



## Area Planning Committee (Central and East)

**Date** Tuesday 10 October 2023  
**Time** 9.30 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 12 September 2023  
(Pages 3 - 38)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee  
(Central and East)
  - a) DM/22/02891/FPA - Former Evans Halshaw, Passfield Way, Peterlee, SR8 1PX (Pages 39 - 76)  
4 retail units (Class E), a tanning shop (Sui Generis), takeaway (Sui Generis) and ATM with associated access, car parking and landscaping (amended title).
  - b) DM/23/00532/FPA - Bevan Square, Murton, Seaham, SR7 9HT (Pages 77 - 104)  
Erection of 22 dwellings with associated works (amended layout).
  - c) DM/23/01442/FPA - 33 St Bedes Close, Crossgate Moor, Durham, DH1 4AA (Pages 105 - 124)  
Change of use of dwellinghouse (Use Class C3) to HMO (Use Class C4).
6. Such other business as, in the opinion of the Chair of the meeting, is of sufficient urgency to warrant consideration

**Helen Bradley**  
Head of Legal and Democratic Services

County Hall  
Durham  
2 October 2023

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

Councillor D Freeman (Chair)  
Councillor D Oliver (Vice-Chair)

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

**DURHAM COUNTY COUNCIL**

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

At a Meeting of **Area Planning Committee (Central and East)** held in **Council Chamber, County Hall, Durham** on **Tuesday 12 September 2023** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors L Brown, I Cochrane, J Cosslett, S Deinali, J Elmer, L Fenwick (substitute for A Surtees), C Kay, D McKenna, R Manchester, I Roberts, K Shaw and D Sutton-Lloyd (substitute for D Oliver)

**Also Present:**

Councillors C Hood and E Scott

**1 Apologies for Absence**

Apologies for absence were received from Councillors A Bell, D Oliver and K Robson and A Surtees.

**2 Substitute Members**

Councillor L Fenwick substituted for Councillor A Surtees and Councillor D Sutton-Lloyd substituted for Councillor D Oliver.

**3 Minutes of the meeting held on 11 July 2023**

The minutes of the meeting held on 11 July 2023 were confirmed as a correct record by the Committee and signed by the Chair.

**4 Declarations of Interest**

Councillor L Brown noted that she was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

Councillor L Brown declared an interest in Items 5a and 5d, noting she was Local Member and explained she would speak in objection to those items and leave the meeting during the consideration thereof.

The Chair, Councillor D Freeman noted he was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

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

### **a DM/21/01789/FPA - Land at St John's Road Nevilles Cross**

The Senior Planning Officer, Lisa Morina gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for the construction of 12 townhouse dwellings with associated works and was recommended for approval subject to conditions and s106 Legal Agreement as set out within the report.

The Senior Planning Officer noted that since the publication of the report, additional objections had been received, noting concern of damage to neighbouring properties and the Council, as Lead Local Flood Authority had agreed the drainage scheme was acceptable. She added that the viability assessment submitted by the applicant had been subject to several amendments and updates during consideration of the application. It was noted those updates had sought to demonstrate that the scheme would not be viable in the event that financial contributions were applied in relation to open space, education and affordable housing provision. She explained that having assessed that initial report and additional information, Officers considered that whilst it would be unviable to apply the full contribution in terms of the affordable housing contribution, a reduced sum in that regard could still be sustained. She added that in relation to contributions for open space and education provision, Officers considered both requirements could be paid in full.

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

Parish Councillor S Walker thanked the Chair and Committee and noted she would begin with an email from the Planning Officer, which was included in the fifth viability assessment submitted on behalf of the applicant:

*“It would appear from the above that we have received an impasse on the viability information. This is not only important in respect of the viability of the scheme and Section 106 payments but also with regards to the overall acceptance of the development. The application is a high-density proposal, and it is acknowledged that there is harm from the development however, it is considered that the benefit of the proposal could outweigh the harm however, this would be subject to the Council being satisfied that this is the only way the site can be re-developed and that a lesser density or a reduced scale scheme would not be achievable. As it stands, we are not in a position to recommend approval of the scheme.”*

Parish Councillor S Walker explained that as no scheme for a lesser density or a reduced scale had ever been submitted, one would not know whether it was possible. She added that if the application was refused, and as the applicant does not own the land, there could be such possibility. She noted there was a pot of s106 money for affordable housing and noted several community groups with the ability to set up Community Interest Company (CIC) which could take on such a project and produce something far better on the site when the need for profit was removed.

Parish Councillor S Walker explained that the proposal over-developed the site, with the Neighbourhood Plan proposing four houses and the County Plan’s own assessment indicating six properties ‘*provided that the scale of development and detailed design is appropriate*’. She added that the overdevelopment would be entirely out of character with the surroundings and residential properties in that part of the Conservation Area. She added that therefore the application failed to meet the guidance of the NPPF Part 12, Paragraph 127 a), b) and c) which requires that developments “*add to the overall quality of the area*”, be “*visually attractive*” and be “*sympathetic to local character and history, including the surrounding built environment and landscape setting*”.

Parish Councillor S Walker added that the application was in breach of Policy 44 of the County Durham Plan (CDP) which required that development must sustain the significance of both designated and non-designated heritage assets. She noted that the Parish Council felt the application was in breach of Policy 6 which states: ‘*The development of sites which are not allocated in the Plan or in a Neighbourhood Plan will be permitted provided the proposal accords with all relevant development plan policies and... is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement*’.

Parish Councillor S Walker explained that it was felt the application also breached Policy S1 and Policy D4 of the Durham City Neighbourhood Plan (DCNP) with new development to harmonise with its context in terms of scale, layout, density, massing, height, materials and colour and to be of high-quality design reflecting the character and appearance of the area.

Parish Councillor S Walker added that the Parish Council felt the application breached CDP Policy 29, which was clear that a high-quality built environment should consider the amenity of both existing and future residents and consideration should be given to matters of privacy, outlook, natural lighting, ventilation, as well as local climatic conditions and which require developments to “*contribute positively to an area’s character, identity [and] townscape*”, further to “*achieve zero carbon buildings*” which were underpinned by core principles 5.292 to 5.296 and provide high standards of amenity and privacy. She added there was no evidence in the application that those constraints had been adequately addressed.

Parish Councillor S Walker explained that it was felt the application breached CDP Policy 15 which clearly stated to meet the needs of older people and people with disabilities, on sites of five units or more, 66 percent of dwellings must be built to Building Regulations Requirement M4(2) Standard. She added for sites of 10 units or more, there was a requirement for a minimum of 10 percent of the total number of dwellings on the site to be of a design and type that would increase the housing options of older people. She noted that those properties should be built to the M4(2) Standard and would contribute to meeting the 66 percent requirement as set out above. She explained that no provision had been made for this type of accommodation as part of the proposal.

Parish Councillor S Walker noted the application was in breach of DCNP Policy T1: that development proposals should be supported by evidence of how they contribute to sustainable transport accessibility and design. She noted there was no such evidence. She added the proposals breached the Residential Amenity Supplemental Planning Document (SPD) in that the gardens were below the minimum 9 metres required.

Parish Councillor S Walker explained that the fifth viability assessment, last month, insisted that the current scheme was only viable with an s106 payment of a figure of £13,000. She added that, apparently, the applicant had verbally accepted a figure 20 times higher. She noted the Parish Council had not seen any paperwork and had not been able to assess what that may mean for the quality of the final development and the requirements of CDP Policy 29. She noted that the Parish Council could not see how any application could proceed without any reconciliation of the two highly contradictory s106 figures.

Parish Councillor S Walker concluded by noting that, given that the Planning Department had consistently noted that the application was on a knives-edge in terms of decision, the Parish Council could not see how the Committee could accept the report's proposal for approval with any degree of confidence, and with a willingness to breach so many of its own Policies, and accordingly urged that Members refuse the application.

The Chair thanked Parish Councillor S Walker and asked Councillor E Scott, Local Member, to speak in respect of the application.

Councillor E Scott thanked the Chair and Committee and noted that she did not attend Planning Committee to speak against applications very often, only where applications were in breach of policy and where there was strong local opposition, adding in this case there was both. She noted that as Local Member for the Neville's Cross division, she joined with local residents, the City of Durham Parish Council and others in strongly opposing the proposal and urged the Committee to refuse this scheme.

Councillor E Scott noted that it was important to stress from the outset that no party disputed the need for the site to be redeveloped. She noted the site had been derelict for over 15 years and would benefit from an appropriate housing development that conformed with, and respected, the surrounding area. She added that the potential for developing the site was examined during the preparation of the Neighbourhood Plan and it was noted that the site was included in the County Council's Strategic Housing Land Availability Assessments, with the accepted assessment that the site could yield a total number of 6 residential units. She noted that, in contrast, the developer justified the over massing of this site by suggesting that the scheme would be financially unviable if the site delivered less than 12 units. Councillor E Scott added that at each stage, the developer had maintained their position that the scheme could not provide the full s106 payments that should be due to the Council for core services, such as affordable housing. She explained that as it stood, the Housing Delivery Team had asked for a financial contribution of £776,250 towards off-site affordable housing provision and a fraction of that, £114,826 was on the table. She noted that no other organisation than the County Council could be expected to pick up the shortfall, simply to meet the needs and profit margins of developers, if the proposal was accepted by Committee Members.

Councillor E Scott explained that she felt two points were particularly striking from the process, first being that, generally, if there was a requirement for contributions under s106, the first area to take the hit should be the land value. She noted the applicant had effectively conceded that the value they initially ascribed to the land, £525,000, was too high. She added that the most recent appraisals had reduced this to £350,000.

Councillor E Scott noted that if the scheme could not deliver the planning gain required in policy terms, the land value should be reduced further. She noted that nothing in any subsequent report had addressed the issue.

Councillor E Scott explained that the second point was that none of the four appraisals put forward by the applicant considered a lesser density or a reduced scale scheme other than the one that was before Committee. She noted that Officers had been clear that Durham County Council needed to be satisfied that a lesser density or reduced scale scheme would not be achievable. She added that nothing other than a high-density development which delivered 12 units on the site had been considered by the applicant. Councillor E Scott explained that, as Officers have noted, the high-density nature of the proposal in itself causes harm, particularly in relation to the proposed height of the units. She added that the proposal placed a vertical emphasis on the development and that was entirely out of character with the surrounding area and residential properties.

Councillor E Scott noted the application site was within the Durham City Conservation Area and whilst she acknowledged that there was a mix of different development styles within close proximity to the application site, that should not justify the development of new dwellings that were out of character with that part of the Conservation Area. She noted that, as such, the application failed to meet the requirements of CDP Policy 6 sections (d) and (e) as well as DCNP Policies S1 and D4 which required developments to be high-quality and appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.

Councillor E Scott noted that, similarly, the development would result in harm to the significance of the Conservation Area, contrary to CDP Policy 44 and DCNP Policy H2 as well as Part 12 of the NPPF, as it would not reflect the positive characteristics of the area and cause harm by consequence.

Councillor E Scott reiterated that whilst she supported the principle of redeveloping the site, the current proposal represents a harmful overdevelopment within the Durham City Conservation Area. She noted that the public benefits of the proposal were greatly diminished by the reduced s106 offer and, in any case, could not outweigh the harm the development would cause to the area and my residents. She concluded by asking Members to refuse the application.

The Chair thanked Councillor E Scott and asked Councillor L Brown, to speak in relation to the application.



Councillor L Brown thanked the Chair and noted that no one was against the redevelopment of the area, the fact that the land had been vacant for over 20 years, and was frankly a bit of an eyesore, did not mean that the site should be developed at any cost. She noted that indeed the Neighbourhood Plan and CDP recommended both four and six houses in their initial assessments, emphasising that the scale and design must be appropriate for the Conservation Area. She noted that the Planning Officer had described, in her e-mail to the applicant in November 2022, a high-density proposal, together with the acknowledgement that there was harm from the development. Councillor L Brown noted that the development was of two parts, all of which was in the Conservation Area. She referred to the Newcastle Road side and explained this was an extension of George Street, an 1890s terrace, not 1920s as stated in paragraph 125 of the Committee report. She added that when permission had been given for an extra house at the end of the terrace in 2016, Design and Conservation had been insistent that the house reflected the street with bay windows and chimneys. She noted that similarly, student accommodation at the other end of the street built in 2015 reflected the vernacular architecture. She added that what was planned for the application site did not. She noted the Architect had taken their height cues from the other side of the road, outside of the Conservation Area as stated on page 30 of their Design and Access Statement. She noted the statement did not contain a single picture of George Street. Councillor L Brown noted that although the overall height had been reduced, there were still four storey town houses, a clear case of overdevelopment on a small site. She noted the Committee report referred at paragraphs 129 and 130 to such. She added that the plans were not even new and seemed to reflect work done elsewhere by the applicant, with references to flats and the 'urban setting', set out at page 6 of the Design and Access Statement. She noted that, in planning terms, the terrace was in breach of CDP Policies 6 and 44, DCNP Policies S1 and H2, which considered the relationship between new build and the area.

Councillor L Brown explained that the area between the railway bridge and the A690 was sometimes the only sight that drivers on the A167 get of the Durham City Conservation Area, and therefore we should make it worth looking at.

She noted the proposed terrace at St John's Road, again a street of Edwardian and Victorian houses, described by the Council's own conservation report in 2015 as a green and leafy cul-de-sac, with a vibrant mix of housing types, character and age. Councillor L Brown noted the developer had failed to recognise that, taking the height cues from buildings nowhere near the site. She noted that would lead to some overshadowing of the buildings to either side of the planned development.

She noted concern as regards the proposed amenity space, what could only be described as a north, not east, facing pit which would not be the sunken courtyard garden the architect refers to, and would be unsuitable for at least six months of the year. She added that the design of the terrace again had no relationship with the other buildings in the street and had been designed with both eyes on exploitation for financial gain rather than sympathy with the Conservation Area.

Councillor L Brown noted that, until the report had been published, the developer had been pleading poverty, within the latest written viability statement in August 2023, their own consultant had argued that £13,000 was all that was available for s106, and the application was down to be refused. She added that suddenly, and at the same time their consultant had submitted that viability statement, the applicant had been able to find quarter of the million pounds, although there had been no written report and no assessment by the County Council, and no chance for others to challenge the figures.

Councillor L Brown noted that at this point she would have hoped to provide Members with enough sensible reasons why the application should be refused, however, should Members be minded to approve the application, she would wish for a robust construction management plan to be put in place to protect the amenity of surrounding residents. She added that we did not want to see a repetition of the fiasco when Sheraton Park was being built and vehicles blocked pavements and caused damage to grass verges which took some time to repair. She highlighted that paragraph 149 referred to removal of permitted development rights, however, she could not see any such condition within the recommendation. She noted her usual recommendation as regards construction within residential areas starting at 8.00am, not 7.30am Monday to Friday, she asked if it would be possible to forbid deliveries between 8.00am and 9.00am and 2.45pm and 3.45pm to protect pupils from the three schools in the area.

Councillor L Brown noted that, finally, she would like Members of the Committee to think very carefully about the application. She noted the report had stated that it was very finely balanced and had come down on the side of approval. She noted that the design review panel had given it a score of four reds, as noted in paragraph 121 of the report, and added that she was at a loss as to why approval was recommended. She reminded Members that one red on the building for life traffic light system was enough to merit refusal. She added the scheme had four reds and she respectfully suggested that the site should not be developed at any cost. Councillor L Brown noted that residents deserved better, and she was sure that someone could, and would, come up with a design that respects the Conservation Area and aligns with the existing statements on what would be a sensible development of the site, which the proposals certainly did not.

*Councillor L Brown left the meeting at 10.00am*

The Chair thanked Councillor L Brown and asked Debbie Conway and Clare Green, Local Residents, to speak in relation to the application.

D Conway explained she had been a resident of St. John's Road for 30 years and that she and C Green represented the numerous objectors to the application.

She added that the Committee would be aware of the strength of feeling by the number of objectors in attendance, being both voters and Council Taxpayers. She noted there was serious concern in terms of several aspects relating to the applications, including the s106, highways, loss of trees and harm to the Conservation Area. She noted that the report set out that there would be 'less than substantial' harm to the Conservation Area, however, there was no evidence in terms of the benefits being greater than the harm.

D Conway noted that the Council had sufficient housing in terms of a five-year supply, and noted the site was not a nuisance site and the suggested option proposed was weak. She noted that both the CDP and NPPF sought to protect heritage assets and asked how permission could be granted for 12 properties when six was set out within the CDP. She noted that the ugly, ungainly design was for House in Multiple Occupation (HMOs), not family homes. She added that, despite the developer's claims in relation to Norman Cornish, the proposals represented greed and overdevelopment and was not for residential use.

C Green noted she had been a resident of the area for 23 years and explained that it was evident from the many objections that the proposals were out of character for the area. She noted that St. John's Road was a cul-de-sac and was a family area, close to three schools, and reiterated that the proposed 12 dwellings were not family homes and that the lack of parking for 12 households would impact on St. John's Road. She added there were safety concerns in terms of increased traffic from residents and deliveries, with subsequent issues of delays and impact upon parking. She reiterated that the area was a cul-de-sac and that children played in the street and walked to school. She explained to the Committee that there had been felt to be some discrepancy in terms of a dormer window to a property in the area having been refused, however, the proposal in front of Members was recommended for approval. C Green concluded by asking the Committee to protect the City and refuse the application as it was in conflict with policy and that she hoped the applicant would submit a more sympathetic scheme in the future.

The Chair thanked D Conway and C Green and asked Helen Marks, Agent for the Applicant to speak in support of the application.

H Marks thanked the Chair and Members for the opportunity to speak at Committee in support of the application. She noted that the proposals were to redevelop a site that had been vacant for 15 years, since its last use as a petrol filling station. She added that the proposals would make good a derelict site and a suitable scheme had not come forward until this point. She explained that the applicant specialised in the development of such sites and that the proposals were for a visually appealing redevelopment of the site.

H Marks noted the concerns that had been raised, however, the proposals before Members had been developed carefully within the constraints of the site, within policy, and had taking into account comments from third parties. She added that a number of changes had been made to the application, in line with policy, including in relation to access, noting no access through the site. She added that the overall scale of the proposed development within the Conservation Area was not opposed by Officers, and it was acknowledged that the site in its current state did not contribute to the city or the Conservation Area. She noted that in relation to St John's Road, Officers had noted that the proposals represented '*less than substantial harm*' and Paragraph 191 of the Officer's report stated that the public benefits outweighed any minimal local harm and therefore rendered the proposals acceptable.

In respect of financial contributions, H Marks explained that the full amounts were being put forward in terms of open space and education, alongside a reduced amount in relation to affordable housing. She that position had been agreed after extensive consultation with Planning Officers. She reiterated the point in terms of viability, that while the 12 properties proposed could give a viable scheme, the six properties referred to by objectors had not been subject to any detailed viability assessment. She noted that the Officer's report highlighted that there was an opportunity to bring forward residential development in a sustainable location and concluded by noting it was hoped the Committee would approve the application as per their Officer's recommendation and lead to a positive contribution to the City.

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

Councillor J Elmer asked if the Officer from the Conservation Section could elaborate on the process and reasoning behind their conclusion of the harm to the Conservation Area from the development as being '*less than substantial*', and how they could be so precise in that conclusion. The Principal Design and Conservation Officer, David Sparkes, noted that an assessment was carried out in terms of the impact of the development on the Conservation Areas as a whole, rather than a small proportion of the Conservation Area.

He added that when looking at whether a proposal was harmful it was to ascertain whether there was substantial or less than substantial harm, and in this case, it was felt it was less than substantial harm in terms of the NPPF and CDP. Councillor J Elmer asked as regards the nature of the harm. The Principal Design and Conservation Officer noted it was in terms of the scale, massing, context and relationships to existing structure and form. Councillor J Elmer asked as regards the benefits from the proposals.

The Senior Planning Officer noted they were set out within the report at Paragraph 188 onwards, reiterating the less than substantial harm, the bringing back into use a redundant site, and some direct and indirect economic benefits. She added that while the benefits were limited, the harm was also only limited and therefore Officers felt in this case the harm was outweighed. Councillor J Elmer asked if the same benefits could be achieved from a less densely developed site. The Principal Planning Officer, Paul Hopper noted that the application to be determined by the Committee was that for 12 dwellings, as set out within the agenda papers, and reiterated that Officers felt that it represented limited harm and the reasons why the benefits were felt to outweigh the harm had been set out. He added that there could be no weight attached to any potential alternative schemes and reiterated that the application before Members was that which required a determination by Committee.

Councillor C Kay noted he had been intrigued by the comments from the speakers present, especially in relation to one of the policies from either the CDP or DCNP having stated that four properties was felt to be the maximum to be built upon the site. He noted that given that information, the proposals were for treble that number of properties on the application site. He noted that initially the developer had sought to put forward only £13,000 of s106 monies, then suddenly it had risen up to £766,000 and asked where such a large increase had come from. The Principal Planning Officer noted that in terms of viability, the Council had a specialist consultant that had reviewed the original viability assessment that had been provided and therefore the Council had pushed back and challenged the viability statement from the applicant. He added that the Council position had not changed, and that the applicant had gone away and looked at the issue and it had been agreed further contributions. He added that in terms of the density of the proposals, he felt those issues had been addressed within the Agent's comments. He added that in terms of final numbers the density was such to not included a detailed scheme assessment.

The Chair noted the point raised by Councillor C Kay and asked how the CDP could set out six properties as being the maximum for the site, while it was felt that for viability, there was a need to increase the maximum to 12.

The Principal Planning Officer reiterated that the viability information provided had been robustly assessed by the consultant and the quantum of development had been shown to be 12 in order to make the development viable. Councillor C Kay noted he had not been aware that viability was looked at by external consultants and asked whether the numbers of 4 and 6 properties, as set out with the DCNP and CDP, had also been arrived at through use of consultants. The Principal Planning Officer noted that the DCNP was the Parish Council's document.

Councillor D Sutton-Lloyd noted that, while on the site visit, there was major objection to the height, impact on the Conservation Area, and access issues and traffic, especially the access to St. John's Road. He added that the junction at the traffic lights was already a nightmare and suggested that where the Council had created its CDP, he felt such policies must be adhered to.

Councillor J Elmer noted he had some concerns as regards the affordable housing not being delivered onsite, adding he felt there was a better balance for communities when the affordable housing was delivered onsite, and asked why the developer was allowed to provide a contribution for off-site affordable housing. The Senior Planning Officer explained that when speaking with the Affordable Housing Team, it was noted that it would not be possible to get providers onsite, and therefore it was agreed for off-site provision. Councillor J Elmer noted that perhaps there could have been some push back in that respect and noted there was no housing for the elderly via condition. The Senior Planning Officer noted that Condition 11 referred to M4(2) standards and being confirmed to that standard prior to occupation, with the developer having confirmed that could be achieved.

Councillor J Elmer noted he had reflected upon a range of issues and noted Members' concern included design concerns, and he noted he disagreed as regards the wider benefits being greater than the harm to the Conservation Area. He noted it was a subjective judgement and added that he felt it was important to hold out against the bit-by-bit erosion of the Conservation Area. He noted that the fixtures and fittings were not required as per 'normal residential standards', reiterating there was a need to protect the Conservation Area and the heart of the city, adding there was a reason that people and tourists held the city in such high regard and value. He noted he would move that the Committee overturn the Officer's recommendation and refuse the application.

Councillor S Deinali noted she would second refusal of the application. Councillor K Shaw added he felt that, as per other decisions at recent Committee meetings, that all aspects of the Conservation Area, in terms of character, landscape and special circumstances, he noted that development should preserve or enhance the Conservation Area.

He added that the massive overdevelopment in this case, represented harm in terms of scale and massing and therefore he would be also voting against the application. Councillor D Sutton-Lloyd noted he felt similar to Councillor K Shaw on the application. Councillor J Cosslett also agreed.

Councillor C Kay noted that while Planning Committee Members could apply their subjectivity, there was a need for material planning considerations to be able to come to a decision. He noted 'in his gut' he agreed with the Members who had proposed refusal as regards overdevelopment, however, he would wish to hear some more information as regards reasons to refuse the application before coming to a conclusion.

The Chair noted that Members had referred to overdevelopment and harm to the Conservation Area and would refer back to Councillor J Elmer.

Councillor J Elmer noted that policies he felt could be used in relation to refusal would be that the application was contrary to CDP Policy 44 in terms of the significance of impact on heritage assets, DCNP Policy S1 in relation to conserving the significance and character and of benefit to local communities. He added that he felt the application was also contrary to DCNP Policies D4 and H2 in terms of the character and appearance of the area and reminded the Committee that the policies within the DCNP had been developed over a period of time and had been subject to consultation with local residents. He noted there was persistent resistance and lack of adherence with the DCNP by developers.

The Principal Planning Officer noted that Members had referred to adverse impact in terms of impact on the Conservation Area by virtue of the scale, massing and being of a design that was incongruent and asked if that also included reference to NPPF Part 16, in terms of 'less than substantial harm' being felt by Members to be greater than the benefits from the proposals. Councillor J Elmer noted that was correct.

Upon a vote being taken, it was:

## **RESOLVED**

That the application be **REFUSED** as proposal would, by virtue of its scale, mass and design appear as an incongruous addition to the streetscene that would have a detrimental impact upon the character and appearance of the local area including the Durham City Conservation Area causing less than substantial harm to the designated heritage asset, which would not be outweighed by the wider public benefits. The proposal is therefore in conflict with Durham City Neighbourhood Plan Policies S1, D4 and H2, County Durham Plan Policy 44, Part 16 of the NPPF and section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

*Councillor L Brown entered the meeting at 10.30am*

**b DM/23/01520/FPA - Highfield House, Sycamore Terrace, Haswell, Durham, DH6 2AG**

The Senior Planning Officer, Lisa Morina gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Senior Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from former nursing home to 2 separate dwellings (use class C3) (retrospective application) and was recommended for approval subject to conditions and s106 Legal Agreement as set out within the report.

The Senior Planning Officer noted that there were some trees with Tree Protection Orders in place, however, the works proposed did not impact upon those trees.

