Highway Authority raise no objection to the proposal.

INTERNAL CONSULTEE RESPONSES:

29. Environmental Health (Noise) Section – Note the presence of noise sensitive receptors close to the application property and that the existing hotel has previously been subject to noise complaints. However, they consider the impact of the development could be appropriately mitigated subject to the imposition of planning conditions.
30. Design and Conservation Section – No objection.
31. Spatial Policy Section – Advise that the application should be considered against the requirements of policies 6, 8, 10 21, 29, 31 and 44 of the County Durham Plan concluding that CDP Policy 8 (Visitor Accommodation) and Policy 6 (Unallocated

Sites) would be supportive of the proposal, providing the case officer is satisfied that the applicant demonstrates the various criteria are met.

PUBLIC RESPONSES:

32. The application has been advertised by means of site notice, press notice and by notifying neighbouring residents by letter.
33. To date, five letters of objection have been received with the following comments:
 - The proposal would introduce commercial use into Hallgarth which is not acceptable.
 - Durham County Council's Conservation Area Appraisal for Pitlington Hallgarth states the LPA has a duty to preserve and enhance the special character of the conservation area and the commercial operations will not preserve or enhance the special character.
 - Potential impact on nearby listed buildings.
 - Concern raised over the content of the design and access statement in respect of details provided which fail to mention shared driveway etc.
 - Concern over access arrangements
 - No details have been provided in respect of plant and machinery.
 - Concern over impact on residential amenity there are already existing issues from the existing Hotel.
 - Landscape concerns specifically that trees have been removed from the site.
 - The property has been used as a commercial entity since it has been purchased.
 - Concerns that the site does not represent a sustainable location.
 - If approved conditions should be added to control the proposal.
 - Concern regarding other uses if the Spa is not successful.
 - Concern that no security is in place to protect residents.

APPLICANT'S STATEMENT:

34. The impact of the Covid 19 pandemic on the hospitality sector has been significant and caused fundamental changes to the industry. The Hallgarth Manor Hotel is now in our client's ownership who are a successful national operator of boutique hotels and spa's across the UK.
35. The Hallgarth Manor has struggled commercially as a hotel and hospitality venue for many years. It has faced closure and ownership has changed several times. Securing its future will require significant investment to provide a facility which addresses market expectations for the niche that our client has identified and successfully services elsewhere in the country. Fundamental to this is the provision of a spa facility for guests who increasingly seek this form of leisure activity as part of a 'short-break' package.
36. There is a recognised shortage of hotel accommodation in the Durham City area and the proposed development will assist in securing the future of the Hallgarth Manor Hotel. The intention is that in coming years, the Hallgarth Manor Hotel will be sympathetically redeveloped to provide a hotel spa destination which is able to provide a significant and commercially sustainable facility which will secure the future of the building as a heritage asset. Further proposals for the overall site will be the subject of future applications.

37. The applicant has investigated several options for provision of a spa facility as part of Hallgarth Manor Hotel. This includes a beauty salon, spa area incorporating internal plunge and relaxation pools, treatment rooms and relaxation rooms. The listed building status of the Manor House and curtilage and conservation area status of the area has presented challenges in providing a facility of sufficient size to accommodate the spa. The decision was therefore made to purchase the adjacent dwelling "The Orchard" and change the use of the building to accommodate the spa facility. The dwelling is able to accommodate the spa with only minor internal alterations to the building and upgrade to services which will have no material alterations in the external appearance of the building.
38. The only works subject to planning approval necessary to facilitate the proposed change of use are the installation of two new doorways in the northern elevation (Elevation C) of the building. One will provide the main access to the spa and is orientated towards the Manor Hotel. It will replace the current main entrance to the building which is located on the southern elevation. The second doorway will provide access to the internal plant area. No other external works to the building are proposed as part of this application.
39. No impact on the character and appearance of the conservation area is anticipated as a result of the proposed development. There will be no harm to the designated heritage asset which is Hallgarth Manor. The proposal will assist in sustaining the heritage asset in use as a hotel and is a positive heritage benefit in this regard.
40. Access to the dwelling is currently via the driveway from the Hallgarth House Road to the east of this site. This is a typical entrance to a large residential dwelling. There are no proposals to alter this access as part of the current application. It will be retained and used only for limited servicing of the spa facility if vehicular access is required. It is anticipated that vehicular servicing will be limited as servicing will be via the main hotel.
41. On the basis of the above, the Council is respectfully requested to respond positively to 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

42. 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.
43. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in this regard. The County Durham Plan is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
44. The County Durham Plan is now adopted and is considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.

45. In this context, it is considered that the main planning issues in this instance relate to the principle of development, impact upon the surrounding conservation area and nearby listed buildings, residential amenity, parking, access and highway safety.

Principle of the Development

46. The site is considered to be within the countryside and as such Policy 10 of the County Durham Plan would be of relevance. 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 or where the proposal relates to one or more of a list of exceptions.
47. One of the policies listed relates to development on unallocated sites and as such, policy 6 of the County Durham Plan is considered to be applicable.
48. Policy 6 states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration.
49. In relation to criteria a) and b), the application site is currently residential and sits between an existing commercial hotel and other residential properties and therefore, is considered to be sited within a mixed use area, as such the proposed use is considered acceptable in principle.
50. There is no concern that the development would result in inappropriate ribbon development, nor that it would be considered inappropriate backland development. In addition, it is not considered that the site would result in the loss of any valued facilities in connection with criteria g. It is not considered that criteria j) is relevant in this instance.

51. Given the above, the proposal is considered acceptable in principle with regard to policy 6, subject to full assessment against the remaining criteria of policy 6 not discussed in detail above.
52. Policy 8 of the CDP is also partially relevant and relates to extensions to visitor accommodation stating, that these will be supported where it is appropriate to the scale and character of the area and it is not used for permanent residential occupation. In this instance the proposal would not create any additional bedspaces but would be used in direct association with existing visitor accommodation offered at the Hallgarth Hotel. In relation to those proposals which are within the countryside the policy states that these will be supported where it is necessary to meet identified needs or it is an extension to existing visitor accommodation and helps to support future business viability or is a conversion of an existing building, and respects the character of the countryside and demonstrates clear opportunities to make its location more sustainable.
53. In this instance the conversion of the dwelling would be occupied in direct association with the existing hotel accommodation to the north but would not deliver any additional bedspaces as noted, being used solely to provide additional services in the form of a spa, lounge, café/bar and sauna and steam rooms. Nevertheless, it is noted that in terms of assessment against the requirements of policy 8 the proposal would be appropriate to the scale and character of the area which already includes the hotel and would not be for permanent residential accommodation (although it is noted that this is already the case given the existing lawful C3 use). In relation to criteria c to f it is noted that the development would comply with criteria d in that it represents both a conversion and an extension to existing visitor accommodation (in the sense that it will widen the range of services available at the existing hotel) and as such would help support future business viability. Assessment against criteria e) and f) are contained elsewhere in this report.
54. In summary the development is considered to accord with the aims of policy 8 of the CDP and is acceptable in principle.

Residential Amenity

55. 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.
56. 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.
57. Concern has been raised by residents that the proposal would have an adverse impact from increased noise and in doing so note that existing noise from the Hotel currently causes disturbance. Specifically, residents raised concern at the potential for noise nuisance occurring through the use of the external terrace area which is

currently present on the existing dwelling and a lack of information with regards to the need for any external plant/machinery.

58. The EHO has confirmed that the existing hotel has been, and is, subject to noise complaints relating to events held on the existing grounds and as such would give rise to concern in relation to the appropriate management of the facility in relation to ensuring protection of neighbouring amenity as well as potentially giving rise to statutory nuisance. As such the Environmental Health Section requested further information and as a result the applicant confirmed the precise nature of the use of both the existing hotel and the proposed conversion.
59. In summary, this clarified that access for customers/guests would be via a proposed new pathway leading from the Hallgarth Manor Hotel; that the existing driveway access would be limited to occasional use for delivery/service vehicles, that the proposed hours of operation are Monday to Saturday 0900 to 2100hrs and Sunday 0900 to 1900hrs and that there would be no requirement for kitchen extraction plant, as the intention is to provide bar meals, prepared within the hotel kitchens, or small-scale bar snacks prepared within the new development.
60. The Council's EHO has reviewed the information, and despite noting that the presence of existing noise complaints relating to events held on the existing grounds to some extent questions the current management of the facility, nevertheless advises that although noise from the commercial use of the premises may give rise to statutory nuisance to neighbouring sensitive receptors, any impact could be mitigated to within acceptable levels subject to the imposition of planning conditions.
61. Those conditions are listed at the end of this report but in summary relate to restriction of the proposed use to Class E(e), restriction to the hours of use of between 0900 to 2100 hours Monday to Saturday and 0900 to 1900 on Sundays and Bank Holidays, no use of the outside area by patrons between the hours of 1900 and 0900 on any day and no recorded or live music played within the interior of the building other than background music, no amplified music or live music to be played in any exterior area of the property at any time and that the rating level of noise emitted from any fixed plant/machinery be restricted to within acceptable levels as defined by the appropriate British Standard.
62. Subject to the conditions stated above, the development is not considered to have an unacceptable impact upon the residential amenity of surrounding noise sensitive receptors in accordance with the aims of policies 29 and 31 of the CDP and Part 15 of the NPPF.
63. Safety concerns have also been raised by residents who are concerned that there would be no security in place. Whilst the dwelling is set within a small hamlet which includes residential dwellings, the property is well related to the hotel of which it will be directly occupied in association with, and it is considered that this can be satisfactorily managed without adverse impact upon the safety and security of adjacent residential occupiers. Whilst some concern has been raised in relation to management of the current facility assurances have been provided by the current operator that this can be managed effectively. With regard to previous noise complaints whilst these are not material to the consideration of the current application the applicant has advised that the proposed spa facility is part of an overall masterplan to move the focus of the hotel away from events that can be noise generating and is developing proposals to remove the function room facilities and replace these with additional hotel residential accommodation subject to consultation with the Local Planning Authority.

64. In summary, whilst the concerns surrounding potential noise impact are noted for the reasons detailed in the report, it is considered that these can be overcome with the addition of appropriate planning conditions, to the extent that the development would not have an unacceptable impact upon the residential amenity of the surrounding neighbours in accordance with policies 29 and 31 of the County Durham Plan and Part 15 of the NPPF.

Impact on conservation area and nearby listed buildings

65. Local Authorities have a duty to preserve or enhance the character or appearance of the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. Section 66 of the same Act requires a similar duty to have special regard to preserving Listed Buildings or their setting or any features of special architectural or historic interest which it possesses. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
66. Policy 44 of the CDP seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets.
67. This approach displays 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).
68. Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
69. Policy 6(d) of the CDP supports new development where it is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement.
70. Concern has been raised that the proposed change of use to commercial would have a detrimental impact on the conservation area and nearby listed buildings in that the Conservation Area Appraisal for Pittington Hallgarth states the LPA has a duty to preserve and enhance the special character of the conservation area and therefore, the commercial operations will not preserve or enhance the special character of the conservation area. In addition, concern has also been raised over the lack of information provided with regards to any plant or extraction that would be required.
71. The property in question is an unlisted detached residential property located within Hallgarth Conservation Area (CA). Underlining the character of the CA is its roots as a manor for the Priory of Durham Cathedral that may have belonged to the monastery as early as the C10 or C11, with the Prior's Hall now just low ruins and earthworks, first mentioned in 1258. From this the small hamlet slowly evolved but it remained largely untouched by surrounding mining industry in the C19 and C20. The hamlet

retains its historic plan form and a traditional rural character despite its close proximity to High Pittington, the residential expansion of which brought houses closer to the area, yet the contrast in character is conserved.

72. The Orchard does not meet the criteria to be defined as a non-designated heritage asset. It dates from the 1980s and is two storied constructed from pale brick in a modern style with a notable glass extension and roof terrace. It stands within a large garden plot on the east side of the lane with the enclosing stone boundary walls and trees within and around the site adding to the lanes rural character and contribute positively to the character and appearance of the CA in this regard.
73. The small scale of the hamlet and the compacted form of its built development means that the subject building falls within the setting of several designated heritage asset. Within 150metres of the site is a Schedule Monument, the remains of the Prior Hall, St Laurence's Church, GRI listed and one of the oldest (C12) and most architecturally significant churches in the Durham Diocese. There is the GRII listed gate piers and gates at the entrance of the Church with two GRII listed tombs and a GRII listed war memorial within the churchyard, finally is the C18 GRII listed Hallgarth Manor Hotel.
74. The subject building is not identified within the adopted CA character appraisal as one that contributes positively to the designated heritage assets special historic and architectural interest. The appraisal recognises that both The Orchard and neighbouring Chestnut Lodge, are modern that do not reflect the historic buildings within the hamlet, stating they make a neutral contribution to the CA. For the same reasons The Orchard makes a neutral contribution to the setting of the scheduled monument and listed buildings identified above, as it does not affect how the heritage values of these heritage assets are experienced, understood or appreciated, and the building being modern it has no important historical connection.
75. The proposal to change the residential property into a spa would involve very minor external alterations to the building elevations in the form of changing two existing doors. This would sustain the domestic/residential appearance of its exterior and its neutral status within the CA. No plant or extraction is proposed. The proposed change of use would not be in keeping with the residential uses in this small hamlet but neither would it be considered out of keeping given the long-established presence of the adjacent hotel.
76. In respect of the concerns raised by residents in this regard, it is noted that conservation areas exist to protect the special architectural and historic interest of a place predominantly expressed by the areas built form, historic development and the fabric handed down from the past. The proposed change of use would nether impact upon any special architectural built or historic element, nor would it devalue the areas historic interest relating to its original establishment as a manor of the Priory of Durham dating back to the C10 and the buildings associated with it, along with the historic buildings that evolved around it, that defines the areas principle historic character today.
77. While the appraisal identifies other important aspects as being its rural character, remoteness, and its farming links, such attributes would be unharmed. Building and land uses do contribute to the character and sense of a place, but given the small hamlet is a mixture of residential, active commercial (hotel) that hosts conferences, events, and weddings, and ecclesiastical, the proposed change of use of a single building would not be considered harmful to that character.
78. The proposal is also considered to have the potential to provide a heritage gain in terms of expanding the hotels customer offer and increasing its economic viability that

will in theory support its continued use, general maintenance and upkeep, that is important in conserving the listed buildings historic fabric and significance.

79. Concern was initially raised regarding the pedestrian access and if this would result in any of the historic wall being removed however, the current boundary between the Manor and the host property as viewed on site by the case officer has been noted as a mix of hedging and fencing/gated therefore, this overcomes this concern, therefore the introduction of an access is not considered to have a detrimental impact.
80. Taking all the above into consideration it is considered that the proposal would not have a detrimental impact upon the scale and character of the host property, nearby properties including listed buildings or the surrounding conservation area in accordance with policies 29 and 44 of the County Durham Plan.
81. In relation to Section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, the proposal is considered to provide a neutral impact on the character and appearance of the Conservation Area and in terms of the listed building is considered to provide an enhancement in respect of helping to sustaining its use.

Highway Safety

82. Paragraph 34 of the NPPF requires that plans and decisions ensure developments which generate significant vehicle movements are located where the need to travel will be minimised and the use of sustainable transport modes maximised.
83. Policy 21 of the CDP requires all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document. In addition, Policy 6(e) of the CDP states that new development will be supported where it would not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.
84. Concern has been raised that full consideration has not been provided in respect of the access arrangements in that it has not been mentioned that the access is shared. With this in mind the concern is that the access arrangements would not be suitable for larger vehicles to safely access the site.
85. In response the applicant has confirmed that it is not the intention to service the facility from the existing driveway and that serving will be via the hotel and on foot save for limited instances where there is occasional requirement to access the facility for furniture delivery or works to the garden area of the spa. The Highway Authority has been consulted and raises no objection to the application.
86. It is considered therefore, that a condition should be added to ensure that the users of the Spa will access the site from the Hotel only.
87. Policy 8 of the CDP includes requirement for extensions to existing visitor accommodation to demonstrate clear opportunities to make its location more sustainable. In this instance it is noted that the spa would be operated as an extension to the existing hotel which includes cycle storage provision and users of the spa would benefit from that provision. The development is therefore considered to accord with the requirements of policy 8 of the CDP in this regard.
88. For the reasons detailed above it is considered that the development would not have any adverse impact in terms of highway safety and as such would accord with policy 21 of the CDP and relevant section of the NPPF.

Other Issues

89. Concern has been raised regarding removal of trees which it is understood has occurred within the existing Hallgarth Manor site and this has been referred to the Council's Planning Enforcement Team and is currently under investigation. Nevertheless, the current proposals do not propose any works to existing trees and as such no weight can be afforded to this in determination of the current application. Should it be considered expedient to initiate formal enforcement action should a breach of planning control be identified upon conclusion of those investigations, this must be pursued independently from consideration of the current application.
90. Concern has been raised by residents regarding future use of the premises should the spa prove unsuccessful. In this regard it is noted that a condition can be included to any planning permission limiting the permitted development rights relating to changes of use and as such proposed change in this regard would require planning permission.
91. Concern has also been raised by residents that the proposal has been used as a commercial entity since it was purchased. It is understood that the site has been let as an air B&B which does not require planning approval therefore there is no planning control over this aspect. In any event it is noted that any previous unauthorized use of the property is not a material consideration to which weight can be afforded in the determination of this planning application.
92. Objectors have raised concern that if the application is approved suitable conditions should be added. A full list of planning conditions is attached at the conclusion of this report.

Public Sector Equality Duty

93. 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.
94. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

95. The development is considered acceptable in principle in that it would introduce an extension to existing and well-established visitor accommodation that would help ensure the future viability of the facility in accordance with the requirements of policy 8 of the CDP.
96. It is considered that subject to planning conditions to mitigate noise generated by the development the proposal could be satisfactorily accommodated without adverse impact upon the residential amenity of surrounding occupiers in accordance with the requirements of policies 6, 8, 29 and 31 of the CDP and Part 15 of the NPPF.
97. In addition, the proposal is not considered to have a detrimental impact upon highway safety in accordance with policies 6, 8 and 21 of the CDP and Part 9 of the NPPF.

98. In relation to the impact upon Hallgarth Conservation Area and adjacent listed buildings it is considered that the proposal would conserve the significance of these designated heritage assets in accordance with the aims of policy 44 of the CDP, Part 16 of the NPPF and Sections 66 and 72 of the Town and Country Planning (Listed Building and Conservation Area) Act 1990.
99. The concerns and objections raised by interested parties including neighbouring occupiers have been taken into account for the reasons detailed within the report are not in this instance, considered on balance capable of sustaining refusal of this application. The proposal is therefore recommended for approval subject to conditions listed below.

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) 6, 21, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

3. The appliances used within the café/bar for the preparation of both hot and cold food and beverages shall be restricted to domestic ovens, microwaves, sandwich toasters, kettles and griddle/Panini makers, waffle grills and coffee machines.

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

4. No mechanical extraction equipment shall be installed at the premises until such time as full details which should include details of the fume extraction system, a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems have been submitted to and approved in writing by the Local planning authority.

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

5. The use of the development shall be restricted to a Spa only and for no other use within Class E of the Schedule to the Town and Country Planning (Use Classes) Order 1987 and shall be used solely in association with the existing Hallgarth Manor Hotel.

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

6. The use of the premises hereby approved shall be restricted to the hours of 0900hrs to 2100hrs Monday to Saturdays and 0900hrs to 1900hrs on Sundays and Bank Holidays.

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

7. There shall be no use of any outside area by patrons between the hours of 1900hrs and 0900hrs on any given day.

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

8. The spa hereby approved shall only be accessed via guests using the footpath from Hallgarth Manor Hotel as shown on Drawing No 220088.E03 entitled 'Proposed Site Plan'.

