



## Area Planning Committee (Central and East)

**Date** Tuesday 9 January 2024  
**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 December 2023  
(Pages 3 - 10)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee  
(Central and East)
  - a) DM/23/02622/FPA - Land South of South College, The Drive, Durham, DH1 3LD (Pages 11 - 48)  
Full planning application for the erection of a 74-bed care home facility (Class C2 Use), with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities.
  - b) DM/23/03302/VOC - 12 Ferens Park, Durham, DH1 1NU  
(Pages 49 - 62)  
Variation of Condition 2 (Approved Plans) of approval reference DM/22/02767/FPA to add north facing window in side wall of rear extension, east facing window in side utility extension and remove north facing side window in snug area.

- c) DM/23/00476/FPA - Whitehouse Farm, Wheatley Hill, Durham, DH6 3LX (Pages 63 - 78)  
Temporary siting of mobile home for a period of 3 years to be occupied by the farm manager.
- d) DM/23/02725/FPA - 4 Monks Crescent, Gilesgate, Durham, DH1 1HD (Pages 79 - 96)  
Change of use from dwellinghouse (Use Class C3) to house in multiple occupation (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  
20 December 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, P Jopling, 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 December 2023** at **9.30 am**

**Present:**

**Councillor D Freeman (Chair)**

**Members of the Committee:**

Councillors A Bell, L Brown, I Cochrane, J Elmer, P Jopling, D McKenna, E Peeke (substitute for D Oliver) and K Shaw

**1 Apologies for Absence**

Apologies for absence were received from Councillors S Deinali, C Kay, D Oliver and A Surtees.

**2 Substitute Members**

Councillor E Peeke substituted for Councillor D Oliver.

**3 Minutes**

The minutes of the meeting held on 14 November 2023 were confirmed as a correct record by the Committee and signed by the Chair.

**4 Declarations of Interest**

There were no Declarations of Interest.

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

**a DM/23/02859/FPA - 5 Monks Crescent, Gilesgate, Durham, DH1 1HD**

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 application was a retrospective planning application for the raising of a garage roof and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted that the application had been called into Committee at the request of Belmont Parish Council, who objected to the application, and noted that there had been two letters of objection from residents, as well as from the City of Durham Trust, with all objections summarised within the report. He added that the property already had permission in terms of a granted change of use, from C3 dwelling to C4 house in multiple occupation (HMO) and emphasised that the application before Members was solely in relation to the extension of the height of the garage roof.

The Chair thanked the Planning Officer and asked Parish Councillor Patrick Conway, representing Belmont Parish Council, to speak in relation to the application.

Parish Councillor P Conway thanked the Chair and Committee and noted that, further to the applications having been submitted, additional information had come to light. He noted that the Applicant suggested that objectors, including Belmont Parish Council, were acting in a malicious or vexatious manner, however, that was not the case. He explained that Belmont Parish Council carefully considered all planning applications and, in this case, noted the retrospective nature of the application, and the 500mm in additional height to the garage. He added that the Parish Council had received representations from the local community in respect of the application and therefore deemed that the application should be brought before the Area Planning Committee for consideration by Members.

Parish Councillor P Conway noted that the Parish Council could see no justification for the increase in height of the garage roofs, and if any justification had been put forward, the Parish Council would have considered that justification. He noted as there was no justification put forward, that had in turn prompted members of the public to come forward with their objections.

He added that while the reason set out within the report may be legitimate, many people objecting via the Planning Portal question why the replacement roofs were not like-for-like replacements.

Parish Councillor P Conway explained the Parish Council noted no explanation as regards the need for the increase in height of the roofs and noted that some other objectors had noted their concerns in respect of the motives behind the increase in roof height. He noted that it was understood that the change of use from C3 to C4 HMO use was not in question in respect of the applications before Committee, however, Members would be aware that the Parish Council had made representations on a number of HMO applications and were asking for a review in relation to the Article 4 Direction and HMO Policy 16 of the County Durham Plan (CDP). Accordingly, Parish Councillor P Conway noted the Parish Council would seek to act positively and constructively within policy, reiterating that there had been concerns raised in terms of the motives behind the applications.

Parish Councillor P Conway explained that the Applicant was a well-known student HMO landlord and noted the Parish Council had requested a meeting with the Applicant. He added the Parish Council met with a representative for the Applicant, however, the Parish Council felt the responses to questions had not been constructive or satisfactory. He noted that the Parish Council did hope for future dialogue and information.

*Councillor K Shaw entered the meeting at 9.41am*

Parish Councillor P Conway reiterated that the application had been requested to be considered by Committee by the Parish Council, not to be vexatious or punitive, rather it was 'exasperational' as the application appeared to have no justification in terms of the retrospective nature or requirement for the additional height, though the Parish Council could not speak to the technical nature of the works.

The Chair thanked Parish Councillor P Conway and asked the Committee Services Officer to read out a statement on behalf of Councillors E Mavin and L Mavin, Local Members for the Belmont Division who were unable to attend the meeting.

*'Chair and Members of the Planning Committee, we would like to raise our objections to both of these retrospective planning applications at 5 Monks Crescent and 9 Monks Crescent.*

*It is obvious that the raising of the garage roofs is because in future they will be turned into extra rooms for an already approved HMO, the garage is currently used for a cycle and bin store.*

*The Parish Council and local residents have expressed their concerns that these developments look out of place and are totally out of character with other properties in the area, we hope their concerns are taken on board by the Committee.*

*We are concerned that Developers can ignore planning regulations and build what they want and only when it is reported to the Planning Officers as regards what they are doing, they then put a retrospective planning application in and get away with it.*

*If the Planning Officers aren't of a mind to refuse such applications, then it is down to the Planning Committee to support Local Councillors, the Parish Council and local residents and refuse these applications.*

*Thank you for listening'.*

The Chair thanked the Committee Services Officer and asked the Lawyer (Planning and Highways), Neil Carter to comment.

The Lawyer (Planning and Highways) noted Councillor K Shaw had entered the meeting part-way through the representations from the Parish Council and advised that he may therefore not wish to take part in terms of the application, however, the decision was for Councillor K Shaw. Councillor K Shaw thanked the Lawyer (Planning and Highways) and noted he agreed with the advice and would not participate or vote in relation to this item.

The Chair thanked the Lawyer (Planning and Highways) and asked the Committee for their comments and questions.

Councillor L Brown asked as regards why such insulation had been required for an uninhabited room, why the works on the two properties was not permitted development, and should the Applicant wish to convert the garages to additional bedrooms whether separate planning applications would be required. The Principal Planning Officer, Paul Hopper noted that he could not comment on Building Control Regulations in terms of insulation requirements. He noted the application was not permitted development as the additional height of approximately 500mm was greater than that allowed under permitted development. He explained that any conversion of the garage to an additional bedroom would be allowed under permitted development and therefore that was not within the control of Planning. He noted that the garage, and the garage in the subsequent application on the agenda, had contained bin and cycle storage as part of the previous change of use permission, however, that was not secured in perpetuity by condition and while that use for bin and cycle storage could continue should there be a conversion to a bedroom, that issue was not under consideration within the current application, only the additional height to the garage roofs.

Councillor L Brown noted she would have thought the Article 4 Direction and policy would require a separate application. The Principal Planning Officer reiterated that that would be allowed under permitted development rights.

Councillor A Bell noted the concerns of the objectors in terms of the likely final outcome of the situation, however, an application for an additional bedroom would come back for determination. He moved that the application be approved as per the Officer's recommendation. The Principal Planning Officer noted that any change of the garages to bedroom was allowed under permitted development rights relating to the previous change of use permission and would not require a separate application. Councillor A Bell noted the permitted development rights and reiterated he would proposed that Members approve the application.

Councillor J Elmer noted he was surprised by what he had heard, adding he felt that it was a little sneaky that a garage could be subsequently converted after a change of use application was granted. The Principal Planning Officer noted that the change of use permission related to the whole of the properties, including the garage portion. He added that the change of use permission had been for C3 to C4 HMO use, without any specific restriction on the number of bedrooms or tenants for the property. Councillor J Elmer noted that the garage was allocated as bin and cycle storage. The Principal Planning Officer reiterated that the change of use permission referred to the whole of the property, including the garage, and it may be possible that some part may be retained for that use. Councillor J Elmer noted he felt that there would not be the increase in height or inclusion of such insulation unless the aim was to convert the garage to an additional bedroom. He noted he felt that was a material consideration and asked it be noted on the record that he felt the Committee had been 'taken on a bit of a merry ride' and that Members did not appreciated that. Councillor L Brown added that she agreed with Councillor J Elmer and asked if similar situations occurred in future, that it was conditioned that any additional bedrooms or conversion would require separate planning permission.