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

Councillor C Hood thanked the Chair and Committee and explained he was Local Member representing Shotton Colliery, South Hetton and Haswell and that it was his first-time attending Planning Committee to object to an application. He noted he represented his local residents from Haswell and explained the application was only at Committee as a result of enforcement action, with residents having issues in terms of the impact on their quiet, peaceful residential area. He referred to a presentation slide that set out on the Planning Portal on 7 June 2023 the application referred to one self-contained dwelling. He noted that Lucan Lodge did not appear to be a residential property, with floor plans referring to a games room, staff room and ten numbered bedrooms. He referred to a slide showing that the next week, a neighbour notification list only listed seven properties. He noted that paragraph 32 of the report referred to the proposals being advertised by means of site notice and by notifying neighbouring residents by letter, however, there were 22 letters of objection, and he noted that in fact there had been 33 letters of objection from 24 properties once the application had been known about in the area. He added that the Local MP, Graeme Morris had provided his support for residents in respect of their objections.



Councillor C Hood noted that only after all those objections had been received had the latest plan been submitted, with bedrooms being relabelled as 'storerooms', however there was still a room designation as a 'staff room'. He explained that one of the main concerns of those objecting was the noise and disturbance from the use as an Air BnB and availability via Booking.com.

He noted that the website advertised the property as 'perfect for group trips, hen dos...'. He added that therefore the application was to create one property, Lucan Lodge and there was no mention of the other property being residential, rather the plans stayed the same, with a staff room. He noted that the proposals were contrary to NPPF Section 8, Paragraph 92, in terms of healthy, safe and inclusive communities, which set out that applications should not undermine community cohesion, as well as 93(b) and 94 in terms of social and environmental benefits.

Councillor C Hood added that CDP Policy 6 referred to new development not detracting from existing development and that relationships should be taken into account, and that there should not be a significant increase in terms of size. He noted policy also referred to development not having an adverse impact upon the health and wellbeing of those in the surrounding area, and that development should be appropriate and sensitive. He noted that he, and residents, would be happy to see two residential properties, noting the report referred 16 times to residential use, with paragraph 91 referring to the fact that should the application before Committee be agreed, there could still be use as holiday lets, as per the advertisements referred to previously. Councillor C Hood reiterated that the plans referred to staff rooms and numbered bedrooms, and asked how Members would feel if the property was next door to them. He reminded Members of the ongoing enforcement case and added that the Committee could put hundreds of residents at rest by refusing the application as it was contrary to NPPF and CDP policies. He reiterated that he would ask Members refuse the application, and that the applicant make the properties into residential properties.

The Chair thanked Councillor C Hood and asked Shelly Bright, local resident, to speak in relation to the application.

S Bright explained her father lived close to the property and explained that residents from Pesspool Avenue and Blossomfield Way had suffered disturbance from the properties Lucan House and Highfield House which had been operated as a holiday let business. She noted residents had issues from parties, overflowing outside, and noted the detrimental impact since 2017, with the evidence passed to the Council being the reason the application was before Committee. She added that residents would be grateful if the applicant split the properties into two residential properties, however, they felt it would be highly unlikely without specific restriction being put in place.

She asked that conditions be placed to guarantee there was not use as a holiday let. She noted the applicant had noted '...I've decided to close my business...' however, only this last Friday, there had been loud noise and disturbance from the property, the disturbance having been acknowledged. She reiterated there was a worry from residents as regards large groups using the property as a holiday let.

She noted she would ask that the cease of trading be noted in the minutes of the meeting, and that the Local Planning Authority put measures in place to prevent lettings in future. She noted that currently it hinged upon the good will of the applicant, however, the website was still present advertising the property for let, even after being served notice by the Council. S Bright noted that should the application be granted, the applicant could do what they wanted, and the disturbance could in fact increase. She therefore asked that the Committee take all of the objections into consideration and ask that anything that could be put in place to prevent this from happening be put in place.

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

Councillor C Kay noted the impassioned plea by the local resident, with residents wanting to protect their residential amenity. He noted that the report referred to 'shall be in line with approved plans' and asked for additional information. The Senior Planning Officer noted it would be for the list of approved plans to be included on the Decision Notice, the floor plans for two dwellings. Councillor C Kay asked if the Committee could ask for a condition asking for strict adherence to approved plans, and if not in accordance, then strict enforcement action must be undertaken. The Principal Planning Officer noted that, as with any condition to be imposed, any breach would be breach of the condition notice and added that what was proposed in terms of conditions was what the Local Authority could approve, in terms of two residential developments within a sustainable location. He noted that the current use was an unauthorised use as a short term holiday let, as opposed to use as a hotel, and short term holiday let falls within the C3 use class as a dwellinghouse, and therefore if granted C3 use, there would be no control in terms of such short term use. He added that while the applicant assured that there would be no further use as a holiday let, there was a condition relating to a management plan for the properties, prior to any first use as a short-term holiday let. The Principal Planning Officer noted that Members may wish for a condition to restrict use, however, he reminded Members that any condition imposed must meet the test to be a valid condition, and reiterated that the proposed condition within the report stated that should there be any use as a short term holiday let, the Council would required adherence to a management plan, else there would be enforcement.

Councillor R Manchester noted that his concerns as regards conditions had been answered, however, he would be interested to understand the applicant's opinion if the Committee were minded to restrict the use of the properties.

The Legal Officer (Planning and Highways), Laura Ackermann noted that the condition within the report was as far as it was felt Officer could go in terms of use and would ask for more information from Members as regards any condition restriction use, should they wish to include such a condition.

Councillor L Brown asked as regards sustainability, and distance to the nearest bus stop. She also asked as regards, if approved, whether a construction management plan could be included to protect residential amenity as the properties were in a residential area. She noted as regards a robust management plan, and the comments from the Principal Planning Officer and Councillor R Manchester and suggested that if legislation did not prevent such short-term letting, then during any review of the CDP, that would be a matter that should be on the agenda.

Councillor J Elmer noted the brief reference to car parking, and asked as regards the impact of hen and stag parties, with vehicles presumably spilling over on to the neighbouring streets. He added that proposals looked like a hotel, and asked as regards the difference between a hotel and a holiday let. The Principal Planning Officer noted that use as a hotel would require a change of use and noted that as referred to be Councillor L Brown, the issue of short term holiday lets was at the forefront of many Local Authorities discussions as well as national discussions, and the Council would assess any decisions against caselaw as required. Councillor J Elmer noted that the lack of clarity was exactly what was allowing the proliferation of such short-term holiday lets. The Principal Planning Officer reiterated that there could be enforcement as previously referred to.

The Senior Planning Officer noted the nearest bus stop was approximately 465 metres away from the application properties. Councillor C Hood noted that the bus stop referred to had been defunct for around 20 years, with the nearest stop being at Church View, around half a mile away.

Councillor K Shaw noted that the proposals were for two dwellings, on four bed property and one five bed property, he asked, given the reference to staff rooms and numbered bedrooms, how up to date were the plans submitted. The Senior Planning Officer noted that essentially the applicant had moved in, retaining the care home layout. She added that issues relating to the Nationally Described Space Standards (NDSS) had been put to the applicant, and it was noted that the five-bed property was the main residential property, with the smaller four bed having been let, with the numbered 'bedrooms' being in fact storerooms.

Councillor K Shaw asked as regards the protection within the condition. The Senior Planning Officer noted there was protection, and that the issues in terms of noise and disturbance were being overcome by having two residential properties, with control via the management plan.

The Principal Planning Officer noted that short term lets were in the C3 use class, and therefore placing the properties in that use class meant there could be control via a management plan, as per the included condition. He added that Members could also add a condition, should they wish, in terms of restricting use such to not allow short term holiday let, should they feel there were impacts from that use as a short-term holiday let.

The Area Planning Manager, Sarah Eldridge noted that there had been Government consultation over the summer as regards short term lets, and the overall impression was that such short term lets would eventually have their own separate use class, similar to how C4 use class or Article 4 Directions had been used, or for specific restrictions in terms of that use class. Councillor L Brown noted that such would not be retrospective.

Councillor K Shaw noted that as enforcement action had not appeared to restrict the use as short term holiday let taking place in this instance, on that basis how could the Authority control that use going forward. The Legal Officer (Planning and Highways) noted that C3 use was for residential dwellings, and that as part of any enforcement, the Council could ask to regularise any use by way of an appropriate planning application. She added the application was for C3 use, under which short term holiday let was included, though not specific for such holiday let use.

Councillor L Brown noted the additional information from Councillor C Hood as regards the nearest bus stop and noted that therefore the application was contrary to Policy 27(c) in terms of sustainability. The Principal Planning Officer noted that regardless of the nearest bus stop distance, the application was still felt to be within a sustainable location.

Councillor D Sutton-Lloyd asked as regards the options in terms of restricting the use of the property to residential. The Principal Planning Officer noted that the options were as per the report, with the condition requiring a management plan prior to any use as a short-term holiday let, or for a condition to restrict use so such short term holiday let was not permitted, based on adverse impact upon residential amenity. He asked, if the latter was the case, if Members could drill down into their reasons. Councillor R Manchester noted he would wish for restriction of use as noted by the Officer, with the reason being the impact in terms of noise, as demonstrated by previous use as a short-term holiday let, whereby there was disturbance to nearby residents.

He proposed that the application be approved, subject to an additional condition restricting use that the properties not be used as short-term holiday lets. Councillor L Brown asked how Officer felt in terms of such an additional condition holding up at any appeal. The Principal Planning Officer noted that would have the right to appeal, and Officers would defend the inclusion of the condition for the reasons stated by the Committee.

Councillor C Kay noted that he felt the applicant would not ask as regards a condition specifically restricting use. The Principal Planning Officer noted that should Members be minded, a condition could be included to restrict use such that the properties could not be occupied as short-term holiday lets. Councillor C Kay noted he would be happy with such a condition.

Councillor R Manchester reiterated he would move approval of the application, subject to a condition restricting use against any use as a short-term holiday let. The Principal Planning Officer asked if that was for both properties, of just the second dwelling. Councillor R Manchester noted it was for both dwellings. Councillor K Shaw noted he would second the proposal, with the condition regards a construction management plan being added as per Councillor L Brown's suggestion. The Principal Planning Officer noted that as the application was part retrospective, and the works would be predominantly internal he noted Officers felt a construction management plan was not required. Councillor L Brown noted at least works should not be audible outside of the building. Councillor C Hood asked for clarification, should the Committee decide to include a condition restricting use, then that condition could be enforced, if C3 use was granted. The Legal Officer (Planning and Highways) noted that any condition could lead to enforcement should there be a breach of the condition notice, she asked that Officers be delegated to agree sufficiently robust wording as regards such condition.

Upon a vote being taken, it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions within the Committee report and an addition condition as set out below:

*The dwellings hereby approved shall not be occupied as short-term holiday accommodation defined as occupation by any persons for less than 90 days, under any circumstances.*

*Reason: In the interests of 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.*

**c DM/23/01237/FPA - 41 Fieldhouse Lane, Durham, DH1 4LT**

The Planning Officer, David Richards 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 Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from five bed dwellinghouse to seven bed HMO (sui generis) and was recommended for approval subject to conditions as set out within the report.

The Planning Officer noted that data on Council Tax exempt properties within 100m, including the application property, showed there were 7.7 percent, below the 10 percent threshold within CDP Policy 16. He noted that there had been objections from the City of Durham Parish Council, as well as 117 letters of objection, including from the Local MP, Mary Foy. The Planning Officer noted that Officers felt the application was in line with Policy and therefore was recommended for approval.

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

Parish Councillor G Holland thanked the Chair and Committee and explained that the problem that Durham City communities faced was the way that, in the past 25 years, the landlords had systematically consumed family homes in Durham City to such an extent that, as a university city, records show that Durham has the highest student to population ratio in the country, with a similarly disproportionate number of HMOs with its socially damaging loss of family homes. He asked therefore why we were adding to it here when we already had more than enough student accommodation available in our city and the university had over a thousand more available in the pipeline.

Parish Councillor G Holland noted as a matter of principle, we should be putting families and our communities first, and not always pandering to the transient and temporary student accommodation market, or gladly lining landlords' pockets. He noted that the Officer's report, in reaching its recommendation to approve an HMO at this locality, had placed far too much emphasis on the single CDP Policy 16 with its so-called 10 percent rule in a 100-metre circle. He noted that use of that Policy must be endorsed by other equally important policies, both national and local. He added that a balanced decision was required here, and not one that relied on a single policy option.

He explained that, in particular, Policy 16 was not exempt from these other policies and they carried the same weight, and could not simply be set aside as if they had little relevance, or ignored on the untested presumption that their terms had somehow been met, or that the damage caused by the proposed HMO would not be all that bad, which was what has happened here.

Parish Councillor G Holland explained that important and substantive group of policies, ranging from NPPF Part 12 to DCNP Policy H3, all placed constraints on the application and those constraints must also be satisfied, yet the report paid only scant attention to them. He added that NPPF section 12, paragraph 130 expected that developments such as this would function well and, in particular, would “add to the overall quality of the area”. He noted Members would hear from the next speaker that the proposed HMO conversion of a family home simply does not do that, rather on the contrary, it diminished the quality of this area.

He added that the important environmental Policy 29 of the County Durham Plan was central to most developments in our county. He noted 29(a), required development to: “contribute positively to an area’s character, identity, townscape and landscape features”, and also “to create and reinforce locally distinctive and sustainable communities”. He noted that the application certainly did not achieve that outcome. He added that 29(e) expected developments to “provide high standards of amenity and privacy and minimise the impact of [the] development upon the occupants of existing adjacent and nearby properties”. He noted that, at this locality, the over blown HMO, coupled to two neighbouring HMOs, would do exactly the opposite. He explained that the vision of 29(f) was of a development that would “contribute towards healthy neighbourhoods” and asked where the evidence was that this conversion of a family home made such a contribution.

Parish Councillor G Holland noted Policy 31 of the CDP addressed concerns that “there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions” and that this HMO “can be integrated effectively with any existing community facilities.” He added that the clustering of three HMOs into a single location, into what was essentially an uncontrolled Purpose Build Student Accommodation (PBSA), would have quite the opposite effect.

Parish Councillor G Holland explained that the more local, but equally relevant, DCNP Policy S1, sought to “conserve the significance of the setting, character, local distinctiveness, (and) tranquillity,” and also find “equity and benefit to the local community” while DCNP Policy D4 was designed to protect “the character and appearance of the local area”. He added that was most certainly not what was on offer here.

He noted that DCNP Policy H3 required that a development “sustain and make a positive contribution to the character and quality of the area”. He asked how the proposed HMO, by creating a cluster formation, achieve that?

Parish Councillor G Holland noted that the common thread to this wide range of policies was embedded in the NPPF and found expression in many of our County and City policies, repeatedly requiring us to “add to the overall quality of the area”. He asked where was the evidence this improvement?

Parish Councillor G Holland explained that the proposed HMO, at the heart of a family-oriented community, sitting on the fringe of a city centre already saturated with HMOs, clearly failed a string of key environmental policies and, as a result, the application must fail, otherwise, those policies were made redundant. He noted that, as in other areas of the city, our community in North End now feels both threatened and diminished, and they were looking to the Committee, as their only line of defence, to protect them. He argued that the reasons for refusal were strong, with the Parish Council, alongside our Local MP, with her excellent letter of objection, strongly urging Members to refuse this application.

The Chair thanked Parish Councillor G Holland and asked Allan Gemmill, Local Resident speaking in objection, to address the Committee, noting there were accompanying slides to his presentation.

A Gemmill explained that the residents of North End were deeply concerned about the negative effect that HMOs were having on our community. He noted he was honoured to be representing those residents at Committee and explained that he had a background in building, and therefore he would like to start by bringing Members’ attention to several technical problems with the application.

A Gemmill explained that firstly, it was not a five-bed dwelling, it could only be considered a four-bedroom house as it had no Building Control consent for a fifth bedroom in the loft. He added that secondly, the Land Registry confirmed that the passage between the adjacent buildings belonged to No. 42, not to No. 41 and consequently, there was no external right of access to the rear of the applicant property. He noted that looking at the proposed plans, Members could see that there was no door to Bed Seven, contravening Fire Safety regulations and Durham Constabulary’s recommendations.

In reference to the Council’s own “Standards for Houses in Multiple Occupation”, A Gemmill noted that two WCs were required for six to ten persons, however, the attic toilet was wholly contained within Bed Seven so it could only be associated with one occupant. He added the other six were thus restricted to one WC, failing the requirement.



He noted that no shared living space was proposed, in which case the standards require that the minimum size of each bedroom to be 10m<sup>2</sup>, not the 7.5m<sup>2</sup> in the Officer's report. He added that Bedrooms Three and Four were smaller than this and consequently could not be used as bedrooms. He explained that for an attic room, the standards required a minimum height of 2.15m over a 50 percent area and, as measured, the maximum height in Bed Seven was less than this, and therefore could not be used as a bedroom either.

A Gemmill explained that those failings meant that, on technical grounds alone, the application could not be approved. He added that the applicant had already installed three students in the property, ahead of the Committee's decision today. He explained that he felt there were also wider issues, with the Officer's report confirming that the revised Parking SPD required four spaces, but then determines that only two were sufficient. He asked why was that brand-new policy being abandoned even before the ink was dry? He noted the Highways Authority's response was that occupants would be allowed permits to park 'on street'. He added that those Officers had clearly not witnessed the parking-related issues already affecting Fieldhouse Lane, especially at school pick-up time, nor had they seen wheelchair users from the nearby care home having to resort to using the road. He explained that the increased on-street parking, contrary to Policy 21 and the SPD, could only worsen an existing highway safety issue.

A Gemmill noted that a lack of access to the rear meant that three further bins, and ideally the bike store, must be located at the front of the building. He added that, coupled with the proposed doubling of hardstanding for parking, no room would be left for any soft landscaping, completely at odds with the requirements of two SPDs. He noted that, based on past experience, one could also anticipate issues regarding the upkeep of the property and rubbish associated with it, referring to slide showing pictures of nearby HMOs that graphically illustrated the problems.

A Gemmill noted that, finally, an issue that was of huge concern to residents was that of the well-documented problem of noise, disruption and anti-social behaviour associated with student HMOs, especially where clustered together, as at the nearby 1 Larches Road. He noted that what lay ahead of residents, if Members approved the application today, was a group of three properties housing about 20 students, with adjacent gardens offering opportunities for parties and other gatherings at all times of the day or night, in effect creating an uncontrolled PBSA.

A Gemmill reiterated that over 130 local residents took the trouble to write and object to this application, as did the Local MP and the Parish Council, both of whom had given residents tremendous support.

He added that, more than anything else, they had expressed deep concern and frustration at the continuing, harmful loss of family homes caused by the relentless spread of HMOs. He noted that we were well past the 'tipping point' referred to at the Committee's meeting in May. He added that the policies identified by our Parish Councillor required that development should lead to improvement, adding what faced us was quite the opposite. He concluded by noting, on behalf of the residents of North End, he urged Members to refuse the application and stop the needless loss of another family home in this part of the City.

The Chair thanked A Gemmill and asked the Legal Officer (Planning and Highways) to respond to the points raised. The Legal Officer (Planning and Highways) noted that in relation to the new Parking SPD referred to, that new SPD was not yet in effect and therefore requirements would be as per the previous SPD as set out within the report.

The Chair asked Councillor E Scott, Local Member to speak in respect of the application.

Councillor E Scott noted many of her concerns were similar to those put forward in terms of the first application, in terms of the proposals being in breach of policy and having large public objection. She noted that it would be the loss on another family home and referred Members to a decision where they had refused an application for 1 Larches Road in May which sought change of use from six bed to nine bed. She noted this application represented an additional seven HMOs beds and would have the same impacts as the application refused in May. She reiterated that the application was contrary to Policies other than Policy 16, one in particular being Policy 29(e). She asked that the Committee carefully consider the application and refuse permission.

The Chair thanked Councillor E Scott and asked the Committee for their comments and questions.

Councillor L Brown referred to paragraph 103 and 104 of the Committee report and asked whether, given there were two in-curtilage parking spaces, that the property would not get permits to enable parking in the street. The Highway Development Manager, Phil Harrison explained there would be three permits per property, regardless of the two off-street parking spaces.

Councillor L Brown asked as regards whether the parking surface material was known.

Councillor J Elmer noted that too often Policy 16 was looked at whenever there was an HMO to consider at Committee. He noted that the percentage within 100 metres was 7.7 percent, however, that only represented Council Tax exempt property, rather than any other type of HMO that could exist. He noted that Members could consider the wider amenity issues relating to existing residents and he was concerned as regards the technical issues as raised by A Gemmill in his presentation, especially in terms of the number of bedrooms and what could and could not be considered a bedroom, and the number of toilets. He noted that the parking provision resulted in a loss of garden and living space, noting he understood from his daughter who was living in such as student property, the issues that arose. He noted that the gardens of such student properties over a time tended to become of a poor quality and that such a property would not offer the positive experience that Durham University was trying to offer through their own properties. Councillor J Elmer noted he felt that the refusal of the application could be justified based on NPPF, CDP and DCNP policies in terms of the impact upon the amenity of residents of the city.

The Chair asked if Officers had any response to the points raised by A Gemmill as referred to by Members. The Principal Planning Officer noted many of the issues raised were not Planning matters rather Building Control, however, he noted that NDSS and where they applied had been explained to the Committee in terms of Policy 29(e). He noted Councillor E Scott had referred to the decision relating to 1 Larches Road made by the Committee in May for refusal. He added that that application was pending appeal and the Committee would be updated in due course as regards the outcome. He reiterated that Officer felt the key policy was Policy 16, in respect of the 10 percent threshold of Council Tax exempt properties within 100 metres, however, there were other policies Members could attach weight to as per the 1 Larches Road in relation to Policy 31. He reiterated that the Officer's recommendation was for approval.

Councillor D Sutton-Lloyd noted he felt Policy 16 was short-sighted in some regards and added why have other policies if they could not be used to look at an application. He added he had been moved by the presentation from Parish Councillor G Holland and agreed the proliferation of HMOs was akin to measles on one's face, and he felt that many good points had been raised in terms of refusal.

Councillor K Shaw explained he felt there was a continued drip-drip of applications such that family homes were being lost in Durham City. He added that we needed urgently in place a policy that helped to balance the needs of the University, students and residents. He noted he felt, similar to the refusal of 1 Larches Road, the application should be refused, being contrary to Policies 6, 29 and 31 of the CDP and Part 15 of the NPPF and moved refusal.

Councillor J Elmer seconded the motion for refusal.

The Chair noted that the Committee would be greatly interested in the appeal decision relating to 1 Larches Road and asked if there had been any further information to date. The Principal Planning Officer noted no change since May.

Upon a vote being taken, it was:

## **RESOLVED**

That the application be **REFUSED** as the change in use of the property to a larger house in multiple occupation (Use Class Sui Generis) would have an adverse impact upon the amenity of existing residents and the character of the area through increased noise, disturbance and anti-social behaviour, contrary to the aims of policies 6, 29 and 31 of the County Durham Plan and Parts 12 and 15 of the NPPF.

### **d DM/23/01167/FPA - 5 Lyndhurst Drive, Crossgate Moor, Durham, DH1 4AE**

The Planning Officer, Michelle Penman gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use from dwellinghouse (Use Class C3) to small House in Multiple Occupation (Use Class C4) with alterations to existing bay window and was recommended for approval subject to conditions as set out within the report.

The Planning Officer noted that HMO Data confirmed that including the application property, the percentage of Council Tax exempt properties within 100 metres would be six percent. She added if other pending applications for HMOs at 1 and 3 St. Monica's Grove were approved, the percentage would be nine percent. She noted 54 letters of objection had been received, including from the Local MP, Mary Foy.

The Chair thanked the Planning Officer and asked Parish Councillor S Walker to speak in relation to the application on behalf of City of Durham Parish Council.

Parish Councillor S Walker noted that the Parish Council joined with the huge numbers of residents and local MP in strongly objecting to the proposal and urged that Committee Members refuse the application today.

She noted that the Parish Council believed that the application did not meet the intent of Policy 16 and that further grounds existed in relation to the wider planning objectives that support the refusal of the application. She noted that starting with Policy 16, it was known that the Council's measure was woefully inadequate and in fact student numbers were far greater than stated. She added that the use of the 100m radius related poorly to the way communities operated in practice. She noted that the use of information based on individual streets provided a better means of assessing the experience of local people. She noted that for Lyndhurst Drive there were 13 houses: 1 registered HMO, with No.5 and two unregistered but equally relevant HMOs which is over 30 percent. She noted that was unbalanced and unacceptable. Parish Councillor S Walker explained it was worth noting that Lyndhurst Drive backed on to the 1 and 3 St Monica Grove development which would in effect act as a small, conjoined PBSA, occupied prior to finishing flouting the planning conditions, with the chance of them being enforced seemingly increasingly vanishing.

Parish Councillor S Walker added that the proposed development was also in conflict with the other policies, including Section 2 of the NPPF which required that strong, vibrant and healthy communities were supported, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations. She added that any further erosion of the balance of affordable residential locations, any further encroachment by HMO properties and further loss of housing stock was likely to persuade existing residents to move out and future residents may be reluctant or unable to move in. She added that our children could not afford to live where they were raised.

Parish Councillor S Walker noted that the DCNP carried considerable planning weight, with the objectives under Theme 4 including: to change the imbalance towards student accommodation back to a sustainable, balanced community. She noted that there was now an imbalance towards student accommodation with the various problems that caused, alongside the need to provide more family housing. She added that the particular importance of ensuring provision for families with children was to restore and sustain community balance, inclusiveness and sustainability, notably regarding school places and children's and parents' facilities.

Parish Councillor S Walker explained that the application also fell short of DCNP Policy S1, sections (a) and (c), because the application did not, to quote, "conserve the significance of the setting, character, local distinctiveness, tranquillity, and the contribution made to the sense of place."

She added that DCNP Policy H3 required a development to “sustain and make a positive contribution to the character and quality of the area”. She noted DCNP Policy S1(m) was relevant when considering the other consequences for what was a small cul-de-sac, including car parking, the run-down nature of many of the existing properties and gardens, levels of noise, footfall and lifestyles not reflective of residential areas. She noted the application introduced a transient population with limited ties to the local community, strongly challenging the well-being and amenity of long-term residents.