Reason: In the interests of protecting the residential amenity of adjacent noise sensitive receptors in accordance with policies 29 and 31 of the CDP and Part 15 of the NPPF.

9. No recorded or live music shall be played within the interior of the building other than background music (where 'background music' is defined as 'that over which a conversation can be held without raising of the voice') and no amplified sound / music or live music shall be played in any exterior area of the property at any time.

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

10. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed 40dB LAeq (1 hour) between 07.00-23.00 and 30dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014+A1: 2019. On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level. All plant and equipment failing to meet those limitations shall cease to operate until such time as a scheme of additional noise attenuation measures to achieve the stated levels has been submitted to and agreed in writing by the LPA. The development shall thereafter, be carried out in accordance with the approved scheme.

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.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

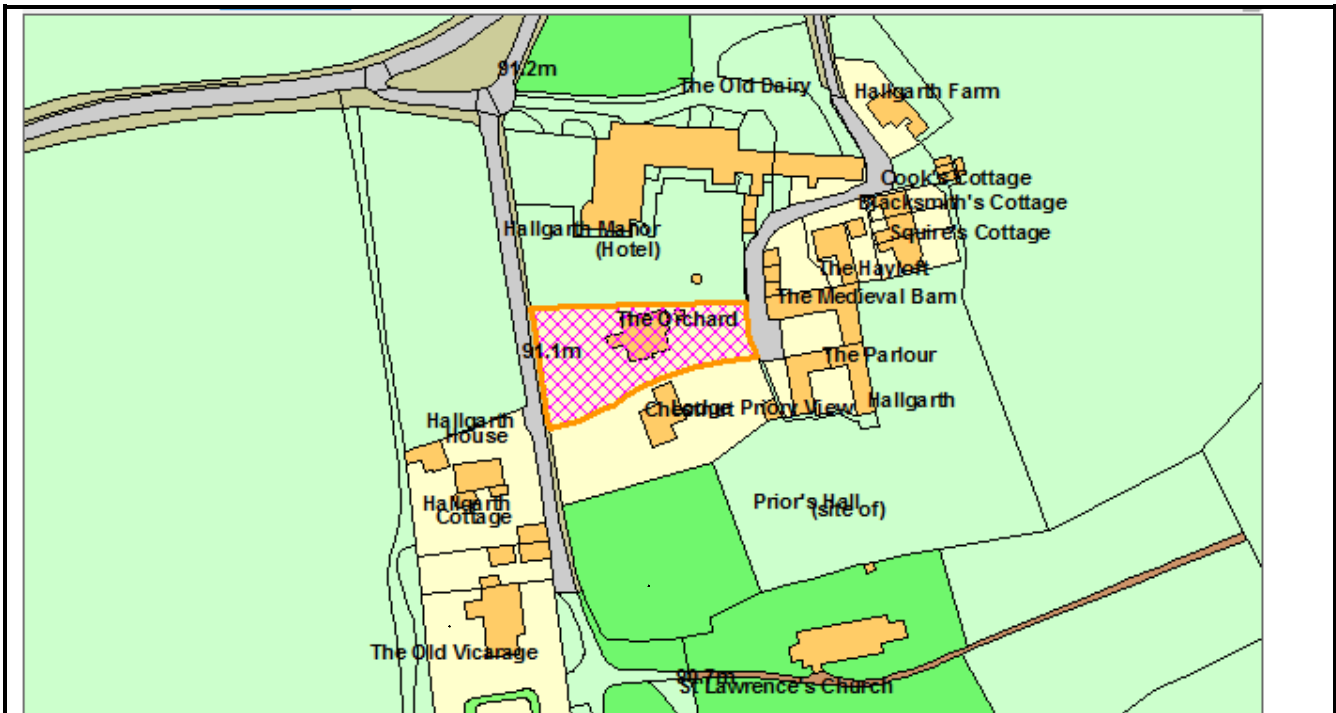
Submitted application form, plans, supporting documents and subsequent information provided by the applicant

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Change of use of dwelling (Use Class C3) to spa facility (Use Class E(e) including removal of existing front door and installation of new entrance door to northern elevation at The Orchard, Hallgarth, High Pittington, Durham, DH6 1AB Application Reference: DM/22/01537/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Date: March 2023</p>	<p>Scale NTS</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/21/04262/FPA
FULL APPLICATION DESCRIPTION:	9 no. dwellings and alterations to existing access road
NAME OF APPLICANT:	The Banks Group Ltd.
ADDRESS:	Mount Oswald Golf Club South Road Durham DH1 3TQ
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Steve France Senior Planning Officer Telephone: 03000 264871 steve.france@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site, within the Mount Oswald estate is at the southern extent of Durham City, 1.4 miles from the City centre. This wider development site bounded by the A167 to the west and A177 South Road to the east, these highways converging at the Farewell Hall roundabout and two existing housing developments, one from the 1960s which forms the south boundary of the new Mount Oswald estate development, the other within it. The estate was historically formed of the parkland around Mount Oswald, a grade II listed building, latterly used as a golf club. The immediate remaining parkland around the listed building is included on the list of Local Historic Parks, Gardens and Designated Landscape, the proposal's site access passing through this. The developable area of the site itself lies outside, and south of this designation.
2. Within the Mount Oswald development, immediately north of this application site is a very large, detached dwelling, currently under construction in the estate's former walled garden, with the listed house currently subject to a scheme of extension and conversion to a public 'history centre' beyond this. These two developments share the first 50m of the access to the proposed housing development. This access, from South Road passes between two gate houses and the estate wall, these listed by association with the manor house, both in very poor condition, but benefitting from an existant approval for conversion/rebuild in a scheme for a single dwelling and outhouse.
3. West of and facing the current proposed development is an earlier phase of new housing development also within the estate grounds, served by a part adoptable and part private drive cul-de-sac: five dwellings in Fowler Wynd. The separation distances from these to the proposed development exceeds 50m, including 30m of public open

space and the two access roads. South of the development are two small areas of mature woodland, both benefitting from Tree Preservation Orders. South-east of and separating the two components of the site is large SuDS basin, with planting now established around it and passed by a communal part-implemented footpath link. South again, beyond the trees, Richardby Crescent fronts another completed area of new residential development within the estate. These two earlier phases of development consist wholly of large two storey detached dwellings.

4. The red-lined application site extends to 1.15ha in area and is currently formed of undulating grassland in two parts, separated by the landscaped SuDS feature pond referred to above, and joined by the part completed access road, which then extends beyond, as far as the shared vehicular access from South Road to the Manor House, this access framed by the aforementioned gatehouses.

The Proposal

5. This proposal was submitted in February 2022 as a development of 12 detached dwellings, with a cluster of 4 dwellings closest the site entrance and a cluster of 8 in the further land parcel. Reduced to a scheme of 9 dwellings during the course of the application, the amendments replace the cluster of 4 dwellings with a single large house in the east part of the site. All dwellings are detached, two storey and face outwards into the surrounding estate parkland. The required spur to the access road that will serve this development has already been set out, although some changes to specification are proposed.
6. The grouped dwellings include modern interpretations of vernacular detailing, attached garages and large rear gardens, resulting in a lower density of development than the surrounding phases. All outward facing, this part of the scheme will sit as a small cell within the remaining parkland, surrounded by trees and open grassland.
7. The single unit accrues consistency with the overall proposal through the materials palette but presents a more contemporary elevational approach. A dropped and varied eaves line makes windows projecting into the roof-slope a feature. With accommodation proposed above the three-bay attached garage, this dwelling is T shaped in layout. This plot sits above the SuDS feature bracketed by woodland to the north, and the roadside trees of South Road/A177 to the southeast, from where it will be partly visible.
8. The application as submitted was directed to be considered by Committee as a 'major' housing scheme as for more than 10 units and on the basis of the site area. The amended/reduced scheme is now for 9 units but maintains the same site area.

PLANNING HISTORY

9. The development of the Mount Oswald estate was granted outline consent (8/CMA/4/83) in 2013 with an illustrative masterplan for a development of up to 291 dwellings, student accommodation, office, retail, a community hub and associated infrastructure. The outline consent allowed for submission of reserved matters applications until February 2020. The implications of this consent are still material for planning conditions and obligations, albeit that consent has effectively lapsed as far as this part of the site is concerned.

10. DM/15/03555/VOC Varied condition 3 (approved drawings) pursuant to planning permission CMA/4/83, approving a revised masterplan that includes landscape and drainage modifications in May 2016.
11. DM/15/03734/VOC varied condition 1 pursuant to DM/15/03555/VOC in relation to Phase 1 of the development, with alterations to hard and soft landscaping, layout, and substitution of house-types on plots 18, 19, 21 and 39 (amended description) in August 2016.
12. DM/16/04087/FPA approved the 'Installation of temporary construction access road' to phases 4a, 4b and 5 – the latter being the current development site.
13. Planning application DM/17/00453/RM was granted consent under delegated powers in August 2017 for 'Upgrade of existing Manor House access road, provision of pedestrian access, and creation of private access road to serve 5 development plots'.
14. DM/17/02688/FPA approved erection of 5 Dwellings in March 2018. There were no public representations. Determined before the adoption of the County Plan and the Neighbourhood Plan, the application was concluded to give a modest boost to housing land supply at a time when the Council's position for that had not been, with weight given to some economic benefits in providing high quality, executive homes within the City.

PLANNING POLICY

NATIONAL POLICY

15. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
16. *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.
17. *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.
18. *NPPF Part 5 – Delivering a wide choice of high-quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
19. *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.

20. *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.
21. *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.
22. *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.
23. *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.
24. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.
25. *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.
26. *NPPF Part 17 – Facilitating the Sustainable Use of Minerals –* Highlights the need to safeguard mineral resources including through the use of Mineral Safeguarding Areas and Mineral Consultation Areas.

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

NATIONAL PLANNING PRACTICE GUIDANCE:

27. 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>
<http://planningguidance.planningportal.gov.uk/>

LOCAL PLAN POLICY:

The County Durham Plan

28. *Policy 1 - Quantity of Development* outlines the levels of employment land and housing delivery considered to be required across the plan period.
29. *Policy 6 - Development on Unallocated Sites* supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
30. *Policy 15 Addressing Housing Need* notes the need to increase the range and quality of housing provision within the County and with regard to meeting the needs of older people and people with disabilities.
31. *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.
32. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the delivery of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
33. *Policy 22 Durham City Sustainable Transport*. Seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area.
34. *Policy 25 Developer Contributions*. Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.

35. *Policy 26 Green Infrastructure.* States that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
36. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
37. *Policy 31 Amenity and Pollution* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
38. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
39. *Policy 35 Water Management.* Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
40. *Policy 36 Water Infrastructure.* Advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste-water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
41. *Policy 39 Landscape* states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.

42. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
43. *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.
44. *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.
45. *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.
46. *Policy 45 Durham Castle and Cathedral World Heritage Site*. Both are designated heritage assets of the highest significance. New development should sustain and enhance the significance and be based upon Outstanding Universal Value, protecting and enhancing it in the immediate and wider setting and important views across, out of and into the site. Harmful development is only permitted in wholly exception circumstances.
47. *Policy 56 Safeguarding Mineral Resources*. Sets out that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area unless certain exception criteria apply.
48. *Residential Amenity Standards Supplementary Planning Document (Amended 2022)* sets out guidelines for separation distances and minimum garden lengths on new development.

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at: <http://www.durham.gov.uk/article/3266/Development-Plan-for-County-Durham> (Adopted County Durham Plan)

City of Durham Neighbourhood Plan

49. *Policy S1 - Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions* - seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet to: Promote economic well-being, to Conserve, preserve and

enhance the neighbourhood, to increase resilience to climate change, and secure equity and benefit to the local community.

50. *Policy H1 - Protection and Enhancement of the World Heritage Site* - requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views and create new views and vistas.
51. *Policy H3 - Our Neighbourhood Outside the Conservation Areas* - requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area as a whole. Development should sustain and make a positive contribution to the character and distinctiveness of the area and avoid the loss of open space that contributes to quality and character, to have high quality design, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.
52. *Policy G1 - Protecting and Enhancing Green and Blue Infrastructure* - seeks to support developments that retain existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value and developments that provide additional green or blue assets, particularly if there is an identified deficiency. Any new or replacement assets must be appropriate to the context and setting. The policy requires developments to protect and enhance public rights of way and footpaths and green corridors. It offers support to proposals that provide net gains for biodiversity. The policy requires features of geological value to be protected. The policy seeks to protect and enhance the banks of the River Wear by supporting proposals with desirable access that do not have significant impacts on current assets. The policy also seeks to protect dark corridors by ensuring developments minimise lighting in such areas.
53. *Policy D2 - Housing for Older People and People with Disabilities* - requires 10% of housing to be appropriate for older people on sites of 10+ homes or over 0.5ha. Housing schemes that are solely for older people would be supported. Provision should be close to shops and services or public transport with appropriate footpaths and pavements.
54. *Policy D3 - Affordable Housing* - requires 25% of housing to be affordable on sites of 10+ homes or over 0.5ha unless an off-site contribution is justified or deemed appropriate by the LPA.
55. *Policy D4 - Building Housing to the Highest Standards* - states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions. New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019).

56. *Policy T1 - Sustainable Transport Accessibility and Design* - seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility, impact and design.
57. *Policy T2 - Residential Car Parking* - supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. Consideration should be given to communal off-street parking for dwellings without garages. Any EV requirements should not hinder movement by pedestrians or disabled people and should be in keeping with area character. The policy supports the use of car clubs. Should the parking demand require parking controls these will need to be funded through developer contributions.
58. *Policy T3 - Residential Storage for Cycles and Mobility Aids* - requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC standards and should be adaptable for other types of storage with access to electricity. Where there is communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development

The above represents a summary of those policies considered relevant. The full text, criteria, and justifications can be accessed at:

<https://www.durham.gov.uk/media/36020/Durham-City-adopted-neighbourhood-plan/pdf/DurhamCityNeighbourhoodPlan.pdf?m=637738120004600000>

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

59. *Highways Development Management* - From a Highways perspective, this proposal is considered acceptable. The addition of traffic from 9 houses would not have a material impact on the local road network.
60. It is noted that there has been objection to the proposed construction traffic route. The proposed construction route is an established construction route which has operated for a number of years, in which time there has been no recorded accidents. It is considered that this route is preferable and safer than the only alternative which would be from the Gatehouse on South Road: here, the road is only single carriageway and is unable to be widened - this route would create the potential for an unacceptable road safety risk of conflict between vehicles and pedestrians.
61. *Coal Authority* – has confirmed no objection to the proposals as the content and conclusions of the Ground Investigation Report (July 2016), and the professional opinions of the report authors set out therein, are sufficient for the purposes of the planning system and meets the requirements of the NPPF (paras. 183 and 184) in demonstrating that the application site is, or can be made, safe and stable for the proposed development.

INTERNAL CONSULTEE RESPONSES:

62. *Affordable Housing* – after extended discussions with the applicants and in the absence of proposed property values from the developer, using a standard calculator

and recent property prices in the immediate area, Housing Officers advise a sum of £418,095 represents the figure required to provide for off-site provision, this allowing for a standard profit margin in line with current practice of 17.5%.

63. *Archaeology* – There is no objection to this scheme.
64. *Design and Conservation* - the amended plan to include one larger unit in the area closest to the driveway is considered a better approach to the site edge than the previous proposal. In addition, a corner turning unit is now proposed at the eastern edge of the site however this approach has not been applied to the corner units addressing the highway within the western parcel. It is noted that the architectural approach has not changed significantly from the previous proposal. As stated previously, it is disappointing given the bespoke contemporary nature of the previously approved scheme.
65. *Drainage and Coastal Protection* - advise approval of the proposed surface water sustainable solution, and the development should be constructed in accordance with the Drainage Impact Assessment. We would however advise the permeable paving construction detail (wrapped type) is included in the document.
66. *Ecology* – A scheme to achieve Biodiversity Net Gain (BNG) within the wider estate is achievable, although there will be implications for the proposed landscaping. The requirements to ensure delivery, management and monitoring over the required 30-year period can be secured in this instance by condition as the works are in the immediate vicinity and in the control of the applicant.
67. *Landscape* – There are detailed requirements for additional planting to the rear of the main development area and to soften the proposed estate railings boundary of the single dwelling that can be ensured through imposition of an appropriate planning condition. There has been some tension between the proposals for BNG and the estate landscape proposals and it must be ensured that the delivery within the wider estate of the ecology requirements does not undermine the agreed general landscape and amenity space plans.
68. *Spatial Policy* – This site is within a larger housing commitment on the southern edge of Durham City within the built-up area, and although the site is part of an existing outline planning permission, it is not allocated for housing within policy 4 of the County Durham Plan (CDP). The site is a small parcel of land within the larger site which has outline permission for 291 units, with reserved matters approvals granted on a number of phases within the site and the site has been under construction for a number of years. This application will need to be determined against policy 6, which deals with development of housing on unallocated sites. This states that the development of sites which are within the built-up area will be permitted provided the proposal accords with all relevant development plan policies and the criteria within the policy.
69. The site has previously had permission for 5 dwellings, and this application proposes a further 7 on a marginally larger footprint, increasing the density of the development. Therefore, the key issue is whether the units would comply with criteria c and d of policy 6 in terms of the impact on the approach to the development, and on the woodland area and listed building.
70. Policy S1 of the Durham City Neighbourhood Plan will also need to be considered, which sets out a number of principles to ensure sustainable development for all development and re-development sites, including all new buildings. Most relevant to this proposal would be criterion c and d. Criterion c requires development to harmonise with its context in terms of scale, layout, density, massing, height, materials,

colour, and hard and soft landscaping; and criterion d requires proposals to conserve the significance of the setting, character, local distinctiveness, important views, tranquillity and the contribution made to the sense of place by designated and non-designated heritage assets. These will be key considerations to this proposal.

71. Requirements are also identified for Open Space, as required by Policy 26, where for a development of this size, a contribution of £15,651.90 has been identified as required – 9 units being likely to generate a minimum of 19.8 people (based on 2021 census data of 2.2 persons per household), the methodology identifying a required payment of £790.50 pp – therefore $19.8 \times £790.50 = £15,651.90$.
72. *Trees* – have asked that existing trees located adjacent and overhanging gardens should be adequately protected, with protective measures put in place prior to development in accordance with the relevant British Standard.
73. *Environmental Health (Contamination)* – write to confirm they are satisfied with the findings of the submitted reports. They have no adverse comments to make. There is no requirement for a contaminated land condition. An ‘informative’ is suggested in case unexpected contamination is encountered in the build process.

EXTERNAL CONSULTEE RESPONSES:

74. *Northumbrian Water* - have no issues to raise with the application, provided it is approved and carried out within strict accordance with the submitted document / drawing entitled “Drainage Impact Statement”. A condition is suggested.
75. *NHS Healthcare Trust* – When consulted on the scheme for 12 units, confirmed no funds were required. Reconsulted for the reduced scheme, it was noted that the development now falls below the threshold for assessment.
76. *The Police Architectural Liaison Officer* – offers standard advice on Construction Site Security as part of the Designing Out Crime initiative.