The Chair noted that while the Committee may be cynical in terms of the likely final outcome in terms of the properties and creation of an additional bedroom, the application for consideration had been moved for approval by Councillor A Bell. Councillor I Cochrane seconded approval.

Upon a vote being taken, it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions within the Committee report

**b DM/23/02860/FPA - 9 Monks Crescent, Gilesgate, Durham, DH1 1HD**

The Planning Officer gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was a retrospective planning application for the raising of a garage roof and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted the property in question was two doors further along the street at Monks Crescent and highlighted the similarities to the previous application.

The Chair thanked the Planning Officer and asked Parish Councillor P Conway if he wished to add anything further to his previous comments.

Parish Councillor P Conway noted that he would not wish to take up anymore of the Committee's time, however, he would make a few additional points. He noted that Belmont Parish Council was supported by three very good public spirited County Councillors, however, Parish Councils were not supported in terms of planning advice and therefore may need to seek its own advice in terms of proposing conditions in future. He added that it was felt that there had been no discussions with the Applicant as regards why insulation had been included, especially if it was not a requirement. He reiterated the Parish Council's previous request that the Article 4 Direction and CDP Policy 16 be reviewed.

In respect of justification, the Principal Planning Officer explained that there was no policy requirement for the Application to make such an explanation why they wished to make such alterations, rather the information provided within the application was sufficient to be able to make a recommendation based on relevant policy.

The Committee Services Officer noted the comments from Local Members, Councillor E Mavin and L Mavin also related to the application at 9 Monks Crescent.

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



Councillor A Bell asked how long the works had been completed and when the retrospective applications had been received. The Principal Planning Officer noted that planning applications were being determined within around eight weeks, albeit the Committee cycle would lengthen the process to around a couple of months. Councillor A Bell moved that the application be approved.

Councillor P Jopling explained she appreciated the position of the Parish Council and can understand their frustration in terms of the previous change of use decision. She noted that left the Committee with a dilemma in terms of looking at applications against policy and also in terms of what the likely additional bedroom. She noted Members were also not keen on retrospective application, however, the Committee must determine applications that are before them and therefore she would second approval of the application for an increase in garage roof height.

Councillor L Brown agreed that the Committee had to consider the applications that were put before it, adding it was accepted that this application was 'in principle' acceptable. She asked that it be recorded in the minutes that the Committee felt that the applications represented '*a cynical exploitation of the planning system*'. Councillor J Elmer noted all were aware of what Durham faced in terms of the loss of family homes to become student HMOs, however, there was no evidence of the need for these types of student properties. He added that there was a tremendous negative impact upon the residents of Durham by cynical landlords. He noted that the previous change of use decisions had likely been under delegated authority and noted that perhaps if those applications had been called in, the Committee could have looked at the issues raised. The Chair noted he felt the Committee could all agree with the comments in terms of the cynical nature of the applications. Councillor P Jopling added she agreed and that Members of the Committee understood the impact on communities where large numbers of HMOs are permitted. She noted she understood the need for student properties, however, she felt that these types of family homes in these types of areas were not the right properties.

The Chair allowed Parish Councillor P Conway to make a point of clarification. Parish Councillor P Conway noted that the Parish Council had requested some such change of use applications be considered by Committee, namely 4 Monks Crescent. He added that the Parish Council made reference within its submissions to a wide range of policies, not just Policy 16, including those within the NPPF and CDP relating to social, economic, environmental aspects, as well as transport and highway safety.

He reiterated that the Parish Council had also referred to the Article 4 Direction and Policy 16, citing one example where while 25 percent of a street were HMOs, as the area in question was a cul-de-sac, the 100-metre radius within policy showed less than 10 percent HMOs, within policy. Parish Councillor P Conway added that the Parish Council had taken on board information from Planning Officers as regards other policies within the NPPF and CDP that had material weight as regards HMO applications, and had made reference to such policies within its submissions. He concluded by noting that there needed to be a balance between Policy 16 and the other relevant policies within the NPPF and CDP.

The Chair noted he agreed with Parish Councillor P Conway, adding that the Committee had refused some HMO applications when looking at that balance between planning policies.

The Principal Planning Officer noted that 4 Monks Crescent was a different application to the two properties on the agenda, being 5 and 9 Monks Crescent. He added that the change of use permissions had been granted under delegated authority, noting that as the percentage of HMOs within 100 metres had been only 2.1 percent, Officers had been comfortable to approve the change of use without limiting the number of tenants, given the lower percentage of HMOs within 100 metres. He reiterated that bin and cycle storage may be retained within the garage space, should it be converted to a bedroom, or the landlord may accommodate bin and cycle storage within another area, such as the garden. He concluded by reiterating the issue being looked at was solely the increase in garage roof height.

Councillor J Elmer noted the comments from Parish Councillor P Conway and the Principal Planning Officer and withdrew his comment in terms of calling-in the previous change of use applications.

The Chair noted that the application had been moved for approval by Councillor A Bell, seconded by Councillor P Jopling and upon a vote being taken, it was:

## **RESOLVED**

That the application be **APPROVED** subject to the conditions within the Committee report

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/23/02622/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Full planning application for the erection of a 74-bed care home facility (Class C2 Use), with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities.
<b>NAME OF APPLICANT:</b>	Torsion Care Ltd
<b>ADDRESS:</b>	Land South of South College The Drive Durham DH1 3LD
<b>ELECTORAL DIVISION:</b>	Neville's Cross
<b>CASE OFFICER:</b>	Steve France Planning Officer Telephone: 03000 264871 <a href="mailto:steve.france@durham.gov.uk">steve.france@durham.gov.uk</a>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Application

1. This is a full planning application, proposing the erection of a new 74-bed Residential Care Home on land at Mount Oswald, a development site at the southern extent of Durham City. The application includes the associated access road, car parking, cycle storage, landscaping, boundary treatments and servicing.

### The Site and its Surroundings

2. The main Mount Oswald development site within which the proposals sits is based around the Grade II listed Manor House, latterly Golf Club House, that was granted Outline Planning Permission in 2013 for a mixed-use development guided by masterplans 'comprising 291 dwellings, including specialist market housing for the elderly, student accommodation, office, retail, community uses and associated infrastructure'.
3. The golf course sat bordered by residential and University development to the north, and further residential development to the south. The A177 (South Road) ran along the eastern boundary, with the Howlands Farm Durham University campus and Howlands Park and Ride car park, Durham Crematorium, and Durham High School beyond, the surrounding countryside designated as Green Belt and as an Area of High Landscape Value (AHLV). The A167, including a cycle lane ran along the western boundary, with open countryside beyond again designated as Green Belt and part designated as an AHLV.

4. Within the site, a central band of landscape framing the listed building was included in the Local List of Historic Parks and Gardens, that further includes individual and groups of protected trees (TPOs).
5. The current application site sits north-east of the listed building and is unaffected directly by any of the landscape designations. Individual protected trees are however affected by the proposals, within and adjacent the site.
6. The majority of the approved 2013 Outline consent have now been implemented including a development of 1000 bedrooms of purpose-built student accommodation (PBSA), to the north and market housing to the west. An Outline consent for a further 850 student rooms was approved, effectively renewed from a previous consent, by this Committee in April this year to the north-west of the application site, potentially filling the currently vacant gap between the new College and the new residential estates.
7. The Listed Building has been redeveloped and extended as the base of the County Council Record Office, a History Centre and Registry Offices, named 'The Story', within the protected trees and designated parkland to the south of the application site.
8. This mature woodland forms the south boundary of the site, through which a public right of way, footpath 18, runs parallel. The woodland is indigenous deciduous and in winter potentially offers glimpsed views of the extended listed Manor House from the site.
9. The broadly rectangular application site with a spur extending from it to connect to the adopted highway, is 0.44ha in area. The land is an undeveloped and maintained as close-mown grassland, with individual scattered trees. The land slopes down to the east where a highways access has already been formed from The Drive, in anticipation of a development in this area as envisaged by the Outline consent. The approved evolved Masterplan approved in application DM/15/03555/VOC as for Office/Retirement/Community uses. The immediately adjacent, still undeveloped land to the east of the application site at the main site entrance from the A177 was envisaged as a Convenience Store, with this and the site served by a common access.