Parish Councillor S Walker noted that, furthermore, the development would not:

- a. ...function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development., with CDP Policy 29 stating that all development proposals must achieve well designed buildings and places which have regard to supplementary planning documents and other local guidance documents where relevant, and:
- e. provide high standards of amenity and privacy, and minimise the impact of development upon the occupants of existing adjacent and nearby properties; and
- f. contribute towards healthy neighbourhoods and consider the health impacts of development and the needs of existing and future users.

Parish Councillor S Walker noted that equally, CDP Policy 31, relating to Amenity and Pollution, stated that development would be permitted where it could be demonstrated that there would be no unacceptable impact, either individually or cumulative, on health, living or working conditions. She added that one would argue that had not been demonstrated in this case, and asked why were so many people present at Committee on a workday morning if their lives were not so unacceptably impacted by what was being allowed to happen in Durham City.

Parish Councillor S Walker explained the Parish Council were concerned that the present proposals would result in a further imbalance in the community and would have a detrimental impact on surrounding residential amenities through noise and disturbance, contrary to CDP Policies 29 and 31 as well as the NPPF Paragraph 130 (f) which sought to resist development that adversely affects residential amenity. She added those aligned with DCNP Policies S1 and H3 and reiterated that all other those policies carry as equal weight. She noted that, as with any other local development plan policy in the determination of this application, they were not optional, aspirational or nice to have, they had to be met in full.

Parish Councillor S Walker noted that it was felt that the development certainly did not, to quote Policy 29(a), “contribute positively to an area’s character, identity, townscape and landscape features”, nor did it help “to create and reinforce locally distinctive and sustainable communities. She explained that all of those policies were in effect asking the Committee to ensure that any new development was an improvement. She noted the proposals were not an improvement and therefore she would ask on behalf of the people who live in the areas, like those in the Chamber to refuse the application and not make Durham a worse place to live.

The Chair thanked Parish Councillor S Walker and asked local resident, Heather Shaw to speak in relation to the application. The Chair noted there were accompanying slides to the presentation.

H Shaw explained she lived in Lyndhurst Drive, a small cul-de-sac and was a mother, a wife, friend and neighbour to those who lived in the enclosed and friendly community, the very nature and character of which was in great danger. She noted that granting any planning application required an acceptable impact upon any street in terms of: character; appearance; residential amenity; and safety. She added that whilst some may state that the impact of the application would be acceptable, that definition was essentially flawed. She noted that it would only be acceptable for those who did not live in Lyndhurst Drive, the street which she and those she represented loved and lived in.

In respect of the spread of HMOs, she referred Members to a slide showing a 100-metre circle and explained as regards, including the application site, the HMO density being over 10 percent, seven out of 67 properties, above the level allowed in CDP Policy 16. H Shaw noted Members may ask what the difference between the red dots and the blue dots was shown on the slide. She explained it was fundamentally none, an HMO was defined as a house of multiple occupants not whether council tax was paid, a position Sunderland Council agreed with. She added that the impact of an HMO was the same, irrespective of its classification and therefore the application should be refused.

H Shaw noted that focusing on Lyndhurst Drive alone, our smaller enclave, if approval was granted, four out of 13 houses in Lyndhurst Drive would be HMOs, 30.8 percent. She added that 40 percent of the population would be students, 16 of 40, and noted that was not a balanced or sustainable mix and reiterated that in Lyndhurst Drive residents already had considerably more than the Policy allowed. She noted that three HMOs being granted in less than six months would not make for sound planning, with the density of HMOs within our street being unacceptable, therefore the application should be refused.

H Shaw noted that in terms of appearance, she referred to slide showing an existing student property and explained that was how HMOs were and how landlords who see Lyndhurst Drive as a business making opportunity directly impacted upon the appearance of a residential street. She asked if Members would wish to live next door to such a property, she noted her neighbours Don and Susan had to. She explained that the granting of an HMO at 5 Lyndhurst Drive, immediately next door to an existing HMO, would lead to an understandable dread that in effect it will be an HMO for 11. She noted that as Rise Letting Agency described and advertised the viaduct area, perhaps the two houses together will also become 'party central'. She asked again if Members would wish to live next door to such a property, noting other neighbours including Richard, Helen, Tom and Hilary would have to. She added that the appearance within our street was far from acceptable.

H Shaw noted that her and her neighbours, like everyone else, purchased their houses in a family area, with the necessary amenities for a high standard of family life. She noted that they respect and nurture the character and were protective essence of the street, actively engaging with and caring about each other on many levels, for example: at every get together we look forward to Salvo's tiramisu; we are able to ask for an ingredient Sainsbury's doesn't have; we can borrow a ladder with Richard. H Shaw noted that student HMOs, which did not engage with the community undoubtedly generated increased refuse, disturbance, more traffic generated by deliveries, visitors and the like and more noise. She noted that who had not been woken up by students during unsociable hours making a racket in the street. She noted some might say the answer was to close your window on a hot night, however, she thought not as it was not the right way to live and the residential amenity within our street was far from acceptable.

In terms of congestion, H Shaw noted Lyndhurst Drive had no links to other streets, it was a distinct location in and of itself. She noted that the street already was in effect an overflow carpark for Durham Johnston. She noted that the road was meant to be a turning circle, however, the road was a bottleneck with frequent parking on both sides of the street where there was no off-road parking had on multiple occasions prevented access for bin collection. She added that Ambulance Services have had to park at the bottom of the street for the previous occupant of 5 Lyndhurst Drive, indeed ambulance services had to knock on doors for vehicles to be moved. H Shaw noted that loss of amenity was intolerable and unsafe, noting that there had been accidents immediately in front of 5 Lyndhurst Drive, with delivery drivers knocking down Salvo's wall and Christine's car being damaged. She reiterated that the safety within our street was far from acceptable.

In conclusion, H Shaw noted that now Members would understand the anxiety of residents in terms of the prospect of another HMO on our cul-de-sac as being so very real.



She noted that particularly when the applicant was already in contravention of the conditions, using a digger at 3:25pm on Saturday and already altering the bay window, their respect for the planning process had to surely be in doubt. H Shaw concluded by noting that her community relied on the Committee's decision and asked that Members did not allow another HMO in our midst that would do nothing but irreparable harm and reject the application.

The Chair asked Councillor L Brown to speak in relation to the application.

Councillor L Brown noted that as it had been said on so many occasions students lead a totally different lifestyle to long term residents, as they were generally only resident for nine months a year and then generally for one nine-month period have no stake in the community within which they live. She noted Policy 16, with its percentages of Class N exemptions only tells part of the story and sadly its intent to provide balanced communities was falling by the wayside. She noted that, as previously mentioned, Policies 29 and 31, which dealt with residential amenity should also be considered when looking at the application. She at that the area was a cul-de-sac where only nine houses were actually in the cul-de-sac, two looking on to Newcastle Road. She added it was difficult to ascertain how many HMOs there were in the area, as one or possibly two were allegedly unregistered, but certainly rented out and one house had rooms which were sub-let to students. Councillor L Brown asked Members to bear in mind that an HMO was not necessarily Class N exempt and noted if one member of the household was working, then the property would not appear in the statistics, but was still as student house. She noted she was adding her objections in sympathy for one of the residents who, if the application was granted, would end up with student houses on all sides. She added that once again she must ask the Committee to be very careful as regards the consequences of their decision. She noted a vote for approval would mean one more family house removed from the City's housing stock.

*Councillor L Brown left the meeting at 12.45pm*

The Chair thanked Councillor L Brown and asked the Committee for their comments and questions.

Councillor D Sutton-Lloyd noted the report seemed like Groundhog Day number three and felt there was a need to go back to the Administration as regards the situation in respect of HMOs. He noted that those in objection had spoken eloquently, and he would move refusal of the application. The Chair noted that some upcoming appeals decisions may help in terms future decision prior to any review of the CDP.

Councillor C Kay noted he would not play politics, however, those Members who represented the Administration could be feeding back to see if there could be a change to the planning framework. Councillor D Sutton-Lloyd noted that was what he had meant when referring to feedback.

Councillor J Elmer noted Members once again were referring to Policy 16, the 100-metre radius and while he understood the rationale behind the rule, it was clear now that many HMOs were not Council Tax exempt and therefore were not being taken into account. He noted that as the proliferation of HMOs move towards 10 percent, those other policies as referred to during the other HMO items became more and more important. He noted he was not anti-student, and he was sure that no one on the Committee felt that way either, however, it was important to get the right balance and mix for students too when looking at applications. He noted that right now, nationally, students were being exploited with a monthly rent akin to the cost of a mortgage in some instances. He noted he would second Councillor D Sutton-Lloyd's refusal motion.

Councillor S Deinali noted she supported the proposal for refusal and add in terms of Policy 31, and the impact on residential amenity. The Chair asked Officers if they had sufficient grounds from the comments from Members. The Legal Officer (Planning and Highways) noted there were sufficient points raised. Members noted they felt the application was contrary to policies 6, 29 and 31, as per the previous applications, with Councillor R Manchester noting with reference to protecting balanced communities. Councillor S Deinali noted Policy 16 in terms of comments from Councillor R Manchester and the Principal Planning Officer noted that citing Policy 16 in such a way could prove an issue at any appeal of a refusal decision. Councillor S Deinali noted not to put forward Policy 16 as being a policy that Members felt the application was contrary to.

Upon a vote being taken, it was:

## **RESOLVED**

That the application be **REFUSED** as the change of use of the property to a house in multiple occupation (Use Class C4) within this locale (which includes several properties occupied as HMOs but unregistered as being Class N exempt from Council Tax), would unbalance the community and have a detrimental impact upon community cohesion and adversely affect the amenity of non-student residents within the local area from increase noise and disturbance. Therefore, the proposal is contrary to Policies 6, 29 and 31 of the County Durham Plan.

*Councillor J Cosslett left the meeting and  
Councillor L Brown entered the meeting at 1.00pm.*

**e DM/23/01429/FPA - 1 Hailsham Place, Peterlee, SR8 1AB**

The Planning Officer, Mark Sandford gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use of building from betting office (Sui Generis) to drinking establishment (Sui Generis) and was recommended for approval subject to conditions as set out within the report.

The Chair thanked the Planning Officer and asked Town Councillor Audrey Laing, representing Peterlee Town Council to speak in respect of the application.

Town Councillor A Laing thanked the Chair and Committee for the opportunity to speak on the application. She noted that there were many concerns she felt as a local Councillor and resident of Peterlee, firstly that there were enough bars, restaurants and takeaways within the town centre, and while she would generally support new businesses, she opposed this application. She explained that there were issues of anti-social behaviour and violence within the town centre, associated with alcohol, and noted the close proximity of the application site to a GP Surgery, Job Centre and Church, noting the impact on younger and older people. She noted NPPF Part 8 promoted Healthy Communities and planning had an important role in helping to maintain and encourage inclusive communities. She added that the proposed change of use was contrary to that goal.

Town Councillor A Laing noted CDP Policy 31 noted that development was permitted where no negative impact either directly or cumulatively could be demonstrated. She noted that alcoholism impacted all elements of society and unfortunately could lead to violence against women. She added that out of 76 risk factors it was found that alcohol was number three in terms of the impact on health, only after obesity and smoking. She asked Members to refuse the application in terms of the impacts on health referred to.

The Chair thanked Town Councillor A Laing and asked Councillor D Howarth, Local County Councillor, to speak in relation to the application.

Councillor D Howarth thanked the Chair and noted she represented Peterlee East, the division in which the application was proposed. She reiterated the points made by Town Councillor A Laing in that the NPPF looked to achieve healthy, safe, inclusive lifestyles. She noted the already existing high levels of alcoholism, anti-social behaviour and domestic violence in Peterlee and noted that another club was not appropriate.

She explained that the recently prepared Masterplan for Peterlee, last year, had bid for Levelling Up funding and asked Members to refuse the application.

The Chair thanked Councillor D Howarth and asked Matthew Lee, Agent for the applicant and Sean Sayers, the applicant to speak in support of the application.

M Lee noted the Peterlee Masterplan and the need for town centre investment. He added that there was some unwilling to invest in the town and it had been noted there was a need for more leisure facilities. He explained that the proposals were not for a 'run of the mill' drinking establishment, rather it would echo the comments from the Officer within his report, that the proposals were policy compliant and was a use town centres were designated for. S Sayers noted he had been a resident of Peterlee for 50 years and his vision for his establishment 'Ales and Tales' was for a unique establishment for Peterlee, with a micropub, cocktail bar and coffee bar. He added that there would be no TV screens or pool tables, rather ambient music and also live performances from local musicians, including from the nearby East Durham College. He noted the establishment would operate a strict Challenge 25 policy and also joint the local Pubwatch and work with the Council's Licensing Team. He noted that there would be no issues with any congestion, with ample parking in the areas and good links to the bus network. He reiterated he hoped for a unique offer and explained there would only be nine drinking establishments for a population of over 30,000 residents, with other comparable towns such as Seaham and Chester-le-Stret having 17 and 34 per 30,000. He concluded by noting the numbers at Peterlee were not excessive and he would ask that Members grant planning permission.

The Chair thanked the applicant and his agent and asked the Committee for their comments and questions.

Councillor L Brown asked if it was correct that there was no cumulative impact when looking at drinking establishment from a planning perspective and noted paragraph 32 referred to restrictions, but she could not see those mirrored within the conditions. The Principal Planning Officer noted no such cumulative impact, with the use proposed being an accepted town centre use. He noted that the Environmental Health Officer's response was set out verbatim within the report, noting some confusion in relation to sui generis use.

Councillor L Fenwick noted she was a Councillor for Peterlee and asked if there would be alcoholic and non-alcohol drinks and whether children would be permitted entry.

S Sayers noted that it would be the same as any other drinking establishment, with children requiring to be accompanied by a responsible adult. Councillor L Fenwick noted the points raised by Councillor D Howarth in terms of smoking outside in the pedestrian areas.

Councillor C Kay noted he was struggling with the application, he has listened to the statements from Town Councillor A Laing and Local Member, D Howarth, however, despite his own experience of the impact of alcoholism on a family member, a town centre location was the natural location for such an application and noted that problems within an area were not always the responsibility of a licence holder.

Councillor D Sutton-Lloyd noted he understood the points raised by the speakers and Councillor C Kay and asked as the activity next door, the Catch 22 College. Councillor K Shaw noted that paragraph 52 of the report noted Policy 31, no development being permitted if there was impact/harm. He asked how that related to the college next door. The Principal Planning Officer noted that in terms of residential amenity, there was no impact as was a town centre location. In terms with the compatibility with those aged 16-18, one would expect such an establishment to be managed correctly in terms of underage sales and so on in order to satisfy Policy 31. He reminded Members that Planning Guidance states that policy should not look to mirror other regulations that may apply.

Councillor I Roberts noted the impact of alcoholism and noted that Peterlee was an area requesting a treatment centre to help those suffering from addiction. She noted the other activities in the area, cafes, bingo and the Church, she felt there was a need to protect against alcohol harms.

Councillor J Elmer noted that cumulative impact would not usually be considered under Policy 31, however, it was noted that the town had a large impact already in terms of alcohol. The Principal Planning Officer reiterated that there was no cumulative impact in relation to drinking establishments, as there was for hot food takeaways, and reiterated Policy 31 referred to residential amenity and it was not felt there was an over-proliferation of drinking establishments and it was a town centre location. Councillor J Elmer felt that there should be some way to make a link to the levels of alcoholism in the town, however, the applicant had been very positive in his support of his application. He asked as regards any controls that could be put in place via planning. The Principal Planning Officer noted the sui generis use and all such uses described fell within that use.

Councillor L Brown noted, as a Chair of Licensing, that such applications must be considered by Licensing in terms of a premises licence and was an important check and balance in terms of such drinking establishments.

Councillor S Deinali noted her concerns as regards the Catch 22 College being located next door.

Councillor L Brown moved approval of the application as per the Officer's recommendation, she was seconded by Councillor C Kay.

Upon a vote being taken, it was:

**RESOLVED**

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

Councillor J Elmer noted he felt that the concerns of the Committee could be fed into the licensing process, the Legal Officer (Planning and Highways) noted that it was a separate process. Councillor L Brown noted that Planning Officers were consulted as part of the licensing process.

**6 Special Meeting**

The Chair informed Members there would be a special meeting of the Committee scheduled for Monday, 25 September 2023 at 1.30pm, with the associated site visit being Wednesday, 20 September 2023, leaving County Hall at 1.30pm.

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/22/02891/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>4 retail units (Class E), a tanning shop (Sui Generis), takeaway (Sui Generis) and ATM with associated access, car parking and landscaping (amended title).</b>
<b>NAME OF APPLICANT:</b>	<b>Almscliffe Dhesi Developments (Peterlee) Ltd.</b>
<b>ADDRESS:</b>	<b>Former Evans Halshaw, Passfield Way, Peterlee, SR8 1PX.</b>
<b>ELECTORAL DIVISION:</b>	<b>Passfield.</b>
<b>CASE OFFICER:</b>	<b>Jennifer Jennings Principal Planning Officer 03000 261059 <a href="mailto:jennifer.jennings@durham.gov.uk">jennifer.jennings@durham.gov.uk</a></b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site relates to the former Evans Halshaw car sales site, situated to the south west of the settlement of Peterlee. The site extends to 0.55ha in area and consists of a large hardstanding area, with a former car showroom building to the east of the site. The site is largely open, with a narrow grassed verge along the north boundary and knee high metal barriers along this length. There is a small cluster of trees to the north east, that form part of the open amenity space associated with the neighbouring residential area. Bungalows along Corby Grove surround the site along the east and south east boundary, whilst two storey semis and detached properties along Corby Grove and Donerston Grove border the south and west of the site respectively. Access to the site is taken off Passfield Way to the north, beyond which lies open tree planted amenity space subject to a Tree Preservation Order, within which lies the Grade II listed Shotton Hall building, 180 metres to the north east of the site.
2. Passfield Way is a main thoroughfare linking the A19 to the west with Peterlee town centre to the north east. The junction with the A19 from this road is 250 metres to the west and provides access and egress onto the southbound carriageway only. Approximately 300 metres to the east lies Shotton Hall Academy School, and just beyond this, Shotton Hall Primary School. Peterlee town centre is located approximately 1.9km to the north east.

### The Proposal

3. The application seeks full planning permission for a mixed use commercial development consisting of six units in total. The proposal would involve retaining the existing building and modifying it to create three commercial units, with a separate new build section running along the south boundary on the existing car park area, providing

a further three units. The proposed uses relate to four E class retail units, one tanning salon (sui generis use) and one hot food takeaway (sui generis use). The units would be located around a newly arranged car parking area for 68 cars, including eight EV car charge spaces. Two areas of cycle parking are also proposed on site.

4. The existing access from Passfield Way would be retained, with a slightly amended access into the parking area from the existing. Some of the existing planting is to remain in place, along with some additional landscaping proposed. A substation would be included within the site along the south boundary, adjacent to a new bin store area.
5. In terms of design, the modified car showroom building would be reduced in footprint, with removal of the western side offshoot. The new western elevation of the building would be the main frontage for the three units that are to be located here, with large glazed areas, Kingspan panels on the walls and signage proposed above. The end dual pitched roof, gable elevation of this building, visible from Passfield Way, would be amended to include a high level window. The building would remain single storey.
6. The new building proposed along the southern boundary would be a mono pitched single storey building, with similar glazed areas for shop frontages and matching Kingspan materials for the wall.
7. The application has been brought to the Planning Committee for consideration at the request of the local ward member, over concerns in relation to highway safety, road access and traffic generation.

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## **PLANNING HISTORY**

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8. The following summarises planning history at the site:
9. The majority of the planning history at the site relates to the former car sales showroom with previous approvals for car park extensions, lighting columns and advertisements.
10. Two recent applications for advert consent have been granted (DM/23/00334/AD and DM/23/00940/AD) relating to fascia signage for one unit and a totem pole for the site. These approvals are without prejudice to the current application under consideration, the applicant applying for advert consent at their own risk.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

11. 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.
12. 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.

13. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
14. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
15. *NPPF Part 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.
16. *NPPF Part 7 - Ensuring the Vitality of Town Centres.* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
17. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
18. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
19. *NPPF Part 11 – Making effective use of land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
20. *NPPF Part 12 – Achieving well-designed places* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.

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

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

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

24. *Policy 6 – Development on Unallocated Sites.* Supports development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
25. *Policy 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
26. *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.

27. *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.
28. *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.
29. *Policy 30 – Hot Food Takeaways.* Advises that proposals within Sub-Regional, Large Town, Small Town, District and Local Centres will be refused should an unacceptable impact upon the vitality and viability of those centres result. Outside of such centres, proposals within 400 metres of an entry point of an existing or proposed school or further education college will not be permitted. The specific amenity impacts of each takeaway proposal must also be acceptable.
30. *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.
31. *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.
32. *Policy 35 - Water Management.* Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SUDS and aims to protect the quality of water.
33. *Policy 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.

34. *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.
35. *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.
36. *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.
37. *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.
38. *County Durham Parking and Accessibility Standards (2019)* This document sets out the Council's approach to vehicle and cycle parking provision on new development and extensions to existing development which includes both residential and non-residential.

#### **NEIGHBOURHOOD PLAN:**

39. No Neighbourhood Plan in force for the area.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

40. *National Highways* – Assessed the details of the Transport Statement. They required further details and assessments in relation to trip rates and trip types. Additional information was received, National Highways wished it be noted that they did not agree with the methodology used in the assessment. However, due to the scale and nature

of the development and supported by specialist advice on traffic impact, they issued a Formal Response offering no objection.

41. *Highway Authority* – Assessed the details of the Transport Statement (TS). A number of issues were raised in relation to comments made within the TS. Further information and amendments were requested, including the addition of a ghost island for vehicles entering the site. Agreed that a Road Safety Audit (RSA) should be undertaken to establish need for ghost island. Initial RSA received but not deemed suitable. A further RSA provided which was deemed acceptable to remove the requirement for the ghost island.
42. Further details required in relation to servicing and deliveries at the site. These details can be secured by condition. Parking and cycle parking deemed sufficient, subject to conditions for details on bike shelters. Objection to the scheme is now removed subject to conditions.
43. *Local Lead Flood Authority* – Initial scheme not considered acceptable and further amends and updates to the drainage strategy requested throughout application process. Final updated scheme submitted and deemed acceptable. Drainage Strategy document to be conditioned and no objections raised.

#### **INTERNAL CONSULTEE RESPONSES:**

44. *Design and Conservation* – No concerns with reference to impact on Grade II listed Shotton Hall, given distance and intervening trees.
45. In terms of the scheme the proposed development is not opposed from a design and conservation perspective. Following advice at the pre-application stage, the applicant has given some animation to the gable of the existing building where it directly addresses Passfield Way. This could be improved by animating the ground floor. The applicant should provide clarification of the intended colour palette of the buildings proposed.
46. *Ecology* – No objections raised. Site has little in the way of ecological value and the building is low risk for bats so I do not feel that ecological surveys are required. Request 1 x integrated bat roost unit and 1 x integrated bird breeding unit per building as ecological enhancement under the NPPF. I note that the applicant has confirmed acceptance of this requirement.
47. *Environment, Health and Consumer Protection (Air Quality)* – Sufficient information submitted to support the scheme. Officers consider that the development would not lead to an exceedance of AQ objectives, and no further information is required.
48. *Environment, Health and Consumer Protection (Pollution Control)* – Fully assessed submitted details in relation to the noise assessment and further submitted kitchen ventilation documents. The principal officer considered the details appropriate. Conditions are requested requiring that relevant units adhere to the detailed specification reports in perpetuity. A further condition is requested in relation to adherence to suitable noise levels and limits to the hours of opening.
49. *Environment, Health and Consumer Protection (Contaminated Land)* – Advise the submitted phase 1 and 2 reports are acceptable but identifies the need for further site investigation. Therefore a pre commencement condition for a phase 3 report is required, followed by a phase 4 verification report. An informative should be included in the event any contaminated land is discovered during works.

50. *Spatial Policy* – Advises on relevant policies within the County Durham Plan. Assessment also undertaken of the submitted Sequential Assessment and Retail Impact Assessment, both of which were found to be acceptable. Their detailed comments on this are contained within the body of the report. In relation to the hot food takeaway, given the nature of the proposed development as part of a larger scheme, the use would be considered to accord with policy 30.
51. *Trees Officer* – Assessed existing planting on site, noting that the trees marked for removal are not of high amenity value. They further comment that the proposals intend additional planting in the south west corner and along the southern boundary. Further details on this can be attained through a landscape condition. No objections offered.

#### **EXTERNAL CONSULTEE RESPONSES:**

52. *Police Architectural Liaison Officer* – Comments received with advice on design standards to reduce likelihood of anti-social behaviour on site.