PUBLIC RESPONSES:

77. A total of 40 consultation letters were sent out and an advertisement posted in the local press. In response there have been 6 representations, 7 objections and 5 letters of support. The objectors include the City of Durham Parish Council, The City of Durham Trust, Mary Foy MP, County Councillor Elizabeth Brown, the Mount Oswald Residents Association, and individual letters from 14 addresses.
78. *City of Durham Parish Council* - Whilst the developer has reduced the number of proposed dwellings from 12 to 9, this application clearly fails to meet the primary and stated object for this small section of the Mount Oswald estate: to create properties whose energy needs are primarily met using their own renewable energy and do not rely on external supplies, primarily imported from hydrocarbon sources. This application site currently benefits from planning permission for the development of 5 dwellings designed to provide an exemplar low-energy development and set itself apart from a sustainability perspective. Objection is raised that the scheme, ‘clearly fails the important policy test set out at CDP Policy 29 as well as DCNP Policies G1, D4 and S1’.
79. *City of Durham Trust* - describe the history of the Mount Oswald approval and the place if this site within it with a promise of innovative high sustainable design. The Trust consider existing residential development on the Mount Oswald development to be

lacking distinctiveness and futureproofing for sustainability. The lack of character derived from the parkland setting is a significant disappointment as is the response to the sustainability requirements, with conflict set out with Policies 29 of the CDP and S1, H3, G1 and D4 of the CDNP.

80. *Mary Foy MP* - writes to support the Residents' Association concerns for Health and Safety and Highway Safety on the construction access road.
81. *Councillor Elizabeth Brown* - objects on a number of grounds: the construction road is now used by existing residents and in also crossing a right of way represents a danger to pedestrians and children playing in the area and a compromise to residential amenity. Infringing into the open space next to South Road, the proposal compromises views across the site. The previously approved scheme proposed built to Passivhaus standards has been replaced with 'bog standard dwellings with not a nod? to sustainable energy among them'. There is conflict with CDP Policies 29 and 31 and CDNP Policies S1, H3, G1 and D4.
82. *Mount Oswald Residents' Association* - request review of the use of the existing construction access road, with residents reporting near misses, damage to street furniture, obstruction of the public right of way for pedestrians and cyclists. The use of the construction track is presented as a danger to residents and children in particular, creating unacceptable disturbance over an extended unspecified period, noting breaches of restrictive conditions controlling this aspect in the past.
83. Public objectors oppose the continued use of the existing construction access track referred to by Cllr. Brown, and any further restrictions that may be put in place for construction use to facilitate the development. The quality of housing proposed will be lessened, with this already compromised by other built elements. The housing cannot be described as 'low carbon'. A higher density of development will reduce the perception of remaining open space. There is no affordable or specialist housing on the Mount Oswald development site.
84. In support of the application, correspondents support the delivery of high quality, architect designed homes by a County Durham based company – meaning the economic benefits will 'most likely be retained within the county'. A greater number of dwellings in the development will give more people the opportunity to live on the development whilst the proposal is still low density compared to the wider development. The low density will help integrate into the parkland setting. This scheme when completed will allow for the removal of the existing construction access track, and the full implementation of the approved landscape strategy which will be welcomed by all residents.
85. Representations neither supporting nor objecting to the application question energy efficiency and sustainability elements of the scheme. Concern is raised for the route of the temporary construction access and a lack of adherence to date of restrictions imposed on site traffic and operating hours, along with requests for delivery of the park in the submitted Landscape Masterplan for all residents' use.

APPLICANT'S STATEMENT:

86. This site at Mount Oswald presents a fantastic opportunity to deliver very high-quality new homes in Durham City. The Banks Group has taken the lead role in delivering the wider Mount Oswald site over the last ten years in order to ensure that components come forward in a sympathetic and coherent manner. We are now starting a house

building arm of the company, and this will be our flagship scheme in a location near to our Durham headquarters.

87. Notwithstanding the existing permission on this site, we see considerable benefit in a nine-house scheme. These homes will still be very generously proportioned executive homes with a bespoke design. The new permission will have several additional benefits for the local area. It will:
- Provide £418,095 for new affordable housing in the City of Durham
 - Provide additional areas of bio-diversity net gain at Mount Oswald
 - Provide £15,651 for public open space provision in the local area
 - Include photo-voltaic solar panels on the roofs to generate renewable energy as well as electric charging points in each home.
88. We intend to start work on site this year and include the sensitive redevelopment of the historic gatehouses in the building project. Completion of the project will enable a temporary access route to be removed and reinstated as public parkland which local residents are eager to see happen.
89. Overall, we are proud to put forward this outstanding group of houses and look forward to delivering them along with the remaining elements of Mount Oswald.

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=R4ELN5GD0ER00>

PLANNING CONSIDERATIONS AND ASSESSMENT

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

Principle of the Development

The Development Plan

91. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The City of Durham Neighbourhood Plan 2020-2035 was 'made' in June 2021 and provides another layer to the 'Development Plan' for assessment of applications within its defined boundaries, setting out a vision and objectives, and a raft of planning policies and proposals for land use.

92. 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.
93. This planning application now proposes the erection of 9 units, amended from a scheme of 12. The site sits within the wider development of the Mount Oswald estate that was granted Outline consent in 2013 and has been subject to the expected series of Reserved Matters applications to build out the detailed elements that were expected from the Masterplan. Planning permission was granted in March 2018 on the part of the site subject to this application for an innovative scheme of highly sustainable dwellings, prefabricated in Sweden, with a contemporary appearance.
94. The current application is for erection of 9 detached units of a more standard appearance and construction. These will better integrate with the existing buildings on the immediately surrounding Mount Oswald Development, but they are not the sustainable and innovative scheme previously envisaged and approved. The proposals must be considered on the basis of their own merits and cannot be refused on the basis that a previous proposal may be preferable.
95. The principle of development lies within Policy 6, which requires proposals that are not allocated, but within the built-up area to be assessed against a list of detailed criteria, including being compatible with the use of adjacent land, in not resulting in the loss or contributes to the character of open land that has recreational, ecological or heritage value, and is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement. The implications for criteria e and f of Policy 6 and highway safety / transport sustainability will be considered below.
96. Through the Masterplan, the Outline consent and the previous approvals, most of these issues have already been accepted for residential development on both elements of the site in principle. A higher density of development – albeit of smaller units is proposed. Facing out onto the remaining and new parkland features, the proposed development is a more standard form of development, and thereby reflects surrounding elements of the newly built surroundings better than the previously approved scheme would have in terms of scale and character – notwithstanding the obvious advantages of that scheme. The development is concluded compliant with these and other requirements of Policy 6. Where these requirements overlap into other policies, such as for trees and historic environment, they are assessed in detail below.

Highways Safety and Access

97. Policies 6 and 21 of the County Plan require that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. It also expects developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Policies T1, T2 and T3 of the Neighbourhood Plan have requirements for Highways sustainability, residential car parking and cycle / mobility aid storage. The NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
98. The site is located towards the southern extent of Durham City, within the context of existing residential properties, as the Mt Oswald re-development progresses to completion. Although the site lies beyond easy walking distance of many facilities, the

site has a good internal footpath layout and connections, along with excellent cycling and public transport. The site lies within 400m of Howlands Park and Ride site, which offers a bus service into the city centre at up to 10-minute frequency, as well as within walking distance of bus stops on the, providing regular access to the City centre, Chester-le-Street, Newcastle upon Tyne, Bishop Auckland and Darlington. The Duke of Wellington and New Inn Public Houses and several schools lie within 1km and could conceivably be accessed on foot. Overall, the site is considered to be established as a locationally sustainable site for housing. This is considered to bring consistency with the requirements of Policy T1 of the Neighbourhood Plan and Policy 21 of the County Plan and paragraphs 92 in part 8 and 104d in part 9 of the Framework.

99. The application meets required parking standards and therefore the requirements of Policy T2 of the Neighbourhood Plan and 21 of the County Plan.
100. Each of the proposed dwellings has a private garage, allowing for cycle storage, bringing consistency with Neighbourhood Plan Policy T3 and Policy 21 of the County Plan.
101. A condition is proposed to ensure the promised and Policy required EV parking is delivered before any dwelling is occupied.
102. Highways Officers consider the proposals acceptable. The addition of traffic from 9 houses would not have a material impact on the local road network.
103. Highway Officers have paid special regard in their comments to the fact there has been significant objection to the proposed construction traffic route. They consider the proposed construction route is established and has operated for a number of years, in which time there has been no recorded accidents. It is considered that this route is preferable and safer than the only alternative which would be from the Gatehouse on South Road, a single carriageway which is unable to be widened: this route would create the potential for an unacceptable road safety risk of conflict between vehicles and pedestrians.
104. The access road is present as a result of approval DM/16/04087/FPA which required the temporary construction access road to be removed and the land reinstated, 'within 6 months of the occupation of final dwellings within Phases 4a, 4b or 5'. Phases 4a and 4b are complete. Phase 5 is the current application site.
105. New site operations including construction vehicle access are proposed to be controlled through conditions in a Construction Management Plan which will give the Council as Local Planning Authority control over elements of the construction process which can include, delivery hours, vehicle sizes, road cleaning and similar as considered appropriate. It is proposed to reiterate the technical requirements of DM/16/04087/FPA for clarity and the benefit of site staff and contractors in this development site. This will also provide a clear single document for Planning Monitoring/Enforcement use. It is hoped this further control will give existing residents comfort that this aspect of the scheme can be controlled, although the nature of the operation is that some disruption is inevitable. It must be controlled to the level where any disruption is reasonable.
106. As pointed out by supporters, once this part of the site is developed the need for the contentious construction route will fall away and the pedestrian / cycle routes proposed in that area around a focal area of public open space can finally be delivered to the benefit of all residents.

107. Ultimately paragraph 111 of the Framework advises that, Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. Acknowledging residents' concerns, Officers in accepting the Highways advice, conclude that the proposals are acceptable in this regard, acknowledging that this conclusion will depend on close monitoring of site operations, hence more detailed requirements than usual in the suggested Construction Management Plan condition.

Layout and Design

108. Policy 6 of the County Plan requires that development is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement, and Policy 29 of the CDP outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. Policy H3 of the Neighbourhood Plan requires development to meet a set of criteria including: making a positive contribution to the character and distinctiveness of the area, using high quality design, having scale, density, massing, form, layout, appropriate to the context and setting of the area, and using appropriate materials and finishes for the area. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 130 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
109. It is acknowledged that the previously approved scheme provided a higher level of design quality and innovation, but this is not relevant to the current assessment despite being a disappointment to both objectors, including the local Ward member, and the Design Officer. The applicant has also made comparisons – but only so far as showing a comparison between the footprints of the approved and proposed schemes.
110. The Design Officer acknowledges for the reduction in the number of units proposed that 'the amended plan to include one larger unit in the area closest to the driveway is considered a better approach to the site edge than the previous proposal. In addition, a corner turning unit is now proposed at the eastern edge of the site however this approach has not been applied to the corner units addressing the highway within the western parcel. The reduced density on the South Road boundary by degree addresses a concern of the Ward Member. The proposed dwellings are large, detached units, incorporating some basic, if generic references to vernacular architecture complimented by the proposed consistent materials palette, albeit with a slightly confused approach to fenestration. The larger unit does have a contemporary approach and detailing but ensures consistency by the use of common materials. The quality of design must be assessed – as set out in Policy D4 of the CDNP – in the context of 'the character and appearance of the local area'. In this assessment the proposals meet the wording if not necessarily the higher aspirations of this Policy. That Policy also requires comparison with the Building for Life BfL12 assessment tool (now updated to Building for a Healthy Life), with the scheme considered to perform generally well, with any lower 'scores' relating to having a 'memorable character' mitigated by the parkland setting and the quality of the surrounding environment. The scheme falls below the threshold set for BfL Panel assessment in the County Plan.
111. The development proposed does sit as a low-density element – despite the increase in numbers over the approved scheme – in the parkland setting of the estate and accrues some character from this.

112. Considered on its own merits, the scheme meets the requirements of the above policies for a high quality if standard approach of scheme that reflects the character and quality of surrounding existing development. The scheme must be considered on its own merits and in the context of these surroundings. That it falls below the standard of the exemplar development previously approved is not considered of material weight in the determination of this stand-alone application. Officers conclude the scheme does meet the standards required in CDP Policies 6 and 29, CDNP Policies H3 and D4, and Parts 12 and 15 of the NPPF.

Residential Amenity

113. Policies 29 and 31 of the CDP outline that developments should provide high standards of amenity and privacy, minimise the impact of development upon the occupants of existing adjacent and nearby properties and not lead to unacceptable levels of pollution. A Residential Amenity Standards Supplementary Planning Document (SPD) has also been adopted and recently updated by the Council. The policies and SPD can be afforded significant weight. Parts 12 and 15 of the NPPF, which require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at risk from unacceptable levels of pollution.
114. Guidance within the SPD advocates separation distances of 21m between facing principal elevations on two storey development and 13m between principal and two storey gable elevations. There are no implications for levels on this site. Gardens should be at least 9m in length. The site layout shows that required separation distances between proposed and existing dwellings in the development meet required standards and Policy compliance is concluded.
115. Residential amenity requirements extend in Policy 29 to requiring all new residential development to comply with the Nationally Described Space Standards (NDSS) and in Policy 15 to meeting the Needs of Older People and People with Disabilities for major developments. Similar requirements are included in Policy D2 of the Neighbourhood Plan, but with an alternate threshold: including sites of 0.5ha or more. These policies are informed by part 5 of the Framework that requires new development to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities
116. The size of the proposed units is such that NDSS requirements are met in the type 3 and type 4 units. The submitted Planning Statement contends house type 4 can achieve the aspiration of the policy to increase the housing options of older people. No further detail or evidence is provided. It is considered reasonable to require the developer to provide evidence that at least one of the dwellings is configured to allow easy conversion to a 'housing products (sic) that meet the specific needs of a multi-generational family', for example through additional electric and waste connections to allow for easy conversion for future ground floor separate living accommodation.
117. The above approach is considered to appropriately secure the Policy requirements of CDP Policies 15, 29 and 31, CDNP Policy D2 and Parts 12 and 15 of the NPPF.

Landscape and Visual Impacts

118. Policy 39 of the County Durham Plan states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or

distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Policy 26 outlines developments are expected to provide new green infrastructure and ensure provision for its long-term management and maintenance. Similar requirements are outlined in Policy 29. Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment.

119. In the Neighbourhood Plan, Policy G1 states that 'Any new or replacement green or blue assets should be appropriate to the context, having regard to the landscape, townscape and ecology of the locality and where appropriate the setting of heritage assets'.
120. Landscape Officers have identified areas immediately adjacent the site that require improvements to planted areas for landscape benefits. Discussed and agreed in principle, these can be secured by an appropriate condition or legal agreement. It should be noted that the landscape requirements and Ecology requirements for the site are not necessarily compatible, as will be discussed below.
121. Again, the scheme will sit as a low density, prominent element, surrounded by open space within the surrounding, higher density housing scheme, in doing so reflecting the parkland setting by degree. Whilst the scheme presented again suffers in comparison with what has been approved before, it must be considered on its own merits and in the context of its current surroundings. The Landscape and visual impacts are concluded acceptable and Policy compliant on the basis that a condition can be imposed to agree the detailed delivery of new planting.
122. The reduction in the number of proposed units reduces the density of the scheme when viewed from the A177 South Road, a concern of the local member,
123. Tree Officers have asked that existing trees located adjacent and overhanging gardens should be adequately protected, with protective measures put in place prior to development in accordance with the relevant British Standard. This can be achieved by condition.
124. With development on the site having been both proposed as part of the original masterplan and more recently approved in detail, that the effect on the landscape is concluded acceptable is noted as consistent with previous assessments of the site. Support is also given from CDP Policies 26, 39 and 40, CDNP Policy G1 and Parts 12 and 15 of the NPPF.

Ecology

125. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. Policy G1 offers support to proposals that provide net gains for biodiversity.
126. The application as first submitted included baseline biodiversity information but did not demonstrate that it would provide net bio-diversity gain. Recent discussions have examined a range of options for providing the required gain on and off-site. These have evolved to a proposal that has identified potential areas for the required amount of gain on the Mount Oswald development site (the preferred approach), which does

not conflict with existing expectations of local residents or existing landscape typologies. Ecology Officers are satisfied that an acceptable scheme could be achieved. Alternatives that were considered to potentially compromise use of the proposed park area were rejected, as were different proposals for planting in areas that were considered to conflict with existing planting and landscape features.

127. The developer has ultimately shown that sufficient and appropriate area exists within the Mount Oswald development to achieve a net biodiversity gain to meet Policy compliance. This can be achieved by a condition to require a s.39 agreement to ensure submission of a Biodiversity Implementation, Monitoring and Maintenance Plan – the latter for a standard 30-year period – and a negative covenant in the s.106 agreement preventing commencement until this document has been submitted and agreed and the S39 is completed.
128. Subject to this formal agreement and suggested conditions, the scheme is considered compliant with Policies 26, 35, 41 and 43 of the CDP and Part 15 of the NPPF.

Flooding and Drainage

129. Policies 35 and 36 of the CDP relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDS) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere.
130. Council Drainage officers have advised for surface water implications that the SuDS solution shown in the submitted Drainage Impact Assessment should be ensured constructed adding that a permeable paving construction detail should also be included. A condition to ensure compliance with the specified document and the additional detail request is considered to bring compliance with CDP Policy 35.
131. For foul drainage requirements Northumbrian Water have no objection to the proposal, suggesting a condition to ensure compliance with the approach set out in the submitted Drainage Impact Statement. Officers consider this expedient would bring CDP Policy 36 compliance.

Infrastructure and Open Space

132. Policy 26 of the CDP outlines that new residential developments will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA).
133. The applicants argue that this has already been provided through the phased delivery of the Mount Oswald Masterplan which sets out an open space strategy with 16 hectares of Green Infrastructure including 4 hectares woodland. The current application is however submitted in the form of a stand-alone application that must be assessed independently and on its own merits – mitigating its own harms and demands. Policy Officers have therefore identified a requirement for a contribution for

Open Space provision under Policy 26 of £15,651.90. This is proposed secured through a s.106 legal agreement. Said contribution will off-set and mitigate demands from new residents that is not met by the proposals for a range of open space typologies.

134. Policy G1 of the Neighbourhood Plan states, 'Development proposals which avoid the loss of existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value will be supported. Where the loss of green or blue assets of significant value is unavoidable then alternative equivalent provision should be provided on-site or off-site where this is not viable or practicable'. 'The above list includes open spaces. An open space is defined as any open piece of land that is undeveloped (i.e. has no buildings or other built structures on it): it can be both public or private (with or without public access allowed). Open spaces can be green or hard, or a bit of both'.
135. Whilst elsewhere in this report caution is urged for any materiality being given in the current assessment from the approved Passivhaus scheme, that the principle of development has been accepted on this land and an approved scheme remains capable of implementation is relevant. This part of the site as one of the final phases of the Mount Oswald development has been brought into informal recreational use by local residents whilst it has remained undeveloped. Conversely, in retaining the construction access road to this site, the developer has not implemented the intended formal access area that lies on its path. It is concluded that the development of this land has already been accepted, and that in allowing the implementation of the approved open space features there is no actual loss of a protected functional green space, and that the land has been available for informal interim use pending development.
136. In terms of the implications for open space set out in Policy 26 of the CDP and Policy G1 of the CDNP, the proposals are considered compliant.

Affordable Housing

137. Affordable Housing requirements on the site are set by Policy D3 of the Neighbourhood Plan which states 25% of housing must be affordable in nature on sites of over 0.5ha unless an off-site contribution is justified or deemed appropriate by the LPA. This area-based threshold is over and above the triggers set out for provision of affordable housing in the County Plan, where Policy 15 sets a requirement for schemes of over 10 units within urban areas.
138. Policy 15 does however set a useful methodology for the provision of off-site affordable housing, accepting contributions in lieu of on-site provision where; there would be five or fewer affordable homes on the site, there is clear evidence that a greater number of affordable homes could be delivered off-site, in a more suitable location; or the resulting financial contribution would contribute to specific regeneration activity including bringing viable vacant housing back into use.
139. In the absence of proposed property values from the developer, using a standard calculator and recent property prices in the immediate area, Housing Officers advise a sum of £418,095 represents the figure required to provide if off-site provision is proposed. On-site provision is accepted as difficult to deliver on a small-scale development. The suggested sum could be secured through a Planning Legal Agreement. Paragraph 57 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters

specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development.