## The Proposal

10. The application proposes building with an L shaped footprint, three storeys in height. A flat-roof design and design cues to reflect some of the character of the adjacent college, as the dominant local built form, with contrasting brick panels, dark grey fenestration and black rainwater goods is proposed.
11. The accommodation proposed sits within Use Class C2 – Residential Institutions.
12. Proposed accommodation is set out along the 'legs' of the L, with each floor providing communal facilities including main dining room/lounge, activity rooms, sports lounge, gallery café, wellness suite, clinics and a hair salon along with entrance/reception and administrative and service elements where the legs join. There are further communal garden rooms and a stairwell at the gable end of the north elevation – where nearest The Drive and facing the nearby college. A small secure communal garden and six ground floor rooms on the west elevation have a small area of outdoor space. The building is 'cut' into the slope, with a 'lower ground floor' including service/staff/kitchen areas.
13. The scheme will provide for 23 parking spaces including 2no. accessible in layout. 4no. EV spaces are proposed. Cycle parking is available for staff and visitors.

14. This application is being considered by Committee as a 'major' development scheme.

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## **PLANNING HISTORY**

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15. CMA/4/83 Outline planning application with access details (all other matters reserved) for a mixed-use development comprising 291 dwellings, to include specialist market housing for the elderly, student accommodation, office, retail, community uses and associated approved in 2013. This outline planning permission lapsed in 2020 in terms of potential for reserved matters applications but remains material in any planning assessment.
16. DM/14/01268/RM Reserved matters application in regard to northern access road pursuant to planning permission CMA/4/83 approved in September 2014.
17. DM/14/03391/RM Reserved matters application pursuant to outline planning permission CMA/4/83 in respect of internal western shared access road and associated earthworks and drainage approved in December 2014.
18. DM/15/02268/NMA Non-material amendment pursuant to drawing PAD7A as part of Reserved Matter application DM/14/03391/RM approved in August 2015.
19. DM/15/03555/VOC Variation of condition 3 (approved drawings) pursuant to planning permission CMA/4/83 in regard to a revised masterplan that includes landscape and drainage modifications approved in May 2016. This application identifies the current development site as for 'Office/Retirement Community' uses, and the facing land to the north of The Drive as 'Student Accommodation'.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

20. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
21. *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.
22. *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.
23. *NPPF Part 5 – Delivering a wide choice of high-quality homes.* The Government advises Local Planning Authority's to deliver a wide choice of high-quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed

communities. Paragraph 65 exempts developments of specialist accommodation for students from providing an affordable element.

24. *NPPF Part 8 – Promoting healthy and safe communities.* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
25. *NPPF Part 9 – Promoting sustainable transport.* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
26. *NPPF Part 11 Making Effective Use of Land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously developed or 'brownfield' land.
27. *NPPF Part 12 Achieving Well-Designed Places.* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
28. *NPPF Part 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.
29. *NPPF Part 15 - Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.
30. *NPPF Part 16 - Conserving and Enhancing the Historic Environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

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

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

development needs assessments; housing and economic land availability assessment; light pollution; natural environment; neighbourhood planning; noise; open space, sports and recreation facilities, public rights of way and local green space; planning obligations; travel plans, transport assessments and statements; use of planning conditions; and; water supply, wastewater and water quality.

32. Of particular relevance to the consideration of this application is: 'Housing for older and disabled people', published 26 June 2019. This states that, 'the need to provide housing for older people is critical. People are living longer lives and the proportion of older people in the population is increasing'. 'Offering older people a better choice of accommodation to suit their changing needs can help them live independently for longer, feel more connected to their communities and help reduce costs to the social care and health systems. Therefore, an understanding of how the ageing population affects housing needs is something to be considered from the early stages of plan-making through to decision-taking'. 'The National Planning Policy Framework glossary provides definitions of older people and people with disabilities for planning purposes, which recognise the diverse range of needs that exist. The health and lifestyles of older people will differ greatly, as will their housing needs, which can range from accessible and adaptable general needs housing to specialist housing with high levels of care and support'. Within the typologies of accommodation set out, 'Residential care homes and nursing homes: These have individual rooms within a residential building and provide a high level of care meeting all activities of daily living. They do not usually include support services for independent living. This type of housing can also include dementia carehomes'. 'Decision makers should consider the location and viability of a development when assessing planning applications for specialist housing for older people'.

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

## **LOCAL PLAN POLICY:**

### The County Durham Plan

33. *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.
34. *Policy 21 Delivering Sustainable Transport* states that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
35. *Policy 22 Durham City Sustainable Transport*. Seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area.
36. *Policy 25 Developer Contributions*. Advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.

37. *Policy 26 Green Infrastructure.* States that development will be expected to maintain and protect, and where appropriate improve, the County's green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
38. *Policy 28 (Safeguarded Areas).* Within safeguarded areas development will be subject to consultation with the relevant authority and will be permitted where it can be demonstrated that it would unacceptably adversely affect public safety, air traffic safety, the operation of High Moorsley Meteorological Officer radar.
39. *Policy 29 Sustainable Design* Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).
40. *Policy 31 Amenity and Pollution* Sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
41. *Policy 32 Despoiled, Degraded, Derelict, Contaminated and Unstable Land* states [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
42. *Policy 35 Water Management.* Requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
43. *Policy 36 Water Infrastructure.* Advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste-water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
44. *Policy 39 Landscape* states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances,



the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.

45. *Policy 40 Trees, Woodlands and Hedges* states that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and integrate them fully into the design having regard to their future management requirements and growth potential.
46. *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.
47. *Policy 43 Protected Species and Nationally and Locally Protected Sites*. Development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
48. *Policy 44 Historic Environment*. Seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
49. *Policy 45 Durham Castle and Cathedral World Heritage Site*. Both are designated heritage assets of the highest significance. New development should sustain and enhance the significance and be based upon Outstanding Universal Value, protecting and enhancing it in the immediate and wider setting and important views across, out of and into the site. Harmful development is only permitted in wholly exception circumstances.
50. *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.
51. *Residential Amenity Standards Supplementary Planning Document (Amended 2023)* sets out guidelines for reasonable expectations of residential amenity including separation distances and minimum garden lengths on new development.
52. *Parking and Accessibility Standards Supplementary Planning Document (Adopted 2023)* sets out parking standards, advice on sustainability, walking, cycling, EV and motorcycle provision within developments.

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

53. *Policy S1 Sustainable Development Requirements of all Development and Redevelopment 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.
54. *Policy S2: The Requirement for Masterplans or Other Design and Development Frameworks* - supports the preparation of such documents for all major development sites prior to consideration through a planning application. Such Masterplans should consider job creation, design, impacts on views and settings of the WHS, amenities, impacts to conservation areas, reducing the need to travel, permeability and provision of green infrastructure.
55. *Policy H1: Protection and Enhancement of the World Heritage Site* - requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views and create new views and vistas.
56. *Policy H3: Our Neighbourhood Outside the Conservation Areas* – requires development outside of Conservation areas to, where appropriate, demonstrate an understanding of the area of the proposed development and its relationship to the Neighbourhood area. Such development should sustain and make a positive contribution to the character and distinctiveness of the area and avoid the loss of open space and public realm that contributes to the area, to be appropriate in terms of scale, density, massing, form, layout, landscaping and open spaces and use appropriate materials and finishes.
57. *Policy G1: Protecting and Enhancing Green and Blue Infrastructure* - seeks to support developments that retain existing green or blue assets with significant recreational, heritage, cultural, ecological, landscape or townscape value and developments that provide additional green or blue assets, particularly if there is an identified deficiency. Any new or replacement assets must be appropriate to the context and setting. The policy requires developments to protect and enhance public rights of way and footpaths and green corridors. It offers support to proposals that provide net gains for biodiversity. The policy requires features of geological value to be protected. The policy seeks to protect and enhance the banks of the River Wear by supporting proposals with desirable access that do not have significant impacts on current assets. The policy also seeks to protect dark corridors by ensuring developments minimise lighting in such areas.
58. *Policy G3: Creation of the Emerald Network* - 17 sites of wildlife interest that are linked are identified by this policy which supports the improvement of biodiversity of the sites, improving the amenity of the sites and the accessibility to and between these sites provided there is no significant harm to biodiversity. Connections between the sites is relevant.