#### **PUBLIC RESPONSES:**

53. The application has been advertised by way of a site notice and individual notification letters to neighbouring residents.
54. 19 letters of objection have been received along with 52 letters of support. The following summarises the various comments received:
55. In objection:

#### **General Issues / Impact on Town Centre / Proposed Uses**

- Proposed units are inappropriate and known for negative health impacts including tanning booth and fast food takeaway, causing cancer and obesity.
- More fast food shops than clothing shops and site is really close to secondary school
- Proposals would not enhance the area
- Town centre first approach should be applied. Already enough empty places in Peterlee that could be used to bring in employment
- Concerns over location of sub station which is directly visible from nearby properties
- Tanning salon not suitable as no demand for this, as there are others in the vicinity. Not considered an essential service.
- Proposals will bring down the area
- Town centre is struggling to survive and new retail should be kept in this area
- Too many takeaways and fast foods places in the area.
- Whilst no objection to overall proposals the tanning shop is not appropriate and a health risk
- Queries over local impact document submitted with application - why is consideration given to Shotton Colliery, this local centre highly unlikely to be affected given its location across the A19
- Concerns over businesses already struggling in the town centres. A lot of money and investment put into this area but still empty retail premises exist. Queries why we are considering more units to be developed
- Consultation exercise undertaken by developer not considered to be reasonable consultation process
- Concerns about school children having access to takeaway so close
- Overdevelopment of the site
- Detrimental to character of residential area and concern over loss of trees.
- Better to develop the town centre than an outlying area

- Given current economic climate it would be appropriate to ensure that the development can secure 100% occupancy given the extent of vacant units in Peterlee town centre
- Based on size of units, better located in town centre where planning statement has shown they are available.
- Unlikely that Sainsburys would set up here given another store in close proximity. They may be likely to move causing another vacancy in the area
- Not an appropriate location for this type of development near houses and schools
- Concerns over why large quantity of people have written into support the scheme when they don't live near the development and won't be directly impacted.
- Not happy about outdoor seating area within development and potential for noise impacts.
- Negative impact on Peterlee town centre will force people to go to Sunderland or Hartlepool to shop

#### Highways

- Proposals will cause traffic problems, with deliveries
- Traffic congestion already bad during school opening / closing times, This development will make situation worse and cause accidents
- Increased traffic will increase air pollution in the area
- Slip roads on A19 very short and potential for accidents with delivery trucks trying to access site from here.
- People trying to access the site could cause traffic to back up, even onto the A19 at busy times.
- The current use will have more traffic over previous use.
- Noise impacts of delivery trucks and hours of access to the site.
- Fears that greater risk of accidents to school children - already difficult trying to cross the road in these locations.
- Concerns over routes taken by delivery vehicles and articulated trucks to access the site - concerns that existing road network unable to cater for them.
- Proposals will increase traffic flows from A19 to access shops

#### Noise / Pollution / Anti Social Behaviour

- Problems with noise and rubbish
- Development too close to surrounding bedrooms of nearby family homes, which are close to service areas and car parking.
- Concerns site will be used by boy racers
- Opening hours and sales of alcohol will cause problems
- Car park area will attract people over night with noise and music and doors slamming.
- Site could become a drugs hub location
- Increase in anti social behaviour through increase in noise crime and litter, which will radiate out to surrounding areas
- Police struggling to cope with crimes as it is.
- Given site has for years plagued nearby residents through operations and car deliveries, consider the site would be better used for housing rather than more retail where many businesses already struggling, potentially causing problems in the future for the site.
- Although already in use as business site, this was for one business, proposals for 7 different units will have more impacts on nearest residents
- Concerns that nearest residents will no longer be able to use their rear gardens through impact of noise and disturbance - including delivery trucks and beeping of reversing wagons, as well as people going to late night takeaway
- Rubbish will become a huge problem in the area.
- Increase in light pollution

- If development goes ahead it will adversely affect people's lifestyles, wellbeing and mental health
- Concerns with regards smells and odours from the takeaway and attraction of vermin to the site
- Neighbouring properties at risk from greater levels of crime as site will attract anti social behaviour
- Concerns over the increase in operating hours at the site, over and above previous single business that used the site
- Insufficient information submitted to address neighbour impacts in particular in relation to light pollution
- Noise assessment doesn't take into account longer hours of proposed use over existing.
- Air quality assessment not sufficient - no details on demolition works or increase traffic
- Insufficient information in relation to extraction from new units
- No details on CCTV to monitor anti social behaviour at the site. Site likely to be misused out of hours and mitigation should be provided.
- Concerns raised over the amount of 'carbon copy' letters of support submitted.
- Proposals will devalue houses and a number of properties have put their house up for sale
- Concerns that takeaway will attract vermin.
- Loss of privacy with units so close to dwellings and neighbours experiencing loss of privacy and unable to use rear gardens
- Concerns that the EVCP parking will attract long distance drivers from the A19 to set up all night and create noise disturbance through opening and closing of car doors.

#### Consultation issues

- Issues raised over the consultation process taken by the developer and that it left little time to comment - prior to submission of the planning application.
- Issues raised over the sign put up on the building saying development coming soon - this is misleading as no decision made and might put people off objecting to the scheme.
- Concerns over the website set up by the development promoting the development and making it easy for people to submit their comments of support - a lot come from a distance away (sometimes 4 miles) and should be given less weight than comments from nearby residents.
- Concerns that local councillors not putting the people they represent first.

#### Objection from Praxis Real Estate Management Ltd (owner of Castle Dene Shopping Centre in Peterlee Town Centre).

- Concern with regards the conclusion drawn from the Sequential Assessment. The search parameters used in undertaking the assessment are considered to be based on flawed interpretation of planning policy and case law.
- Applicant refers to Tesco vs Dundee City Council Supreme Court Judgement, but fails to provide any explanation as to how the case is relevant to the proposals and what weight to afford it. Case is used as blunt instrument to circumvent the requirement to undertake a robust and pragmatic sequential assessment.
- The applicant does not consider disaggregation of the scheme.
- No particular need for the proposal is identified in the Applicant's submission other than it would result in the redevelopment of a vacant site.
- Reference made to PPG which states: 'It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.' The objector's interpretation of this statement is that where a development comprises



separate units a combination of more central sites should be considered provided that they do not require any of the individual retailers to disaggregate their offer.

- The Tesco vs Dundee City Council decision related to a single Asda store which could clearly not be disaggregated and provides no direct comparison to the current proposal. Concern that the applicant's interpretation runs counter to the town centre first policy approach and incentivises developers to propose large schemes that cannot be readily accommodated in town centre locations.
- Consider the applicant has failed to comply with local and national policies on the sequential approach to site selection.
- Objector considers the applicant should have considered the scheme in a disaggregated format, with flexibility as regards format and scale in accordance with PPG. By using this approach, the individual units could be accommodated with various vacant units available with Peterlee Town Centre, the objector providing a list of various vacant units and floor space to demonstrate this.
- Considers the existing vacant units would be suitable in this location having ample parking and access to public transport and being more centrally located than the current application site. The application site is considered more suited for residential development.
- Objector proceeds to echo objections already raised by local residents with regards type of use, anti social behaviour, highway impacts and amenity, and non-compliance with relevant policies.
- There is no identified need for the proposal, to the contrary, there is a pressing need to focus investment on nearby Peterlee Town Centre and Shotton Local Centre, both of which are plagued with prolific vacancies.

In support:

- A new retail led local centre will enhance retail opportunities for residents
- Proposals will create numerous jobs for local people
- Make good use of vacant brownfield site
- Offers convenient and accessible shopping opportunities for all residents in the vicinity
- Development would be a great asset to the local area
- Provides much needed local services
- Facility will prevent people needing to access services by transport.
- Remove eyesore from the area and improve it
- Breathe new energy into the town which is currently lacking
- Would be able to attract customers from the A19 and beyond
- Provides more retail choice
- Would boost the local economy

*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:**

56. The Proposed Development seeks to construct 4 retail units (Class E), a tanning shop (Sui Generis), takeaway (Sui Generis) and ATM with associated access, car parking and landscaping on the site of the former Vauxhall Motor Dealership, Passfield Way, Peterlee, SR8 1PX.

The site is located outside of the Peterlee Town Centre boundary. It has been demonstrated through application of the Sequential Test that there are no other

available, suitable or developable sites within or on the edge of Peterlee which could accommodate the Proposed Development.

A Retail Impact Assessment has been undertaken in accordance with the requirements of the NPPF, which demonstrates that the proposed development would not result in a negative impact on the vitality and viability of the defined centres within the study area. It is considered that the proposed development will enhance the retail offer in Peterlee which will contribute positively to the vitality and viability of the centre.

In terms of viability the proposed development needs to be located collectively rather than being disaggregated, in order to function and attract the retailers who want to trade in this area of Peterlee as there is currently a need for a neighbourhood style convenience centre here. Notwithstanding this, it is important to note that there is no specific planning requirement to disaggregate a scheme and Case Law determines that this is not required.

Overall, the proposals will have significant benefits for the residents of Peterlee by enhancing the retail offer there. One major benefit is that it will bring a vacant brownfield site back into use.

The re-use of the existing building underpins the sustainability strategy for the scheme, as this limits the demolition required and maximises the green credentials of retaining the structure. This generates the sustainable benefit of limiting waste and the requirement for new construction materials were a new replacement building be proposed. The development will utilise locally sourced materials for construction and will incorporate energy efficient design to reduce the overall energy consumption of the development. This includes high levels of insulation to the roof, walls, and floor areas. In addition, advanced glazing systems will be utilised to reduce heat loss and solar gain as appropriate to the buildings. The building will need to comply with Part L to meet building regulations approval. The operators are all installing air source heat pumps as their heating source, and the only operator with gas is Dominoes which is required for cooking. Careful consideration has therefore been given to the merits of making the building more efficient during the construction and operational phases of the development.

Another benefit of the proposal is the encouragement of the use of sustainable modes of travel, including the provision of EV charging points. The EV charging bays are currently proposed to be available for use 24hrs a day. It is not envisaged that these spaces would attract anti-social behaviour given the nature of their use, i.e., people are required to pay to use them and are only going to use them for the purposes of charging their car. The site has been vacant for 2 years and there have been no issues with anti-social behaviour whilst it has been vacant, so the applicant does not anticipate issues to arise once it has been re-developed.

The proposal will also result in job creation both during the construction and operational phase of the development. In turn this will generate employee salaries which will encourage spending in the local economy. This will bring both economic and social benefits to the area.

In addition, and as outlined in the planning submission documents, the proposals are compliant with relevant policies in the adopted Local Plan and the NPPF and therefore we respectfully request that planning permission be granted without delay.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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57. 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, particularly in relation to retail and town centre policy, impact on the character and appearance of the area, impact on residential amenity, highway safety and access, drainage, ecology and contaminated land.

### The Principle of the Development

58. 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) forms 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. 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. Where a planning application conflicts with an up-to-date development plan paragraph 12 of the NPPF further advises that permission should not usually be granted. Local Planning Authorities (LPA) may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicated that the plan should not be followed.
59. The proposal relates to a new commercial development, consisting of 6 units on the site of the former Evans Halshaw car show room site and policy 9 would be of relevance in the consideration of this scheme. The site is not situated within a town, district or local centre as defined within Policy 9, the location is therefore considered an out of centre site within the settlement of Peterlee. Policy 9 defines Peterlee as having a large town centre and this is located approximately 1,900m to the northeast of the site. Horden has two local centres situated further east, with further local centres contained to the west of the A19 in the settlements of Shotton Colliery and Wheatley Hill respectively. The site is not allocated for any particular use in the County Durham Plan (CDP) (2020) and noting its location within the built up area of Peterlee, the proposals would be subject to consideration against policy 6 also.
60. The proposals include changing the use of the existing building on site, re-modelling and subdividing to create 3 units. A new purpose-built building would be constructed creating a further 3 units. The units would range in size from 111 sqm to 371 sqm. In total the floorspace created would amount to 1,210 sqm, with a net floor space of approximately 860 sqm. Units are expected to include 4 E class uses, including retail and café, with a further two units to include a tanning shop and hot food takeaway, the latter two identified as sui generis. Policy 30 is applicable to the consideration of the hot food takeaway in this case.

### *Retail Policy*

### *Sequential Test*

61. In considering the acceptability of the site in this out-of-centre location, due consideration must be given to relevant parts of the NPPF, PPG and Policy 9 (Retail

Hierarchy and Town Centre Development) of the CDP. For completeness the wording of the relevant parts of these policies will be provided below.

62. As required within paragraph 86 of the NPPF (Ensuring the vitality of town centres), policy 9 of the CDP sets out a retail hierarchy, with Peterlee recognised as a large town centre. The CDP seeks to protect and enhance these retail centres and supports new town centre development across all of the county's centres that will improve choice and bring about regeneration and environmental improvements. The proposed retail uses / units as part of the planning application are acknowledged as being classed as main town centre uses under the Annex 2: Glossary of the National Planning Policy Framework (NPPF) (2021) and whilst some of the uses proposed (hot food takeaway and tanning Shop) are not specifically listed under the Annex 2, it is recognised that they are all most commonly found within them, and that Annex 2 is not a closed exhaustive list. Policy 9 requires proposals for town centre uses not within a defined centre to provide a sequential assessment (this reflects advice within the NPPF, paragraphs 87 and 88), and also (depending on the scale of floorspace) an impact assessment. The main issues therefore relate to satisfying the sequential test in terms of the town centre first approach and assessing the impact on existing centres (where applicable).
63. Paragraph 87 of the NPPF states that local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
64. Paragraph 88 of the NPPF states when considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
65. The Planning Policy Guidance web pages relating to 'Planning for town centre vitality and viability' provide guidance on how the sequential test should be used in decision making (Paragraph: 011 Reference ID: 2b-011-20190722 Revision date: 22 07 2019). This states that it is for the applicant to demonstrate compliance with the sequential test. The application of the test will need to be proportionate and appropriate for the given proposal. Where appropriate, the potential suitability of alternative sites will need to be discussed between the developer and local planning authority at the earliest opportunity.
66. The PPG further provides a checklist, as below, that sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test:
  - with due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly.
  - is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.
  - if there are no suitable sequentially preferable locations, the sequential test is passed.

67. The PPG continues that in line with paragraph 86 of the National Planning Policy Framework, only if suitable sites in town centre or edge of centre locations are not available (or expected to become available within a reasonable period) should out of centre sites be considered. When considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account. Compliance with the sequential and impact tests does not guarantee that permission will be granted – all material considerations will need to be considered in reaching a decision.
68. The applicant engaged in pre application discussions where they were advised that as part of any forthcoming sequential assessment, the LPA would expect reasonable justification behind any proposed site parameters that would be set in determining whether a town centre site is suitable or not. It was also agreed that the sequential assessment could be limited to the large town centre of Peterlee.
69. The sequential assessment features in Section 5 of the applicant's Planning Statement. Para 5.6 sets out the stated site requirements for the proposed development in terms of a minimum site size (to accommodate the floorspace and parking & circulation space), and prominent location within Peterlee. The applicant's sequential assessment seeks to demonstrate (para's 5.13 - 5.19) that there are no available sites which could accommodate the proposals within Peterlee town centre. This is based on the three primary indicators which they outline at para 5.10 relating to availability, suitability and viability. Para 5.14 makes the assertion that sites like Broadclose Court, Castle Dene Shopping Centre are too small.
70. Further within the assessment, the applicant has recognised that there are sequentially preferable units vacant within the town centre with 44no. vacant units identified in August 2022 (para 5.15), however they state that many of the vacant units are not available on account that they cannot find details of them being marketed online. Those which are, are deemed to be unsuitable and discounted as they are too small.
71. The LPA, whilst agreeing that the vacant units identified would be too small, sought a more robust analysis in relation to availability of the units. In response the applicant clarified that consideration was also given to vacant units located adjacent to each other and the possibility of merging these units to provide sufficient area to accommodate the proposed development. However, even upon undertaking this exercise it was found that, where in one case five units were next to each other, they were unable to accommodate the proposed development again being too small in size. It was further clarified that not all vacant units were being marketed online and were therefore not considered to be readily available for occupation.
72. In assessing the details and in consultation with Spatial Policy it was accepted that the sequential test had been suitably undertaken and the overall conclusions not disputed. However, on the issue of flexibility, further consideration was requested in relation to potential for disaggregation of the scheme. Indeed, in their objection Praxis considers the sequential assessment to be flawed and states that the scheme should be considered in a disaggregated format, as to do so would be in line with PPG guidance seeking flexibility as regards format and scale of development.
73. The applicant was thus requested to advise whether their scheme could be considered in a disaggregated format within the town centre. They provided comment in relation to this, stating that the previous commercial use of the site as a car dealership had benefited from key attributes in relation to visibility, ease of access and position within Peterlee. Given this, they consider that the site continues to benefit from these

attributes and would therefore provide a suitable location for a neighbourhood style centre, well located to serve the local area for top up shopping and convenience needs.

74. The applicants also make reference to intended occupiers at the site, including a Sainsburys Local and confirm that the nature and size of the shop would mean it would be inappropriate to locate within the town centre, given the larger stores already in that location (including for example, Asda and Lidl). The local shop premises is therefore intended to appeal to a very local population to pick up a 'small basket' of essential goods rather than driving to the town centre and access a much larger store which would be inconvenient for the nature of the purchase required. The applicant further highlights that Sainsburys Local already has a store on Grampian Drive, over a kilometre to the north and consider that this demonstrates the very localised range of these size and style of shops.
75. The applicant further comments that the Sainsburys Local is intended to occupy the largest floorspace of the retail units and therefore operate as the anchor store for the neighbourhood centre. In this way, the proposed operators of the adjacent units are attracted to the development as they will benefit from the attraction of local top up shoppers. Cooplands Bakery currently occupies in the town centre, but they deem the proposed development site to be far enough away to not detract from their town centre store trade, as they would benefit from the trade of local top up shoppers in the proposed development location as would other occupiers of the remaining units.
76. With reference to the hot food takeaway unit, the applicant advises that this is intended to be operated by Dominos, and would function similarly, benefiting from proximity to other retail uses as they will interact and feed off each other's customer base. Further comments are provided highlighting that the hot food takeaway unit, in particular Dominos in this case, has a preference to neighbourhood style centre locations, due to: ease of parking and its close proximity for delivery drivers and customers to collect; difficulties in ensuring suitable extraction and ventilation equipment can be installed particularly problematic within an indoor shopping centre; along with benefits of high visibility on the road frontage.
77. They conclude, that in terms of the operation and functionality of the proposed development, it needs to be located collectively rather than being disaggregated, in order to function and attract the retailers who want to trade in this area of Peterlee as, they consider, there is currently a need for a neighbourhood style convenience centre here. They consider that each of the units located adjacent to likeminded retailers seeking to serve local top-up needs would allow the development to better succeed than if it were to be located on an individual basis within the shopping centre in Peterlee.
78. In assessing the case put forward, the LPA considers that the nature and size of the development, in particular the size of the individual units, would equate to a neighbourhood style centre and that there is commercial merit to the various retailers/operators being located adjacent to each other as part of a group to provide for the needs associated with the local adjacent residents. It is accepted that the top up nature of the trade to be provided at this site would attract customers for differing reasons than those visiting the town centre and as such the proposed scheme of this size operating as a neighbourhood style centre would perform a more local function that is not expected to detract to any significant extent from Peterlee town centre (further discussion on impact in paragraphs 84-89 below) nor would it be considered to function within a local capacity disaggregated within the town centre. Officers therefore agree that the future viability of the scheme in operational and functional terms requires that the development is not disaggregated, to allow the individual units

to benefit from co-dependency and shared customer base that can be achieved collectively as part of a neighbourhood style centre in this location.

79. In consideration of the objection from Praxis particularly in relation to disaggregation, whilst it is noted PPG guidance advises that consideration should be given to flexibility in terms of the format and scale of the development, it is of further note that there is no specific planning requirement in policy or guidance that requires such schemes to demonstrate ability or not to disaggregate. With regards to this, it is useful to take into account numerous appeal decisions that have considered this specific issue. In recommending that the Secretary of State grant planning permission for a retail development at Rushden Lakes, Northants in 2014, a Planning Inspector found that with regards to disaggregation:
80. 'There is no longer any such requirements stated in the NPPF...Had the Government intended to retain disaggregation as a requirement it would and should have explicitly stated this in the NPPF. If it had been intended to carry on with the requirement, then all that would have been required is the addition of the word "disaggregation" at the end of the NPPF'
81. Whilst this appeal decision references a version of the NPPF that has since been revised, the revised NPPF does not provide any additional policy clarification which impacts on the relevance of the above interpretation. The general thrust of relevant paragraphs within the NPPF remain unchanged, and crucially continues to make no specific reference to disaggregation.
82. This issue was also further considered in an appeal at Tollgate Village, Colchester in 2017, where it was found that the NPPF requirement is for the sequential test to 'demonstrate flexibility', and that although in some cases – particularly where proposed developments are large, phased, open-ended and have no identified operators, that this may amount to disaggregation. However it was also found that it does not follow that disaggregation is always required in order to demonstrate flexibility, and that alternative sites, in order to be considered as suitable, should be capable of accommodating development which is recognisably closely similar to what is proposed.
83. As a result, whilst it is considered that there is no specific requirement set out in case law or policy that the applicant should consider disaggregating elements of the proposal in order that it can fit on alternative sites, the LPA consider in this case, with vacancies within Peterlee town centre and to ensure a robust sequential assessment, there is merit in considering the scheme in a disaggregated form in the context of the PPG requirement for flexibility. However, given the case put forward by the applicant as to the intended operation and functionality of the development and the wording of policy and case law, it is not considered reasonable that the scheme be disaggregated in this case. The sequential test is deemed to be passed.

#### *Impact Test/Assessment*

84. Para 90 of the NPPF advises that retail schemes which are outside of town centres and not in accordance with an up-to-date Local Plan should be accompanied by an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500sqm). Policy 9 of the CDP specifies that proposals for retail in excess of 1,500 sqm (gross) convenience floorspace or 1,000 sqm (gross) comparison floorspace, proposed outside of a defined centre, and that could impact on a Sub Regional, Large Town or District Centre, will be required to provide an impact assessment in accordance with

the guidance within the NPPF and the PPG. Where there could be an impact on a Small Town or Local Centre the threshold reduces to 400 sqm (gross).

85. The applicant has submitted a Retail Impact Assessment in support of the application to comply with relevant policy. In their assessment and based on the floorspace of this scheme (circa 1,210 sqm) it is noted that the scheme falls below this threshold for convenience floorspace. It would be above the threshold for comparison floorspace in respect of a large town (Peterlee), however, the applicant has set out at para 1.2 of 'Retail Impact Assessment' that as Policy 9 refers specifically to retail uses (Use Class E), the proposed hot food takeaway unit and the tanning shop unit, which amount to 250sqm should be excluded from this Retail Impact Assessment as they are both within the 'Sui Generis Use Class'. This would take the remaining 4 units under the 1,000 sqm threshold meaning the impact on Peterlee town centre would not require assessing. The LPA note the stance which has been adopted and do not contest it, and do not consider that an assessment of the impact can be insisted upon. Paragraph 6.8 of the Planning Statement advises that the applicant *"is willing to accept a planning condition which limits comparison floorspace to below 1,000 sqm"* in these circumstances. In addition to this, it is considered that should this scheme be approved, the 2 units that are proposed as non-retail uses (sui generis) should be conditioned so that they cannot change to retail, thus negatively impacting on Peterlee town centre.
86. The proposal is above the threshold (both convenience and comparison) for a local centre (Shotton Colliery). Within the Retail Impact Assessment, analysis of the impact of this centre is set out within Section 6, with analysis of the turnover of the proposed development contained within Section 5. It is concluded *"that Shotton Local Centre services an important role as a convenience centre which serves day-to day shopping and top up shopping. Whilst the proposals may divert some convenience trade from users which live to the east of the A19, it is considered that Shotton will maintain its role and will continue to be a healthy centre. There are a number of other stores within the catchment area which also serve a top-up shopping role and it is considered that the store will also divert some trade from these stores"*. In respect of comparison goods it goes on to state *"Shotton is not a centre with comparison uses and therefore the proposals will not divert any comparison trade from the centre"*.
87. Taking account of the above, the applicant's impact assessment is accepted and no unacceptable impacts upon the town or local centres are identified.

#### *Summary in relation to retail impacts*

88. In conclusion and having assessed the various reports submitted with the scheme, it is accepted that both the tests required in the Sequential Impact Assessment and Retail Impact Assessment have been suitably undertaken in line with NPPF, PPG and Policy 9 of the CDP requirements. Acknowledgement is given to the numerous objections received from neighbouring residents, alongside the objection from Praxis, where concerns were raised that the proposals would negatively impact on the town centre and that there should be a town centre first approach applied to the scheme. In undertaking the sequential assessment, a town centre first approach has been applied. However, the findings indicate that there are no suitable and available sequentially preferable locations, and on this basis, the sequential test is deemed to be passed. In addition, the proposals are not anticipated to have a significant adverse impact on the nearest local centre as demonstrated in the Retail Impact assessment and is deemed satisfactory.



89. However, and as noted within the PPG, compliance with the sequential and impact tests does not guarantee that permission will be granted – all material considerations will need to be considered in reaching a final decision on the scheme.

*Sui Generis Units - Hot Food Takeaway and Tanning Salon*

90. Policy 30 within the CDP relates to hot food takeaways. This policy states that in order to promote healthy lifestyles in young people, proposals for hot food takeaways outside of defined centres but within 400 metres of an entry point of an existing or proposed school or further education college will not be permitted.
91. In assessing the current scheme it is noted that Shotton Hall Academy is in close proximity to the site with the nearest pedestrian entrance point to the school site just under 400 metres away. Whilst some early discussion took place seeking removal of the take away element on this basis, noting identified impacts of such units on negative health impacts on young people, it is acknowledged that the policy applies to standalone hot food takeaway units and not for units forming part of a larger mixed use scheme, as noted within the supporting text (para. 5.316) relating to this policy in the CDP. As this proposal relates to a hot food takeaway unit as part of a larger mixed use scheme, the policy cannot be applied.
92. Objections are noted in relation to the inclusion of the hot food takeaway and tanning salon as part of the scheme with specific concerns raised with regards the negative health impacts of both of these uses, however, although a specific policy relates to the hot food takeaway, which is ineffectual in this case, there is no such specific policy relating to restrictions on tanning salons. The appropriateness or not of such a use in this location will fall to be assessed in association with the suitability of the development as a whole in line with policy 9, already discussed above, and policy 6 as assessed below.

*Policy 6 assessment*

93. Within defined settlement areas, Policy 6 is permissive of development subject to it according with the following criteria:
- a) Being compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land

The site has operated in commercial use for some time, ceasing operations in 2020, but has been recognised as an established site for commercial use. Surrounding the site on three sides are residential properties, with Passfield Way running along its northern boundary. The proposals seek to introduce new commercial activities within the site which individually would be of a small scale and intended to provide local services to the area. Such uses, particularly of this size and scale, are not uncommon next to and within residential estates and as such, are deemed to be compatible in principle. However, further discussion on this aspect and impact on nearest residents will be assessed later in the report, noting in particular that a number of objections have been received raising concern over noise and disturbance. These issues will be discussed in more detail in the relevant section below.

- b) Not contributing to coalescence with neighbouring settlements;

No conflict with this criteria.

c) Not resulting in the loss of open land with recreational, ecological or heritage value or that contributes to the character of the locality which cannot be adequately mitigated or compensated for.