140. The s.106 Agreement which would secure the affordable housing contribution is considered to meet the required tests. As a Neighbourhood Plan rather than a County Plan Policy, the legal agreement will ensure that the monies are ring-fenced for use in the Neighbourhood Plan area.
141. On-site, the proposal widens the housing offer on the Mount Oswald development by degree – therefore this contribution is seen as critical in achieving the Framework’ requirement for new development to ‘widen opportunities for home ownership and create sustainable, inclusive and mixed communities’ as set out in part 5.

Sustainability

142. Policy 29 of the County Plan and D4 of the Neighbourhood Plan of the Neighbourhood Plan require, ‘the improvement of energy efficiency and the reduction of carbon dioxide emissions’, and specifically, ‘*achieve reductions in CO2 emissions of 10% below the Dwelling Emission Rate (DER) against the Target Emission Rate (TER) based on current Building Regulations. The policy would not apply in the event that the relevant Building Regulations were enhanced*’. In response to the applicant proposes to install photo-voltaic cells to the roofs of the nine houses, the exact size and location of the cells to be conditioned. This approach is presented as representing sustainable energy generation on-site. It was previously proposed to achieve carbon savings using a fabric-first approach. Although the building designs and methods have changed, the submitted Sustainability Checklist indicates that the houses will achieve a greater than 10% reduction in CO2 emissions against the Target Emission Rate.
143. The proposed houses are described by the applicant as not a standard product, therefore they propose to carry out SAP calculations once planning permission is issued and follow the new Part L building standards ‘which require an improvement against 2013 performance which is greater than 10%’. Changes to Part L (Conservation of fuel and power) of Building Regulations came into force on 15 June 2022 in the form of two new Approved Documents. There are higher performance targets – CO2 emissions are reduced by 31% for dwellings and 27% for other buildings – and a new emphasis on low carbon heating systems.
144. To ensure that the promised sustainability elements are achieved, conditions to agree the siting of the PV units and a Sustainability Validation report to demonstrate the necessary standards have been met, to be prepared by a competent person and submitted before occupation, is proposed.

Other Considerations

Heritage

145. Policy 44 of the County Plan relates to Historic Environment, reflecting government advice in part 16 of the Framework. The entrance to the site, shared with the History Centre and the development of the dwelling in the Walled Garden is within an area included on a Local List of Historic parks, Gardens and Designated Landscape. This access road including the spur leading to the two elements of the development has been part implemented under previous consents. The majority of this woodland is formally protected by Tree Preservation Order. The History Centre, Mount Oswald is

a grade II Listed Building. The walls and attached gatehouses of the estate fall under this listing as being part of the boundary of the listing. The Walled Garden is a non-designated Heritage Asset.

146. The Planning (Listed Buildings and Conservation Areas) Act 1990 states when considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses'. Part 16 of the Framework sets out and quantifies the account to be given to the historic environment, designated and undesignated and concludes that where a proposed development will lead to harm, this harm should be weighed against the public benefits of the proposal (paras 201, 202, 203).
147. Notwithstanding these assessments have been undertaken for previous schemes, both for the overall estate and for the development site under consideration, the form of the current application requires reassessment. That both elements of the development are designed to sit within the remaining parkland landscape, with the site retaining treed copses and open areas of grassland is considered to show due regard for the setting within the non-designated area of the former estate, and in the context of the landscape included on the List of Parks and Gardens.
148. The use of the access road through the gatehouses at the entrance to Mount Oswald is established, with its use by new development both on this site and in the walled garden considered acceptable. The development will be largely screened by existing mature woodland from views on the approach to the listed building, and, set in the wider parkland are not considered to present any 'harm' to the heritage assets, formal and informal, and their setting.
149. The physical and visual separation of the heritage assets garnered from the presence of the intervening trees ensures that the development will cause no harm to the significance nor setting of the listed and non-designated structures. Conservation Officers have offered no objection to the proposals. The proposal is considered to meet the requirements of Policy 44 of the County Plan and Part 16 of the Framework, and the responsibilities of the Local Planning Authority set out in the above Acts by preserving the setting of the heritage assets. The Neighbourhood Plan does not have specific policies for heritage assets outside Conservation Areas.
150. Archaeology Officers have confirmed that there are no implications from the development for their interests.

Ground Conditions

151. Policy 32 seeks to ensure that the potential for contamination or unstable land is assessed, considered and mitigated on any development site.
152. For contamination, the applicants have submitted a Ground Investigation Interpretive Report that concludes following investigation and soil sampling that the risk to future users of the site is low. An informative to account for unexpected contamination that may be discovered during the course of building works has been advised as appropriate and will meet the requirements of the relevant elements of Policy 32 of the County Durham Plan and paragraphs 183 and 184 of Part 15 of the framework.
153. The Coal Authority have confirmed that the submitted reports have demonstrated that the site is, or can be made, safe and stable for the proposed development, noting

further, more detailed considerations of ground conditions and/or foundation design may be required as part of any subsequent building regulations application. The scheme is concluded to comply with the relevant elements of Policy 32 of the County Durham Plan and paragraphs 183 and 184 of Part 15 of the framework.

154. The site lies within the Coal Resource Mineral Safeguarding Area. Policy 56 of the CDP states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within such areas unless specific criteria apply. The application site is underlain by deposits of coal, forming part of a larger deposit to surrounding area east of Durham City. Whilst some sterilisation could occur, it is considered the proposed development would have minimal impact on the future working of the more extensive deposit. In addition, given the site's location within the built edge of Durham City and sensitive receptors, the prior extraction of minerals may not be feasible as it could lead to an adverse impact on the environment and/or local communities. This outweighs the need to safeguard the mineral thereby satisfying Policy 56 criteria d and Paragraph 210c of the NPPF.

Other Material Benefits

155. Whilst not quantified within the submitted documentation. The development will bring economic benefits to the local economy through the supply and employment chains. This is acknowledged as of positive material weight in principle.
156. The development of 9 dwellings will bring material if small benefits to meeting housing demand and needs in the area. This is attributed an appropriate degree of positive material weight.

Representations

157. The proposal has generated some public interest, with support and objection having been received from local residents, representatives and amenity groups and authorities. The objections, queries and concerns raised have been taken account and addressed within the report, where appropriate.

CONCLUSION

158. 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. The Development Plan consists of the adopted Policies in the Durham County Plan and the City of Durham Neighbourhood Plan.
159. The principle of development in this location has been accepted in the original Masterplan and there is an existant, implementable consent for 5 dwellings.
160. The submitted scheme has been reduced in process from 12 to 9 units thereby reducing density and effects on the parkland and surroundings. Whilst of a lower design and sustainable quality than the approved scheme, it must be assessed on its own merits, and Officers have concluded that it meets Policy requirements, notwithstanding objectors concerns for such, it meets the Framework's aspiration for delivery of high-quality homes, to widen opportunities for home ownership and create sustainable, inclusive and mixed communities.

161. Significant concerns relate to the implications of construction traffic, with requests for use of an alternate access. Highways Officers consider the alternative unsatisfactory. Officers suggest a detailed Construction Management Plan is an appropriate and enforceable device to mitigate these concerns, which will be complementary to controls over it in other consents.
162. In summary, the application site is concluded on its own merits compliant with the Policies in the two elements of the Development Plan and consistent with the advice in the NPPF, if approved with conditions and a legal agreement to secure elements to mitigate identified harms, ensure compliance with the scheme as presented and agree detailed elements capable of resolution by Officers.

RECOMMENDATION

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

- a financial contribution of **£418,095** for the provision of off-site affordable housing within the area covered by the City of Durham Neighbourhood Plan.
- The sum of **£15,651.90** to mitigate likely demands from new residents for open space typologies not provided within the scheme.
- a section 39 agreement and management plan to secure the long-term management, maintenance and monitoring of the biodiversity areas

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 only be carried out in accordance with the following approved plans and documents:

- | | |
|----------------------------|---|
| • PA01a (HJB/4188/3a) | Planning Application Boundary |
| • A04a (HJB/4188/17a) | Proposed Layout |
| • PA07a (HJB/4188/12a) | House Type 3 – Floor Plans and Elevations |
| • PA08a (HJB/4188/13a) | House Type 4 – Floor Plans and Elevations |
| • PA09a (HJB/4188/14a) | Boundary Treatments |
| • PA10a (HJB/4188/15a) | Proposed Street Scene |
| • PA13a (HJB/4188/21a) | Proposed Road Arrangement |
| • PA14a (HJB/4188/20a) | Tree Survey |
| • PA15 (HJB/4188/22) | Highway Construction Details |
| • PA16a (HJB/4188/23a) | Proposed Levels Plan |
| • PA17 (HJB/4188/34) | House Type 4 Corner Variant |
| • PA18 (HJB/4188/35) | Plot 9 Floor Plans and Elevations |
| • PA19 (HJB/4188/32) | Pedestrian and Cycle Movement Framework |
| • PA20 (HJB/4188/36) | Proposed Plot Drainage |
| • PA21 (HJB/4188/37) | Garage Elevations and Plans |
| • Sustainability Checklist | |

- Arboricultural Method Statement and Tree Protection Plan
- The Shadbolt Group (July 2016) Mt. Oswald Golf Course Self Build Plots, Ground Investigation Interpretive Report
- The Shadbolt Group (Dec 2021) Mt. Oswald Drainage Impact Statement

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 1, 19, 21, 22, 25, 26, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45, 56, Residential Amenity Standards SPD 2022 of the County Durham Plan, Policies S1, H1, H3, G1, D2, D3, D4, T1, T2, T3 of the City of Durham Neighbourhood Plan and Parts 2, 4, 5, 8, 9, 11, 12, 14, 15, 16, 17 of the National Planning Policy Framework.

3. Full details of the specification, colour and make of all external construction materials, including walls, roofs, roof edging, rainwater goods, fenestration, cladding where proposed and hard surfacing must be submitted to and approved in writing by the Local Planning Authority prior to the construction of any dwelling above base course level. The development shall thereafter be carried out in accordance with the approved details.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan, Policies H3, D4 of the City of Durham Neighbourhood Plan and Part 12 of the National Planning Policy Framework.

4. Finished floor levels for all dwellings in the development must be implemented and completed in full accordance with the details set out on drawing PA16a (HJB/4188/23a).

Reason: In the interests of the visual amenity of the area, to ensure residential privacy and amenity, to provide residential security and to comply with Policies 29 and 31 of the Durham County Plan 2020, Policies H3 and D4 of the City of Durham Neighbourhood Plan and part 12 of the Framework.

5. No development of the dwellings above base course level shall commence, until full details of passive EV charging points to serve each property have been submitted to and approved in writing with the Local Planning Authority. The development shall thereafter be completed in complete accordance with the approved details.

Reason: To ensure adequate provision for electric vehicles is made as part of the development and charging points are provided in optimum locations, in accordance with Policy 21 of the County Durham Plan, Policy T2 of the City of Durham Neighbourhood Plan and adopted County Council Highway and Parking Standards.

6. Before the occupation of any dwelling hereby approved, the applicant must submit in writing and receive written approval from the Local Planning Authority, and thereafter construct in full, and, in full accordance with said written agreement a scheme for the erection of PVs on that dwelling before it is occupied.

Reason: In the interests of sustainability and as required by Policy 29 of the Durham County Plan, Policies S1 and D4 of the City of Durham Neighbourhood Plan and part 14 of the Framework.

7. Before the occupation of any dwelling hereby approved, the applicant must submit to the Local Planning Authority, receive written agreement for a Sustainability Validation

Report, prepared by a competent person, to show said dwelling achieves the reduction in CO2 emissions set out in Policy 29o. of the County Plan.

Reason: In the interests of sustainability and as required by Policy 29 of the Durham County Plan, and part 14 of the Framework.

8. Before the occupation of any dwelling hereby approved, the applicant must submit to the Local Planning Authority, receive written agreement for and deliver in full a scheme for at least one of the dwellings is configured to allow easy conversion to a 'housing products (sic) that meet the specific needs of a multi-generational family'.

Reason: To ensure that housing products that meet the specific needs of a multi-generational family are achieved on site in accordance with the requirements of Policy D2 of the City of Durham neighbourhood Plan and part 5 of the National Planning Policy Framework.

9. No development shall commence until the tree protection measures detailed within the approved plans and reports have been erected on the site. The tree protection shall be retained throughout the construction period unless the local planning authority have agreed in writing to any variation. Protective Measures must be in place prior to development and must be comply with BS 5837 2012. No materials, equipment or vehicles shall be stored inside the protective fencing.

Reason: To ensure that adequate tree protection is in place prior to the commencement of any construction works and that there are no resulting adverse impacts on mature trees or historic hedgerows to be retained within the site, to preserve the visual amenity of the surrounding area, in accordance with policies 6, 29 and 40 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Parts 12 and 15 of the NPPF.

10. Notwithstanding the submitted information, no development above base course level of the dwellings hereby approved shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The landscape scheme shall be based on the following:

- Details of all means of enclosure, including materials to be used.
- Details of areas of residential curtilage and areas of maintained open space/landscaping
- Details of hard and soft landscaping including planting species, sizes, layout, densities, numbers.
- Details of planting procedures or specification.
- Finished topsoil levels and depths. Seeded or turf areas, habitat creation areas and details etc.
- Details of land and surface drainage.
- The establishment maintenance regime
- The detailing of the management of all areas of maintained open space/landscaping for the lifetime of the development.

The approved landscaping scheme shall be completed in the first planting season following the substantial completion of the development. No trees, hedges and shrubs shall be removed without agreement within five years. In the event that any landscaping is removed, die or fail to establish within 5 years it shall be replaced in the first available planting season and thereafter maintained for a minimum period of 5 years.

Reason: In the interests of the visual amenity of the area and to comply with Policies 29 and 39 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Parts 12 and 15 of the National Planning Policy Framework.

11. The development hereby approved shall only be carried out in accordance with the ecological mitigation measures contained within Section 4 of the ecology report "BSG Ecology - Mount Oswald Ecology Survey Report 5th June 2017 "

Reason: To enhance biodiversity on the site and ensure there are no adverse impacts to protected species, in accordance with Policies 41 and 43 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Part 15 of the National Planning Policy Framework.

12. Each of the houses hereby approved shall include a minimum of 1 x bat roost unit and 1 x breeding bird unit per new dwelling.

Reason: To enhance biodiversity habitat on the site in accordance with Policies 41 and 43 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Part 15 of the National Planning Policy Framework.

13. Before the erection of any dwelling above dpc level commences, the developer must submit to the Local Planning Authority and formally agree a Biodiversity Implementation, Monitoring and Maintenance Plan, in a s.39 agreement under the Wildlife and Countryside Act 1981, including provision for maintenance for a minimum 30-year period and timings for implementation.

Reason: To ensure net-biodiversity gain for the benefit of the natural environment Policy 41 of the County Durham Plan, Policy G1 of the City of Durham Neighbourhood Plan and Part 15 of the National Planning Policy Framework.

14. Development must be constructed in full accordance with the drainage scheme contained within the submitted document entitled Drainage Impact Statement dated Dec. 2021 and Drawing PA20 (HJB/4188/36). The drainage scheme shall ensure that foul flows discharge to the foul sewer at manhole 6203 and ensure that surface water discharges to the SuDS pond. All hardstanding areas must be constructed in a permeable paving construction (wrapped type).

Reason: To prevent the increased risk of flooding from any sources in accordance with Policies 35 and 36 of the County Durham Plan and parts 14 and 15 of the National Planning Policy Framework.

15. The development shall be carried out in accordance with recommendations of The Shadbolt Group (July 2016) Mt. Oswald Golf Course Self Build Plots, Ground Investigation Interpretive Report.

Reason: The site may be contaminated as a result of past or current uses and the Local Planning Authority wishes to ensure that risks from land contamination to the future users of the land and neighbouring land are minimised, together with those to controlled waters, property and ecological systems in accordance with Policy 32 of the Durham County plan 2020 and Part 15 of the National Planning Policy Framework.

16. 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:
- The hours during which construction and demolition activities would take place.
 - A Dust Action Plan including measures to control the emission of dust and dirt during construction.
 - Measures to control the emission of noise and vibration.
 - Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
 - Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
 - Designation, layout and design of construction access and egress points, including specific detail for managing potential conflicts with pedestrians and cyclists using the Public Footpath.
 - Confirmation of arrangements to prevent deliveries, contractors and construction staff vehicle movements within the Mount Oswald development outside of specified construction hours
 - Details of protection of/from the construction access route consistent with the details shown on plan HBJ/PA677/394 from approval DM/16/04087/FPA.
 - Maximum vehicle sizes of construction traffic.
 - Details, including timings for the reinstatement of the construction traffic access route and delivery of the approved landscape scheme on its path.
 - Details for the provision of directional signage (on and off site).
 - Details of contractors' compounds, materials storage and other storage arrangements, including site cabins (with heights and orientation of windows), cranes and plant, equipment and related temporary infrastructure.
 - Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
 - Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site and passing on and approaching the construction access track during the construction period.
 - Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
 - Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
 - Detail of measures for liaison with the local community and procedures to deal with any complaints received, including where this will be displayed on site.
 - Details of temporary topsoil and subsoil storage provision.
 - Details of temporary lighting.
 - Details of measures for liaison with the local community and procedures to deal with any complaints received.
 - Surface water drainage measures throughout construction.

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, ensuring public safety and amenity.

17. 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.

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.

PUBLIC SECTOR EQUALITY DUTY

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.

In this instance, Officers have assessed all relevant factors and consider that the scheme in reflecting in particular the needs of older residents and less able residents to a Policy compliant standard incorporates elements that ensure the development has the potential to be attractive to all and demonstrates that the requirements of this Act have been considered.

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
- National Planning Practice Guidance Notes
- County Durham Plan (2020)
- City of Durham Neighbourhood Plan (2020 to 2035)
- Residential Amenity Standards SPD (2023)



Planning Services

DM/21/04262/FPA

9 no. dwellings and alterations to existing access road

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Mount Oswald Golf Club
South Road
Durham
DH1 3TQ

Date: 7 March 2023

Scale: NTS

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/22/03456/FPA
FULL APPLICATION DESCRIPTION:	Conversion of first and second floors to form two 5-bed HMOs (Use Class C4) including window changes to lightwell elevation.
NAME OF APPLICANT:	Hillcrest NW Ltd
ADDRESS:	First Floor And Second Floor 84 Claypath Durham DH1 1RG
ELECTORAL DIVISION:	Elvet and Gilesgate
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 is located within the commercial centre of Durham City as defined by the County Durham Plan and is also located within the Durham City Centre Conservation Area. Consequently, the area is characterised by a mix of uses including both commercial and residential with the ground floor of the application site currently occupied for retail purposes falling within Class E of the Town and Country Planning Uses Classes Order. Whilst also occupied for commercial purposes the ground floors of other properties within the locality are used as public houses in some cases and as hot food takeaways. The floors above in several of these cases are understood to be occupied as houses in multiple occupancy (HMO's). Opposite the application site is a former office complex (William Robson House) which benefits from planning permission for conversion to student accommodation. There is also a residential block of flats in close proximity of the application property.
2. The host property is of brick construction with four bays over three floors and has a slate roof. At ground level the building is divided into two commercial as already noted (Durham Food Store and Tia's, a Mexican restaurant) the latter also occupying part of the first floor.
3. The remainder of the first and second floors are currently vacant but are understood to have been last occupied by the County Durham Probation Service. These benefit from their own access independent from the lower floors.