59. *Policy T1: Sustainable Transport Accessibility and Design* – requires development proposals to be supported by evidence of how they contribute to sustainable transport accessibility and design where appropriate.
60. *Policy C4: Health Care and Social Care Facilities* - Development proposals for the provision of Health Centres, Surgeries, Clinics, Nursing Homes and Residential Care Homes will be supported where it is demonstrated that they: are well related to residential areas; are located close to public transport routes and are accessible by a choice of means of transport; would not have a detrimental affect upon the amenity of occupiers of adjoining and nearby properties and businesses; allow appropriate access for pedestrians, people with children and people with disabilities; provide car parking facilities at the premises.
61. Further, in the case of Nursing Homes and Residential Care Homes, in addition: are well related to shops, community and social facilities; for both the location and the form of the development itself, provide good standards of amenity and open space for the residents, including avoiding sites where existing non-residential uses may be to the detriment of the residents.

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

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

62. *Highways* – comments confirm that from a Highways perspective, this proposal is considered acceptable. In terms of overall impact on the local road network, care facilities generate very small levels of traffic movement. Trip generation for this facility are proposed to be 11 movements (7 In, 4 Out) in the AM peak, and 10 (4 In, 6 Out) in the PM peak. Therefore, the impact on the local road network would be negligible.
63. A safe and suitable access to the site is proposed, conforming to the required standards for visibility. The junction would be accessed off a private road, and so permission from the Local Highway Authority is not required.
64. A total of 23 car parking spaces are proposed, which means the provision is in accordance with the 2023 Parking and Accessibility SPD. 4 active EV charging points are also to be provided, along with 6 cycle parking spaces.
65. Adequate turning facilities to allow servicing vehicles to enter the site, manoeuvre safely, and leave in a forward gear, have also been provided.
66. Conditions are requested to ensure that parking provision (including EV and cycle parking) is available before first occupation and that construction of the access junction and road is completed prior to first occupation.
67. *Northumbrian Water* – have not responded to their consultation.

## INTERNAL CONSULTEE RESPONSES:

68. *Spatial Policy* – The principle of this development was accepted through the original outline application on this site for a mix of uses including specialist housing for the elderly, as well as through detailed pre-application discussions. The key policy considerations are Policy 15 of the County Durham Plan (CDP) supports specialist housing for older people, vulnerable adults and people with disabilities subject to a list of criteria, and The Durham City Neighbourhood Plan (DCNP) Policy C4 which supports proposals for nursing homes and residential care homes subject to a list of criteria.
69. It is considered that the proposed development meets most of the criteria within these policies in relation to the location of the care home, however in relation to part I of policy 15 of the CDP, and part g of DCNP policy C4, issues around amenity space have been raised by Design colleagues.
70. The standards set out in the Open Space Needs Assessment 2018 (OSNA) should be used. In this case we would request contributions for 72 x £714.00 (£790.50 – play space (£42.50- £34.00)) = £51,408.
71. *Archaeology* - There is no archaeological objection to this scheme
72. *Design and Conservation* – For the effect on Heritage Assets: The proposed development site lies to the north-east of Mount Oswald (Grade II) and Mount Oswald locally listed historic park, garden and designed landscape. Given the intervening woodland, inter-visibility between the site and the designated heritage asset is unlikely.
73. In Design terms: As noted at the pre-application stage, the plan form shows that the immediate area around the proposed building is limited in terms of amenity space and therefore outlook for residents. This limited space may be overshadowed by existing trees, and much of the area to the front of the building being taken for car parking. Whilst the site lies within a parkland setting and provides small communal spaces, the immediate green space adjacent the building is important in relation to outlook and amenity for residents and therefore some concerns remain in relation to the proposed site plan. In relation to the external communal spaces, the boundary treatment adjacent to the college encloses open space in an otherwise open public environment. The use of space within the site may need further consideration.
74. With regard to detailed design and architecture, the proposed building form and roofline is improved and the approach to introduce a variation on a theme relating to the existing student accommodation is welcomed. The building entrance is legible to visitors without over-reliance on signage. The large fenestration openings are set back with brick reveals, giving depth to the elevations. Details of materials and samples for consideration should be conditioned.
75. *Drainage and Coastal Protection* – have raised no objection to the surface water management proposals noting that a separate consent is required from the LLFA for the new culverted watercourse, it should be approved prior to construction commencing. It's separate requirement to planning and it can be applied for by the applicant, builder, or contractor.
76. *Ecology* – 'The applicant's submitted bio-diversity metric shows a net loss (albeit not a huge one) of biodiversity, neither does it meet trading rules and they have predicted that

certain urban trees will reach a medium size. There is debate over whether urban trees can realistically reach that size class and that a small size class is more realistic, and I have questioned other application around this issue’.

77. ‘Notwithstanding the above – the net loss falls below 1BU and it is considered appropriate to take a proportionate approach to the trading rules, if the loss is alternately mitigated via a payment of £5.3k which is the reduced £ contribution for low level impacts’.
78. ‘The delivery of the required Management Plan can be appropriately tied to a legal agreement requiring that monitoring reports will need to be sent to the Local Planning Authority’.
79. *Landscape* – advise that the site comprises open spaces with mature trees creating a parkland character but is not classified within any national or local landscape designations. It is north of the Listed Building of Mount Oswald and the locally listed Park and Garden. A public footpath is located south of the site with public views of it the site is visible from The Drive and the college buildings beyond and there are views from South Road looking west. The development will have an urbanising effect on the space and will be harmful to the character and distinctiveness of the landscape. The retention and management of existing trees combined with the proposed landscape planting would reduce landscape effects but not compensate for the level of harm incurred by the proposed building. The existing green space provides a landscape buffer between the college buildings and the locally listed designated landscape.
80. The harm brought about by development of the site for a care home requires consideration in relation to County Durham Plan Policies 20 Green infrastructure, 29 Sustainable Design, 39 Landscape and 40 Tree Woodlands and Hedges. The proposed building of scale, with surrounding infrastructure and hard surfaces would adversely impact upon existing open space, mature trees and associated parkland character which would be transformative and contrary to policies 29, 39 and 40, unless the benefits clearly outweigh the anticipated harm. The extent of retained and proposed vegetation should also be considered as effects would diminish as the proposed landscape scheme develops to maturity. The cumulative effects of this proposed development in combination with the proposed adjacent developments and resulting adverse impacts on the established parkland character of the locality and on visual amenity, should be considered.
81. *Tree Officers* – originally objected to the proposals effects on surrounding protected trees, in response to which the developer has provided a series of protective measures and ‘tree friendly’ construction techniques. A detailed list of requirements for the operation of this has been provided in updated comments, along with note of the basic requirements for trees of Policy 39 (Landscape) and Policy 40 (Trees, Woodland and Hedges).
82. *Public Rights of Way* - note Public Footpath 18 lies just to the south of the application site, and that this path would appear to be unaffected by this proposal.
83. *Environmental Health (Air Quality)* – The Applicant's approach to air quality has been systematically assessed in detail, with recommendations for consistency in documentation for the construction phase met in process.
84. In terms of the operational phase it is noted that the Planning Statement describes the promotion of sustainable means of transport in the Travel Plan, the provision of EV parking, and cycling spaces that will have co-benefits for air quality. It is further noted that

the proposed solar panels and air source heat pumps on the roof plan will reduce emissions associated with domestic energy use. This is welcomed.

85. *Environmental Health (Contamination)* - have examined the submitted reports and information submitted in support of the wider development site, concluding there is no need for a contaminated land condition, suggesting a standard precautionary 'informative' to cover the potential for unforeseen contamination being discovered during the course of development works. There is no requirement for a contaminated land condition.
86. *Environmental Health (Nuisance)* - Officers we suggest a Construction Management Plan should be submitted based on the following criteria:
1. No construction/demolition activities, including the use of plant, equipment, and deliveries, which are likely to give rise to disturbance to residents should take place before 0800 hours and continue after 1800 hours Monday to Friday, or commence before 0800 hours and continue after 1300 hours on Saturday. No works should be carried out on a Sunday or Bank Holiday.
  2. The best practicable means shall be used to minimise noise, vibration, light and dust nuisance or disturbance to local residents resulting from construction/demolition site operations. No burning of waste is to be carried out on the development site. It shall be considered that the best practicable means are met by compliance with all current British standards/relevant guidance.
87. *Adult and Childrens Health Services* – have written setting out a number of concerns with the proposed development, summarised below:
88. A lack of engagement with the Adult and Health Services Commissioning Team is noted. With 2 large new Older Persons Care Homes being built in County Durham with anticipated completion dates in 2023, there is an overprovision of Older Persons care home beds in County Durham. In early 2023/24 2 Older Persons Care Homes closed Furthermore, existing Older Persons care homes have flagged concerns with DCC regarding a lack of placements, so a new large care home is very likely to cause additional financial sustainability pressures to the other existing care homes around that area. This also, critically, puts pressure on DCC fees due to that under occupancy and this is significant, being the single biggest spend area for the Council. That the County has significant issues with the quality or capacity of the existing Older Persons Care Homes is an unsubstantiated statement presented as fact.
89. The Council and wider Care Partnership (integrated with NHS colleagues) strategy is to reduce the need for care home placements by developing home care and extra care services so this development is not in line with our strategic direction as a LA nor national best practice for a 'home first' approach. Our adult social care data does not support the suggested need for increased care home beds and for the increasing population we have plans to support through alternative models of service delivery and not through additional care homes.
90. In terms of the local NHS, a care home will not reduce the strain on health services as it will create significant additional pressure on local GP practices which will need funding and also pressure on the UHND hospital in Durham city, more older people is inevitably more people requiring admissions to hospital or outpatient appointments at A&E. In terms of adult social care, a care home will not reduce the strain on social care as we do not need any additional OP care home beds and in fact the existing providers already struggle to recruit and retain staff.