The site consists largely of a hardstanding fore court, with large parking area and a disused car showroom building. Its redevelopment would be considered an improvement to the area. Further details on impact on character of the area discussed in relevant section below.

d) Being appropriate in terms of scale, design, layout and location to the character function, form and setting of the settlement

This is discussed in relevant section below, but in general the proposals do not raise concerns in this regard.

e) Not being prejudicial to highway safety or have a severe residual cumulative impact on network capacity

Discussed in relevant section below on highway safety.

f) Having good access by sustainable modes of transport to relevant services and facilities and reflecting the size of the settlement and the level of service provision within that settlement,

The site is well located within the settlement, next to residential areas and ready walking and cycling access can be gained to the site. Regular buses also pass near the site along Durham Way. The proposals would accord with this criteria.

g) Not resulting in the loss of a settlement's valued facilities or services.

There is no conflict with this criteria.

h) Minimising vulnerability and providing resilience to impacts arising from climate change, including but not limited to flooding,

Further details on this are provided in relevant sections below, relating to sustainability and drainage.

i) Making as much use as possible of previously developed land; and

j) Where appropriate reflecting priorities for urban regeneration.

It is recognised that the proposal would utilise brownfield land and present an opportunity for its regeneration, in accordance with these criteria.

94. Subject to further detailed discussion in relation to parts a), d), e) and h) in relevant sections below, the proposals are broadly compliant with policy 6.

#### Impact on the Character and Appearance of the Area

95. CDP 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 and townscape features, helping to create and reinforce locally distinctive and sustainable communities.

96. Criterion d) of CDP Policy 6 requires development on unallocated sites to be appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.
97. Part 12 of the NPPF also seeks to promote good design, specifically stating within Paragraph 130 that planning decisions should aim to ensure developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and the surrounding built environment and landscape setting, and establish or maintain a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
98. Some objections have been received stating the proposals would bring down the area and would be an overdevelopment of the site, with issues raised over the loss of trees.
99. The site is currently not in use and contains a large vacant car showroom building surrounded by a large expansive hardstanding area. At present the site has very limited visual merit.
100. The proposals intend that the existing car show room building be largely retained, with the western element removed to allow creation of a new retail frontage along the west elevation of the building. A proposed purpose built 3-unit retail block would be set well within the site, running along the rear / south boundary and would have a mono pitched roof. The scale and massing of these buildings and their layout on site is considered appropriate, with the main building already long established on site and maintaining this presence. Some minor amends would be made to the northern elevation overlooking Passfield Way by means of providing a high level window to provide some animation on this side. The frontages of the retail units facing west and north would all benefit from large full height glazed shop fronts, surrounded by king space wall panels, that would help break up the elevations and define each individual unit.
101. In general, the two buildings would be largely functional in appearance but there is a uniformity and simplicity in the style and design and they would be clearly legible in terms of their accessibility and purpose. In addition areas for signage are well located over each unit noting that each new sign would be subject to a separate advert consent. Any permission would be subject to a condition for details of materials to be agreed. In addition further details on any fencing or enclosures and bins would also be required for agreement prior to their installation.
102. As currently exists, the units would be surrounded by large areas of hardstanding, used for parking, and footways connecting the shopping units. To make way for services to the rear of the existing unit, two trees would be removed, but there is no objection to this, being specimens of limited value. The hedgerow running along the south boundary would be retained and maintained on site. A landscape scheme was submitted identifying replacement tree planting, which would be acceptable, however, a condition will be required for details of planting and maintenance, with a further condition applied for implementation of the scheme.
103. Overall although quite utilitarian in appearance, the scale and massing of the development and general design is considered acceptable in this location. Subject to conditions, the proposals are considered to adhere to policies 6 and 29 of the CDP and Parts 12 of the NPPF.

Impacts on Residential Amenity

104. Policy 29 of the CDP requires that all development achieves well designed buildings and places having regard to supplementary planning documents and as part of criteria e), provides high standards of amenity and privacy, and minimises the impact of development upon the occupants or existing adjacent and nearby properties.
105. Policy 31 states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities. The proposal will also need to demonstrate that future occupiers of the proposed development will have acceptable living or working conditions. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance, or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated whilst ensuring that any existing business and / or community facilities do not have any unreasonable restrictions placed upon them as a result.
106. There are a number of sensitive receptors in proximity to the site, namely residential development along Corby Grove to the east and south and Donerston Grove to the west.
107. The current site arrangements comprise the existing building running along the east boundary, adjacent to gable end of no. 26 Corby Grove, set at a distance of 20 metres. The east elevation of this building would face towards this property, and would represent the service area, partly external and partly covered and contained within the building. The appearance of the building would not be significantly altered, with works to make good masonry. This side of the building has already operated as a service area associated with the car showroom garage site. An existing palisade fence runs along the east boundary followed by a grass verge on either side of a public adopted footway before reaching the garden boundary of this property some 16 metres away.
108. South of this unit, the existing hardstanding area formerly used for parking of cars associated with the car showroom, would now include an access to the service area for delivery vans, along with 9 general parking spaces central within this part of the site. In addition 8 EV charging bays would run along the south boundary of the site. The proposed service area access strip would be approximately 16 metres from the gable end of no. 25 Corby Way, whilst the EV parking bays would be located adjacent to the existing hedge that abuts the rear boundary garden fence of nos. 18 and 19 Corby Grove, at a distance of at least 22 metres from the rear elevation of these properties.
109. The new build unit would run east-west along the south boundary adjacent to the rear garden boundaries of nos. 16 and 17 Corby Grove, at a distance of a minimum of 21 metres from the rear elevation of these properties. This new build would be mono pitched, measuring 3.6 metres height to the rear, rising to approximately 4.5 metres to the front. The rear elevation would consist of a single rear service door to each of the units, but given the narrowness of the rear passage to the back of this unit and the existing hedgerow, the rear section of the building is not anticipated to be in regular use.
110. No. 17 Donerston Grove is located adjacent to the south west corner of the application site. The blank elevation of the new build unit will be approximately 12 metres north east of this dwelling. However given the height of the building as a small single storey block and its location away from direct outlook of this property it is not considered there would be a significant adverse impact on visual amenities or outlook for this property.

111. No. 18 and 19 Donerston Grove would overlook more directly the blank gable end of the new building, but this would be at a distance of some 22 metres, with intervening rear garden fence and hedge planting.
112. Remaining properties along Donerston Grove, nos 20-24 would have their rear garden boundary fence adjacent to the small section of adopted highway that leads from Passfield Way into the parking area of the proposed development. Distances from the rear of these properties to the edge of this carriageway are a minimum of 20 metres up to over 25 metres away.
113. Overall in visual terms, the scale and massing of the development is considered acceptable and would not be considered to create any new overbearing impacts, visual intrusion or loss of privacy to established residents in the area.
114. In terms of activities, it is acknowledged that the proposed new uses on site would create a greater intensity of use at this location than previously existed, with six different units available for a variety of purchases and services, open 7 days a week. However, it is understood, although vacant for the last three years, the previous commercial use extended across the whole site and itself consisted of various activities associated with its use, both indoor and outdoor, including car deliveries, visiting customers, car movements along with car maintenance.
115. The majority of objections received in relation to the current scheme raised concern that the proposals would increase noise and disturbance and negatively impact on their amenity. There were concerns raised that the proposals would introduce anti social behaviour and the site would become a haven for drug use and underage drinking. Issues were raised over the likely impact of increased litter and attraction of vermin. Neighbours nearest to the site were concerned over the noise associated with delivery vans and users of the car park nearest their gardens and the impacts of closing and opening of car doors.
116. In consideration of the site, the orientation and location of the buildings on site is such that frontages are located along the western and northern elevations, overlooking the parking area central to the site and located at a reasonable distance from nearest residential areas. The buildings themselves would offer a buffer to those dwellings to the east and south from activities taking place. The service areas to the rear of the buildings are not intended to be accessible to the general public and would be used infrequently relative to the main shop entrances. The service access, parking area and EV charging area to the south east of the site would bring activity adjacent to rear garden boundaries to closest residents at Corby Grove. However this parking area is more secluded, accounting for 9 standard spaces as opposed to 46 within the site frontage, along with 8 EV parking spaces, and it is anticipated that this area of parking would not be used to the same extent as spaces to the front of the units.
117. Dwellings along Donerston Grove would be more exposed to activities, but the nearest properties, no. 17 would overlook the rear elevation of unit 6, whilst nos. 18, 19 and 20 would overlook the side end gable elevation of unit 6 at a distance of some 23 metres from the rear elevation of the property or 13 metres from the rear garden fence. Although a close relationship from the rear garden boundary, the majority of activity associated with the site would be further east from these boundaries. Property nos. 21-24 are located at a further distance from main activities at the shop frontage etc, measuring approximately over 30 metres from rear garden boundaries.
118. It should be noted that the CDP does not contain specific guidance on appropriate separation distances between these uses, therefore a judgement has to be made on whether the arrangements would be acceptable or not in terms of impact upon

amenity. In general, from assessing the distances involved and the location, type and small scale of proposed activities on site, it is considered that the proposals would not be deemed to detrimentally impact on residential amenity to an unacceptable degree, particularly given the site has had a previous commercial use and could be brought back into that use without the need for any planning permission.

119. The application was submitted with a detailed noise impact assessment that undertook an initial survey to determine background noise levels over a weekend period when residual noise levels are lower. Background noise was largely associated with distant road traffic noise associated with roads to the north and west of the site. Anticipated noise levels associated with deliveries for the Sainsburys unit and the Cooplands were provided based on a noise assessment from a similar scheme. Sound power data for the external plant for Sainsburys and the proposed Dominos unit were also provided, taking into account silencers that would be applied to any plant. Further modelling was undertaken in relation to the car park area, taking into account anticipated trips at a Saturday peak hour, worst case scenario.
120. In concluding the assessment, noise from deliveries and external plant during the daytime period was deemed to be low in terms of impacts on closest receptors, when assessed against the measured background noise level on a Sunday as the quietest time. Noise associated with the external plant over the night time period was considered negligible. In relation to deliveries associated with the Cooplands unit between 6-7am, impacts were considered low, when measured against background noise levels on a Sunday.
121. In terms of the car park noise assessment, the results indicated the impact likely to be at worst 'moderate' in the short term and minor in the long term for all receptors. This is based on measuring the baseline on a Sunday against the highest peak use on a Saturday. The assessment goes on to point out that the noise associated with the car park use would not be much different to existing dominance of road traffic noise in the locality and would therefore be less noticeable at the receptor location due to the character of the noise. Taking into account these factors, the report concludes car park noise would be 'minor' at worst during peak use, with majority of the time having a 'negligible' impact.
122. In relation to the hot food take away use, policy 30 states that where such a proposed use is considered locationally acceptable, consideration will need to be given to the impact that the development would have in terms of amenity, particularly in relation to noise and odours. Where it is considered that the proposal would give rise to unacceptable impact, the application should be refused.
123. A separate kitchen ventilation and extraction document was provided to address issues associated with odour and noise for the hot food takeaway.
124. The Council's Environmental Health Section has commented on the scheme noting the details contained within the noise impact assessment and the separate extraction document. They agreed with the methodology undertaken in the reports, with the findings associated with the assessments deemed to be within appropriate parameters. They were satisfied that the measures provided within the noise impact assessment would suitably mitigate noise impact from the development and road traffic. To ensure compliance with the Technical Advice Notes, a number of conditions are deemed appropriate to be included with any permission, and these would relate to: the hot food takeaway unit operating wholly in line with the submitted extraction document; further details to be submitted prior to use of any unit for the cooking of foods to demonstrate accordance with relevant guidance on the control of odours and

noise; all machinery and plant to not exceed set noise thresholds; and limits on hours of opening and hours of deliveries.

125. A separate service and delivery plan condition would also be applied seeking details on routing within the site and ensure noise impacts are limited during operations on site. A further condition is deemed required in relation to a car park management plan, seeking details on hours of use and general management of parking on the site.
126. In order to limit the potential disturbance for existing residents during the demolition and construction phase, Environmental Health Officers recommend that a construction management plan is secured to deal with construction related impacts. A separate condition is also proposed to control the hours of construction work. Subject to the imposition of such conditions construction related impacts could be adequately managed and mitigated.
127. With regard to air quality, the application is accompanied by an Air Quality Assessment which finds that the impact of the development upon air quality during the construction phase and once occupied, would not lead to an exceedance of AQ objectives. Measures to address nuisance dust during the construction phase would be included as part of the Construction Management Plan which is to be conditioned as mentioned above.
128. In relation to concerns raised by residents relating to crime and anti social behaviour, the Police Architectural Liaison Officer was consulted for their views and advice on the scheme. They raised no objections to the proposals and did not highlight concerns with regards anti social behaviour. They provided some guidelines in relation to safety by design which were adopted as part of the scheme. Although the concerns are noted, in light of comments from the Police it is not considered that the proposal would be likely to result in crime or antisocial behaviour and accordingly, this would not be a sustainable ground for refusal.
129. Subject to the conditions noted above, the proposals are considered to appropriately accord with policies relating to protection of amenities for neighbouring properties in line with policies 29 and 31 of the CDP, and Part 12 of the NPPF.

## Sustainable Design

130. Policy 29 requires that proposals minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation, where possible.
131. This policy was devised prior to upgrades to Part L of the Building Regulations, which came into effect in 2022, and seeks to improve energy efficiency of buildings. It is noted that Part L would not directly apply to any buildings subject to a change of use, but would apply to any new structures.
132. Whilst it is accepted that Part L does provide a beneficial upgrade in sustainability credentials of buildings, policy 29 is not limited to the requirements set out in this Part. The applicant was requested to provide details of additional measures to improve the energy efficiency of its buildings, and whilst it is acknowledged, there are significant benefits to the reuse of an existing building and improvements to its insulation, further measures were requested. The applicant has confirmed that they would seek to install air source heat pumps to all units as their heating source, with the exception of the hot food takeaway which requires the installation of gas in this case. This is considered acceptable in line with policy 29 in this regard.

133. CDP Policy 6 requires that development should not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.
134. CDP Policy 21 states that the transport implications of development must be addressed as part of any planning application, and where relevant this could include through Transport Assessments / Transport Statements. In addition development should: c) ensure that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestion or air pollution and that severe congestion can be overcome by appropriate transport improvements.
135. In relation to parking policy 21 states that cycle parking or secure cycle storage should be provided to facilitate increased cycle ownership and use; car parking at destinations should be limited to encourage the use of sustainable modes of transport, having regard to the accessibility of the development by walking, cycling, and public transport; and appropriate provision for electric vehicle charging, including charge points and laying of cables, should be made on non-residential development where parking is provided.
136. NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
137. The proposals would be accessed through the existing access to the north off Passfield Way, and utilise the existing adopted highway road connection into the site adjacent to the north elevation of the new build retail unit to the south of the site. Provision would be made for approximately 55 spaces, along with 5 accessibility spaces and 8 EV charging spaces. Cycle parking for 20 cycles would be provided within three separate locations across the site.
138. A transport statement was submitted in support of the application providing an assessment on existing conditions on the local highway network and an assessment of future traffic generation resulting from the development, among other things. National Highways were consulted for their views on the scheme, given the close proximity of the development to an access / egress point to and from the south bound carriageway of the A19 some 200 metres west from the access point of the development. Further information was requested to back up some of the comments provided within the statement. Upon receipt, National Highways reassessed the details and although not entirely satisfied with the data and evidence provided, conceded that there would not be a severe impact at the merge / diverge junction to warrant a cost effective mitigation scheme, noting however, that insufficient evidence was provided to demonstrate that the development would not have an impact upon the Strategic Road Network. However they removed their objection due to the scale and nature of the development.
139. The Highways Authority also assessed the details of the scheme, undertaking their own detailed analysis of speeds along Passfield Way, accident record along the road and assessment of the proximity of roundabout junctions etc, against traffic flows. Concern was raised that there was a potential for a road safety issue, given the proximity of roundabouts along Passfield Way and the anticipated increase in use of the junction into the site. The inclusion of a ghost island was therefore deemed



warranted as part of any scheme, which would consist of the use of road markings to create an additional lane to allow traffic waiting to turn right from the main road into the site, without impeding through traffic movement.

140. Following further discussions, a road safety audit was completed, including a speed survey, and submitted to the Highways Authority for consideration. Whilst they continued to have some concerns based on the information submitted, they accepted that a ghost island could not be insisted upon and that there would be insufficient grounds on which to base an objection to the scheme that could be upheld as a refusal at appeal, in line with requirements set out at Para. 111 of the NPPF.
141. Further comments provided in relation to the scheme included queries regarding the servicing of the units. Units 1 to 3 would require vehicles to reverse however there is no swept path analysis to prove safe manoeuvring of articulated HGVs and it was noted that Appendix B of the Transport Statement only provide for a rigid HGV. The highways authority consider there is a high likelihood that a major retail outlet (Sainsburys) is likely to occupy a main unit and is most likely to utilise articulated vehicles on the basis that the use of articulated wagons is logistically cost effective for larger retailers. It is noted however that the applicant in subsequent correspondence confirmed that articulated HGVs would not be used for deliveries. Nonetheless, further concern was raised with regards the servicing of units 4-6 as limited service area existed at this point, necessitating servicing from the front and potentially introducing a conflict with the public and users of the site. It was accepted however, that a condition for a service management plan could be applied to secure these details, including size of delivery vans, as part of any approval, being agreed prior to occupation of any unit.
142. A further condition was also requested in relation submission of a construction management plan to include but not limited to, details of the routing of delivery vehicles, delivery times, the control of deliveries to avoid peak periods, the protection of the public during site works, avoidance of mud and detritus being deposited on the public highway, highway works traffic management etc.
143. Details of parking for vehicles and cycles were deemed acceptable, although covered cycle shelters would be required and a further condition will be applied seeking these details.
144. Based on the above assessment, and whilst noting residents' concerns over impact of traffic, it is considered that the extent of development proposed would not be expected to create significant impacts on the highway network and it is accepted, following further studies, that suitable and safe access to the site can be achieved with appropriate levels of parking provided. The NPPF states that development should only be refused on highways grounds where there would be an unacceptable impact on highway safety, or the residual cumulative impact would be severe. In this case, the Highways Authority consider that the proposals would not have an unacceptable impact and a refusal on highways grounds would not be warranted. Overall, the highways impacts of the development are considered to be acceptable and in accordance with policy 6 and 21 of the CDP and Part 9 of the NPPF.

## Ecology

145. Part 15 of the NPPF requires that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. CDP Policy 41 seeks to ensure new development minimises impacts on biodiversity by retaining and enhancing existing diversity assets and features. Proposals for new development should not be supported where it would result in significant harm to biodiversity or

geodiversity. Policies 29 and 40 of the CDP similarly seek to protect and create opportunities for wildlife.

146. Ecology section were consulted for their views on the proposals and commented that the site have very limited ecological value, noting in particular that the building was low risk for bats. By way of enhancement it has been requested that integrated bat roost units and bird breeding units be installed in each building as an ecological benefit and as required by the NPPF. A condition will be applied seeking the specific details of these features and their location within the site.
147. Subject to this condition, Ecology section raise no objections to the proposals in line with relevant policy.

#### Flooding and Surface Water

148. 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.
149. 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.
150. Durham County Council's Drainage and Coastal Protection Team act as the Local Lead Flood Authority (LLFA) and have assessed the various plans and information submitted in support of the scheme. Throughout the planning process amendments have been sought accompanied by plans to demonstrate appropriate management of surface water across the site. The latest drainage strategy, received 19 July 2023, is considered to cover sufficient detail to ensure proposals would accord with relevant policies 35 and 36, during construction phase and the life of the development. Any approval would be subject to a condition to adhere to the details contained within the plan.

#### Other issues

151. Policy 27 of the CDP requires new commercial development to be served by a high-speed broadband connection unless it can be demonstrated that this is not appropriate. The development would be located in a well established settlement location characterised by both residential and school development. Similar, requirement in terms of broadband connectivity and broadband connectivity would be delivered in this wider context. As such it does not appear that there any significant constraints to delivering the connectivity in accordance with the requirements of policy 27 and the applicant has confirmed that appropriate ducting would be provided as part of the scheme. Based on this the development is considered to accord with the aims of policy 27 of the CDP.
152. Policy 32 of the CDP requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 of the NPPF requires sites to

be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.

153. Contaminated land section assessed the details of the proposals and various reports submitted in support of the scheme. They were satisfied with information provided but require a condition for a 3 report and phase 4 verification report to be included on any approval granted.

#### Objections received

154. The application has elicited a lot of public interest, with numerous various concerns raised from nearest residents as well as an objection from the Praxis group associated with the shopping centre at Peterlee town centre. Many of the concerns raised have been addressed within the report but there remain some outstanding points for consideration.
155. A number of points were raised with regards whether there was a need for these proposals. There is no policy requirement for an applicant to demonstrate need in these circumstances.
156. Further concern was raised over the extent of consultation undertaken by the applicant prior to the development. In general there is no requirement for applicants to undertake their own consultations particularly for a scale of development such as this. As part of the planning application process, a formal consultation was undertaken by the local planning authority, including a site notice and neighbour notification letters. Any consultation exercise undertaken by the applicant was therefore on a voluntary basis.
157. Issues were raised over the website set up by the developers promoting the development and making it easy for people to submit their comments of support. It was further noted that the letters of support came from a distance away and were largely identical and concern was raised over the weight that would be given to this over concerns raised by nearby residents. Weight is afforded to representations based upon the materiality of the issues raised rather than the identity of the person making the representation or where they reside. Details of the letters of support have been summarised within the relevant section of the report and have been afforded weight, where material, Equally, the various concerns and issues raised by nearest residents have been given detailed consideration in the report and afforded appropriate weight, where material.

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## **CONCLUSION**

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158. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up to date development plan without delay (paragraph 11 c).
159. The proposal relates to the development of a former commercial site within the settlement of Peterlee to create six commercial units, outside of the designated town centre area. The principle of the development has been assessed against relevant retail policies within the CDP and NPPF, with the conclusions of the sequential assessment and impact assessment accepted. The principle of the development on

this basis and in line with other relevant policies was therefore considered acceptable in accordance with policy 6, 9 and 30 of the CDP and Part 7 of the NPPF.

160. Detailed consideration was given to the impacts on residential amenity and highway safety, with appropriate detailed submissions including the noise assessment and transport statement and road safety audits. The details were considered acceptable and subject to suitably worded conditions, residential amenity would be considered to be suitably protected in line with policy 29 and 31 of the CDP and parts 12 and 15 of the NPPF. The proposals would not be considered to create significant highway safety concerns and the scheme would not warrant a refusal in line with para. 111 of the NPPF. The proposals accord with policy 6 and 21 of the CDP and Part 9 of the NPPF in this regard.
161. Impacts in terms of the amenity of the area, drainage, sustainable design, ecology and contaminated land are considered acceptable in line with policy 29, 32, 35, 36, 40, 41 and 42 of the CDP and parts 8, 12, 14 and 15 of the NPPF.
162. The proposal has generated substantial public interest, however whilst the objection and concerns raised have been taken into account, they would not warrant a refusal in this case for the reasons detailed in this report. On balance, it is therefore considered that the proposals are acceptable and the application is recommended for approval.

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## RECOMMENDATION

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

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

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

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

Plan	Drawing No.	Date Received
Location plan	2141 PL 100	30/09/22
Tree protection I na - red line/broken red line is position of protective fencing	7.5	30/09/22
II. Protective fencing details		30/09/22
Proposed site plan - external works plan	2141 P 801 (B)	06/09/23
Proposed site layout	2141 PL 102J	06/09/23
Unit 1-3 - G.A. ground floor plan	2141 PL 110C	06/09/23
Unit 1-3 - G.A. roof plan	2141 PL 111C	06/09/23
Unit 1-3 - proposed G.A. elevations sheet 1	2141 PL 112D	06/09/23
Unit 1-3 - proposed G.A. elevations sheet 2	2141 PL 113D	06/09/23
Unit 4-6 - G.A. ground floor and roof plan	2141 PL 115E	06/09/23
Unit 4-6 - proposed G.A. elevations	2141 PL 117G	06/09/23
Proposed Drainage Strategy	RP C 0001 REV D	19/07/23

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 6, 9, 29, 30, 31, 32, 35, 36 and 40 of the County Durham Plan and Parts 7, 9, 12, 14 and 15 of the National Planning Policy Framework.

3. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
  - 1.A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  - 2.Details of methods and means of noise reduction/suppression.
  - 3.Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  - 4.Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
  - 5.Designation, layout and design of construction access and egress points.
  - 6.Details for the provision of directional signage (on and off site).
  - 7.Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
  - 8.Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
  - 9.Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
  - 10.Routing agreements for construction traffic.
  11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  - 12.Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
  13. Management measures for the control of pest species as a result of demolition and/or construction works.
  - 14.Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

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

4. No development shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 3 remediation strategy 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.

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

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

6. No part of the development shall be brought into use until such time as a scheme for the management of servicing and deliveries, to and from the units has been submitted to and approved in writing by the local planning authority. The scheme shall include measures to limit conflict between service vehicles and customers visiting the site during the delivery and servicing activity associated with the units, details on delivery vehicles, as well as limit noise impacts. Deliveries and servicing for the units shall thereafter be adhered to in accordance with the approved details for the lifetime of the development.

Reason: in the interests of highway safety and to protect residential amenity of existing residents from the development to comply with policy 21, 29 and 31 of the County Durham Plan and Part 12 and 15 of the NPPF.

7. No unit shall be occupied until a car park management plan has been submitted to and approved in writing by the Local Planning Authority. The management plan should detail hours of use, management of parking during opening hours and management of the site when the units are closed and not in operation. Thereafter the approved Car Park Management Plan shall be adhered to for the lifetime of the development.

Reason: in the interests of highway safety and to protect residential amenity of existing residents from the development to comply with policy 21, 29 and 31 of the County Durham Plan and Part 12 and 15 of the NPPF.

8. Details of any external lighting shall be submitted to and approved in writing by the Local planning authority prior to the development hereby permitted being brought into use. The detail provided must be sufficient to demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting shall be erected

and maintained in accordance with the approved details to minimise light spillage and glare outside the designated area.

Reason: In the interest of the amenity of existing surrounding residents and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

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

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

10. The development hereby approved shall not be occupied until details of all cycle storage compliant with the Council's Parking and Accessibility Standards, has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed detail and the approved provision shall be retained for the storage of cycles at all times for the duration of the use hereby approved.

Reason: To encourage sustainable transport modes of travel in accordance with policy 21 of the County Durham Plan and Part 9 of the NPPF.