The Proposal:

4. Planning permission is sought for the conversion of the first and second floors of the existing building to form two 5-bed HMOs (Use Class C4) including window changes to the lightwell elevation whilst also retaining the commercial uses to the ground floor. One HMO unit is proposed to each floor and both would comprise 5 bedrooms with the second-floor property consisting of all en-suite bedrooms. Redecoration works are also proposed.
5. The application is reported to planning committee at the request of The City of Durham Parish Council who consider that the proposal raises significant issues in relation to noise and associated disturbance and concern regarding limited space available for bin storage, such that the application should be considered by the Planning Committee.

PLANNING HISTORY

6. There is no relevant planning history on this site.

PLANNING POLICY

NATIONAL POLICY

7. 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.
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 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.

12. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 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.
15. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.
17. *NPPF Part 16 Conserving and Enhancing the Historic Environment* - Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

<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:

County Durham Plan

19. 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.
20. 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.
21. 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.
22. Policy 21 (Delivering sustainable transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
23. Policy 22 (Durham City Sustainable Transport) seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area
24. 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.
25. Policy 31 (Amenity and pollution) sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially

polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

26. Policy 32 (Despoiled, degraded, derelict, contaminated and unstable land) requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
27. Policy 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.
28. 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.
29. 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.
30. Residential Amenity Standards SPD (2020 Adopted version) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.

City of Durham Neighbourhood Plan

31. Policy S1 (Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions) seeks to sets out the economic, social and environmental criteria that development proposals will be required to meet.
32. Policy H1 (Protection and Enhancement of the World Heritage Site) requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views and create new views and vistas.
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 D4 (Building Housing to the Highest Standards) states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions. New residential development should meet the Building for Life 12 standards provided for in County Durham Building for Life Supplementary Planning Document (2019)
35. Policy T1 (Sustainable Transport Accessibility and Design) seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility, impact and design.
36. Policy T2 (Residential Car Parking) supports developments with or impacting on car parking provided that car parking is designed to reduce vehicle movements on residential streets and is in designated bays or small groups separated by landscaping or features and designed with safety in mind. Consideration should be given to communal off street parking for dwellings without garages. Any EV requirements should not hinder movement by pedestrians or disabled people and should be in keeping with area character. The policy supports the use of car clubs. Should the parking demand require parking controls these will need to be funded through developer contributions
37. Policy T3 (Residential Storage for Cycles and Mobility Aids) requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC standards and should be adaptable for other types of storage with access to electricity. Where there is communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development

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:

38. Highway Authority – Raises no objection.
39. Police Architectural Liaison Officer – Has not responded.
40. City of Durham Parish Council – Indicates general support for the principle of re using the upper floors of commercial buildings for residential purposes. However, in this instance they have concerns regarding the impact of the development on the residential amenity of future occupants, resulting from noise. They also raise concern that the proposals for bin storage are unacceptable and that a suitable construction management plan should also be provided in the event that planning permission is granted.

INTERNAL CONSULTEE RESPONSES:

41. HMO Licensing Section – Raise no objection but provide general advice on licencing requirements.
42. HMO Data Officer – Confirm that 85.4% of properties are currently class N exempt within 100m of the host site.
43. Environmental Health (Nuisance) Section – Raised initial concern with regards to the potential for the transfer of noise from the commercial units across the ground floor to the proposed residential accommodation above. However, upon receipt of additional information has subsequently advised that this impact could be satisfactorily mitigated through the use of planning conditions which are detailed elsewhere in this report.
44. Environmental Health (Contamination) Section – Raise no objection and confirm no requirement for any contaminated land condition.
45. Ecology – Raise no objection and confirm that Bat risk assessment is acceptable with no further survey or mitigation required.
46. Design and Conservation Section – Raise no objection
47. Spatial Policy Section – Raises no objection to the application and advises that the key policies for determination are policies 6, 9, 16, 21, 29 and 31 of the County Durham Plan and Policies H1, H2, S1, D6 and T1 of the Durham City Neighbourhood Plan. In summary conclusion the officer notes that whilst the proposal has scope to be compliant with the CDP and the CDNP the applicant will need to demonstrate that the policy requirements have been met in full. Specifically in relation to amenity, layout, car parking, cycle storage, refuse provision, safety and potential impact on existing residents and businesses.

PUBLIC RESPONSES:

48. The application has been advertised by means of site notice, press notice and by notifying neighbouring residents by letter.
49. To date, two letters of concern have been received from The City of Durham Trust and St Nicholas Community Forum with the following concerns:
 - General principle of upper floors being used for residential use is accepted
 - Concern regarding bin storage and collection
 - Concern regarding construction process and deliveries and consider that a CMP should be provided
 - Recent issues mentioned regarding a neighbouring development.
50. Following re-consultation, the City of Durham Trust confirmed their continued objection.

APPLICANT'S STATEMENT:

51. The application site lies within the Durham (City Centre) Conservation Area and the City Centre boundary as defined by the policies map.
52. In this part of Claypath, the ground floors of properties are Class E retail, pubs and hot food takeaway uses with predominantly Class C4 HMO student letting accommodation

above. Immediately to the west of the site 85-88A Claypath comprises commercial units at ground floor and HMO student letting accommodation above converted from office accommodation in 2001. Opposite is the purpose built student accommodation operated by Student Castle and Christchurch, a grade II listed former United Reform Church. Immediately to the east is the archway entrance, part of the grade 2 listed Big Jug Public House, leading to Moody's Yard. Beyond the pub (currently closed for refurbishment) is the entrance to the Blue Coat Court residential development. Commercial uses continue to front southern side of Claypath until the Providence Row road junction which is the boundary of the defined City Centre.

53. The application site includes the car park and cobbled carriageway within Moody's Yard which is part of the title plan. William Robson House faces the car park and is also in the applicant's ownership and is currently undergoing redevelopment, including 28 bed student accommodation.
54. 84 Claypath is recognised as a non-designated heritage asset in the Council's Conservation Area Character Appraisal and the Durham City Neighbourhood Plan.
55. At street level the building is divided into two commercial uses. 84a is occupied by Durham Food Store trading as a small convenience store and 84b is Tia's, a Mexican restaurant which also occupies part of the first floor for customer and staff wcs. Both commercial units have 20th century fascia but elements of historic shopfronts remain. Between the two shopfronts is a panelled door providing independent access via a timber staircase to the first and second floors which were last occupied by the County Durham Probation Service and are currently vacant.
56. Policy 16 of the CDP applies and Part 3 is relevant to HMOs. The policy states that change of use would not be resisted where an existing high proportion of residential properties within 100 metres are exempt from Council Tax charges, on the basis that commercial uses are predominant within the 100 metre area. In this case the change of use is from vacant offices and there is no loss of C3 use. The supporting text for Part 3 also recognises that the conversion of the upper floors, above a retail unit, within the town centre, can be an appropriate location for HMO use as it can improve the vitality of an area and would not impact upon the character of predominantly residential areas. Consideration should be given to the design, size and layout of the accommodation, impact on the character of the area, amenity, security, cycle storage and storage for refuse and recycling.
57. Policy E3 of the DCNP states "Development proposals that provide 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".
58. The proposed conversion requires only minor external changes to the existing windows within the rear lightwell which is not visible from any view point.
59. The proposed apartments have 5 bedrooms with a dining/kitchen and a separate lounge. They are ideally suited to the student letting market in a highly sustainable location and exceed the requirements of the Nationally Described Space Standards and space requirements for shared student houses described in the Council's 'Standards For Houses In Multiple Occupation'. All rooms have high levels of daylight with no adverse privacy issues.
60. Details have been provided to demonstrate how the potential negative impact by way of noise and odour upon the amenity of future occupants from the commercial

premises, both below and adjoining, may be suitably mitigated and those measures can be secured by condition.

61. Provision has been made for the storage of refuse and recycling bins for both apartments away from Claypath within Moody's Yard where the existing bin storage for the commercial units is also located. Separate secure covered storage for 6no.cycles is also provided within Moody's Yard
62. The refuse will be removed and returned to the store by private contractor along with the refuse for the adjoining William Robson House development. The method of removal can be detailed in a management plan secured by a pre-occupancy condition and we note that the EHO has also recommended a tenancy management plan is in place to reduce the potential for noise and anti-social behaviour impacting upon neighbouring residential amenity.
63. The painted brickwork to the Claypath elevation will be refurbished and the decorative stone window surrounds highlighted in a complementary colour to enhance the appearance of the building and make a positive contribution to the street scene and thereby, the Conservation Area.
64. The applicant is a local company that owns, develops and manages student accommodation and commercial buildings throughout the City including many prominent and listed buildings. When investing in the City they are very aware that re-use and restoration are more sustainable ways of working and that adaptive re-use plays a role in preserving the history of the community.
65. The applicant has worked closely with officers during the consultation period and they are confident that the proposals will provide high quality student accommodation as a viable and sustainable use to preserve the character and appearance of this non-designated heritage asset and the surrounding Conservation Area.

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

66. 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.
67. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration in this regard. The County Durham Plan is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
68. The County Durham Plan is now adopted and is considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.

69. In this context, it is considered that the main planning issues in this instance relate to the acceptability of the principle of development including impact upon the commercial centre of the city, impact upon designated heritage assets, impact upon residential amenity, highway safety, contaminated land and ecology.

Principle of the Development

70. The application relates to the change of use of the upper floors of the application property to 2 HMOs falling into Class C4 of the Town and Country Planning (Use Classes) Order. As such Policy 16 of the CDP is relevant in determination of this application. Part 3 of that policy states that in order to promote create and preserve inclusive, mixed and balanced communities, and to protect residential amenity, applications for changes of use to Class C4 (House in Multiple Occupation), where planning permission is required, will not be permitted if:

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

In addition to the above applications will only be permitted where:

- d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
 - e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;
 - f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
 - g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.
71. The policy goes on to clarify that a change of use to a House in Multiple Occupation would not be resisted in the following circumstance:
- h. where an area already has a concentration in excess of 90% of council tax exempt properties (Class N), that this is having an unreasonable impact on current occupiers and that the conversion of remaining C3 dwellings will not cause further detrimental harm to the residential amenity of surrounding occupants; or
 - i. where an existing high proportion of residential properties within the 100 metres are exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.

72. Within a 100m radius of, and including the host property, 85.4% of properties are Class N exempt student properties as defined by Council Tax records. The application property does not currently benefit from this exemption.
73. The site falls within the town centre boundary and as such commercial uses are considered predominant within the 100m area, therefore the exemption set out in criteria (i) of Policy 16 applies in this instance. As such, the principle of development is considered acceptable in this regard and can draw support from Policy 16(i) subject to compliance with other criteria of the policy (namely (d) to (g)) which is considered in more detail elsewhere in this report.
74. Given the application site is positioned within the commercial centre of the city, Policy 9 (Retail hierarchy and Town Centre Development) of the CDP is also relevant and defines a hierarchy of commercial centres in the County, with Durham City identified as a Sub Regional Centre. The Plan looks to support new town centre development across all of the county's centres that will improve choice and bring about regeneration and environmental improvements.
75. Within the Primary Shopping Areas, as shown on the policies map, the policy states that A1 (retail) uses (now falling within Class E of the revised Use Classes Order) will be supported and other uses will be permitted where they preserve the vitality and viability of the Primary Shopping Areas.
76. The approach to defining a retail hierarchy is consistent with the guidance within paragraph 86 of the NPPF which states a need to define a hierarchy of town centres and promote their long-term vitality and viability - by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters. This paragraph also recognises that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites.
77. Policy E3 (Retail Development) of the Durham City Neighbourhood Plan (DCNP) is relevant and supports A1 (retail) (now falling within Class E of the 2020 Use Classes Regulations) as the predominant use within the Primary Frontage and development proposals that provide residential accommodation in upper floors of commercial properties, as long as they do not have a negative impact on retail, commercial and tourism activities and the general amenity of neighbouring properties and residential amenity including noise impact.
78. In this case the proposal would retain the commercial uses to the ground floor and their associated active frontage. As such the proposal would not undermine the viability or vitality of the commercial centre of the city and is considered acceptable in principle in this regard, subject to appropriate consideration of the other issues detailed below.

Impact on Residential Amenity

79. CDP Policy 31 seeks 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.

80. 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.
81. Policy 16 further states that in all cases changes of use to HMOs will only be permitted where: provision of acceptable arrangements for bin storage and other shared facilities and consideration of other amenity issues; and the security of the building and its occupants has been considered, along with that of neighbouring residents.
82. Concern has been raised that the proposal could result in unacceptable noise to surrounding neighbours, in particular those at Claypath Court, which is understood to house more elderly residents. Whilst these concerns are noted, it is nevertheless considered that any increase in noise would be limited and due to the high concentration of commercial properties within the area is unlikely to have any significant change given the current noise climate in this city centre location. The Council's EHO raises no objection to the application in this regard.
83. In respect of internal arrangements, officers consider that the proposed arrangements in the case of both HMOs would provide appropriate internal amenity space for occupants, which accord with HMO regulations. In addition, the proposals also meet the minimum requirements of the Nationally Described Space Standards (NDSS). All rooms are provided with sufficient daylight, and whilst in some cases outlook would be limited, this is not considered unacceptable given the sites city centre location, where buildings have been historically tightly designed. Similarly, the city centre location is such that opportunity for the provision of external amenity space is extremely limited and as such the lack of any provision in this regard is considered acceptable in this context.
84. As already noted, the ground floor is currently used for commercial purposes, specifically a supermarket and restaurant, and this would be retained post development. As such there is potential for conflict between this and the proposed residential use to the upper floors in terms of the transfer of noise between floors.
85. Paragraph 187 of the NPPF considers this further and states that planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
86. In order to allay concerns relating to the potential for noise to impact upon future occupants the applicant has commissioned a noise impact assessment prepared by a suitably qualified consultant and has been reviewed by the Council's Environmental Health Section. Concern was initially raised in relation to the potential for the transference of sound between the ground and upper floors, although the applicant has since provided subsequent information which included confirmation of a willingness to provide a baseline sound test for the existing construction and to modify mitigation in order to demonstrate how the required threshold would be achieved (that threshold being established by the baseline test result). Once completed the applicant

would provide a post construction test to demonstrate compliance with the established threshold prior to first occupation of the HMOs and this would be secured through planning condition.

87. Concern has been raised by Durham City Parish Council regarding the potential for odour from the commercial uses to the ground floor to impact upon occupiers of the proposed HMOs. The applicant has subsequently provided further information in relation to odour control and made amendments to the floor plans in order to mitigate any impact in this regard. The Council's EHO is satisfied that this has demonstrated that any negative impact from odour upon the amenity of future occupiers could be suitably mitigated provided the measures described in the supporting documents are adhered, and this could be controlled via planning condition.
88. Durham City Parish Council and the City of Durham Trust have identified requirement for the submission and agreement of a facility management plan should planning permission be granted. However, given the limited scale of the accommodation proposed it is not considered that any condition in this regard would meet the required tests of being necessary or reasonable, and in this respect, it is noted that the Council's EHO has not indicated any requirement in this regard.
89. Objections have been received with regard to waste disposal, specifically that the provision identified is not sufficient and that as a result bins would obstruct the footway along Claypath. Provision of adequate bin storage is a requirement of policy 16 of the County Durham Plan and as such the applicant has identified a compound to the rear of the existing public house within the application site with capacity for the storage of 2 waste bins and 2 recycling bins and that waste would be collected by private contractor servicing the student accommodation which is under construction/conversion and over which the applicant also has control. Precise details for the means of refuse removal in that case is by private contractor who would move the bins to Claypath in line with the method previously employed for the offices and collected weekly or as frequently as required which is considered acceptable and this could be secured via planning condition. Whilst it is noted that there are ongoing concerns regarding bins from premises along Claypath obstructing the highway, this is not a material planning consideration and is a management issue for the properties involved.
90. Taking all the above into consideration, it is considered that the proposal would not have any adverse impact upon the amenity of existing or future occupiers in accordance with policies 16, 29 and 31 of the County Durham Plan and Part 15 of the NPPF.

Impact upon Designated Heritage Assets

91. Local Authorities have a duty to preserve or enhance the character or appearance of the Conservation Area as required by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas and Listed Buildings to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
92. Policy 44 of the CDP seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets.
93. Policy 45 of the CDP seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an

understanding of, and will protect and enhance the outstanding universal value of the site in terms in relation to the immediate and wider setting and important view into, and out of the site.

94. 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).
95. Policy 29 relating to sustainable design states that all proposals will be required to achieve well designed buildings and places having regard to supplementary planning documents and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions and include appropriate and proportionate measures to reduce vulnerability, increase resilience and ensure public safety and security.
96. The DCNP Policies H1 and H2 seek to ensure that proposals within the Durham Cathedral and Castle World Heritage Site, Durham City Conservation area, and affecting heritage assets should sustain, conserve, and enhance its Outstanding Universal Value, the significance of the Conservation Area and not have detrimental impact on the assets and their setting.
97. As identified in the applicant's heritage statement No 84 Claypath is a non-designated heritage asset (NDHA) within Durham City Conservation Area (CA). To add further, it is likely to date from the late C19 and comprises of three stories and four bays to the street with a long wing to the rear constructed from brick that is painted with 4-pane sashes in lugged and keyed or segmental keyed architraves above modern shop fronts.
98. The proposal relates to the conversion of the upper floors to create two 5-bed apartments. While ultimately the internal modifications cannot be controlled, the heritage statement identifies that the surviving fireplaces, panelled window reveals and decorative plaster cornices are all to be retained which is considered appropriate.
99. Secondary glazing is proposed which again is supported by the Council's Design and Conservation Section and would have the result of improving the buildings acoustic performance while allowing the existing sashes to be retained. The only external alteration identified would involve infilling an existing window at first floor and the replacement of two existing horizontal pivot windows at second floor with uPVC double glazed units. The proposed works would not be considered harmful based on their location within the unseen lightwell side elevation. Despite the general preference for traditional timber windows, the use of uPVC in the location proposed would not impact upon the visual appearance of the buildings primary elevation most commonly viewed from the public realm that contributes the most to the character and appearance of the CA. Details of the secondary glazing have been received and is considered acceptable.
100. It is proposed to refurbish the Claypath elevation by re-decoration with the decorative window surrounds highlighted in a complementary colour. Whilst painting does not require planning permission, the submitted visualisation demonstrates that this work would have a positive effect on the external visual appearance of the main elevation, that would result in a slight enhancement to the streetscene and thereby the

Conservation Area to which the Council's Design and Conservation Section raise no objection.

101. In conclusion, the proposal would not result in harm to the significance of the NDHA or that of the surrounding Conservation Area. The external redecoration works would provide a slight visual enhancement in accordance with the principles of NPPF Section 16, CDP Policy 44, Neighbourhood Plan Policy H2 and Section 72 of the Town and Country Planning (Listed Building and Conservation Area Act 1990).
102. Claypath is a fundamental part of the historic inner townscape setting of Durham Castle and Cathedral World Heritage Site. Given the minor nature of the external works proposed that do not affect a prominent elevation where intervisibility with the WHS occurs, there would be no harm to its setting nor to any attribute of its outstanding universal values. Accordingly, there is considered to be no conflict with CDP Policy 45 or policy H1 of the Neighbourhood Plan.