91. It's location near to large student accommodation is not ideal due to noise issues. Older People often prefer to go to bed early and we would suggest that student lifestyle doesn't align to that. Therefore, it is our view that the care home development does not adhere to this element of your planning policy regarding specialist housing: 'the development is in an appropriate location with reference to the needs of the client'.
92. *Planning Monitoring/Enforcement Officers* – requested working hours standardised with Durham County Council's standard approach and additional details on the approach to dust monitoring. The subsequent addition of dust monitors on and around the site should complaints be received or if visual monitoring found dust levels at a high risk and revised working hours removed any adverse comments.
93. *Sustainable Travel* – no response received.

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

94. *NHS Local Healthcare Estates* have requested funds to be secured through s.106 agreement, and using a standard methodology have requested the sum of £15,540 to mitigate the likely demands that the development of a 74 patient increase would place on the local healthcare system: the affected practice, the Claypath and University Health Centre falling with the Durham West Primary Care network, which is at full capacity with regards to space requirements to provide appropriate services to patients.
95. *Durham Constabulary* – no comments received.

#### **PUBLIC RESPONSES:**

96. Following a consultation exercise consisting of a press notice, site notices and 80 direct mail letters a response consisting of: 1 letter in support from the City of Durham Trust of the proposals and 3 objections, from an individual and the Principal of the adjacent College, and belatedly as this report was being written, from the Claypath & University Medical Group (CUMG).
97. The *City of Durham Trust* welcomes the proposed additional care home facility noting the Durham City Area will need additional care beds in future due to demographic trends. The Neighbourhood Plan Policy C4 sets out criteria to be met and the proposal broadly meets them – with a note for pedestrian access suggesting direct connection to the adjacent PROW. The Neighbourhood Plan describes anticipated future need and concludes that it will either be necessary to expand existing care homes or build new ones. 'This is the basis of the Trust's support in principle for the proposal'.
98. *The Principal of South College*, directly opposite the development site to the north of The Drive writes that 'the College is home to 492 students, the large majority of whom are undergraduates. Approximately 700 additional students of Durham University are members of South College. These non-resident members frequently come to college for meetings of clubs and societies, to hear visiting speakers, use our drama and music studios, exercise in the college gym, drink in our bar or eat in our dining hall'.

99. 'Every year we host events including matriculation, graduation, college days, remembrance day, formal dinners, college balls, fashion shows and drama performances. Each attracts large numbers of students, and some are accompanied by live and/or amplified music. The houses at Mount Oswald were distanced from our buildings precisely because such events were anticipated and understood. This distancing has worked well, and noise pollution rarely disturbs our existing neighbours'.
100. 'The proposed care home will be directly opposite South College, closer than any of the existing private residences. I fear the possibility of conflict between student lifestyles and the expectations of families placing their aged relatives in residential care'.
101. 'In term time, students will often return to college late at night. The college Bar is frequently very busy, and students sometimes socialise on the Balcony of the Pitcairn Building. These facilities will be in direct line of sight from the proposed development. On special occasions such as those mentioned above, particularly large numbers of students are present'.
102. 'Plainly, I am anxious to ensure that South College students can continue to enjoy student life without inconveniencing or disturbing any neighbours. With this in mind, I seek assurance that those considering the planning implications and any developers are aware of these issues and have considered them carefully'.
103. A resident of Nevilles Cross considers the location adjacent student accommodation and not part of 'any recognised community' as inappropriate. They understand that residents of the area can find the area noisy in summer in relation to the 'various college sites'. The justification of the need for the development is questioned.
104. Summarised, the *Claypath and University Medical Group* as the only practice directly affected by the development has significant concerns for the negative impact the proposal could have on their services. Their current buildings are considered 50% smaller than their patient list demands. Architects and land agents have been engaged to seek additional land or building capacity within Durham City. They note the NHS letter suggesting securing £15k of funding through s.106 agreement but contend that this would only cover a small fraction of the costs of expansion and would only contribute to estate costs rather than ongoing labour expenses as essential to support a care home of this size.
105. Patients in a care home facility place considerable extra demand on the NHS and Primary Care facilities such as the Practice. The additional demands from people in the last year of their life is up to 10 times greater than for those with a five-year life expectancy: the Practice would incur substantial costs to service Nursing Home residents' additional needs.
106. The resources required to support the Care Home would necessitate a reallocation of current services that may mean the level of care available to existing residents of Durham would deteriorate. 'This proposed development poses a substantial risk to our ability to maintain the current standard of service for our (sic) existing patients'.
107. The closure of the nearby Hallgarth Care Home, a smaller facility, in 2023 from a lack of demand concludes in questioning the need for the current scheme.



## APPLICANT'S STATEMENT:

108. The proposed development seeks to obtain full planning permission for the construction of a 74-bed care home facility, with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities. Torsion Care are experts in delivering communities for people to live, building modern care homes and extra care facilities of the future. The principal aim of this development is to deliver a superior level care facility to exceed the Care Quality Commission Fundamental Standards, while affording residents a safe and secure environment so that they may live with dignity.
109. The design and layout of the proposed scheme has been informed by the team at Torsion Care and Stem Architects with their collective decades of experience in the residential social care sector, both as developers, architects, and operators of award-winning care schemes. The scheme will provide high quality care facilities for the local population, meeting an identified need for older persons housing, reducing the strain on the capacity of existing health and social services. The development will make functional use of an underutilised site, where the principle of development has already been established as acceptable through the previous planning history.
110. The proposed development will consist of a 3 storey, L-shaped building to house the 74-bed facility. The layout of the proposed building follows an efficient and proven operational model used extensively by Torsion Care, whilst also respecting the existing site and constraints. The external appearance of the building has been developed through consultation with the Local Planning Authority to relate well to the character and appearance of the local area. The scheme will also incorporate satisfactory levels of parking and access arrangements, external communal gardens with attractive landscaping, and high-quality spaces and facilities throughout the development. The design is focused on the wellbeing and requirements of the future occupants.
111. The proposed care home will offer the clear benefit of providing purpose built and specialised housing to meet the requirements of an ageing population, which is recognised both locally and nationally. The development therefore represents the opportunity to meet the growing care needs for an increasing elderly population. The new facility will also provide local employment opportunities within an accessible and sustainable location, as the facility will require 50 full time and 25 part time staff. This represents a clear public benefit. The care home facility will also be constructed to be highly energy efficient, which will future-proof the building and help reduce energy costs and consumption.
112. Through the consultation and application process, concerns have been raised with regards to the impact of the proposed development on the operations of the existing Durham University South College Campus. This relates to the impact of noise and disturbance to future residents. A Noise Impact Assessment has been undertaken by a qualified professional and has demonstrated that the proposal will comply with the relevant technical guidance and national policy. Furthermore, design and mitigation measures will be implemented to further reduce any impact. Further information has also been provided throughout the application process to satisfy the requirements of consultee comments relating to Flood Risk & Drainage, Ecology and Design & Conservation.
113. The proposed development brings social, economic, and environmental benefits, falling within the definition of sustainable development. The proposal will deliver a high-quality care home facility to cater for the needs of an elderly population, delivering clear public benefits to the locality.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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114. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that decisions should be made in accordance with the development plan unless material considerations indicate otherwise. In accordance with advice within the National Planning Policy Framework (NPPF), the policies contained therein are material considerations that should be taken into account in decision making. Other material considerations include representations received. In this context, it is considered that the main planning issues in this instance relate to: the principle of the development and the detailed nature of the use and in particular the implications for the residential amenity of existing and proposed dwellings, sustainability, highway safety and access, layout and design, scale and massing, ecology, and drainage, and other matters.
115. The issue of the need for the development has also been of significant interest. The degree to which this is a material consideration will be discussed below.