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

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

12. Within 3 months of commencement of development a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

Trees, hedges and shrubs scheduled for retention.

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

Details of planting procedures or specification.

Finished topsoil levels and depths.

Seeded or turf areas, habitat creation areas and details etc.

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

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

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

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

- 13 Within one month of commencement of development precise details of the integrated bat and bird boxes along with an elevation plan indicating their precise location on the buildings hereby approved, shall have been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details prior to first occupation.

Reason: In the interests of ensuring the delivery of Biodiversity Net Gain enhancement in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

14. Before any unit hereby approved is brought into operation the approved on site cycle parking facilities and car parking spaces shall be made available for use.

Reason: In order to ensure the provision of safe access for users of the highways in accordance with Policy 21 of the County Durham Plan and Part 9 of the NPPF.

15. In relation to the hot food takeaway unit at no. 4, all noise and odour attenuation measures detailed in the 'KITCHEN VENTILATION - SPECIFICATION INFORMATION', published on the planning portal on 28 March 2023, shall be fully implemented prior to the beneficial occupation of the development and shall be operated and maintained in accordance with the detail contained within this document permanently thereafter.

Reason: In the interest of the amenity of existing surrounding residents and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

16. Notwithstanding condition 15 and excluding the hot food takeaway hereby permitted at unit 4, prior to the commencement of use of any unit involved in the cooking of foods (within the E Use Class of the Town and Country Planning (Use Classes) Order 1987 (as amended), details of the fume extraction system to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems shall be submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the use commencing and shall be operated at all times when cooking is being carried out on the premises.

Reason: In the interest of the amenity of existing surrounding residents and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

17. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed 44dB LAeq (1 hour) between 07.00-23.00 and 35dB 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 local planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.



Reason: In the interest of the amenity of existing surrounding residents and future occupants in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

18. The development hereby approved shall be carried out strictly in accordance with submitted Proposed Drainage Strategy document (ref. RP C 0001 REV D) received 19 July 2023.

Reason: To ensure that surface water is adequately disposed of and 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.

19. 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, 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 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

20. 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.

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

No tree shall be felled or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

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

22. With the exception of the bakery operation within Unit 5, the remaining commercial units hereby approved shall not be open to customers outside the hours of 0700 to 2300 on any day of the week.

Servicing of the units shall not take place outside of the hours of 0700 to 2300hrs Monday to Saturday and 0700 to 2230hrs on Sunday 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.

23. Notwithstanding condition 22, the trading and servicing hours of the bakery operation within Unit 5 shall not commence before 0600hrs and shall terminate by 2300hrs on any day of the week.

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.

24. Prior to the commencement of the hot food takeaway operation, a scheme for the management of litter associated with the premises to include additional litter bins, anti-litter signage and a litter-picking regime shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the agreed details.

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

25. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or any revocation and re-enactment of that order), comparison retail space shall be limited to 4 out of the 6 units, with the remaining two units used only as non retail units (namely a hot food takeaway use at unit 4 and a tanning salon use at unit 6, and for no other use).

Reason: In the interests of protecting viability of nearby local centres in accordance with Policies 9 of the County Durham Plan and Part 7 of the National Planning Policy Framework.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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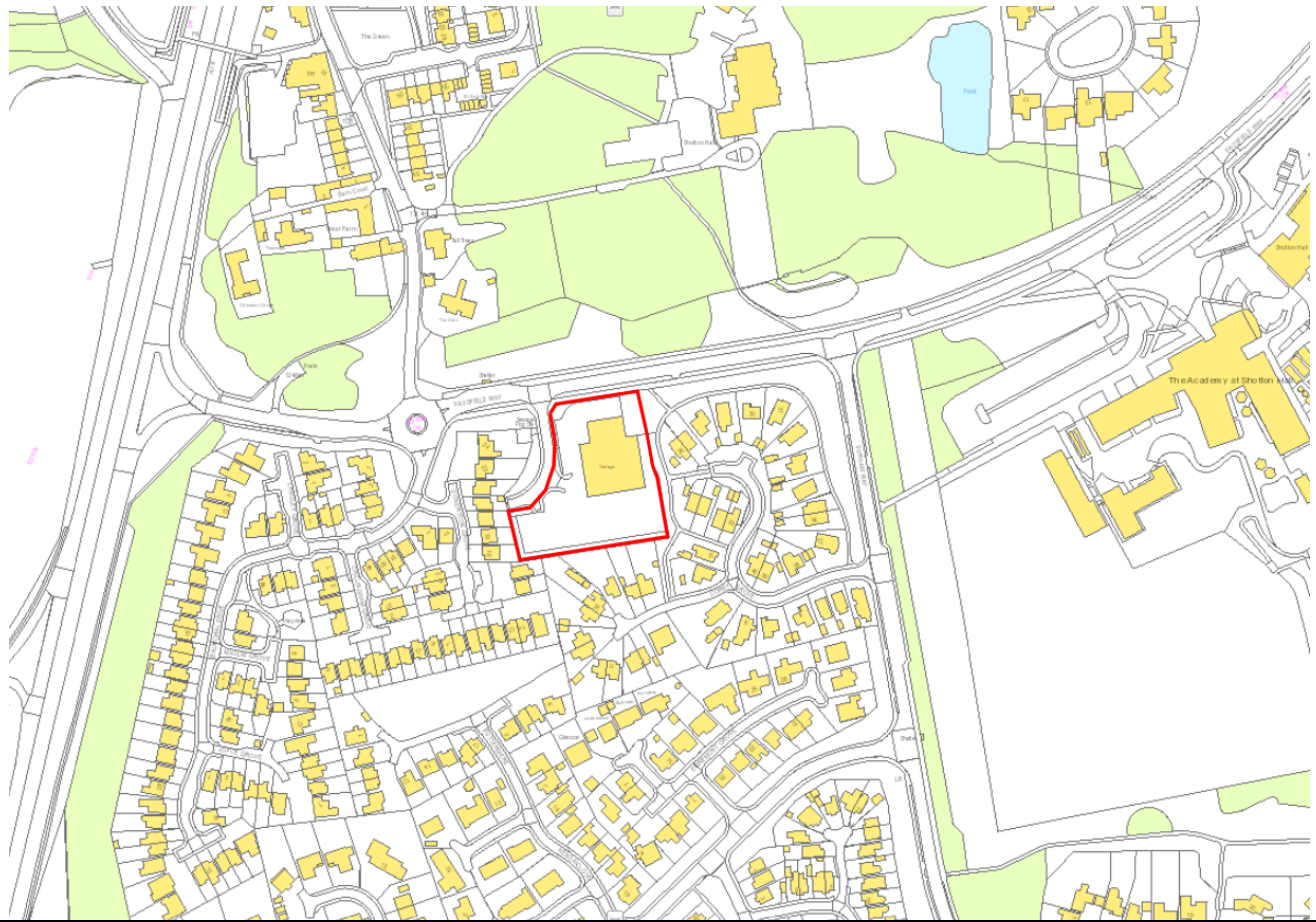
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

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## **BACKGROUND PAPERS**

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



**Planning Services**

4 retail units (Class E), a tanning shop (Sui Generis), takeaway (Sui Generis) and ATM with associated access, car parking and landscaping (amended title)  
 Land at Former Evans Halshaw, Passfield Way, Peterlee, SR8 1PX  
 Ref: DM/22/02891/FPA

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**Comments**

**Date** 10 October 2023

**Scale** Not to Scale

## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/23/00532/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Erection of 22 dwellings with associated works (amended layout).
<b>NAME OF APPLICANT:</b>	Mr Tom Winter – Believe Housing
<b>ADDRESS:</b>	Bevan Square Murton Seaham SR7 9HT
<b>ELECTORAL DIVISION:</b>	Murton
<b>CASE OFFICER:</b>	Lisa Morina Senior Planning Officer Telephone: 03000 264877 <a href="mailto:Lisa.morina@durham.gov.uk">Lisa.morina@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site

1. The application site relates to an area of open space, currently laid to grass with some areas of tree planting and is located along the northern edge of the settlement of Murton. It is classified as OSNA in the Council's Open Space Needs Assessment; however, the site is considered to be previously developed land on the basis that housing had previously been on the site. Google Earth Images show that the site was cleared sometime between 2006 - 2008.
2. Residential properties are located to the east, south and west of the proposal. These properties largely consist of two storey semi-detached dwellings, with front and rear garden spaces with a mix of both red brick and tiles and cladded/rendered properties of varying colours. An existing garage block is also in existence which is proposed to remain.
3. An area of open space sits to the north of the site which is designated as an area of high landscape value (AHLV). A small number of trees exist across the site with the majority being located to the northwest. Levels are mainly flat across the site. Pockets of amenity space are also provided in close proximity to the site which are considered to be easily accessible by pedestrians. There are no public rights of way (PROW) within the site, although there are adopted footways to the west of the site that link to informal paths heading north beyond the settlement boundary.
4. There are no designated or non-designated heritage assets within close proximity of the development site. The site is located approximately 4.8 km from the Durham

Heritage Coastline, which also contains internationally designated sites for nature conservation.

Proposal:

5. Consent is sought for the erection of 22 dwellings which are proposed as both two-storey dwellings and bungalows. The site is proposed to contain a mix of 4 x 2-bedroom bungalows, 6 x 2-bed dwellings, 10 x 3-bed dwellings and 2 x 4-bed dwellings. It is proposed that the dwellings will be constructed of red brick with a mix of light-coloured render and a mix of red and grey tiles for the roof.

A SUDs area is proposed to the north-eastern part of the site, with the existing area of open space within Bevan Square retained at the southern part of the site. The majority of dwellings are proposed to the northern part of the site, facing south and fronting Bevan Square, which replicates the layout on site prior to its clearance. A terrace of 4 bungalow dwellings would be situated on the northern part of the central green space of Bevan Square, facing north, with rear garden space on its southern elevation, next to the remaining open space. Boundary treatments at this point would consist of 1.2 metres high brick wall with piers, with 600mm close board fencing atop.

6. Three further dwellings would be located to the south-east part of the site, one detached and two semis, and these would appear as an extension to the existing dwellings which are located to the east. All properties would have vehicular access to Bevan Square, apart from the two south easterly semis, who would access the highway at Webb Avenue.
7. The application is presented to committee as it constitutes a major development.

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## **PLANNING HISTORY**

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

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

9. A revised National Planning Policy Framework (NPPF) was published in July 2023. 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.
10. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
11. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full

range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

12. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
13. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
14. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 11 Making Effective Use of Land* - Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
17. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
18. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
19. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from

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

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

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

20. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters.

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

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

##### County Durham Plan

21. 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.
22. Policy 15 (Addressing housing need) establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
23. Policy 19 (Type and mix of housing) advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes.
24. Policy 21 (Delivering sustainable transport) requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
25. 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.



26. 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.
27. 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.
28. 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.
29. 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.
30. Policy 36 (Water infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
31. Policy 39 (Landscape) states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities, unless the benefits of the development clearly outweigh its impacts.
32. Policy 40 (Trees, woodlands and hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.

33. 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.
34. 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.
35. Residential Amenity Standards SPD – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
36. Parking and Accessibility SPD – provides guidance on road widths and parking standards for new developments.

#### Neighbourhood Plan

37. 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>*

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

38. Highways – No objection subject to informatives being added.
39. Northumbrian Water – No response received.
40. Durham Constabulary – Information provided on secured by design principles.
41. NHS – No contributions are required.
42. LLFA Drainage – No objections raised.

### **INTERNAL CONSULTEE RESPONSES:**

43. Environmental Health (Contamination) – No objection, no requirement for a land contamination condition.
44. Environmental Health (Noise) – No objection subject to conditions regarding noise implications which can be controlled via pre-commencement conditions.
45. Environmental Health (Air Quality) – No objection

46. Ecology – No objection, contributions required in respect of Bio-diversity Net Gain and HRA Contributions
47. Affordable Housing – Affordable housing required to be provided and it is welcomed that 100% affordable housing is proposed.
48. Landscape – No objection in respect of policy 39.
49. Trees – Concern raised regarding loss of trees in the north-western corner of the site.
50. Policy – Advice given in respect of which policies to consider.
51. Education – No contribution required.

**PUBLIC RESPONSES:**

52. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. To date, one letter of representation has been received with the following concerns:
  - Concern regarding the loss of existing parking arrangements in front of Nos 7&8 Bevan Square and replacing it with a patch of grass. Parking has been in existence in this area since prior to 1977.
  - Consideration should be given to putting a driveway into Nos 7&8 Bevan Square.
  - Concern regarding access to the estate as it be a loop road going around Bevan Square which will be a hazard to children playing in the area. Consideration should be given to an access to the estate via Shinwell and the main road Webb Avenue.

**APPLICANT'S STATEMENT:**

53. The proposed development will provide much needed affordable housing on a site within a highly sustainable location and in accordance with planning policy will make the most effective use of sustainable land to address housing need in the area. The proposals include for 100% affordable homes which will include 4 bungalows. The affordable units will be a mix of 'Affordable Rent' and 'Rent to Buy' tenures.
54. The layout of the site provides a visually attractive development which will retain trees where possible and include landscaped areas of public open space and amenity space.
55. The proposal provides sufficient space between existing and proposed properties to ensure good amenity for both existing and proposed residents.
56. All properties include in curtilage car parking and an enclosed private garden which meets the minimum required by the adopted SPG. There is further visitor car parking spaces which are evenly dispersed across the site to reduce the possibility of indiscriminate on-street car parking.
57. The design of each property has been carefully considered to ensure the proposed development will be visually attractive and of a high quality, in keeping with the existing residential area. The layout and proposed landscaping will create a sense of place linking the new properties with the existing residential area in a sympathetic and respectful way.

58. The applicant has agreed to all requested developer contributions.
59. There are no technical consultee objections and only one letter from a neighbouring resident raising issue with parking spaces and highway layout. The layout has been revised inline with comments from the Council's Highway Team who have no objection to the proposed development.
60. The proposals represent sustainable development which will provide much needed homes within the village making the most effective use of land. The proposals accord with local and national planning policy in all regards.

*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>*

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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61. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
62. 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 (CDP) 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.
63. 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.
64. In this context, it is considered that the main planning issues in this instance are as detailed below:

### Principle of the Development

65. The site is considered to be within the built-up area of Murton however is not allocated for housing within the CDP. Policy 6 of the CDP supports development on sites which are not allocated in the Plan, but which are either within the built-up area or outside the built-up area but well related to a settlement, stating that such development will be permitted provided it is compatible with the following criteria:
66. 6a) Development should be compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land;

The site is surrounded for the most part by residential properties and as such the residential use of this site would therefore be compatible with surrounding uses, particularly the established residential uses to the south. There are no concerns that the proposed dwellings would be prejudicial to the AHLV which lies to the north given the site does not extend into this and appropriate buffer is to be retained.

67. 6b) Development does not contribute to coalescence with neighbouring settlement, would not result in ribbon development, or inappropriate backland development;

There is no concern that the site would lead to coalescence with neighbouring settlements due to it not extending beyond the northern boundary of the existing settlement. In addition, given its location and relationship to the existing built form along with the proposed layout of dwellings on site, the development would not be considered ribbon or backland development.

68. 6c) Development 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 mitigate or compensated for.

The application site does not fall within any designations for landscape or ecology value and is not within a conservation area of heritage value. The site however is considered as open space within the Council's Open Space Needs Assessment (OSNA).

69. The site has also previously been considered within the Council's Strategic Housing Land Availability Assessment (SHLAA) (5/MU/05) and was given an unsuitable (amber) classification. The assessment outcome stated:

*"This site, along with sites MU10, MU02, and MU03 are all cleared housing sites that have been grassed, generally including tree planting. They are all defined as amenity open space in the County Durham Open Space Needs Assessment but offer little real recreational or amenity value. Any one of these sites, including the former school site 5/MU 12, could reasonably be developed for housing. However, they need to be considered comprehensively in relation to landscape and open space needs of the main built-up area of Murton to the North of Church Street which is densely developed with little play space or high quality greenspace. The site is also within the 6km buffer zone of a 'Special Conservation Area' and/or a 'Special Protection Area', a European designation aimed at protecting rare and endangered birds and habitats. The Council is required in its application of the Habitats Regulations, and as the Competent Authority, to determine if an Appropriate Assessment is needed at the point when a planning application is submitted (unless the site is allocated in the future adopted County Durham Local Plan which meets the Habitats Regulations). Planning permission cannot be granted where development requiring appropriate assessment under the Birds or Habitats Directives is being considered, planned or determined."*

70. CDP Policy 26 is also of relevance and states that proposals will not be permitted that would result in the loss of open space or harm to green infrastructure assets unless the benefits of the development clearly outweigh that loss or harm and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements. Where valued open spaces or assets are affected, proposals must incorporate suitable mitigation and make appropriate provision of equivalent or greater value in a suitable location.

71. Although currently designated amenity open space within OSNA, the site is considered previously developed land given residential properties were on the site up until around 2006 – 2008. Whilst it is acknowledged that the site has been cleared for around 15 years, the open space is not considered to be of high amenity value, and its loss would not therefore, be considered of significant detriment to the area.

72. Despite the loss of existing amenity space, the site plan shows areas of public open space that would remain as part of the development. A new landscaped SUDS is

proposed at the eastern edge, along with retention of a further open space to the north-western part of the site which would connect with further open spaces to the west and north of the site. In consultation with Spatial Policy and their assessment of requirements for open space associated with the development, the extent of amenity space provided within the red line boundary would exceed provision required to be policy compliant.

73. The areas of space provided are also considered to be of sufficient size to allow these spaces to be usable, with good pedestrian access links to other open space sites within the nearby vicinity. In addition, the AHLV which sits to the north also provides further open space amenities, including a wooded area.

74. The proposal, therefore, is considered acceptable in respect of CDP Policy 26 and CDP Policy 6c as it is not considered to result in the loss of an area of land which has significant recreational value. On this basis, the proposals are considered to accord with policy 6c), and although CDP Policy 26 affords a higher degree of protection to OSNA sites, it is noted within the recent SHLAA assessment that subject to other considerations, the release of the land for housing would be reasonable. Given the extent of adjacent open space within the vicinity and the extent of open space to be retained within the development site, it is not considered that there would be significant conflict with CDP Policy 26.

75. CDP Policy 6 further states:

76. d) Development is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement

The development is considered to be acceptable in this regard with more detailed consideration contained elsewhere in this report.

77. e) Development will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;

The development is considered to be acceptable in this regard with more detailed consideration contained elsewhere in this report.

78. f) Development 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.

Murton is a large settlement with many facilities available, including local shops, pubs, school, GPs and a community centre, as well as the large retail park, Dalton Park to the south.

Measured from the most eastern point of the proposed development, the nearest primary school is the Ribbon Academy Primary school, approximately 475m away, with nearest bus stops located within 280-300m depending on whether accessing stops located to the east or west of the site. In this regard, the proposed development would be well related to necessary facilities and sustainable modes of transport, and it is therefore not considered that future occupiers at the dwellings would be solely reliant on private vehicles as a consequence.

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

The development would not result in the loss of any facilities or services. As such there is no conflict with this criteria of the policy.

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

The site is not contained within Flood Zones 2 or 3 of the Environment Agency mapping system. From assessing the Strategic Flood Risk Assessment mapping layers associated with the Local Lead Flood Authority, there are no noted flood risk areas within the application site area. There is no conflict with this part of the policy, but further consideration is provided below.

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

The site whilst currently open space has been previously developed land being cleared sometime between 2006 – 2008. The proposal is therefore considered to accord with this aspect of the policy.

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

It is not considered that criteria j is relevant in this instance.

83. On the basis of the above assessment, it is considered that the proposal would accord with the criteria set out in CDP Policy 6 and is therefore deemed acceptable in principle, subject to further considerations below.

#### Impact on Residential Amenity

84. CDP Policies 6 and 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. Part 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 Part 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.

85. 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.

86. CDP Policy 29 (Sustainable Design) requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period. Provision for major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural

surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

87. CDP Policy 29 also require that new major residential development is assessed against Building for Life Supplementary Planning Document, to achieve reductions in CO2 emissions, to be built to at least 30 dwellings per hectare subject to exceptions. All new development to achieve BREEAM minimum rating of 'very good'. It also states that all new residential development should meet Nationally Described Space Standards (NDSS).
88. The dwellings are proposed to be located within a primarily residential area with residential properties located to all sides other than the north where an area of open space is located.
89. All dwellings are required to meet with the required separation distance as outlined within the Council's Residential Amenity Standards Document and it is considered these have been met with both existing dwellings and those proposed as part of the development.
90. In respect of plots 1-3, 21m separation distances are in place between the main facing elevation of those existing dwellings to the south. These are slightly reduced with regards to single-storey off-shoots however these contain non-habitable rooms and, in most instances, do not have windows in the elevation facing these Plots.
91. Moving along the northern elevation of the site, Plot 5 faces the gable elevation of the neighbour to the south. Two small windows are in existence on this property however they are considered non habitable and therefore the separation distances are acceptable.
92. Separation distances of 20.8m will be in existence between Plots 8-9 and Plots 16-19 which whilst slightly below is considered minimal, particularly as plots 16-19 are bungalows and is therefore acceptable.
93. Plots 13-14 are sited more than 13m away from the gable elevation of the existing neighbours to the south.
94. Plots 20-22 have separation distances of just short of 21m at 20.6m which is considered acceptable and separation distances of well in excess of 21m will remain between Plots 21-22 and the existing neighbours to the east.
95. The gable elevations of Plots 16-19, which are bungalows, are located between 15.6m – 26m away from the front elevations of the existing dwellings which these properties face which exceed the minimum separation distances as set out in the Council's Residential Amenity Standards Document. Whilst it is acknowledged that some existing residents currently overlook open space which will be replaced with built development, it is not considered that the proposals would result in a significant loss of amenity through overshadowing/loss of light or overlooking issues given the separation distances which are in place and as such the amenity of both nearby residents and future residents of the site would not be compromised.
96. The proposed dwellings are all considered to comply with the NDSS Space Standards and have for the most part appropriate garden depths of 9m> Although there is a shortfall for some properties of at most half a metre, in assessing the specific gardens these would be considered acceptable in this instance, as the gardens are noted as having a good width and are adjacent to open space beyond.



Overall, the proposals would allow for an appropriate level of living accommodation and outdoor amenity for future residents.

97. Environmental Health were consulted and raised no objections generally, however during the construction phase the development could lead to a negative impact upon existing residential receptors, due to their close proximity, however it is considered that this can be easily overcome by the submission of a Construction Management Plan which should include information with regards to dust and a restriction on the hours of construction which can be controlled via a pre-commencement condition.
98. The proposal, therefore, is considered acceptable in respect of Policy 29 and 31 in respect of residential amenity of both existing and future residents subject to pre-commencement conditions being added.

#### Highway and Pedestrian Safety

99. CDP Policy 21 requires that all development ensures that any vehicular traffic generated by new development can be safely accommodated and have regard to Parking and Accessibility Supplementary Planning Document.
100. Concern from one resident has been raised regarding the loss of existing parking arrangements in front of Nos 7&8 Bevan Square and replacing it with a patch of grass as parking has been in existence in this area since prior to 1977. In addition, consideration should be given to putting a driveway into Nos 7&8 Bevan Square.
101. The same resident has also raised concern regarding access to the estate as it would be a loop road going around Bevan Square which will be a hazard to children playing in the area and that consideration should be given to an access to the estate via Shinwell and the main road Webb Avenue.
102. No objection has been raised however from a highway viewpoint to the proposed layout. Whilst the highways officer has confirmed there would be some increase in terms of traffic flow this will be minimum, and the road layout is fully capable of accommodating this. He also confirms that the creation of the loop in some instances can be beneficial especially to larger vehicles i.e., deliveries and bin collections for ease of access and reducing the need for reversing. In addition, the road is a cul-de-sac and would not give rise to through traffic.
103. Appropriate parking for both residents and visitors is considered to have been provided in accordance with the Council's current Parking Standards, an electric charging point has been shown on the submitted layout plan for each property.
104. It is noted that the Council is likely to have adopted updated Parking Standards at the point this application is reported to the planning committee. As such it was considered appropriate to assess the development against those updated standards and it has been shown that the proposed new standards have also been met.
105. Conditions however will be required to ensure that the estate road is designed and constructed to meet current highway design standards as well as ensure the estate roads are constructed prior to any dwellings being occupied and that all available parking remains as such for both the proposed dwellings and visitor parking. As such conditions will be added in this respect.
106. A Section 38 and Section 278 agreement of the Highways Act 1980 are required and as such informatives will be added in this respect.

107. In respect of the loss of parking outside no 7 and 8 Bevan Square, this parking has historically been on street parking and therefore the loss of any formalised parking area has not occurred and on street parking would still remain.
108. Given this and subject to the conditions above, the proposal is considered acceptable in respect of Policy 21 of the County Durham Plan and Part 9 of the NPPF.

#### Scale/Design

109. CDP 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.
110. The proposed development site lies within an established residential area with the proposed dwellings broadly infilling previously developed land or land adjacent to existing dwellings and in some instances the dwellings following a similar linear pattern in particular those located at the northern part of the site.
111. The proposed layout is considered to positively address streets and spaces, and generally incorporates parking to the side of dwellings to reduce visual impact on the street. All dwellings are forward facing either towards the open space or main access roads.
112. In respect of design, the architectural approach is considered to be a contemporary interpretation of existing dwellings on Bevan Square and as such the proposed house types are considered appropriate.
113. The materials proposed are a mix of red brick with light coloured render and red or grey roof tiles which are considered to reflect those existing properties within the area which are red brick with a mix of coloured render/cladding. A mix of boundary treatments is also proposed. Conditions will be added for full material details and boundary treatment details to be submitted and approved.
114. CDP Policy 29 also states that all new development should minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation and include connections to an existing or approved district energy scheme where viable opportunities exist. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source.
115. The applicant has confirmed that the proposed development is intended to meet or exceed the requirements of Approved Document Part L 2021 which will provide in excess of 10% improvements over the current building regulations at the time of the implementation of this policy. However, it is still considered that a condition should be added for full details of the scheme to be provided.
116. In addition, broadband should also be provided in accordance with CDP Policy 27. A condition will be added in this respect.
117. Subject to the above, the proposal is considered acceptable in respect of Policies 27 and 29 of the County Durham Plan and Part 12 of the NPPF.