Highway Safety

103. CDP Policy 21 states that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, must be able to be safely accommodated on the local and strategic highway network; that car parking at residential developments should ensure that a sufficient level is provided for both occupants and visitors to minimise potential harm to amenity from footway parking, and that appropriate provision for electric vehicle charging, including charge points and laying of cables, should be made on both residential and non-residential development where parking is provided. In addition policy 16 states that new HMO accommodation will be supported where the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Guidelines.
104. The site is considered to occupy a sustainable location close to the centre of Durham and within walking distance of the train and bus stations. The development proposes covered cycle parking, and provision of 8 parking spaces, which is an acceptable level of provision given the location.
105. Concern has been raised in relation to the constrained nature of the site which is set within the city centre, and as such the Parish Council and City of Durham Trust consider that there is requirement for a construction management in order to mitigate the impact of the development during the construction phase, should planning permission be granted. However, it is noted that the proposal relates to a limited conversion with minimal external alteration. Consequently, it is not considered that a Construction Management Plan is required in this instance and any condition requiring the submission and agreement of a plan in this regard would not meet the required tests of being either necessary or reasonable. Whilst it is noted that an adjacent development was granted planning permission subject to condition requiring the submission and agreement of a construction management plan, it should be noted that this was categorised as major development and was of significant scale. As such the inclusion of a construction management plan condition was considered necessary to mitigate the impact of the proposals during the construction phase.
106. The proposal is therefore considered acceptable in accordance with policies 16 and 21 of the County Durham Plan and part 9 of the NPPF.

Contaminated Land

107. Policy 32 relates to despoiled, degraded, derelict, contaminated and unstable land and requires developers to demonstrate that any land subject to this can be satisfactorily

addressed by appropriate mitigation measures prior to the construction and occupation of the proposed development as well as the site being suitable for the proposed use and that all the necessary investigations and risk assessments have been undertaken.

108. The Council's Contaminated Land section have been consulted on the proposal and considers there is no requirement for any further conditions. The proposal therefore, is considered acceptable in respect of Policy 32 of the County Durham Plan.

Ecology

109. 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.
110. The Bat risk assessment submitted is considered sufficient to inform the proposal and no further surveys or mitigation is required. The proposal is therefore, considered acceptable in respect of policy 41 of the CDP.

Public Sector Equality Duty

111. 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.
112. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

113. In summary, whilst 85.4% of properties within 100m radius of the application property are currently exempt from Council Tax as being wholly occupied by students, the site is located within the centre of the city where commercial uses are predominant. In this respect the proposal can draw support from policy 16(i) of the CDP.
114. In other respect the introduction of 2 HMOs within this location could be accommodated without adverse impact upon the residential amenity of existing or future residents, highway safety, ecology and land contamination in accordance with policies 16, 21, 29, 31, 32 and 42 of the County Durham Plan, parts 5, 12 and 15 of the NPPF and policies D4 and T1 of the City of Durham Neighbourhood Plan.
115. In addition, it is considered that the proposals would preserve and have some limited enhancement to the character and appearance of the Conservation Area and would maintain the setting of the World Heritage Site in accordance with policies 44 and 45

of the CDP, Policies H1 and H2 of the Durham City Neighbourhood Plan and Section 72 of the Town and Country Planning (Listed Buildings and Conservation Areas) Act 1990.

116. Whilst concerns raised by the Parish Council, City of Durham Trust and residents association are noted regarding noise, odour, bin storage and disturbance during the construction phase, it is considered that any impact in this regard is insufficient to sustain refusal of the application or could be adequately mitigated to within acceptable levels through planning conditions for the reasons detailed within the report. The proposal is therefore recommended for approval.

RECOMMENDATION

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

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

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

2. The development hereby approved shall be carried out in strict accordance with the 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. Prior to the first occupation of either of the HMOs hereby approved, a baseline sound test relating to the existing construction shall be completed by an appropriately qualified person to identify appropriate noise level thresholds and the results thereafter submitted to and agreed in writing by the Local Planning Authority.

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

4. Upon completion of the baseline sound test a detailed scheme of mitigation sufficient to ensure that noise transfer from the existing commercial units to the upper floors is limited to acceptable levels, shall be submitted to and agreed in writing by the Local Planning Authority. The HMOs hereby approved shall not be occupied until a verification report has been submitted to and agreed by the LPA sufficient to demonstrate that the thresholds identified in the baseline test have been achieved. Thereafter the mitigation measures shall be retained in perpetuity.

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.

5. All domestic waste generated by the HMOs hereby approved shall be stored in the area identified for bin storage on Drawing No. 315-005-01 entitled 'Proposed Site Plan' until such time it is removed from the site.

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. 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.

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

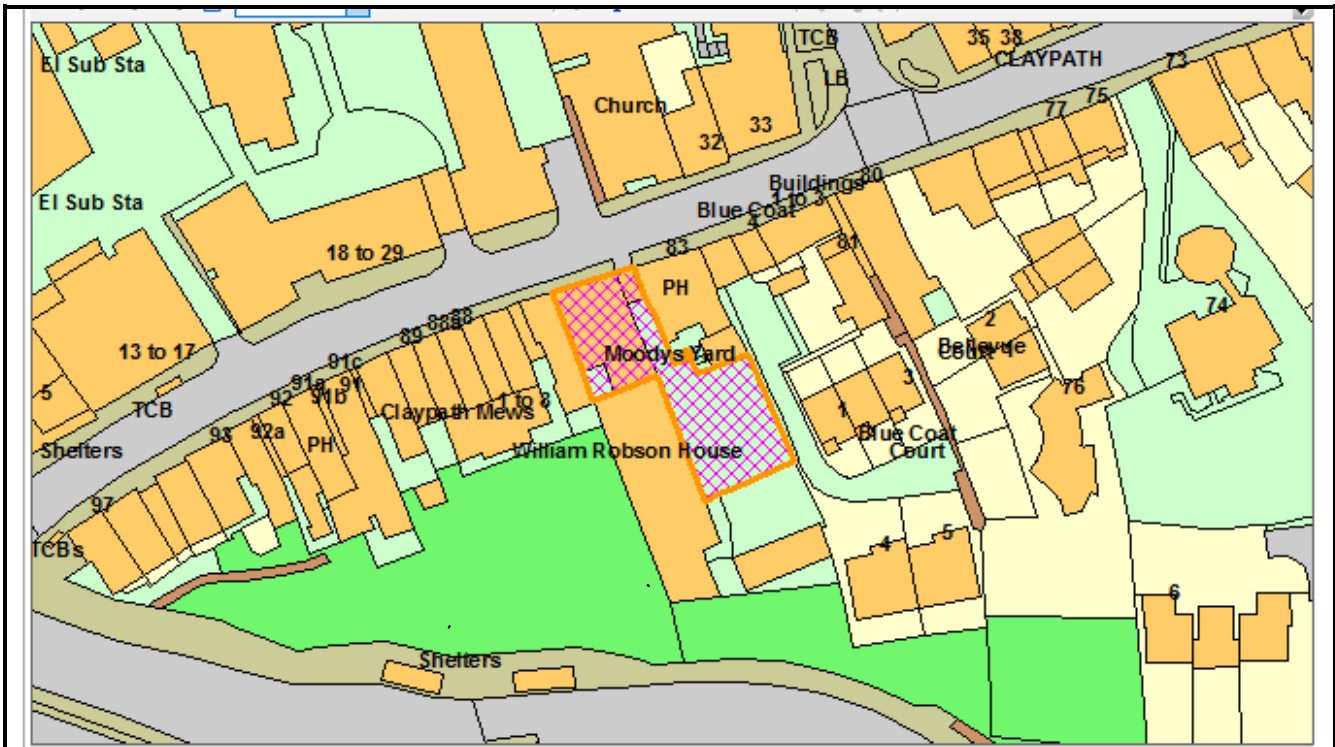
The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan

The Councils Residential Amenity SPD

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Conversion of first and second floors to form two 5-bed HMOs (Use Class C4) including window changes to lightwell elevation at First Floor And Second Floor, 84 Claypath, Durham, DH1 1RG Application Reference: DM/22/03456/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>		
	<p>Date: March 2023</p>	<p>Scale NTS</p>

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/22/02761/FPA
FULL APPLICATION DESCRIPTION:	Proposed redevelopment of stables to provide 1 no. 3 bed dwelling
NAME OF APPLICANT:	Mr and Mrs Bracewell.
ADDRESS:	Fernhill, Newcastle Road, Crossgate Moor, Durham, DH1 4JZ.
ELECTORAL DIVISION:	Neville's Cross
CASE OFFICER:	Jennifer Jennings Senior Planning Officer 03000 261059 jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. Fernhill is a large detached house lying in extensive grounds on the north western edge of the Crossgate Moor area of Durham. To the west is open countryside, to the east is The Lodge at the entrance to the site, beyond which lies the north-south A167 road, with detached residential properties and Flass Vale further beyond. To the north lie residential properties on Whitesmocks Avenue, separated from the application site by the unsurfaced Club Lane, a public right of way, running in an east-west direction. Immediately to the south is further open countryside, with residential properties in Crossgate Moor Gardens beyond. The site is located within the Durham City Green Belt.
2. The stables are to the west of the main house and are in L shape formation, finished in timber, with a riding arena area to the south of the block. It sits in a large area predominantly given over to lawns and substantial structural planting that screens much of the site from public views. The main house is set on a hill and is located at the highest point of the site, with unequal falls in land levels to each side, the stables themselves lying at a lower level to the house. The greatest change in level is to the north where the slope of the property falls to Club Lane and this difference in height wraps round the contours to the main road. The road rises as it heads south, however even at the highest point of the surrounding land the house still stands clear of its surroundings and predominates views.
3. Close by to the site there are bus stops with services travelling into the city centre and northbound towards the Arnison Centre and Newcastle. Durham Johnson School is close to the south along with a general retailer and a vet's practice.

The Proposal

4. The application seeks planning permission for the demolition of the existing stables and the erection of a new 3 bed dwelling. The property known as Fernhill would be retained as a family dwelling.
5. The dwelling is proposed to be single storey with an 'L' shape formation similar to the size, form and siting of the existing stables. It would consist of a lounge / dining / kitchen area in the main eastern part of the east west wing, with the three bedrooms, one ensuite and one bathroom running along the north south wing to the west. It would be built into the landscape similar to the stable building and would be no higher than this existing building, save for the chimney on the eastern end elevation.
6. The dwelling has been designed to encompass timber cladding materials for the wall, with large glazed areas for the living spaces and standing seam metal for the hipped roof. An external stone chimney is proposed to the east elevation.
7. Access to the site is currently from the A167 via two positions on the eastern boundary, with the main access to be taken from the southern gated unadopted private drive leading past The Lodge cottage and the northern entrance remaining to serve Fernhill. The proposed route of the access track leading to the proposed dwelling has been amended and realigned on site to make use of the existing driveway track, retaining the grassed / tree planted area as existing. Two car parking spaces would be provided immediately to the south of the dwelling.
8. The application is reported to the Planning Committee at the request of the City of Durham Parish Council who consider the proposals to amount to inappropriate development within the Green Belt, as well as raising concerns over the impact on the Area of Higher Landscape Value.

PLANNING HISTORY

9. 95/00371/FPA - Erection of three stall stable block erection of 2.1m stone wall and raising of pitched roof over private garage – Approved
10. 03/00009/FPA - Erection of two storey pitched roof extension to side, single storey pitched roof extension to rear and extension of detached garage, to include demolition of existing garage and conservatory – Approved
11. 03/00880/FPA - Change of use and conversion of existing garage to self-contained residential bedsit – Approved
12. 08/00523/FPA - Proposed demolition of existing lodge and erection of replacement together with an additional 12 no. two storey detached dwellings with associated garaging, parking, access and landscaping – Withdrawn
13. 09/00134/FPA - Demolition of existing flat roof extension and erection of replacement single storey pitched roof extension, erection of two storey pitched roof extension to east side elevation, erection of replacement porch to north elevation, removal of chimney and erection of replacement and demolition of existing outbuildings and erection of detached double garage – Withdrawn
14. 09/00693/FPA - Demolition of existing flat roof extension and erection of replacement two storey pitched roof extension to east elevation, erection of single storey pitched roof extension to north elevation – Approved

15. 11/00535/FPA - Erection of 3 no. dwellinghouses – Refused and dismissed at appeal
16. DM/14/03327/FPA – Erection of four detached dwellings with attached garages, demolition of the stable block conservatory extension on Fernhill and erection of a car port / covered area for parking a horse box – Refused
17. DM/21/02896/FPA – Redevelopment of stables to provide 1 no. 4 bed dwelling at Fernhill – Refused and Dismissed at Appeal.

PLANNING POLICY

NATIONAL POLICY

18. A revised National Planning Policy Framework (NPPF) was published in July 2021 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
19. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
20. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
21. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
22. *NPPF Part 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.
23. *NPPF Part 6 - Building a Strong, Competitive Economy.* The Government is committed to ensuring the planning system does everything it can to support sustainable

economic growth. Planning should operate to encourage and not act as an impediment to sustainable growth. Therefore, significant weight should be placed on the need to support economic growth through the planning system.

24. *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.
25. *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.
26. *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.
27. *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.
28. *NPPF Part 13 Protecting Green Belt Land:* The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
29. *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.
30. *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.
31. *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

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

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

LOCAL PLAN POLICY:

The County Durham Plan

33. *Policy 6 – Development on Unallocated Sites.* Supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement’s valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
34. *Policy 20 - Green Belt* states that development within the Green Belt will be determined in accordance with national planning policy.
35. *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.
36. *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.
37. *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.

38. *Policy 27 – Utilities, Telecommunications and Other Broadband Infrastructure.* States amongst its advice that new residential and commercial development should be served by a high speed broadband connection or appropriate infrastructure for future installation if direct connection is not appropriate, practical or economically viable.
39. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards.
40. *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.
41. *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.
42. *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.
43. *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.
44. *Policy 39 – Landscape.* Proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where

it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.

45. *Policy 40 - Trees, Woodlands and Hedges.* Proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
46. *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.
47. *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.
48. *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.
49. *Policy 56 - Safeguarding Mineral Resources.* Sets out that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area unless certain exception criteria apply.

NEIGHBOURHOOD PLAN:

City of Durham Neighbourhood Plan

50. *Policy S1 - Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions* - sets out the economic, social and environmental criteria that development proposals will be required to meet to: Promote economic well-being, to Conserve, preserve and enhance the neighbourhood, to increase resilience to climate change, and secure equity and benefit to the local community.
51. *Policy H3 – Our Neighbourhood Outside the Conservation Areas* – requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area. Such development should sustain and make a positive

contribution to the character and distinctiveness of the area, and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.

52. *Policy D4: Building Housing to the Highest Standards* states that all new residential development should be of high quality design and meet building for life 12 standards.
53. *Policy G1 – Protecting and Enhancing Green and Blue Infrastructure* – seeks to support developments that retain existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value and developments that provide additional green or blue assets, particularly if there is an identified deficiency. Any new or replacement assets must be appropriate to the context and setting. The policy requires developments to protect and enhance public rights of way and footpaths and green corridors. It offers support to proposals that provide net gains for biodiversity. The policy requires features of geological value to be protected. The policy seeks to protect and enhance the banks of the River Wear by supporting proposals with desirable access that do not have significant impacts on current assets. The policy also seeks to protect dark corridors by ensuring developments minimise lighting in such areas
54. *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, impact and design

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

55. *Highway Authority* – Raises no objection.
56. *Coal Authority* – No objections.
57. *City of Durham Parish Council* – Objects to the proposals. To summarise their comments, they note that the previous proposals for a new dwelling on site were recently dismissed at appeal, where development was considered inappropriate and no very special circumstances existed to outweigh this. They comment that the site was subject to specific consideration as part of the preparation of the CDP and the Inspector concluded it should remain within the Green Belt. In relation to the proposals, they consider it would have a greater impact on the openness of the green belt than the existing simple stables, along with the new private access and curtilage space, which was referred to as part of the appeal decision. No very special circumstances exist that would outweigh the harm identified.
58. Further comments were received in relation to the impact on the AHLV and that the proposals would conflict with policy 39 as the proposals would not conserve the special qualities of the landscape and no benefits have been highlighted to outweigh this harm. The proposals would conflict with NP policy H3 also as development would have a negative impact on the open and largely undeveloped nature of the site. Parish also rejects any assumption that the boundary planting would screen the development as it could be removed at any time.
59. In response to the amended drawings, the removal of the additional access road is welcomed but it does not alter the original view of the proposal that it would result in significant harm to the Green Belt from both a spatial as well as visual aspect.

INTERNAL CONSULTEE RESPONSES:

60. *Archaeology* – due to the proximity of this site to the Battle of Nevilles cross, archaeological mitigation of the impacts of the development would be needed. This would involve various phases of metal detecting across the site before and during development, as well as a watching brief. These works could be secured by pre commencement conditions for a Written Scheme of Investigation
61. *Design and Conservation* – No objections. Building is noted as being smaller in footprint to that previously refused.
62. *Ecology* – Updated bat survey by RH Ecology is sufficient to inform the proposal and no further survey is required. It is requested that an integrated bat roost unit is installed in the new dwelling as ecological enhancement under the NPPF. The roost unit should be sited on the western or north western elevation as high up as possible.
63. *Environment, Health and Consumer Protection (Pollution Control)* – No objections
64. *Environment, Health and Consumer Protection (Contaminated Land)* – is satisfied with the information provided within the Phase 1 report. A pre commencement condition is required for Phase 2 and 3 reports, followed by a phase 4 verification report.
65. *Landscape Officer* – The proposals are similar to those made in DM/21/02896/FPA and landscape and visual effects remain as described in the committee report for that application. The application was refused on the single issue of the greater impact on openness of those proposals relative to the existing stables and the subsequent appeal dismissed on those grounds. The removal of the lower storey and associated earthworks substantially reduces the visual effect on openness in views from the south within the site noted by Inspector Brooker. Effects on openness from public vantage points would remain negligible
66. *Trees Officer* – No objections based on recommendations provided by the Arboricultural consultant. The proposed parking area must be constructed with cell web as shown within the arb method statement to ensure that root growth from nearby trees is not damaged /removed.

PUBLIC RESPONSES:

67. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
68. Five objections have been received to date, including comments from City of Durham Trust. The comments are summarised as follows:
 - The development should be refused due to its location in the green belt.
 - The proposals would damage the green belt and the area of great landscape value.
 - There are no exceptional circumstances
 - The dwelling would intrude in the landscape setting and allowing it would set a precedent and make it more difficult to defend the green belt from future development
 - Site subject to multiple refusals over years, any approval would be thin edge of the wedge.
 - Friends of Durham Green Belt object to scheme and consider that the new proposals do not materially differ from the rejected scheme and should be refused for the same reasons.

69. City of Durham Trust objects to the proposals for the following reasons:
- Highlight the site's location within the green belt, further confirmed through the examination process that ratified the CDP.
 - Site forms part of the green wedge, linking Flass Vale with the open countryside
 - Fernhill is considered to be a local heritage asset and key component of local character.
 - Proposals considered to be an extensive development through reshaping and excavation of the area.
 - No reference to loss of stables and the potential to replace them elsewhere in the grounds.
 - Inaccurate to claim new house will have same impact as stable building, as proposals include substantial retaining wall and terracing and new road link.
 - Land not wholly previously developed land as it occupies a substantial section of the house setting.
 - The dwelling would impact negatively on the site openness and quality and value of the site as green belt.
 - It reduces the extent of the landscaping around the house, impacting value of green asset
 - House would break estate character of the site and appear discordant
 - No exceptional circumstances relating to its design or public benefits that weigh against negative impacts
 - Matching height of stables not enough to mitigate harm, nor lack of public access or view of the site.
 - Increased traffic will create hazard for road users
 - Conflicts with policies 10, 20 and 29 of CDP, Part 13 of NPPF and S1, H3 and G1 of the NP.
 - In response to amended drawing, whilst the amendments to the driveway are welcome, it is not sufficient to remove objection as proposals are still considered harmful to the Green Belt.

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

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

APPLICANTS STATEMENT:

70. The site was purchased in 1994. The land was not within the designated Green Belt. In 1995 the applicant started to develop the land and successfully applied for and obtained planning permission to build stables on the land and convert one of the outhouses into a cottage, which is now rented privately. The requisite planning permissions were obtained and no reference was made to Fernhill being in the Green Belt. This changed in 2004 when the site was erroneously added to the Green Belt. It was land to the south of Fernhill (a Persimmon Homes site) that was considered during the City of Durham Local Plan Inquiry.