### Principle of Development

### History

116. The history of the site is material. It is contained within the extended settlement limit, at the southern extent of Durham City. Whilst the site is greenfield, it sits within the Mount Oswald development site that has been master-planned and largely built out for a variety of uses including market residential, student accommodation, retail, offices, community and retirement. At the heart of the wider site the former Manor House, a listed building is being converted and extended into a new County record office. This is surrounded by the remains of the parkland associated with the Manor – latterly a golf club and now the County Council History Centre, including trees that form the south boundary of the current site and new land uses must respect the retained heritage ‘core’ of the overall site.
117. The site has good links to sustainable transport opportunities and is considered a generally sustainable location for development. Recently developed to modern expectations of locational sustainability, Mount Oswald includes networks of footpath and cycle paths complimenting the historic footpaths that have crossed the site and include new public transport links – with a bus stop with shelter directly opposite the site. The wider site includes existing and proposed informal leisure areas. The Botanical Gardens are a short distance from the site. Whilst access to shops, a requirement of Policy C4 is currently lacking, the site is adjacent the area of Mount Oswald earmarked for a retail unit.
118. Likewise, expectations for sustainable drainage have been addressed phase by phase on a site-wide basis.
119. The application site is undeveloped but at present is well maintained as amenity grassland with retained trees which contributes to the parkland appearance of the wider estate and was previously identified for development.
120. The principle of a form of development for older residents in this part of the site was established in the evolved masterplans in the Outline consents. The current application is submitted as a ‘full’ planning application in its own right, and whilst the Outline consents

and their Variations have now expired, it is considered that these historic approvals, and the expectations and implications for adjacent land uses have a degree of materiality in the assessment of the current proposals. The consents to date have accepted that the location is sustainable, with the elements of development delivered to date as described here, further increasing the sustainability of the location.

## Principle of the Development

### The Development Plan

121. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is one part of the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035. The Durham City Neighbourhood Plan (DCNP) was adopted on 23rd June 2021 and now forms part of the statutory Development Plan for the Durham City Neighbourhood Area, which includes this application site. The relevant policies must be given full weight in determining the application.
122. The advice in the NPPF and NPPGs is material, with particularly relevant elements outlined in detail above.
123. The lead Policy in the County Plan for the use principle of use is Policy 15, and in the Neighbourhood Plan, Policy C4.
124. The justification for Policy 15 notes that there is a need for specialist housing in County Durham for older people, for the disabled and for vulnerable adults. Such forms of development include sheltered and extra care facilities (both for rent and owner occupation) and nursing homes.
125. Specialist housing should be designed with the particular requirements of the future residents in mind and buildings should be fit for purpose, accommodating for facilities which meet residents' needs. Specific consideration should be given to access for emergency vehicles and other safety measures linked to the needs of residents. Specialist housing should accommodate satisfactory outside amenity space designed with the occupiers in mind. Access and parking should seek to make suitable provision for residents, carers and visitors. These aspects have been assessed and concluded acceptable.
126. In respect of specialist accommodation for older people, this policy brings into effect the Optional Standards as set out in Building Regulations requiring 100% of new accommodation to meet M4(2) (accessible and adaptable dwellings) and a minimum of 25% of accommodation also to meet M4(3) (wheelchair user dwellings). However, where it can be evidenced by the applicant to the council's satisfaction that applying the Optional Standards at the proportions as set out in the policy, would make a proposal unviable, then the council will consider alternative proportions of dwellings which meet the Optional Standards, as proposed by the applicant.
127. The applicant writes that this approach does not align with their standard model, with this requirement considered more relevant to C3 dwellings and C2 extra care/independent living. They state, 'Care home residents are fully catered for, and individual care plans are created for each resident which staff put into place to ensure that each residents' needs are met. Meals are provided to all and where necessary residents are assisted with

washing, eating, and going to the toilet as necessary. Staffing is on a minimum of 1:6 ratio'. The accompanying text for Policy 15 sets out, 'Specialist housing should be designed with the particular requirements of the future residents in mind and buildings should be fit for purpose, accommodating for facilities which meet residents' needs.

128. As bare reflection of the Policy requirements the application fails Policy 15 M. and N. however it is accepted that the wording within the Policy refers to 'housing' and 'dwellings' and so it could be argued that institutional provision may not be encompassed within it. This issue is such that it may not be a strong basis for a refusal and as such must be dealt with within the planning balance.
129. The Neighbourhood Plan, at Policy C4 sets out in the case of Nursing Homes and Residential Care Homes, in addition:
- f) are well related to shops, community and social facilities; and
  - g) for both the location and the form of the development itself, provide good standards of amenity and open space for the residents, including avoiding sites where existing non-residential uses may be to the detriment of the residents.
- These issues are dealt with elsewhere in this report but are concluded acceptable.
130. The principle of development in this location is concluded acceptable, with the location capable of meeting particular requirements of the future residents in mind, with the buildings fit for purpose, and clearly accommodating facilities designed to meet residents' needs.

## Layout and Design

131. Policy 29 of the CDP outlines that development proposals should contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. In similar vein, Policy S1 of the Neighbourhood Plan requires development to harmonise with its context in terms of scale, layout, density, massing, height, materials, colour, and hard and soft landscaping. Policy C4 includes requirements for sustainable location, with development well related to residential areas and located close to public transport routes and accessible by a choice of means of transport. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 130 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
132. The scale, form and layout of the application is consistent with the expectations of the masterplan both in it's own right, and also in how the scale of the existing College buildings presents to The Drive. The scales and massings will likely further be reflected in the expected development of the retail unit at the entrance to Mount Oswald, immediately east of the application site, sharing the access from The Drive. The proposed building is shown cut into the slope, reducing it's size by degree, so that there will be a subservience to the College buildings and an apparent reduction in scale and size adjacent the woodland.
133. The elevational design of the building has been changed through the process, in particular in removing a proposed pitched roof to better reflect the surrounding urban form. Large fenestration openings are set back with brick reveals that give articulation and depth to the elevations. Indications of materials are appropriate but will require conditioning with any approval.

134. The layout of the building includes for some flats with small areas of individual private space, a communal area of private open space and easy access to the surrounding open space of Mount Oswald. Design Officers have questioned the communal space in extend and positioning adjacent The Drive and the fact that, enclosed for privacy, the open aspect of land adjacent The Drive compromises an otherwise open public environment. The submitted Landscape Plan shows a scheme of railings supplemented with a native hedge inside around this amenity space, which, subject to detail is an appropriate design response for a parkland estate type setting, and in conjunction with existing and new trees helps soften the east elevation of the building from the main approach into the north part of Mount Oswald.
135. In terms of the scale and character of the buildings proposed, their relationship to surrounding existing and expected structures and the layout of the site, the proposals are considered significantly in accordance with the requirements of Policies 29 and 31 of the CDP, Policy S1 of the CDNP and parts 12 and 15 of the NPPF.

### Residential Amenity

136. Policies 29 and 31 of the CDP outline that developments should provide high standards of amenity and privacy, minimise the impact of development upon the occupants of existing adjacent and nearby properties and not lead to unacceptable levels of pollution. Policy 32 seeks to ensure that historic mining legacy and general ground conditions are suitably addressed by new development. A Residential Amenity Standards Supplementary Planning Document (SPD) has also been adopted by the Council. The SPD has been produced to provide guidance for all residential development across County Durham and will form a material planning consideration in the determination of appropriate planning applications. It sets out the standards Durham County Council will require in order to achieve the Council's commitment to ensure new development enhances and complements existing areas and raises the design standards and quality of area in need of regeneration in line with the aims of the County Durham Plan.
137. The Residential Amenity SPD advises that, all new development, including new dwellings, will have some bearing on neighbouring properties and it is important to ensure that the impact does not result in a significant loss of privacy, outlook or light for occupiers of new dwellings and existing dwellings. The design and layout of new development should ensure that reasonable privacy and light is provided for surrounding residents and occupiers, particularly in relation to residential use and enjoyment of dwellings and private gardens. Spacing between the windows of buildings/dwellings should achieve suitable distances for privacy and light, whilst also preventing cramped and congested layouts. Distances may also be relaxed having regard to the character of an area. Shorter distances than those stated in the document could be considered in those urban areas typified by higher densities. It will however be important to ensure that the amenity of existing residents is not significantly impacted upon. Further, primary habitable room windows that are adjacent to each other across a public highway may not be required to meet these standards, for example, where doing so would not be in keeping with the established building line and character of the immediate vicinity and where this is considered desirable.
138. Neighbourhood Plan Policy C4: Health Care and Social Care Facilities requires that for both the location and the form of the development itself, provide good standards of amenity and open space for the residents, including avoiding sites where existing non-residential uses may be to the detriment of the residents.
139. Parts 12 and 15 of the NPPF, which require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development

from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution.