## Landscape/Impact on Trees

118. CDP Policy 6 sets out developments should not contribute to coalescence with neighbouring settlement, would not result in ribbon or inappropriate backland development. The Policy also requires that development should be appropriate in scale, location and form and setting of a settlement.
119. CDP Policy 39 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. CDP 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 CDP Policy 29.
120. CDP 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 by (amongst other things) recognising the intrinsic character and beauty of the countryside and optimise the potential use of the site.
121. No objection is raised from a landscape viewpoint in respect of the impact on the landscape of the area given the proposals will be contained within an existing housing area which is urban and therefore would not be out of keeping with the existing character.
122. The proposed landscape plan shows areas of retained public open space and proposed trees and shrubs on frontages and open spaces where there is space to accommodate new landscape features. There would be some initial adverse landscape and visual effects which would reduce as the proposed landscape scheme matures.
123. Whilst the AHLV sits to the north, this would be unaffected given the proposed landscape scheme would soften the proposed buildings and intervening vegetation would separate the edge of the development from the AHLV. As such the proposal is not considered to be detrimental to the AHLV.
124. The proposed landscape mitigation including tree, hedge, ornamental shrub and wildflower/ wetland species listed on the landscape plan would be appropriate to a development of this type.
125. The proposal is therefore considered to be in accordance with CDP Policy 39 given as stated above the scheme is within an existing urban area and that a viable scheme of landscape mitigation is proposed.
126. Concern however is raised from the Council's Tree Officer regarding the loss of trees within the area. The original site layout required the removal of all of the existing trees in the northwest corner of the site.
127. The trees in question are an established collective of semi mature trees, having grown together within this open space for a period of time and are considered to provide high amenity value as a group. In addition the tree officer considers that it is not, just the trees which create this benefit but the grassed open space around them which creates the setting for them and therefore considers that any encroachment or

reduction in this area will have a significant impact. As such the proposal in its original form was considered to conflict with CDP Policy 40.

128. Amendments were therefore sought, and an amended proposed site layout has been received which has retained the majority of the trees in question with the loss of only three in this area; this also resulted in the reduction of the scheme from 23 dwellings to 22. A larger area of open space would therefore be retained at this northwest corner to better accommodate the remaining trees, providing access to other open space at this part of the settlement, easily accessed by existing footpath links.
129. Across the site a total of 26 trees are currently in existence and 12 of these are to be removed (3 within the area of concern). A total of 27 trees are proposed to be replanted which would equate to a replacement ratio of more than 2 to 1 across the site, which is considered to be acceptable. These would all be appropriately located within the three open space areas which are proposed to be provided across the site.
130. Whilst concern is raised that the proposal would still provide conflict with policy due to the amenity of the trees deriving from their group value, it is considered that this is only a minor conflict given the scheme has been amended to retain the majority of the trees. In addition, a robust planting scheme has been submitted and agreed with the landscaping team, which includes the replanting of trees within this area as well as across the wider site. In addition, it is still considered that the views of the trees in this north-western corner of the site can still be appreciated from main viewpoints.
131. Therefore, whilst it is acknowledged that there is some conflict with CDP Policy 40 and it is regrettable that trees are to be lost, given the retention of the majority of the trees as well as the robust landscaping scheme, which as stated above includes the addition of 27 trees, this is considered to outweigh the harm caused by the loss of the three trees in the north-western area and has been appropriately mitigated against.
132. Conditions will be added for those trees that are to remain to be protected in accordance with the tree protection measures outlined within the submitted Arboricultural Impact Assessment and for the replacement landscaping to be implemented within a suitable time period which is normally in the first available planting season following the practical completion of the development.
133. Therefore, whilst some conflict has occurred with CDP Policy 40, it is considered that appropriate mitigation has been provided to outweigh this harm.

## Contamination

134. Paragraph 183 of the NPPF advises that planning decisions should ensure a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. In line with this, CDP Policy 32 states that development will not be permitted unless the developer can demonstrate that:
  - a. any existing despoiled, degraded, derelict, contaminated or unstable land issues can be satisfactorily addressed by appropriate mitigation measures prior to the construction or occupation of the proposed development;
  - b. the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities; and
  - c. all investigations and risk assessments have been undertaken by an appropriately qualified person.

135. The application has been assessed by the Land Contamination Officer who has assessed the historical maps and submitted Phase 1 and 2 with respect to land. They confirm that there is no requirement for any further conditions however an informative for unforeseen contamination should be added to any approval.
136. The proposal, subject to conditions, is therefore considered acceptable in respect of contaminated land issues in respect of Policy 32 of the County Durham Plan.

## Drainage

137. CDP 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.
138. Whilst CDP Policy 36 (Water Infrastructure) advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
139. Durham County Council's Drainage and Coastal Protection Team acting as the Local Lead Flood Authority (LLFA) have assessed the various plans and information submitted in support of the scheme. They have confirmed that there is no objection in principle to the scheme that has been received, and although there would be no suitable surface water receiving outlet, details of the SUDS basin design and hydraulic calculations were submitted and deemed to be acceptable by the LLFA.
140. The proposal, therefore, is considered acceptable in respect of Policies 35 and 36 of the County Durham Plan.

## Ecology

141. Part 15 of the NPPF seeks to ensure that when determining planning applications, Local Planning Authorities seek to conserve and enhance biodiversity. CDP Policy 41 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.
142. The BNG report details a 0.8 habitat unit BNG loss. Originally to overcome this, the applicants proposed off-site ecological enhancement on a grassed area directly adjacent the site together with a bespoke agreement with DCC to achieve additional net gain credits. The ecological enhancement on an area of grassland adjacent the site proposed is located on DCC land and no discussion had been had regarding this or the additional credits required to achieve BNG for this development.

143. Instead, therefore, the applicants have confirmed they are willing to make a financial contribution which would amount to £4,240 (the current cost is £5,300 per BNG unit) which should be controlled via a Section 106 Agreement and is considered appropriate with the Council's Ecologist.
144. In agreement with the Ecology team, a financial contribution will therefore be made to the sum of £4,240, secured as part of the Section 106 agreement to ensure that the development can meet policy requirements in terms of BNG.
145. A Biodiversity Management and Monitoring Plan for the BNG elements of the development is also required which can be conditioned. This plan should also include details of the ecological enhancements detailed in the ecological report.
146. In addition, offsite provision would be secured via a legal agreement under Section 39 of the Wildlife and Countryside Act 1981. Overall, this would achieve a biodiversity net gain in accordance with CDP Policy 26 and 41 and Paragraph 174 of the NPPF
147. CDP Policy 42 (Internationally Designated Sites) states development proposals that would potentially have an effect on internationally designates site(s), ( including all development within 0.4 km of the sites, as shown on Map B of the policies map document), either individually or in combination with other plans or projects, will need to be screened in first instance to determine whether significant effects on the site are likely and, if so, will be subject to an Appropriate Assessment.
148. Development will be refused where after an Appropriate Assessment, it cannot be ascertained that there would be no adverse effects on the integrity of the site, unless "no alternatives" and "imperative reasons for overriding public interest" as set out in Regulation 64 of Conservation of Habitats and Species Regulations 2017. In such circumstances where tests are met, appropriate compensation will be required in accordance with Regulation 68.
149. Where development proposals are likely to lead to an increase in recreational pressure upon internationally designated sites, a Habitats regulations screening assessment, and possible full Appropriate assessment will be required to demonstrate that the proposal will not adversely affect the integrity of the site. In making such determination of whether a plan/project will have adverse impact on the integrity, the implementation of identified strategic measures to counteract effects, can be considered during the Appropriate Assessment.
150. The Council's Ecologist notes that the proposed development is within the 6km Durham Coast HRA buffer therefore a financial contribution to the Coastal Access and Monitoring Measures Programme is required to mitigate impacts as a result of new housing development in lieu of onsite mitigation.
151. Durham County Council has carried out screening in compliance with the Habitats Regulations, this work was done in conjunction with Natural England, and after Appropriate Assessment, concluded that there is likely to be a significant effect on the Northumbria Coast SPA and Durham Coast SAC from new housing development within 6km of the coastal European sites due to increased recreational impacts including dog walking and coastal erosion. It was agreed that mitigation for those identified impacts upon the European protected sites will include the provision of alternative green space suitable for off-lead dog walking and/or a financial contribution to the Coastal Access and Monitoring Measures Programme designed to limit the identified impacts.

152. Subject to a payment of £756.61 per dwelling (amounting to £16,645.42) towards Coastal Access and Monitoring Measures Programme Tier 2 being paid which should be secured through a S106 Legal Agreement, it is considered that the proposed development would accord with saved Policy 42 of the County Durham Plan and Part 15 of the NPPF, both of which seek to protect and enhance the natural environment.

#### Developer Contributions

153. CDP 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.

#### Affordable Housing / Mix of Dwellings

154. CDP Policy 15 establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people and people with disabilities and the circumstances in which the specialist housing will be supported.
155. On sites of 10 or more units, for 25% of units in the highest value areas to 10% in the lowest. On sites of 10 or more units, 10% of the homes provided should be for affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership). Any contribution above 10% should be provided as affordable housing for rent.
156. As this site is within a low value area, this development would require 10% affordable housing, which would result in 3 Affordable home ownership properties being provided.
157. It is noted that the affordable housing statement states that the scheme proposes 100% affordable housing on site with a mixture of shared ownership, rent to buy and affordable rent. The Council can only secure the 10% as required by Planning Policy which should be secured through a Section 106 Agreement. Whilst the additionality is noted this is not a requirement of planning policy and therefore not a determinative factor in the consideration of this application.
158. CDP Policy 15 also aims to meet the needs of older people and people with disabilities. On sites of 5 units or more, 66% of dwellings must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard.
159. On sites of 10 units or more, a minimum of 10% of the total number of dwellings on the site are required to be of a design and type that will increase the housing options of older people. These properties should be built to M4(2) standard and would contribute to meeting the 66% requirement set out above. They should be situated in the most appropriate location within the site for older people. Appropriate house types considered to meet this requirement include:

- level access flats;

- level access bungalows; or
- housing products that can be shown to meet the specific needs of a multi-generational family.

160. All units are proposed to comply with M4(2) standards which would more than meet this requirement, and 4 bungalows proposed which would satisfy the 10% requirement. A condition therefore will be added for verification details to be provided to ensure this requirement has been met.
161. CDP Policy 19 states that on all 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. The scheme proposes a mix of 2, 3 and 4 bedroom dwellings including bungalows, which would achieve a good mix of dwelling types and sizes on the site. Therefore, Policy 19 of the County Durham Plan is considered to be met.

#### Open space / Green Infrastructure

162. CDP 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.
163. The site in question is previously developed land in that previous properties were on site which were cleared between 2006 – 2008 and the site has since been grassed over. Subsequently the site formed part of the consideration of a recent Open Space Needs Assessment (OSNA) assessment and designated as amenity open space. However as previously highlighted, it is considered to have limited recreational and amenity value.
164. In accordance with CDP Policy 26 and having regards to the Council's OSNA, an average occupancy of 2.2 people per dwelling (Co. Durham average household size, 2011 Census). A scheme of 22 dwellings would generate 48.4 people (22 x 2.2) based on 2011 census data of 2.2 persons per household.
165. This scheme would fall into the 2nd category of Table 19 where some typologies of open space should also be provided on site, and a contribution sought for the others.
166. The contribution should be:  $48.4 \times £715.50$  ( $£790.50 - £75.00$ ) = £34,630.20 along with an onsite provision of 1,254 sqm which has been provided and exceeded.
167. Given this and subject to a Section 106 Agreement being entered into to secure the financial payment the proposal is considered acceptable in respect of Policy 26 of the County Durham Plan as detailed within the principle of development section above, the loss of the open space is considered acceptable in this instance.

#### Education Provision

168. Paragraph 95 of the NPPF confirms that the government places great importance to ensure that sufficient choice of school places is available to meet the needs of existing and new communities and requires LPAs to proactively meet the requirement.
169. The Council's Education Team have confirmed that based on the methodology Based on the projected rolls of schools, taking into account the likely implementation



of the development, build out rates and other relevant committed development it is anticipated that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required in this instance.

#### Health Contributions

170. Paragraph 34 of the NPPF required Local Authorities to have regard to setting where contributions are necessary within the Local Plan. In this regard CDP Policy 29(f) requires that developments should contribute to healthy neighbourhood and consider the health impacts and needs of the existing and future users.
171. The NHS has confirmed that no contribution is required for this development.

#### European Protected Coastal Habitats

172. As discussed previously and in line with policies 41 and 42, the proposed development is within the 6km Durham Coast HRA buffer therefore a financial contribution to the Coastal Management Plan is required to mitigate impacts as a result of new housing development, for which the applicant is agreeable to enter into a Section 106 Agreement to secure contributions of £16,645.42

#### Developer contribution conclusion

173. The proposal is considered to be in accordance with Policies 25 and 26 of the County Durham Plan subject to the completion of a Section 106 Agreement to secure the above obligations to mitigate the impact on the development.

#### Public Sector Equality Duty

174. 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.
175. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **CONCLUSION**

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176. The proposals have been assessed against relevant policies and are considered to accord with appropriate criteria and requirements and is acceptable in principle subject to conditions, in that it would not have an unacceptable impact upon the character and appearance of the surrounding area, residential amenity, highway safety, ecology, flooding and surface water, landscape and contaminated land in accordance with Policies 6, 21, 29, 31, 32, 35, 36, 39, 41 and 44 of the County Durham Plan and Parts 5, 6, 9, 12, 14, 15 and 16 of the NPPF.
177. Whilst concern has been raised over the loss of trees, it is considered that the robust landscaping scheme which includes replacement trees at a ratio of more than 2:1 to compensate for the loss of the trees, the resultant harm is considered to have been appropriately mitigated against.

178. Limited public interest has been generated by this proposal with one letter of concern raised regarding highway safety only being raised however, on balance the concerns raised were not felt to be of sufficient weight to justify refusal of this application.
179. The application is therefore, recommended for approval subject to entering into a Section 106 Agreement.

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## **RECOMMENDATION**

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That the application be **APPROVED**, subject to a s106 agreement to provide:

- S.39 Agreement to secure the long-term management, maintenance and monitoring of the biodiversity land in accordance with a Biodiversity Management and Monitoring Plan (BMMP)
- 10% Affordable Housing on site comprising of 3 Affordable home ownership properties.
- £34,630.20 towards provision or improvement of open space and amenity space within the electoral division
- £16,645.42 towards the Coastal Access and Monitoring Measures Programme
- £4,240 towards Biodiversity Net Gain Payment

and subject to the following conditions:

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

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

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

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

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

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

4. No development shall be occupied until details of the surface treatment and construction of all hard surfaced areas has been submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be undertaken in accordance with the approved details prior to first occupation.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policy 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

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

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

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

No tree shall be felled, or hedge removed until the removal/felling is shown to comply with legislation protecting nesting birds and roosting bats.

Any approved replacement tree or hedge planting shall be carried out within 12 months of felling and removals of existing trees and hedges.

Any trees or plants which die, fail to flourish or are removed within a period of 5 years from the substantial completion of the development shall be replaced in the next planting season with others of similar size and species.

Replacements will be subject to the same conditions.

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

7. 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, 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 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

8. Prior to the commencement of the development hereby approved, a Biodiversity Management and Monitoring Plan (BMMP) shall be submitted to and approved in writing by the Local Planning Authority. The BMMP shall demonstrate how the specific on-site Biodiversity Net Gain units that are to be created on site (as detailed within the Biodiversity Net Gain Assessment report) will be achieved, managed and maintained on site, and will include a mechanism for reporting to DCC in years 2, 5,

10, 20 and 30 following habitat creation. The works shall be carried out strictly in accordance with this Plan and shall thereafter be retained and managed as detailed.

Reason: In the interests of ensuring no protected species are adversely affected by the development and habitats are retained and improved in accordance with Policies 41 and 43 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

9. 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.

10. Prior to occupation of the dwellings hereby approved, verification details to ensure that 66% of the properties have been constructed to M4(2) Standards shall be submitted to and approved in writing. The development shall then be completed fully in accordance with the approved details.

Reason: To meet the housing needs of older people and people with disabilities in accordance with Policy 15 of the County Durham Plan and Part 5 of the National Planning Policy Framework.

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

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

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

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

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

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

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

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

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

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

10.Routing agreements for construction traffic.

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

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

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

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

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

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

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

12. No development shall commence, with the exception of site preparation / clearance and construction up to the damp proof course, until full highway engineering, highway drainage, highway structure details, street lighting and constructional details of the streets proposed for adoption by the local highway authority have been submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details.

Reason: To ensure a satisfactory form of development in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

- 13 No dwelling hereby approved shall be occupied until the estate roads have been constructed in accordance with the details submitted as required under condition 12.

Reason: To ensure satisfactory provision is maintained in the interests of highways safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

14. Before the dwellings hereby approved are occupied the hard standings/drives and visitor parking bays shall be constructed in accordance with the approved plans and details, and thereafter they shall be used and maintained in such a manner as to ensure their availability at all times for the parking of private motor vehicles.

Reason: In the interests of highway safety in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

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

Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in Policy 29c) and d) of the County Durham Plan.

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

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

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

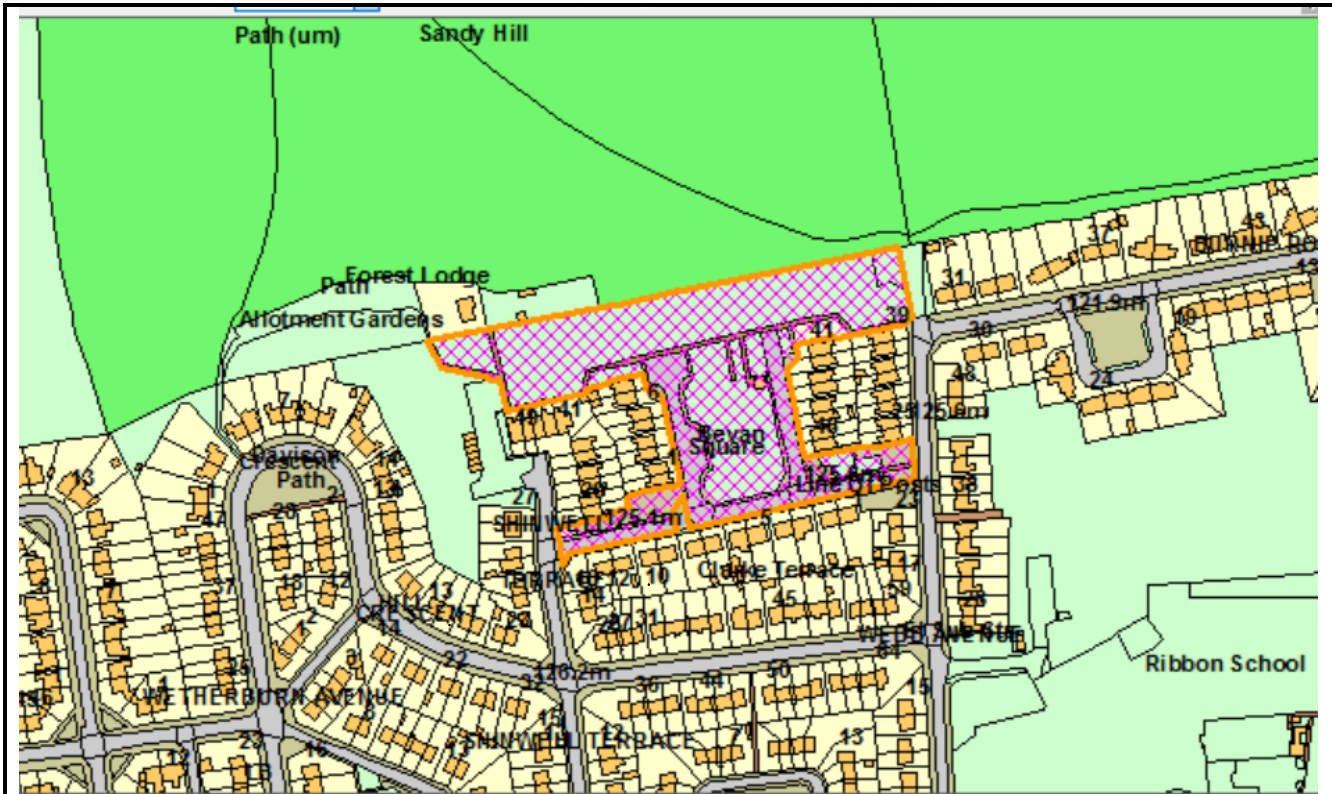
The National Planning Policy Framework (2021)

Residential Amenity Standards Supplementary Planning Document

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses



**Planning Services**

Erection of 22 dwellings with associated works (amended layout) at Bevan Square, Murton, Seaham, SR7 9HT

Application Reference: DM/23/00532/FPA

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**Date:** October 2023

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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**APPLICATION NO:** DM/23/01442/FPA  
**FULL APPLICATION DESCRIPTION:** Change of use of dwellinghouse (Use Class C3) to HMO (Use Class C4)  
**NAME OF APPLICANT:** Dr Nan Hu  
**ADDRESS:** 33 St Bedes Close, Crossgate Moor, Durham, DH1 4AA  
**ELECTORAL DIVISION:** Nevilles Cross  
**CASE OFFICER:** Elinor Woodruff  
Planning Officer  
03000 261059  
[elinor.woodruff@durham.gov.uk](mailto:elinor.woodruff@durham.gov.uk)

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application property is a semi-detached, two-storey dwelling located within St Bedes Close, a residential estate situated to the east of Newcastle Road and to the southwest of Crossgate Moor.
2. The property has a single garage forward of the front elevation, that adjoins the neighbouring garage at no.31.

### The Proposal

3. The application seeks full planning permission for the conversion of the property from a dwellinghouse (Use Class C3) to a House in Multiple Occupancy (Use Class C4).
4. The application is being reported to planning committee at the request of Durham City Parish Council if Officers are minded to approve the application. They consider the application raises issues relating to residential amenity, parking, cycle storage, highway safety and internal amenity standards which require consideration by the committee.

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## PLANNING HISTORY

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5. No relevant planning history.

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## PLANNING POLICY

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## NATIONAL POLICY

6. 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.
7. 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.
8. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
10. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
11. *NPPF Part 8 - Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
12. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.

13. *NPPF Part 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.
14. *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.
15. *NPPF Part 15 - Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

16. 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

17. *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.
18. *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.

19. *Policy 21- Delivering Sustainable Transport.* Requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to the Parking and Accessibility Supplementary Planning Document and Strategic Cycling and Walking Deliver Plan.
20. *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.
21. *Policy 31 - Amenity and Pollution.* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that 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.
22. The current County Durham Parking and Accessibility Standards Supplementary Planning Document 2019 sets out the Council's approach to vehicle and cycle parking provision on new development and extensions to existing development which includes both residential and non-residential.

<https://www.durham.gov.uk/media/26916/County-Durham-Parking-and-Accessibility-Standards-2019/pdf/CountyDurhamParkingAndAccessibilityStandards2019.pdf?m=636839346853430000>

#### Durham City Neighbourhood Plan

23. 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.
24. 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.

25. 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.
26. 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.
27. Policy D4: Building Housing to the Highest Standards – states that all new housing and extensions and other alterations to existing housing should be of high-quality design.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

28. *Durham City Parish Council* – object to the application, raising concerns in regards to the over proliferation of HMOs within this location and the loss of family homes. In addition, the impact the proposed HMO would have on residential amenity and the potential for anti-social behaviour. Furthermore, it is considered that the proposal has a bedroom that would not meet the Nationally Described Space Standards.
29. *Highway Authority* – Raises no objection to the application as it is for a change of use class only, and therefore there would be no change in the number of existing and proposed bedrooms in the property. On this basis, there would be no material change resulting in a proposed impact on the local highway.

### **INTERNAL CONSULTEE RESPONSES:**

30. Environment, Health and Consumer Protection (Nuisance Action Team) raise no objection to the application subject to the inclusion of conditions relating to construction works and sound-proofing.
31. HMO Data have confirmed that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax is 6.9%. There are no properties within 100m radius that have unimplemented consent for the change of use to an HMO and there are no applications within 100m radius pending determination.
32. HMO Licensing have confirmed that the property would not need to be licensed following completion of the works due to the property forming a 4-bedroom, 2 storey house in multiple occupation.

## **PUBLIC RESPONSES:**

33. The application has been advertised by way of a site notice, press notice and individual notification letters to neighbouring residents.
34. 86 letters of objection have been received from neighbouring properties (including a responses from Nevilles Cross Residents Association and Mary Kelly Foy MP.). Reasons for objection are summarised as:
- The development would be contrary to Policy 16 in that the 10% threshold has been met as several other HMOs are present in the locality which are not reflected in the % figure of Class N Exempt properties. Concern is raised at the methodology used in policy 16 which they consider to be fatally flawed. In addition, respondents considered that there is no identified need for additional student housing in the area which already has PBSAs and HMOs. Also raised as a concern is the presence of the number of HMOs within a small cluster within the cul-de-sac.
  - Impact on social cohesion and the balance of the community as a result of the development which would lead to an over proliferation of HMOs in this area, impacting on general housing stock, forcing families out of this residential area. In particular, due to the transient nature of student population, properties are often empty outside of term times and do not contribute to the area's character or identity or help to reinforce a distinctive and sustainable community.
  - Impact on parking and highways safety, in that the site would compound existing parking and access problems in street and would present a danger to safety of residents/ pedestrians. Consider that development will also have Implications for services such as bin collections and emergency services. In addition, concern that the development will increase congestion and pollution on roads in this area, in particular the A167, due to families living further away from the central primary and secondary schools and relying on travel by car, which undermines aims of sustainable travel.
  - Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance. The area is predominantly for families and the number of HMOs in the is pushing private owners out and increasing costs.
  - Adverse impact from increased volume of waste/recycling and that the site does not include sufficient space to accommodate refuse storage requirements for 5 persons and as such would increase nuisance and vermin.

*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=RV2I08GDKBA00>*

## **APPLICANTS STATEMENT:**

35. I am writing to outline the reasons why I believe this application should be approved and offer a detailed response addressing the comments and objections raised by some of the neighbours concerning my change of use application for the property

located at 33 St.Bedes Close. I am appreciative of the opportunity to provide further clarification and alleviate any concerns that have been expressed.