Since then, the development of this site has a long history of support from the Council, including acknowledgement in 2010 that there was “no rationale or justification as to why” the site was included in the Green Belt in 2004. In 2016 Officers of DCC signed a Statement of Common Ground that stated that the land exhibited none of the five purposes of Green Belt and should be removed from the Green Belt. In 2019 Officers of DCC signed a further Statement of Common Ground which repeated the opinion held for the previous 10 year.

This revised scheme to demolish the existing stables and propose a 4-bed dwelling on land at Fernhill, Crossgate Moor. The principle of development has been as PDL through the recent Appeal decision. Therefore, the assessment turns to the impact on openness in accordance with the NPPF.

The Design and Access Statement and proposed plans demonstrates that the proposed dwelling does not have a greater impact on the openness of the Green Belt than the existing stables. The comments of the Inspector have been considered in the revised plans and a single storey dwelling with the same footprint and ridge height as the existing stable has been proposed. The revised proposal ensures that there is not a greater impact to openness in terms of both spatial and visual impacts. Further amendments were made during the application to address comments from Officers.

This application has addressed all matters consider by the Inspector, including the impact on the AHLV, ecology, land contamination and highways. In addition, the scheme will utilise renewable and low carbon energy generation and include electric car charging points.

Therefore, it has been demonstrated that the proposal accords with relevant policies contained within the County Durham Local Plan, the City Durham Neighbourhood Plan and the NPPF.

The proposal is a sustainable form of development which would not have a greater impact on the openness of the Green Belt than the existing stable, fully in accordance with part (g) of paragraph 149 of the NPPF.

PLANNING CONSIDERATIONS AND ASSESSMENT

71. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) and the City of Durham Neighbourhood Plan (NP) form the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. Both the CDP and NP were adopted in 2020 and provide the policy framework for their respective areas up until 2035. The tilted balance in paragraph 11(d) of the framework is not engaged.
72. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004, the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues in this instance relate to the principle of the development, impact on the character and appearance of the area and landscape, design and impact on non-designated heritage assets, impact on residential amenity, highway safety and access, ecology, archaeology and other issues.

Principle of Development

73. This proposal seeks to develop land at Fernhill for one detached dwelling. The site is within the Green Belt and a designated Area of Higher Landscape Value (AHLV).
74. By way of background, and as highlighted within the Parish Council comments, consideration to remove the Fernhill site from the Green Belt took place through the plan making process, and the evolution and development of the County Durham Plan (CDP). The version of the CDP which was submitted for examination contained a Policy relating to 'non-strategic Green Belt amendments' which earmarked Fernhill for

removal from the Green Belt (it was Policy 21 within the submission version). The Examination in Public (EiP) of the CDP commenced in November 2019 and the programmed hearing sessions closed on 6th February 2020. The Inspector issued his post hearing advice on 20th February 2020, and an amended CDP was prepared to take account of the specific instructions from the Inspector, and also to take account of all the minor/main modifications which the Council proposed following the hearing sessions and in response to the action points issued by the Inspector. This updated Plan was subject to consultation (26th May until 21st July 2020), with all comments sent to the Inspector to inform his final report, which was issued on 17th September 2020. The report confirmed that the CDP was sound and could progress to adoption.

75. The report dealt with the proposed removal of Fernhill from the Green Belt within paragraphs 334 to 337, and these are set out below:

334. Fernhill is a detached house standing within a large garden surrounded by mature vegetation. It is separate from the main built up area of Durham city which is largely on the other side of the A167, and is bordered by an historic green lane to the north and open countryside to the west and south. The site is mainly open and appears as part of the attractive rural area forming the setting of the historic city in this particular location.

335. Neither of the above two sites are required to meet identified development needs, and I am not persuaded that there are exceptional circumstances to justify the removal of either of them from the Green Belt.

336. I concluded earlier in this report that there are exceptional circumstances to justify removing land at the former police skid pan at Aykley Heads from the Green Belt and that it is suitable for residential development. The allocation of the site and its exclusion from the Green Belt are clearly shown on the Policies Map, and development requirements are set out in policy 4. Policy 21 therefore serves no material purpose with regard to the site.

337. In light of the above I conclude that policy 21 and paragraphs 5.198 to 5.201 inclusive be deleted from the Plan [MM102 and MM103]. The Policies Map should be amended to retain Fernhill and the former Lumley Boys School site in the Green Belt.

76. The finalised CDP was subsequently adopted by the Council on 21st October 2020 and is the development plan which covers the whole of County Durham. Within the CDP, Fernhill remains within the Green Belt.
77. Planning history on this site is also of relevance. A previous planning application (4/11/00535/FPA) to develop three houses at the site was refused in September 2011, and a subsequent appeal (APP/X1355/A/11/2162513) dismissed in January 2012. A further application (DM/14/03327/FPA) for the erection of four detached dwellings with attached garages, and the erection of a car port / covered area for parking a horse box was refused by the planning committee in January 2020. The refusal and dismissal reasons for both schemes centred around Green Belt implications, including the adverse effect on openness.
78. Of particular relevance is a recent application (DM/21/02896/FPA) for the erection of a single two-storey dwelling on the site of the existing stable block. Recommended for approval, the scheme was refused at planning committee and subsequently dismissed at appeal, with proposals deemed inappropriate development that would cause some harm to openness, and very special circumstances were not considered to exist that would outweigh this.

79. The current proposal seeks to address the issues raised as part of the appeal decision, by reducing substantially the scale of the dwelling from two storeys to a single storey. As before, the proposal will be assessed against Policy 20 (Green Belt) of the CDP. This states that development proposals within the Green Belt will be determined in accordance with national planning policy. The supporting text confirms that there is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated.
80. The NPPF is therefore key in assessing this proposal. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 138 that the Green Belt serves five purposes. Paragraph 147 of the NPPF under proposals affecting the Green Belt states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
81. Paragraph 149 of the NPPF advises that a local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
- a. buildings for agriculture and forestry;
 - b. the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
 - c. the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
 - d. the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
 - e. limited infilling in villages;
 - f. limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and
 - g. limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would not have a greater impact on the openness of the Green Belt than the existing development; or not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.
82. The starting point for determination of this application in terms of the principle of development is that the construction of new buildings in the Green Belt should be considered as inappropriate development. However, it is necessary to consider whether any of the exceptions set out above and in Paragraph 149 of the NPPF are applicable to the proposed development.
83. Much discussion took place as part of the previous submission in 2021 as to whether the land constituted 'previously developed land' (PDL). Following review of case law it was determined that the site was deemed to be PDL, a view upheld by the Inspector as part of the appeal decision. On this basis, it is accepted that the scheme can be determined against the exception listed under Para. 149(g) of the NPPF, namely redevelopment of PDL, with the key test being whether or not it would have a greater impact on the openness of the Green Belt than the existing development, namely the stables on site.

Impact on the Openness of the Green Belt

84. Planning Practice Guidance advice confirms that matters to consider when assessing the impact upon openness include acknowledgement that openness can have both spatial and visual impacts, the duration of the development and its remediability (taking into account any provisions to return land to its original state or to an equivalent or improved state of openness), and the degree of activity likely to be generated. However, it remains that any assessment as to whether openness would be preserved is a matter of judgement based upon the merits of each case.
85. Interested parties have made representation on the application in this regard and consider the proposal to amount to inappropriate development which would be harmful to the openness of the greenbelt for which there are no very special circumstances relevant to outweigh that harm.
86. As part of the recent dismissed appeal decision (July 2022) against the Council's decision to refuse planning permission for a two-storey dwelling, the Planning Inspector considered both the spatial and visual impacts of the development on the openness of the green belt as detailed below:
87. *The impact on openness has a spatial as well as a visual aspect. In spatial terms, the Statement of Common Ground (SoCG) details that the "Upper floor footprint of 89sqm and a lower floor footprint of 115sqm compared to the approximately 100.7sqm footprint of existing stable building." On this basis, the appeal scheme is substantially larger than the existing building and despite being partially subterranean, would therefore introduce a significant amount of additional built development on to the site.*
88. *Turning to the visual aspect of openness, it is agreed between the parties that views of the site from the public domain are limited and I note that the ridge line of the proposed dwelling is very similar to the existing stables. However, when viewed from the south, the appeal scheme is shown on the submitted plans as being a substantial two storey dwelling. Other proposed elevational drawings show an increase in built form. It is my planning judgment that based on the evidence before me and my observations on site, the visible massing of the appeal scheme is greater than the existing built form.*
89. *While I note that the appeal scheme would result in the removal of the paddock area and further landscaping, the submitted plans also show an additional access road, car parking and boundary treatments.*
90. *In that the appeal scheme would result in additional built development both visually and spatially, the proposal would consequently reduce the openness of the Green Belt to a greater extent than the existing development and while the loss of openness would be minimal in the context of the overall size of the Green Belt, the Framework nonetheless indicates that substantial weight should be given to any harm to the Green Belt.*
91. *Thus, I find that the appeal scheme would harm the openness of the Green Belt contrary to guidance set out in the Framework.*
92. The Inspector further commented that very special circumstances do not exist that would outweigh the harm, although he did reiterate that the harm amounted to a minimal loss of openness.

93. The current proposals have been amended to reduce the scale of the dwelling from two storeys to a single storey house, contained within the footprint of the existing stable block. The new dwelling would measure approximately 100.3 square metres compared to the approximate 100.7 square metres footprint of the existing stable building. The proposal would maintain the L-shape form, but the east-west length would be reduced by 3 metres from approximately 18.7 metres to 15.7 metres, whilst there would be a small increase of about 1 metre in the north-south length from 10 metres to 11 metres. The width of each arm of the proposed building would be increased by approximately 0.8 metres from 3.7 metres to 4.5 metres. In terms of height, the building would be no higher than the existing stables, as indicated by the red line on the proposed elevations drawing, with a maximum height to ridge measuring about 3.4 metres.
94. Further amends were also sought during the course of the current application to remove the new access road across the garden area. This has now been included as part of the latest proposed site plan, showing that the access to the site and driveway would now use the existing driveway access, reducing the extent of incursion of development. Works include the erection of a retaining wall, not visible above ground level, and this would be installed to the north of the dwelling to create a small enclosed grassed courtyard. Post and rail timber fencing is proposed along the edge of this. To the south of the dwelling, the existing concrete plinth serving the stables would be retained, with a footpath leading down from this to the car parking area located at the north-eastern edge of the existing manege. The remainder of the manege would be restored to a landscaped garden in keeping with the grounds surrounding the wider site.
95. In assessing the current proposals, it is considered that they have suitably addressed the points and issues noted by the Inspector as part of his decision to dismiss the appeal. The relevant assessment, as outlined in the appeal decision, is whether the appeal proposal would have a greater impact on the openness of the Green Belt compared to the existing development. In this case, the proposed new dwelling is to be of similar footprint and height as the existing stables and would therefore be comparable to the existing development. The minimal loss of openness identified by the Inspector as part of the previously refused application is considered to be fully addressed through removal of the additional storey and the driveway access route.
96. On this basis, the proposed dwelling is not considered to have a greater impact upon the openness of the Green Belt than the existing stables and so is in accordance with Paragraph 149(g) of the NPPF and CDP Policy 20. Accordingly, it is not inappropriate development and the policy tests in paragraphs 147 & 148 of the NPPF do not apply, in that the development does not need to demonstrate 'very special circumstances'. A condition is recommended to remove permitted development rights for extensions to and free-standing structures within the curtilage of the proposed dwelling to ensure the Local Planning Authority retains control over further development of the site which may impact upon the openness of the Green Belt. Subject to this, the principle of development in the Green Belt is considered acceptable in this case and in line with policy 20 of the CDP.
97. Given that the site is well related to the settlement, the proposals would also find support under policy 6 for development on unallocated sites. In particular, the site would be compatible with nearby residential uses in line with part a). It would not contribute to ribbon development or inappropriate background development given that ready access can be gained to the site and amenity distances achieved, in line with part b). There would be no loss to open land, with development taking place on the footprint of the existing stable block, considered previously developed land, in line with parts c) and i) / j). The proposals would also not result in the loss of a settlement's

valued facility, in line with part g). Adherence to parts d), e) and f) are discussed in relevant sections below.

98. To conclude, the proposals are considered to meet with requirements set out in policy 6. The principle of development is therefore considered acceptable subject to further considerations below.

Impact on the character and appearance of the area and AHLV

99. The site lies in an Area of Higher Landscape Value (AHLV) as identified in the County Durham Plan. Objection has been raised to the impact of the proposal upon the AHLV by interested parties.
100. Policy 39 (Landscape) of the CDP seeks to protect the character, quality or distinctiveness of the landscape and expects new development to incorporate appropriate measures to mitigate adverse landscape and visual effect. The policy makes clear that development affecting Areas of Higher Landscape Value (as in this case) will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm.
101. The AHLV in this area covers open countryside to the west of the site and the wooded common of Flass Vale to the east. The open leafy grounds of three large properties, Fernhill, Friarside and Flass Vale Hall, form a transition between the two and contribute to the AHLV in this area through a combination of their open, largely undeveloped, character and their mature vegetation.
102. The proposals would see the erection of a dwelling on the site of the existing stable building to the west of the site which is screened by a line of mature trees on its west and south boundaries. The dwelling has been designed to be of similar scale and footprint as the existing stable, to ensure its massing and impact on the openness of the Green Belt and wider landscape would be neutral. Views of the proposed dwelling from the distance would be limited by the nature of the topography and surrounding development and the retention of the mature garden vegetation along the boundaries of the site. Therefore, the proposed development would not have a significant impact on the character of the wider landscape.
103. It will be important to ensure, however, that these trees and vegetation can and would be protected and maintained during and after the construction works to ensure the constructed dwelling would continue to benefit from effective screening from public vantage points. A detailed Arboricultural Impact Assessment (AIA), Arboricultural Method Statement (AMS), and Tree Protection Plan (TPP) has been submitted in support of the application which demonstrates that the vegetation would be retained, subject to minor pruning works to a small number of trees to the west of the proposed dwelling. Trees originally proposed for removal to make way for the new driveway access can be retained, although they were noted as low quality specimens and there was previously no objection to their removal. The AMS has detailed protection measures to be adhered to during construction, with the installation of protective fencing as well as the use of ground protection measures for works within the root protection areas of trees. The submitted AIA is a detailed document which concludes that 'no significant damage should take place during the demolition or construction phase and the tree cover should flourish in the longer term.'
104. Trees section assessed the details of the scheme and raised no objections to the findings of the submitted reports. The removal of the new driveway access route is welcomed, but it is requested that the parking area be constructed with cell web as

detailed within the AMS to ensure root growth from nearby trees is not damaged or removed. A suitably worded condition would be applied to any permission granted requiring that development is carried out in accordance with the AMS and TPP.

105. Landscape section also assessed the details of the proposals and concurred with requirements set out by the trees officer. Noting the outcome from the appeal decision, the principal landscape officer confirmed that the removal of the additional storey of the proposed dwelling and the originally proposed extensive earthworks would substantially reduce the visual effect on openness in views from the south within the site. Overall, they considered that effects on openness from public vantage points would be negligible and raised no objection, further welcoming the removal of the new access driveway track as detailed on amended drawings.
106. With it being demonstrable that the trees and vegetation along the southern and western boundaries can be retained, and can be secured via a condition, the development would not be widely appreciated outside of the site in views from public vantage points. Furthermore, the residential properties at Whitesmocks to the north are located on a significantly lower land level which would prevent views of the dwelling from this location, and views of the dwelling from the A167 to the east would not be possible due to the boundary vegetation, higher ground level of the site and the position of Fernhill.
107. In summary, the proposed dwelling would have a comparable form, massing and height to the existing stable building and the visual impact of the dwelling would be extremely limited from outside the application site due to this. The retention of mature boundary vegetation as well as the topography would ensure that the proposals would be visually contained and consequently the impacts in terms of public views would be minimal, conserving the contribution made by the site's vegetation to the AHLV. Therefore, the proposals are considered to accord with CDP Policy 39.

Sustainable Design, Layout and Heritage Assets

108. Fernhill and Lodge was originally built in the late Victorian era, firstly appearing on the 1896 ordnance survey map, it was originally known as Crofton House, and is considered to be a non-designated heritage asset (NDHA). Fernhill sits on a high point and may be considered the most prominent building within the site and the application site lies within the setting of the asset.
109. NPPF Paragraph 203 advises that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.
110. In line with this, CDP Policy 44 states that a balanced judgement will be applied where development impacts upon the significance and setting of non-designated heritage assets and that in determining applications which would affect a known or suspected non-designated heritage asset with an archaeological interest, particular regard will be given to ensuring that archaeological features are generally preserved in situ; and in cases where the balanced judgement concludes preservation in situ should not be pursued, it will be a requirement that they are appropriately excavated and recorded with the results fully analysed and made publicly available.
111. CDP Policy 29 requires development to (in part): a) contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; and c) and d)

seek to achieve zero carbon buildings and minimise the use of non-renewable and unsustainable resources. Policy 6d) requires development to be appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.

112. In addition, Policy S1 of the DCNP seeks to promote economic well-being by contributing to a mix of uses and to preserve and enhance the neighbourhood by harmonising with its context in terms of scale, layout, density, massing, height, materials, colour, and hard and soft landscaping; and conserving the significance of the setting, character, local distinctiveness, important views, tranquillity and the contribution made to the sense of place by designated and non-designated heritage assets.
113. DCNP Policy H3 relates to development outside of the conservation areas and states that development proposals outside the Conservation Areas should take into account, and meet where appropriate and relevant to the area to which the proposal relates, the following requirements, by:
 - a) sustaining and making a positive contribution to the character and distinctiveness of the area; and
 - b) avoiding the loss of open space and public realm that contributes to the character and appearance of the surrounding area; and
 - c) using high quality design which contributes to the quality and character of the area; and
 - d) having scale, density, massing, form, layout, landscaping and open spaces appropriate to the context and setting of the area; and
 - e) using materials and finishes appropriate to the context and setting of the area.
114. Policy D4 Building Housing to the Highest Standards seeks to ensure that all new 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.
115. The dwelling would be sited in the same location as the existing stables with a similar 'L' shaped form. Design and Conservation Officers have commented on the proposals and raise no objection, noting that the previous appeal dismissal related to the green belt policies, rather than design or impact on the adjacent NDHA. The material palette proposed of glass, timber and standing seam roof is considered to positively respond to Fernhill and the landscape setting whilst introducing a contemporary approach to the architecture. A condition is recommended to secure details of the make, colour and texture of all walling and roofing materials.
116. In terms of sustainable design, the proposals are suitably orientated with large areas of fenestration maximising on solar gains, with added benefits from installation of solar photovoltaic units along this south facing elevation and high levels of insulation. A car charging point is also proposed adjacent to the parking bay. A suitably worded condition would be included to any approval requiring details of these elements to be submitted and installed prior to occupation of the building.
117. Whilst there will be intervisibility between the proposed development site and the non-designated heritage asset, the proposed development would be built into the topography ensuring its bulk and massing matches that of the stable block. Sitting at a lower level, it would read as subservient to Fernhill, with limited impact on the setting of the non-designated heritage asset. Overall, the level of impact within the setting of the non-designated heritage asset would be considered negligible and not harmful.

118. Archaeology Officers have commented that the findings of a desk-based assessment (DBA) carried out in 2008 and submitted in support of application 4/11/00535/FPA also relating to this site are still relevant and recommend the imposition of two conditions relating to a programme of archaeological work and a post investigation assessment. With these conditions the proposal is considered to accord with CDP Policy 44 and NPPF Paragraph 203.
119. Overall, it is considered that the proposals are of high quality design utilising a material palette that would respond positively to the setting of Fernhill and the wider landscape whilst comprising an appropriate scale, massing, form and layout. The proposals are therefore considered to be in accordance with CDP Policy 6, 29 and 44, Part 12 and 16 of the NPPF and DCNP Policy S1, H3 and D4.