140. A significant aspect of the planning assessment for this case has been the appropriateness of the proposed land-use and the particular residential amenity needs of its occupants in relation to its neighbours, and likewise the needs of the neighbours. The reasonable expectations of existing and proposed residents for residential amenity must be carefully considered. The aforementioned policies and SPD should be afforded significant weight.
141. In terms of the amenity of the proposed residents in relation to the physical elements of South College campus to the north, the proposed structure has an angled relationship to the nearest four storey student residential accommodation block separated by a distance of over 26m with the main access road serving the residential estates in the north part of the Mount Oswald development in between, with a separation of 32m to the 'Hub' building to the north-west. The east-facing residential elevation of the proposal is 125m from the balcony of the veranda of the bar to the north-east.
142. Whilst the closest part of the proposed building, the gable end of one leg of the wings of the L shape, with service elements and communal living rooms faces across The Drive to the nearest student accommodation block. The main relationship is from the facing windows of the lower leg of the newbuild. Fifteen bedrooms, five on each of the three floors face towards a four-storey block of student accommodation at a distance of 60m. Within this distance is the proposed development's car park, landscaping including existing and proposed trees, and The Drive, which has two footways and one cycleway either side of it. This relationship is not considered unreasonable, and likewise, that between the student bedroom windows and the secure gardens the nursing home proposes.
143. The Hub, a circular building, nominally 3 storeys in height is described on the Durham University John Snow College website: 'The Hub has an events hall, gym, music practice rooms, a performance practice room, a yoga/dance studio, a launderette and a faith room'. The Principal of the College, in his objection, above, notes for the functions that, 'some are accompanied by live and/or amplified music'. The curved elevations facing the site appear to consist of principally 'service' elements with the external spaces associated with it for access and transit rather than associated functional areas – the main entrance, principal fenestration and functional associated outdoor spaces are situated on the north east elevation of the Hub building, where it faces towards the student accommodation blocks and the designed social spaces between them.
144. The proposed building's gable elevation presents a blind element containing a service stairwell and two (of three) windows of a communal 'garden room' on each of the three residential floors. Windows on the west elevation of the proposed building do not face directly towards 'the Hub', however seven bedrooms on the ground floor have small external fenced private areas available. Given the indirect relationship of residential windows to The Hub, the nature and (communal) use of the most affected proposed windows, the less functional aspect of the facing element of The Hub building, and that likelihood that proposed private external areas – and their associated doors are more likely to be most intensively used during daytime, Officers conclude that the proposed relationship to that building are likely to be acceptable.
145. The small veranda area on the first floor of The Pitcairn Building, at 125m is both a significant distance from the proposed facing residential, part screened and at a lower level. This is described by the College Principal as an area where students sometimes socialise, being frequently very busy. One internal elevation of the application faces

towards the veranda, and it is considered relevant that there are existing trees and proposed landscaping interrupting this relationship.

146. Further, the residential amenity relationships to The Drive which has regular traffic movements serving the residential estates in the north part of the Mount Oswald development to the north along with what the College Principal describes as students returning to college late at night. Like the orientation of The Hub building, described above, the main external social and circulation spaces of South College are contained within it, thereby capable of containing large elements of the audible effects of the social interactions within it. Noting the most likely direction of the student walking access is from the north, this aspect of the concerns is not of such significance that it could likely lead to an evidenced refusal.
147. Informing each of the above conclusions and noting that no concern was raised in their written response, Planning Officers discussed the residential amenity relationships between the proposed and the nearby student uses with Environmental Health (Nuisance) Officers. In addition to the detailed relationships, layouts and operations discussed above, the fact that both the proposal and the adjacent College will have site management structures in place capable of responding to any day-to-day issues that could emerge if the physical relationships were concluded acceptable was considered relevant.
148. The potential effects of the operation of the nursing home on the student's reasonable expectations of residential amenity must also be considered. Additional general vehicle movements generated have been assessed as likely to be low. Emergency vehicle attendance could be higher than usual but would be occasional and not by definition with sirens. Noise generation from the residents themselves is likely to be low. Staff movements are likely to be on a shift pattern but are an additional dimension to movements along The Drive, rather than introducing a new feature. The operation of the nursing home is considered unlikely to have an unreasonable effect on the residential amenity of the students.
149. The footpath that passes through the woodland to the south of the site is not considered compromised in use. The development will bring a transformative change to this part of the route, but such has been the case where it passes the new housing and will further be the case when the scheme for the retail unit finally emerges.
150. Design Officers have raised some concerns for the 'limited amenity space and therefore outlook for residents', reflecting the Neighbourhood Plan's requirement for 'good standards of amenity and open space for the residents', with similar requirement in Policy 15 of the County Plan. Five of the rooms on the west elevation have very small private areas accessed through patio doors. There is a communal garden to the front of the building. In it's own right this not considered acceptable, but set within the available open space and parkland of the Mount Oswald development and in particular The Storey, is concluded on balance acceptable. This point is made in the representation from the City of Durham Trust. Likewise, the relationship of the proposed windows on the south elevation of the woodland will restrict natural light to those rooms by degree. This gives the large lounge/dining communal rooms and bedrooms on that elevation a direct connection to the woodland – that could be preferred by some. The arrangement is not such that it is considered it could justify a refusal in its own right, but a sufficient response to the relevant requirements of Policies 15 and 29.
151. There are no residential amenity issues in relation to the new residential estates to the north-west and no objections have been received from the 13 dwellings consulted for this relationship. The proposed Construction Management Plans seek to ensure that potential impacts of the construction phase on these residents can be controlled.

152. The assessment of the amenity issues is complex and multi-faceted. The detailed assessments of both physical relationships and likely use relationships concludes that the relationship to the College is on balance acceptable, noting that both parties have facility management structures in place that are capable of dealing with individual problems. To this end the proposals are on balance considered compliant with the relevant policies that protect residential amenity: Polices 15, 29 and 31 of the CDP, Policy C4 of the CDNP and parts 12 and 15 of the NPPF.

#### Addressing Housing Need

153. The County Plan states, 'There is a need for specialist housing in County Durham for older people, for the disabled and for vulnerable adults. Such forms of development include sheltered and extra care facilities (both for rent and owner occupation) and nursing homes.' Policy 15 sets out in detail that, 'The council will support the provision of specialist housing for older people where: the development is in an appropriate location with reference to the needs of the client; it is designed to meet the particular requirements of residents; appropriate measures will be in place to ensure access for emergency vehicles and safety measures such as fire escapes; and satisfactory outside space, highway access, parking and servicing can be achieved'. Likewise the Neighbourhood Plan sets out general criteria for : Health Care and Social Care Facilities, with additional detail for Nursing Homes and Residential Care Homes, that they be, 'well related to shops, community and social facilities; and for both the location and the form of the development itself, provide good standards of amenity and open space for the residents, including avoiding sites where existing non-residential uses may be to the detriment of the residents'.
154. In the supporting text of the Neighbourhood Plan it is advised, 'Care homes must relate well in scale and appearance to adjacent development; careful design and generous amenity space will often be required to prevent large institutional buildings from dominating their surroundings. Areas of amenity space are similarly essential for the well-being of residents, to provide private sitting out and walking areas as well as pleasant surroundings. Care homes require satisfactory access and adequate parking in order that they do not impinge upon the neighbouring areas. Similarly, proposed extensions should not result in the over-development of sites. Sites suffering from high levels of noise or pollution, from traffic or other sources, are not suitable for these uses'.
155. Spatial Policy Officers advise that, 'It is considered that the proposed development meets most of the criteria within these policies in relation to the location of the care home', noting that Design Officers have raise queries for the external amenity space (this issue is dealt with elsewhere in this report).
156. The City of Durham Trust opine that the Neighbourhood Plan sets out the criteria that needs to be satisfied for residential care homes, and this proposal broadly meets them. They note that the Plan describes the anticipated future need and concludes that it will be necessary either to expand existing care homes or build new ones.
157. The objection from the County Council's Adult and Health Services is set out above. They note the closure of two homes in the County – one nearby, one a significant distance away and an apparent lack of demand from remaining homes, this having significant financial implications for the Council. They also detail two new homes being built and cite concerns for competition. The applicant's evidence and case of need for the facility is queried against Council data and does not align with the Council's strategic approach to care provision which relies on 'alternative models of service delivery'.