36. **Reasons for Applying for HMO licence: Accommodation Demand and Availability:** There is a growing demand for quality student accommodation in our community. The property has four bedrooms and two bathrooms, providing ample space to accommodate 3-4 tenants comfortably. Furthermore, the property features a spacious common area, which promotes a sense of community and shared living. This layout is conducive to the HMO arrangement, where tenants can enjoy private spaces while also benefiting from communal areas, enhancing their overall living experience. By approving this change of use, we can address the needs of students seeking suitable housing while also ensuring that the property's potential is maximized.
37. **Responsible Management and Tenant Selection:** As the owner of the property, I am committed to maintaining a high standard of property management. I will ensure that tenants are selected through a thorough screening process to ensure their suitability for shared living. This includes assessing their commitment to a quiet and respectful environment conducive to studying, as well as their willingness to adhere to the property's rules and guidelines.
38. **Safety Measures:** The safety and well-being of my tenants are paramount to me. I want to highlight that I have taken all necessary precautions to ensure their safety. Professionals have been involved in installing comprehensive fire safety systems, and all necessary gas and electricity certificates are up to date. These measures are in place to ensure that the property meets the highest standards of safety and that the well-being of the tenants is safeguarded.
39. **Contributing to the Community:** Many students are eager to engage in volunteer activities within their community. They can participate in local events, assist elderly neighbours which provides valuable assistance to those who may need it, and participate in other initiatives that benefit the area.
40. **Potential Noise:** I want to assure both the council and the concerned neighbours that maintaining a peaceful coexistence within the neighbourhood is of utmost importance to me. It's important to highlight that all the tenants I intend to accommodate in the property are overseas students who have a vested interest in pursuing their studies diligently. Furthermore, I am committed to implementing strict noise regulations and guidelines within the tenancy agreements. This step will not only help set clear expectations for the tenants but also ensure that any potential disturbances are minimized and the tranquil nature of the area is preserved.
41. **Limited Parking Space:** While I understand the apprehensions regarding limited parking space, I wish to clarify that the nature of my tenants mitigates this concern. As overseas students, they will not be bringing cars with them. This naturally negates any additional strain on the existing parking infrastructure. The absence of cars among the tenants alleviates any potential parking-related issues and assures the neighbours that the established parking availability will remain unaffected.
42. **Change in Student Ratio:** I fully grasp the importance of maintaining the established student ratio in the neighbourhood. I want to stress that my application for the HMO permit is a testament to my commitment to adhering to these existing norms. I believe that the council's approval to proceed with the application signifies that the student ratio in the area is not being significantly altered by my intentions. I am dedicated to upholding this balance while providing appropriate housing for the students.

43. To conclude, I am not only devoted to being a responsible landlord but also to contributing positively to the fabric of the community. I not only provide safe and well-maintained accommodation, but consider all concerns raised by neighbours with utmost seriousness, and I am prepared to undertake all necessary measures to address them adequately. I welcome any suggestions or requirements that the council might recommend to further assuage the concerns of the neighbours and enhance the harmony of the area.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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44. 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.
45. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area which is the starting point for the determination of this planning application. Consequently, the application is to be determined in accordance with relevant policies set out within the CDP. Paragraph 11(d) of the NPPF is not engaged.
46. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on residential amenity and balance of community/social cohesion, impact on the character and appearance of the area, impact on parking and highway safety, and other matters.

### The Principle of the Development

47. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 4-bed HMO (Use Class C4).
48. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses falling within Class C4 (houses in multiple occupation HMOs). HMOs are small, shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom. The proposed floor plans submitted with the application indicate that the proposal is such that the development would normally benefit from the provisions contained within the GPDO. However, an Article 4 Direction is in effect in this area and withdraws such permitted development rights and as such planning permission is required.
49. CDP 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.



50. In addition, Part 3 of CDP Policy 16 (Houses in Multiple Occupation) is also relevant to the proposal and relates to the conversion of residential dwellings to HMOs. The Policy states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and Sui Generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a 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. 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.
51. In addition to the above, applications will only be permitted where:
- a. the quantity of cycle and car parking provided has regard to the Council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
  - b. they provide acceptable arrangement for bin storage and other shared facilities and consider other amenity issues;
  - c. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
  - d. the application has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.
52. It is acknowledged that objections have been received from local residents raising concerns that the proposed development would result in an over proliferation of HMOs in the area, thereby unbalancing the community, and consider that the 10% has likely already been exceeded and there is no requirement for additional HMOs in this area. There is also concern that the data used to inform decisions is out of date/inaccurate and the methodology used in CDP Policy 16 (3) is flawed. It is not considered that the Council Tax data accurately reflects the number of HMOs in the area, and it is considered that there is a close concentration of HMOs in and around St Bedes Close which should be considered in isolation.
53. Whilst the concern in relation to the use of Council Tax Exemption Data is noted it is the case that all properties registered as class N exempt within 100 metre radius of the property are captured within the data collection, and this information is gathered twice a year. While some objections consider that St Bedes Close and the concentration of HMOs within should be considered in isolation, as already noted, the Policy uses a 100m radius for the purposes of assessing compliance with that Policy and does not refer to individual streets. CDP Policy 16 gives a standard and consistent approach to assess applications for HMOs. The Policy, together with the methodology contained within, was considered sufficiently accurate and robust during examination in public of the CDP in 2020, and the existing policy subsequently included within the adopted CDP. The Policy has proven sufficiently robust in this regard and the Council has successfully defended several appeals against refusal of similar changes of use where these were in clear conflict with the Policy.

54. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of the dwellinghouse into a HMO that within 100 metre radius of, and including 33 St Bedes, Close 6.9% of properties are class N exempt properties as defined by Council Tax records. There are no unimplemented consents within 100m and there are no applications pending determination within 100m. As this concentration would be below the 10% threshold stated in the CDP, the proposal would comply with criteria 'a' and 'b' in this respect. In terms of criteria 'c' the application site is within a residential area but is not on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus. Therefore, the development can be considered to comply with policy 16, Part 3, criteria a), b) and c) and is acceptable in principle, subject to further consideration of the proposal against other criteria in Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.
55. Paragraph 62 of the NPPF states that the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies (including, but not limited to, those who require affordable housing, families with children, older people, students, people with disabilities, service families, travellers, people who rent their homes and people wishing to commission or build their own homes). Given that less than 10% of properties within 100m of the application property are Class N exempt and this would remain the case post development, should permission for the current change of use be granted, the aims of Paragraph 62 would be met.
56. It is noted that objections have been received citing that the application fails to demonstrate need for accommodation of this type in this location, and that there is a perceived surplus of student accommodation within the city as a whole. Whilst these points are noted there is recognition that market forces will, in the main, deliver the level of student accommodation required without resulting in a significant oversupply of accommodation, particularly in relation to HMOs which in most cases if not occupied as such, can be occupied again as family homes with limited internal reconfiguration. Notwithstanding this, it nevertheless remains that whilst Part 2 of policy 16 requires an application for PBSA to demonstrate need (along with a number of other requirements) this is not mirrored in Part 3 of the policy which relates to applications for changes of use to HMO and is the part of the policy which is relevant to the current application. For that reason, it is considered that the proposal would accord with the requirements set out in Part 3 of Policy 16 of the CDP and that the lack of any specific information within the application with regards to need, is not sufficient to sustain refusal of the application in this instance.
57. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community, given the close proximity of several HMOs to each other within the area. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which includes a threshold of no more than 10% of properties being in HMO use. As already noted above, in light of the low level of Class N exempt properties within 100m radius of the site at present, it is not considered that this proposal would be contrary to the NPPF or CDP in this regard. Whilst it is noted that tenants would likely change on a yearly basis this is unlikely to have any adverse impact capable of sustaining refusal of the planning application.

#### Impact on Residential Amenity

58. Paragraph 130 of the NPPF requires that planning decisions create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and

the fear of crime, do not undermine the quality of life or community cohesion and resilience. Policy 31 (Amenity and Pollution) of the CDP displays broad accord with the aims of paragraph 130 in this regard and 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.

59. In addition, criterion e) of CDP Policy 29 (Sustainable Design) states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
60. In this instance the application site is a semi-detached property located within a residential area and as such the nearest residential property adjoins the application site to the east, with further residential properties to all sides. The application proposes to have 4no. bedrooms, however there is also an attic room and study room that could be made into bedrooms in the future, however the attic neither room is considered adequate for habitation as a bedroom, given insufficient windows in the attic room and the small size of the study room. To control this it is proposed to limit the number of occupants via a condition, if the application was minded for approval.
61. It is acknowledged that a significant number of objections have been raised in relation to the cumulative impacts of the proposed development, together with existing HMOs in Lyndhurst Drive and nearby St Monica Grove. In particular, concerns around noise, disturbance and anti-social behaviour have been cited as well as concerns around maintenance of properties and increased waste, which may lead to nuisance from vermin as a consequence.
62. The Council's EHO has been consulted and confirmed that the development would fall within the thresholds associated with Council's TANS. They have noted that although the use is not a change of use to a more sensitive receptor, the source of noise could be greater from the HMO use than a single dwelling. This is due to the increase in household numbers and activity to and from the property. The demographic that use this type of accommodation are often associated with greater use of the night time economy and as such an increased level of night time noise may occur. However, it is anecdotal as the potential for impact is associated with the individuals residing there and as such might differ greatly.
63. The application site is located within a residential area predominantly characterised by small family homes. The impact of the development upon residential amenity is a material consideration in determination of this application. In most cases it is held that changes of use from C3 dwellinghouses to HMO use can be adequately mitigated to within acceptable levels subject to planning conditions. Where a HMO is proposed within a residential area with an existing high proliferation of HMO accommodation, the cumulative impact of an additional HMO in this context has been considered to have a detrimental impact upon residential amenity from increase in noise and disturbance sufficient to sustain refusal of planning permission. The LPA has refused a number of previous applications in this regard and proved successful in defending at subsequent planning appeals. However, in this instance it is noted that there is no identified over proliferation of existing HMOs within 100 metres of the application site,

and as such it is not considered that the introduction of a single additional HMO in this location would result in a level of cumulative impact that would be detrimental to residential amenity.

64. Notwithstanding this, a condition can be applied in relation to a management plan to secure some controls in relation to potential issues of noise and disturbance, as well as appropriate management of waste etc.
65. The EHO officer also notes that the proposed bedroom is on the ground floor with the living room and kitchen and may, therefore, lead to a greater impact on the individuals residing in that room from noise when the rooms are in use. On that basis, the EHO recommended that a scheme of sound proofing measures could be implemented to mitigate any harm. A condition could therefore be attached to any permission granted requiring a sound proofing scheme to be submitted to and agreed by the LPA and, thereafter, implemented prior to first occupation of the development and retained at all times whilst the HMO is in use as such.
66. In addition, the EHO raises concerns regarding the impact on nearby residential properties during the construction phase. Therefore, to help mitigate against relevant impacts have suggested a Construction Management Plan should be submitted based on set criteria. The submission, agreement and implementation of this can be secured through planning condition should planning permission be granted. Subject to the inclusion of a planning condition in this regard, the EHO is satisfied that the development is unlikely to cause a statutory nuisance.
67. The property includes adequate external space to accommodate sufficient bin and cycle storage facilities as shown on the proposed site plan. In addition, noting the extent of the garden area contained within the curtilage it is considered there is sufficient external amenity space to serve the inhabitants and as in accordance with policy 16 of the CDP.
68. In relation to internal space the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, Council determined that it was necessary to introduce the NDSS in County Durham with the aim of improving the quality of new build development coming forward.
69. It is noted that the current application relates to a change of use to a property already in residential use and as such would not result in any net increase in the number of residential units. Consequently, the rigid application of these standards is not considered appropriate to the current application. Nevertheless, it remains that the NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
70. All of the bedrooms meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room. With regards to the overall internal space provided across the dwelling, the guidance does not specifically refer to a 4- bedspace 4-person (4b4p) dwelling. However, it does provide standards in relation to a 3b4p dwelling and requires 84sq metres which the development would appear to exceed, with provision of approximately 112sq metres of gross internal floorspace. In addition, although the

HMO would not require a license, it is noted that the remaining kitchen/dining/living space would provide approximately 34.5sq metres which exceeds the 16sq metres required by HMO licensing. As such, the communal space is considered to be sufficient to serve the occupants of the property.

71. Therefore, based on the above the proposal is considered to comply with policy 29(e) of the CDP in that it provides a suitable amount of internal and external amenity space to meet the needs of future occupiers and deliver a suitable quality of development in relation to policy 29(E) of the CDP policy 16 of the CDP and Paragraphs 130 and 174 of the NPPF.

#### Impact on Character and Appearance of the Area

72. The National Planning Policy Framework (NPPF) sets out the Government's commitment to good design. Paragraph 124 states that, good design is a key aspect of sustainable development, creates better places in which to live and work and helps makes development acceptable to communities.
73. Paragraph 126 goes onto highlight that developments should have clear design guides and codes to create distinctive, consistent and high-quality developments, but cautions that they should "allow a suitable degree of variety where this would be justified". In this instance development was subject to an approved design code agreed as part of the outline application.
74. Policy 29 (Sustainable Design) of the County Durham Plan requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
75. Policy S1 of the Durham City Neighbourhood Plan (DCNP) requires development proposals, to conserve, preserve and enhance 'Our Neighbourhood' by harmonising with its context and Policy H3 requires development to sustain and make a positive contribution to the character and distinctiveness of the area; use high quality design; and use materials and finishes appropriate to the context and setting of the area. Policy D4 requires extensions to existing housing to be of high-quality design relating to the character and appearance of the local area and aesthetic qualities.
76. Neighbouring residents have raised objections to the proposed development stating that a HMO's will have a negative impact on the residential cul-de-sac, HMOs are not adequately maintained and that students are short term occupiers with no stake in local community.
77. It is noted that there are no external alterations proposed to facilitate the change of use, therefore it is not considered that there would be any detrimental impact on the character and appearance of the property or surrounding area. The proposed cycle and bin storage will be sited in the front garden of the property and the final details will be secured via condition.
78. The character and appearance of the surrounding area incorporates two storey semi-detached properties. There is a variety of boundary treatments within the local vicinity of the site and there is a difference in opening styles. With regard to concerns that the general appearance of the property would deteriorate as a consequence of the

proposed use there is no evidence that this would occur and the applicant has reiterated that the property would be appropriately maintained.

79. It is therefore considered that the proposed development would fit with the character and appearance of the area and would not have a detrimental impact on the appearance of the wider streetscene.
80. Taking the above into account, the development would be considered to have an acceptable impact, sustaining and conserving the character and appearance of the dwelling and surrounding area and would accord with the aims of Part 12 of the NPPF, Policies 16 and 29 of the County Durham Plan, and Policies S1, H3 and D4 of the Durham City Neighbourhood Plan.

#### Impact on Highways

81. CDP Policy 16 requires new HMOs to provide adequate cycle and car parking, having regard to the council's adopted Parking and Accessibility Supplementary Planning Document (DCC Parking Standards). CDP Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with Paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site. Paragraph 111 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe. DCNP 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. DCNP Policy T3 (Residential Storage for Cycles and Mobility Aids) requires residential development including change of use to seek to provide storage facilities for cycles which should meet DCC Parking standards.
82. A large number of objections have been raised that the development does not provide sufficient in curtilage parking provision to serve the number of occupants proposed. Therefore, they consider that this would create unsustainable additional pressure to existing on-street provision in a quiet area which is used by families, elderly residents and has already congested narrow roads. There is also concern that due to the narrow street and inconsiderate parking that this may present a safety issue for pedestrians and could have implications for bin collections and access for emergency services. In addition, concerns have been raised that the development will increase congestion and pollution, in particular on the A167, due to families being pushed into properties further away from the centre of Durham due to the over-proliferation of HMOs; and therefore, having to rely on travelling into Durham and the nearby schools by car.
83. The Highway Authority have been consulted on the application and do not consider that there would be any adverse impacts in terms of highway safety as a result of the proposals, given that the application is for change of use only. The proposals are also assessed against the requirements of the current DCC parking standards, which would require a 4 bed property to have two off street parking spaces. The applicant is proposing to provide one off street parking space within the existing garage, however it is noted that an additional parking space could be provided to the front of the garage as well. As such, the amount of in-curtilage parking proposed is in accordance with the Council's parking and accessibility standards and is therefore acceptable in this regard.
84. Notwithstanding the above, it is noted that the Council is currently reviewing the existing Parking Standards and these are likely to have been formally adopted at the point the committee determines this application. As such, assessment of the proposals

against those updated standards has been undertaken. In this regard it is noted that the new standards would require 3 no. in curtilage parking spaces to be provided which is one more than the two that are proposed. As such, the application would not meet the requirements of the updated standards. However, it is noted that at the present time these standards have not been formally adopted and therefore they can be afforded only very limited weight. It is also noted that the application is for change of use only, with no extensions to the property, and a family living in the property could make similar changes without requiring planning permission. It is therefore not considered that there would be any material change on the local road network as a result of this proposal.

85. No details of cycle storage facilities have been provided. However, it is noted that the Site Plan submitted with the application indicates that these facilities will be located to the front of the property. Whilst it would have been preferable to have precise details of the specification submitted for consideration with the application there is sufficient evidence to demonstrate suitable provision can be provided. It is therefore considered that a condition requiring the submission of precise details of such storage, to be agreed by the LPA and installed prior to first occupation, would be acceptable in this instance.
86. With regard to concerns that the development would increase in vehicle movements in this area of the cul-de-sac and the presence of parked vehicles would narrow the carriageway width, it is considered that the proposed use would not increase vehicle movements to an extent that it would adversely impact upon existing network capacity or on street parking. In instances where vehicles presently obstruct the adopted footway this is subject to legislative control via the Highways Act and cannot be afforded weight in determination of this application.
87. Concern has also been raised in relation to the sustainability of the location and accessibility to the city centre and university. However, the case officer considers the development to be located within a sustainable location within walking and cycling distance of several services and with access to public transport links nearby. As such, it is not considered that future occupants would be solely reliant on trips by the private motor vehicle.
88. In addition, the proposed use would not be considered to result in significant additional impacts, over and above the C3 use, that could not be accommodated safely on the local and strategic highway network. While concerns have been raised around the displacement of a family home and implications for sustainable travel, it is not possible to say that a family that could have occupied the property would not be able to live within the surrounding area, particularly in light of the fact that there is not considered to be a proliferation of HMOs in this area, or within another sustainable location.
89. Therefore, notwithstanding the concerns raised by residents in relation to parking and access, it is not considered that the development would have a detrimental impact upon highway safety sufficient to sustain refusal of the application. In light of the above, it is considered that the development would accord with the aims of Part 9 of the NPPF, Policies 16 and 21 of the County Durham Plan and Policies T2 and T3 of the Durham City Neighbourhood Plan.

#### Other Matters

90. Objections have been raised regarding the proposed change of use resulting in the loss of council tax from the class N exemption from student occupiers, that house prices are rising, and young families have already been pushed out of the area. Some objections have also cited concerns in regards to the close proximity of the property

to three of Durhams best schools and therefore a change of use would remove another house attractive to families. House prices are not a material consideration, and the issue of social cohesion has been discussed elsewhere in the report.

## Public Sector Equality Duty

91. 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.
92. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## CONCLUSION

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93. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The development plan in this case relates to the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (paragraph 11 c).
94. In summary, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of policies 6 and 16 of the CDP subject to appropriate planning conditions described within the report and listed below.
95. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, and nor would it result in any unacceptable impact upon the amenity of existing or future residents through cumulative impact from an over proliferation of HMOs or highway safety in accordance with policies 6, 16, 21, 29 and 31 of the County Durham Plan or parts 9, 12 and 15 of the NPPF.
96. In addition, it is considered that on balance the development is acceptable in that it provides appropriate levels of amenity space for residents, protects the privacy and amenity of existing and future residents whilst also being acceptable in terms of highway safety in accordance with the aims of Policies 16, 21, 29 and 31 of the County Durham Plan, Policies S1, H3, D4, T2 and T3 of the Durham City Neighbourhood Plan, and Parts 2, 4, 8, 9, 12, and 15 of the National Planning Policy Framework.
97. Whilst the concerns raised by the City of Durham Parish Council, Mary Kelly Foy MP and local residents are noted, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application and considering the above, the application is reported to the Committee with a recommendation to approve the application, subject to conditions.

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## RECOMMENDATION

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



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

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

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

Plan	Drawing No.	Date Received
Location Plan		22.05.2023
Proposed Site Layout		28.09.2023
Proposed Ground Floor Plan		27.09.2023
Proposed First Floor Plan		27.09.2023

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 6, 16, 21, 29, and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the NPPF.

3. 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.

4. No development shall commence until a scheme of sound proofing measures has been submitted to and approved in writing by the local planning authority. The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, roofs between the adjoining properties shall be sufficient to prevent excessive ingress, egress of noise.

The aim of the insulation should be to ensure the requirements of BS 8233: 2014 in relation to sleeping areas are met within the rooms and the scheme shall be designed to the requirements of Document E of the Building Regulations.

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

Reason: To protect residential amenity in accordance with Policies 6, 29 and 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

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

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

6. The development hereby approved shall not be occupied until details of all cycle storage compliant with the Council's Parking and Accessibility Standards, as well as details of its location on site, has been submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed detail and the approved provision shall be retained for the storage of cycles at all times for the duration of the use hereby approved.

Reason: To encourage sustainable transport modes of travel in accordance with policy 21 of the County Durham Plan and Part 9 of the NPPF.

7. Notwithstanding the details submitted within the application the development shall not be occupied until a detailed strategy of precise management methods, approaches and techniques for the operation of the site has been submitted to and agreed in writing by the Local Planning Authority. The strategy shall include measures relating to the security of the building and its occupants, controls upon occupation to mitigate impact to residential amenity from noise and disturbance, a scheme for the storage, removal of waste generated by the development and cycle storage.

Thereafter the development shall be implemented in accordance with the agreed details, with adherence to the agreed management scheme in perpetuity.

Reason: In the interests of reducing the potential for harm to residential amenity, anti-social behaviour or the fear of such behaviour within the community having regards Policies 16, 29 and 31 of the County Durham Plan

8. The development hereby approved shall not have more than four occupants at any one time.

Reason: In the interests of protecting residential amenity, as outlined within the report, in accordance with Policy 31 of the County Durham Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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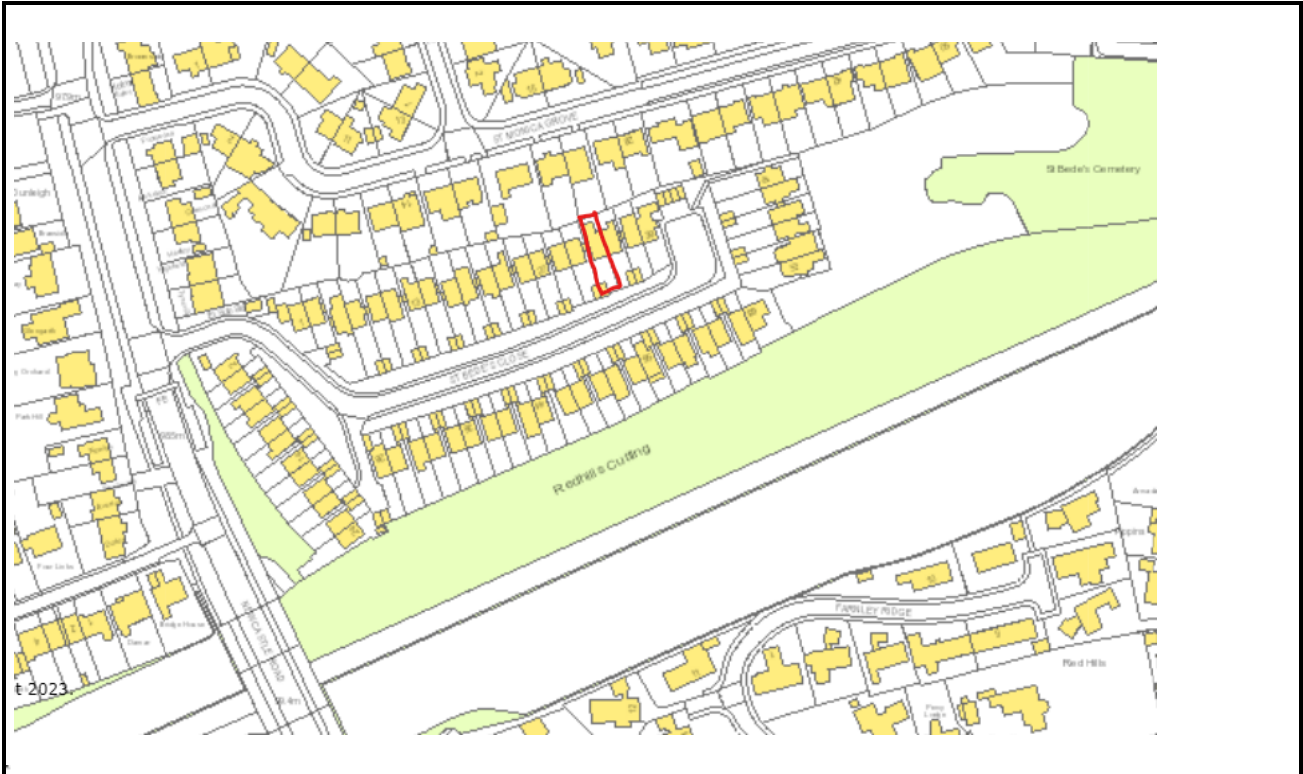
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents.
- The National Planning Policy Framework (2021)
- National Planning Practice Guidance notes.
- County Durham Plan 2020
- Durham City Neighbourhood Plan
- Statutory, internal and public consultation responses
- County Durham Parking and Accessibility Standards 2019



<p><b>Planning Services</b></p>	<p><b>Change of use of dwellinghouse (Use Class C3) to HMO (Use Class C4).</b></p> <p><b>33 St Bedes Close Crossgate Moor Durham DH1 4AA</b></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><b>Date:</b> September 2023</p>	<p><b>Scale</b> NTS</p>