Residential Amenity

120. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users.
121. In line with this, CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
122. In addition, criterion e) of Policy 29 requires all development proposals to provide high standards of amenity and privacy, and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
123. The dwelling has been designed to incorporate a sunken patio to the north to allow light to enter the windows to one of the bedrooms and the hallway area, as well as the kitchen / dining / lounge area. Bedroom 3 would have a single window facing westwards towards the adjacent tree lined boundary. Whilst there may be some shading associated with these trees, it is not considered that this would be detrimental to future users of this room. The remaining windows serving habitable rooms are contained within the south elevation away from any trees to provide sufficient outlook and light for the inhabitants. The proposed layout accords with the Nationally Described Space Standards and includes a generous amount of external amenity space to the south. Overall, it is considered that residential amenity for future occupiers would be acceptable.
124. With regards to separation distances, the east elevation is proposed to contain two windows serving the lounge. These would be secondary windows, with the primary windows contained within the north and south elevation. The east facing windows would face onto the front of the single storey dormer annexe building approximately 12m away, which is below the typically required 18m between habitable room windows within bungalows. Therefore, a condition is recommended to require these windows to be obscure glazed to protect the privacy of the occupants of the proposed dwelling and this annexe building. With this condition the minimum requirements stated in the Council's Residential Design Supplementary Planning Document would be achieved, ensuring all residents on the site would benefit from sufficient levels of privacy and outlook.
125. Environmental Health Officers (EHO) have commented that the area is primarily rural/residential, with limited sources of noise in the area, with the most significant noise source in the vicinity of the site being the A167 road. They raise no objections

or concerns, but in order to protect the amenity of future occupiers, a condition can be applied requiring the dwelling to achieve compliance with specified noise levels. In addition the submitted Construction Management Plan is sufficient to protect the amenity of neighbouring residents, provided the working hours and strategies for noise and light nuisance mitigation are adhered to. Accordingly, conditions are recommended to secure both these elements.

126. The proposals are considered to accord with CDP Policy 29(e) and 31 and Part 12 of the NPPF.

Highway Safety and Access

127. Paragraph 111 of the NPPF advises that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
128. CDP Policy 21 relates to the delivery of sustainable transport and states that the transport implications of development must be addressed as part of any planning application and [in part] that all development should deliver sustainable transport by ensuring that any vehicular traffic generated by the development, following the implementation of sustainable transport measures, can be safely accommodated on the local strategic highway network. This displays a broad level of accord with the aims of Paragraph 110 of the NPPF which states that planning decisions should ensure development provides safe and suitable access to the site can be achieved for all users. Policy 6 requires development to have good access to services etc and to not be prejudicial to highway safety
129. DCNP Policy T1 seeks to avoid development that would result in adverse transport related impacts where practicable and where necessary to provide mitigation in the form of contributions to access to sustainable means of transport.
130. Given the current proposal is for one dwelling only, to replace an existing private stables, it is considered that the access arrangements would be acceptable in terms of highway safety. Sufficient space is available on site to provide suitable access to the site, allowing cars to enter and egress in a forward gear. In addition, the dwelling is proposed to be served by two in-curtilage car parking spaces which accords with the Council's Car Parking and Accessibility Standards 2019. This document sets out that dedicated cycle parking is not required for dwellings with less than five bedrooms which is the case of this proposal. An EV charging point would be included as part of the proposals.
131. The proposed development is in a sustainable location, would be served by a safe and suitable access, a sufficient amount of in-curtilage car parking, and would not generate a significant increase in traffic. Therefore, the proposals are not considered to adversely affect highway safety and accord with CDP Policies 21, 6e) and 6f) and DCNP Policy T1

Land Contamination and Stability

132. Policy 32 of the CDP states that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities and all investigations and risk assessments have been undertaken by an appropriately qualified person. This displays a broad level of accord with Paragraph 183 of the NPPF, which requires that planning decisions should ensure that the site is suitable for its new use taking

account of ground conditions and land instability, including from natural hazards or former activities such as mining, pollution arising from previous uses and any proposal for mitigation including land remediation or impacts on the natural environment arising from that remediation.

133. The Coal Authority's Planning & Development Team considers that the content and conclusions of the Phase I Geo-Environmental Site Assessment are sufficient for the purposes of the planning system and meet the requirements of the NPPF in demonstrating that the application site is, or can be made, safe and stable for the proposed development. The Coal Authority raised no objections to the application, noting that more detailed information may be required as part of any subsequent building regulations application.
134. The EHO has assessed the available information and historical maps with respect to land contamination and reviewed the submitted ERGO Environmental Ltd. (August 2021) Phase 1 Geo-Environmental Site Assessment. The EHO has commented that they are satisfied with the information provided in the report and given that the site has been previously developed and due to the fact that this development constitutes a change of use to a more sensitive receptor, recommend the imposition of two contaminated land conditions (3 and 4). With these conditions, the proposal accords with CDP Policy 32 and NPPF Paragraph 183.

Ecology

135. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
136. In line with this, Policy 41 of the CDP 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.
137. The application is supported by a Bat Survey Report dated August 2019 and an Updating Bat Survey Report dated August 2021.
138. The 2019 survey (commissioned in relation to an application for four dwellings) identified a bat roost within a poplar tree within the site and concluded that development of the site for four dwellings would result in the loss of feeding and commuting habitat of district, local or parish value to low numbers of bats, with mitigation being particularly important due to the level of foraging activity and the close proximity of roosts to the proposed new housing.
139. The current application relates to a single dwelling as opposed to four, and the most recent report (Updating Bat Survey Report dated August 2021) concludes that no bats were seen emerging from the poplar tree (T2074) during the dusk survey, with a daylight inspection of the tree showing that tree was in poor condition and that tree work had been undertaken according to the advice previously provided by AllAboutTrees (2021). However, the bat transect survey showed that common pipistrelle, soprano pipistrelle and Myotis bats use the tree lines for foraging and commuting. Up to 3 bats were seen at any one point and so two bat boxes are recommended to be added to trees near to the poplar T2074 to provide alternative roosting provision, considering the poor condition of the tree. The report concludes that no further survey work is necessary but recommends a condition to secure adherence to the Method Statement included within Appendix 1. Ecology Section concur with the findings. Accordingly, a condition to this effect is recommended.

140. With the above condition, the proposed development would accord with the requirements of CDP Policy 41, and Part 15 of the NPPF.

Drainage

141. CDP Policy 35 states that surface water run-off must be managed at source wherever possible and disposed of in the following order:

1. to an infiltration or soak away system.
2. to a watercourse open or closed.
3. to a surface water sewer.
4. to a combined sewer.

142. The application proposes that all surface water generated by the development would be discharged to an existing water course, although the precise detail of the proposed arrangement has not been provided.

143. It is considered that a suitably worded planning condition requiring the submission and agreement of precise detail as to the means of disposal of surface water prior to the commencement of development, would satisfactorily mitigate any potentially adverse impact in this regard.

144. Subject to such a condition, the development is considered to accord with the aims of CDP Policy 35.

Broadband

145. Policy 27 of the CDP requires new residential development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located in an edge of settlement location characterised by both residential and commercial development. Similar requirements in terms of broadband connectivity would be delivered in this wider context. As such it does not appear that there would be 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 this condition the development is considered to accord with the aims of policy 27 of the CDP.

In Response to Objectors Concerns

146. The City of Durham Parish Council consider that the proposals are contrary to DCNP Policy G4, which relates to proposals within the Green Belt land in the Sidegate and Frankland Lane area of Our Neighbourhood as shown in Proposals Map 4 (Green Belt -areas for improvement). The application site is not located within one of the two areas for improvement and so this policy is not relevant in this instance.

147. Concerns have been raised that approving the application could set a precedent for replacing stables with dwellings, and would make it difficult to refuse the erection of a new garage on the site in the future. This application does not propose the erection of a garage or new stable building. Any future planning applications for the erection of a garage or a stable block would be determined on its own merits.

Other issues

148. It is noted that an objection was received considering that the Fernhill site is too large to be considered as only private residential garden space and is a landscaped estate forming a key component of the greenspace surrounding Durham City.
149. The application site comprises the existing stable building, manege to the south and the access from the A167 past The Lodge. Fernhill has existed since circa 1896 and planning permission granted for the erection of stables in 1995. Therefore, the land is clearly occupied by a permanent structure. The land surrounding Fernhill, whilst extensive, has not been sub-divided in any way and is clearly separated from the surrounding fields to the west and south by a line of mature trees. This gives credence to the view that the land surrounding Fernhill is private garden land associated with this property, with the stables sited on land within its curtilage.
150. In addition to the above, the Inspector's CDP report concluded that Fernhill "is separate from the main built up area of Durham City which is largely on the other side of the A167", and that "The site is mainly open, and appears as part of the attractive rural area forming the setting of the historic city in this particular location". Therefore, it is considered that the site is not excluded from the definition of previously developed land by virtue of it comprising garden land within the curtilage of an existing building, located outside the built up area of Durham City. Consequently, the proposal should be assessed as to whether it meets the criteria in sub-paragraph (g) of Paragraph 149 of the NPPF.

CONCLUSION

151. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11(c)).
152. The proposals are contained within the Green Belt, and it has been determined that they fall to be considered under the exception listed under paragraph 149(g) of the NPPF. Under this exception, the acceptability of the principle of the proposal in the Green Belt rests upon whether the proposed dwelling would have a greater impact on the openness of the Green Belt than the existing stable building it would replace.
153. Based on the assessment outlined above, the proposed dwelling is considered to be of comparable footprint, scale and massing as the existing stable and would therefore not have a greater impact than the building it would replace. With the retention of the mature vegetation along the southern and western boundaries demonstrated by the submitted Arboricultural reports and recommended to be conditioned, views of the proposed dwelling from outside the site would be extremely limited by the treeline, higher topography, and surrounding buildings. Therefore, the proposed dwelling is not considered to have a greater impact, spatially or visually, on the openness of the Green Belt nor would the proposals adversely affect the character of the surrounding landscape. On this basis there is no requirement to demonstrate 'very special circumstances' and the principle of the development is considered acceptable, having suitably addressed the issues raised by the Inspector as part of the recently dismissed appeal at the same site.
154. The dwelling is considered to be of an appropriate design, massing, siting and form that utilises materials that would respond positively to Fernhill, a non-Designated

Heritage Asset, and no concerns are raised over the proposals adversely affecting the amenity of neighbouring residents or highway safety.

155. Notwithstanding the above, conditions are recommended to secure details relating to land stability, archaeology, drainage, as well as conditions restricting the hours and timing of works, and ensuring the protection of trees during the works. Subject to such conditions, the proposals are considered to accord with Policy 6, 20, 21, 29, 31, 32, 35, 39, 40, 41 and 44 of the County Durham Plan, Policy S1, H3, D4 and T1 of the Durham City Neighbourhood Plan and Parts 2, 4, 5, 6, 8, 9, 12, 13, 15 and 16 of the NPPF. The proposals are therefore recommended for approval.
156. Whilst the proposal has generated public interest, the objections and concerns raised have been taken into account and addressed within the report. On balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application. On balance, it is considered that proposals are acceptable and the application is recommended for approval.

RECOMMENDATION

That the application be **APPROVED** subject to the 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.

Plan	Drawing No.	Date Received
Tree Protection Plan	AMS TPP Rev A	20/09/22
Proposed Site Plan	DR-A-1012 Rev 7	25/01/23
Site Location Plan	DR-A-1001 Rev 2	25/01/23
Proposed Floor Plan	DR-A-2011 Rev 3	25/01/23
Proposed Elevations	DR-A-3011 Rev 3	25/01/23
Proposed Sections	DR-A-4011 Rev 4	25/01/23

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy 6, 20, 21, 29, 31, 32, 35, 36, 39, 40, 41 and 44 of the County Durham Plan, Policy S1, H3, D4 and T1 of the Durham City Neighbourhood Plan and Parts 2, 4, 5, 6, 8, 9, 12, 13, 15 and 16 of the National Planning Policy Framework.

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

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

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

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

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

Reason: To safeguard any Archaeological Interest in the site, and to comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework. Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

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

Reason: To comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

7. No development shall commence until precise detail of the proposed means of the disposal of surface water have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall take place in accordance with the agreed details.

Reason: To ensure the appropriate discharge of surface water in accordance with Policy 35 of the County Durham Plan. Required to be pre-commencement to ensure that the development will not increase flood risk.

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

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

9. Prior to installation of the water proof damp coursing associated with the dwelling hereby approved, precise details of a scheme to minimise greenhouse gas emissions,

with the aim of achieving as close as possible a zero carbon building, shall be submitted and approved in writing by the Local Planning Authority. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation and electric car charging points. The renewable and low carbon energy measures shall be installed in accordance with the approved details thereafter.

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

10. Prior to the first occupation the development hereby approved, precise details of all means of enclosure including fencing and retaining walls within and surrounding the site shall be submitted to and approved in writing by the Local Planning Authority. The enclosures shall be constructed in accordance with the approved details thereafter.

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

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.

12. The works hereby approved shall be undertaken in strict accordance with the Method Statement for Contractors contained within Appendix 1 of the Updating Bat Survey Report published by RH Ecological Services and dated August 2021.

Prior to the first occupation of the dwelling two bat boxes shall be installed to trees near to the poplar T2074.

Reason: In the interests of protecting bats present in the area and to provide alternative roosting provision in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

13. No works to trees, building or demolition shall take place within the bird nesting season (March - August) unless a checking survey has been carried out by a suitably qualified ecologist and a written report prepared confirming the absence of bird nesting activity is submitted to and approved by the Local Planning Authority.

Reason: In the interests of protecting bats present in the area in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

14. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved tree protection plan as to be retained, are protected by the erection of fencing, and ground protection measures where identified on the plan, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010.

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

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

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

Reason: In the interests of the visual amenity of the area and to comply with Policies 20, 29, 39 and 40 of the County Durham Plan and Parts 12, 13 and 15 of the National Planning Policy Framework.

15. The dwelling shall be designed to ensure noise audible within the following specified rooms and areas will not exceed:
- o35 dB LAeq 16hr bedrooms and living room during the day-time (0700 - 2300)
 - o30 dB LAeq 8hr in all bedrooms during the night time (2300 - 0700)
 - o45 dB LAmax in bedrooms during the night-time (2300 - 0700)
 - o55 dB LAeq 16hr in outdoor living areas

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

Reason: To protect future occupiers from nearby noise sources in accordance with Policy 29 and 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

16. The development shall take place in strict accordance with the submitted Draft Construction Management Plan dated August 2021 (received 20 September 2022) unless the Local Planning Authority gives its written consent to any variation.

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 12 of the National Planning Policy Framework.

17. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order) the two proposed east facing windows serving the lounge of the dwelling hereby approved shall be obscured to level 3 or higher of the Pilkington scale of privacy or equivalent and shall be maintained thereafter in perpetuity.

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

18. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any Order revoking and/or re-enacting that Order), no extensions to the dwelling hereby approved or freestanding structures within the curtilage of the dwelling hereby approved shall take place without the grant of further specific planning permission from the Local Planning Authority.

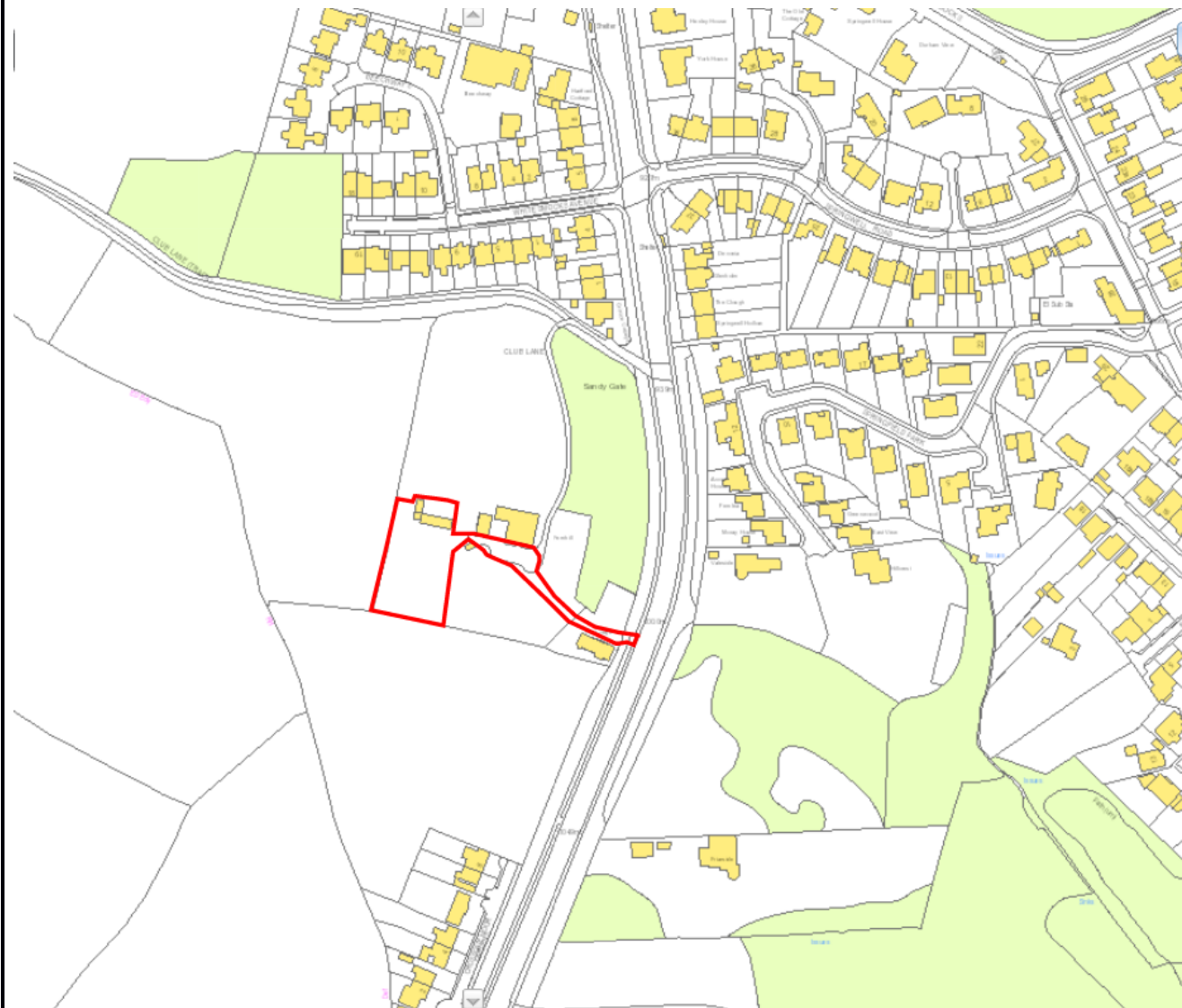
Reason: In the interests of the amenity of the surrounding area in accordance of Policies 20, 29 and 31 of the County Durham Plan and Parts 12, 13 and 15 of the National Planning Policy Framework.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- City of Durham Neighbourhood Plan 2020
- Statutory, internal and public consultation responses
- Residential Amenity Standards SPD (2023)
- County Durham Building for Life SPD (2019)
- County Durham Parking and Accessibility Standards 2019



Planning Services

Proposed redevelopment of stables to provide 1 no. 3 bed dwelling

Fernhill, Newcastle Road, Durham, DH1 4JZ

Ref: DM/22/02671/FPA

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Comments

Date 14 March 2023

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