158. County Council's Adult and Health Services consider additional strain will be placed on local NHS health services and foresee staff recruitment problems. The relationship to the student accommodation is offered as a further issue.
159. The applicant has responded to these views, with an updated Operator Statement. They note that they did engage with the Council as Planning Authority pre-submission. County Council's Adult and Health Services did not respond to their consultation in this process. They offer alternative reasons for the closure of the two care homes relating to running costs rather than demand for places, they provide alternate survey work relating to a five-mile radius of the site.
160. A recent Planning Inspectorate decision is offered for a comparable case, with that Inspector attributing moderate weight to benefits of energy efficiency, sustainable travel and job creation, acknowledged the responsibility of Local Authorities under The Care Act 2014, and Government support for the 'home first' approach, but significantly 'concluded it is not the role of the planning system to manage the care home market'.
161. County Council's Adult and Health Services have responded further acknowledging the role of the Council as Local Planning Authority but repeating the role and responsibilities of the Authority under the Care Act. They dispute the reasons behind the closure of Hallgarth Care Home and note another has opened at Durham Gate which will be in direct competition with that proposed. County Council's Adult and Health Services do not consider employment opportunities as positive with difficulties recruiting in this sector. They also contend that provider commissioned data analysis is not considered objective. They conclude that there is insufficient evidence of need for a new care home and the proposal would place extra pressure on existing care homes, local NHS and risk Council financial impacts.
162. To repeat the introduction of this report, Section 38 of the Act 2004 sets out that if regard is to be had to the development plan, decisions should be made in accordance with the development plan unless material considerations indicate otherwise. The dispute around the proposals from County Council's Adult and Health Services are effectively formed around the 'need' for the Care Home and how this fits within the strategic approach to this within the County led by government advice and other legislation, i.e. The Care Act. However, there is no 'need' component of the two relevant Development Plan policies – Policy 15 and Policy C4 and to again quote the provided caselaw, 'it is not the role of the planning system to manage the care home market'. Accordingly, there is no policy requirement for the applicant to demonstrate a need for the development.
163. Further objection, as set out above, has been received from the Claypath University Medical Group (CUMG) who do not consider that the mitigation requested by the NHS Integrated Care Board Estates Officer sufficient to mitigate the pressures expected from the development on their operation. The amount requested is from a standard calculator that is informed by the tests and restrictions inherent in planning legal agreements. Noting they are 'actively seeking additional building land or building capacity within Durham City', the CUMG consider the amount 'would only cover a small fraction of the actual cost required for expansion'. Planning agreement secured mitigation must be directly proportionate to the development proposed. The Estates Officer's response uses an agreed and tested methodology to quantify this impact. The CUMG response shows the provider is actively looking to increase capacity in the practice, and the NHS Estates response shows the Health Service has an established methodology for local healthcare providers to access funds provided to mitigate the impacts of new developments. The NHS Board is the official body tasked with assessing whether a financial contribution is required and communicating that to the LPA. The CUMG have the opportunity to feed into this process to access available funds directly with the NHS.

164. In terms of the remit of the planning decision, these aspects are considered acceptable.

## Highways Safety and Access

165. Policy 21 of the CDP outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. It also expects developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all people. In addition, Paragraph 111 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
166. Policy 22 compliments these Policies, targeting Durham City for Sustainable Transport Improvements. Policy T1 of the Neighbourhood Plan requires development proposals to be supported by evidence of how they contribute to sustainable transport accessibility and design. Adverse transport impacts should be avoided where practicable. To mitigate adverse impacts, proposals should improve access by walking, cycling and public transport in the area around the development, and thereby contribute to modal shift towards sustainable transport. CDNP Policy T3 requires cycle parking to County standards and the design and location of storage should accord with the style and context of the development. Policy C4 includes relevant elements for this topic including that these types of uses, 'are well related to residential areas; and are located close to public transport routes and are accessible by a choice of means of transport; are well related to residential areas; and are located close to public transport routes and are accessible by a choice of means of transport; and are well related to shops, community and social facilities.
167. The location can be considered highly sustainable in relation to the opportunities for sustainable access for residents, staff and visitors with the parking scheme providing for cycles and EVs. The site sits within a newly developed and master-planned estate that includes network and hierarchy of paths including cycleways that are attractive to the needs of people with mobility impairments. There is a new bus stop – with shelter – adjacent the site on The Drive, segregated cycle use on footpaths, and the park and ride bus terminus is 260m (path) to the east. One of the remaining unimplemented elements of the Mount Oswald masterplan involves a retail unit on the land immediately east of the application site, with progress on this hoped for soon.
168. In the wider area, the wider Mount Oswald site bracketed by two main roads – the A167 and A177 there are regular bus access to Darlington to the south and the Tyneside conurbation to the north. Durham City centre includes a main line railway station for long distance sustainable travel.
169. Highways Officers confirm that from a Highways perspective, this proposal is considered acceptable. In terms of overall impact on the local road network, care facilities generate very small levels of traffic movement. A safe and suitable access to the site is proposed, conforming to the required standards for visibility. A total of 23 car parking spaces are proposed, which means the provision is in accordance with the 2023 Parking and Accessibility SPD. 4 active EV charging points are also to be provided, along with 6 cycle parking spaces. Adequate turning facilities to allow servicing vehicles to enter the site, manoeuvre safely, and leave in a forward gear, have also been provided.
170. Close access to social facilities is restricted at present. Medical facilities in Durham appear concentrated across the north of the City. The NHS has requested funds to develop

additional capacity in the area to reflect the additional demands the development would bring.

171. In terms of the highways Policy requirements for safety and for sustainability, the scheme is concluded acceptable. Highway safety elements are fully met, likewise on-site provision of EV and cycle storage. Locational sustainability in terms of the opportunities offered by the surrounding Mount Oswald development and the wider area is good. More challenging aspects of the proposals in terms of the relationship to medical facilities – distant, but with the NHS suggesting appropriate mitigation, to retail opportunity – with the masterplan providing for such and progress expected on this element, and to social opportunities, which are not obvious in this area are Policy requirements that are not fully addressed but are not such that they are considered to render the scheme unacceptable. These aspects must be considered in the planning balance.

## Landscape and Visual Impacts

172. Policy 39 of the County Durham Plan states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Policy 26 outlines developments are expected to provide new green infrastructure and ensure provision for its long-term management and maintenance. Similar requirements are outlined in Policy 29. Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside. Policy H3 of the CDNP includes criteria which require development proposals within the neighbourhood outside the Conservation Areas to: avoid the loss of open space and public realm that contributes to the character and appearance of the surrounding area, to use high quality design which contributes to the quality and character of the area; and to have scale, density, massing, form, layout, landscaping and open spaces appropriate to the context and setting of the area. Both reflect the design quality and landscape advice set out in parts 12 and 15 of the Framework.
173. Landscape Officers are critical of the scheme describing the loss of the open space and the enclosure of outdoor areas as ‘major and locally adverse’, arguing the separation from the woodland provides a ‘proportionate open space’ to the existing buildings providing parkland character in keeping with the character of Mount Oswald. It is further advised that the cumulative effects of this proposed development in combination with proposed adjacent developments and resulting adverse impacts on the established parkland character of the locality and on visual amenity. It is acknowledged that the proposed retained trees and landscape planting would soften the proposed building, fencing and hard surfacing which would help to reduce visual effects in the longer term.
174. These comments assess the site at face value as it is now, and do not acknowledge the expectations of the redeveloped former golf course and the site history. Whilst the host consents which framed the master-planned development of Mount Oswald have either been implemented or lapsed and are therefore of very limited material weight, the longstanding intent to develop in this part of the site is considered relevant to the current scheme, and like the adjacent land earmarked for retail development, has been an expectation of local residents and the developers alike.
175. The application site currently has a parkland character but is outwith the locally listed Historic Park and garden designated landscape. The land is a component of a landscape

that gives character to the Mount Oswald development and compliments the adjacent locally designated landscape feature. It is considered, as acknowledged in the Landscape comments that the retained and proposed landscape features will mitigate the impacts of the development, and this mitigation will increase over time. Acknowledging the wording of Neighbourhood Plan Policy H3, for 'b) avoiding the loss of open space and public realm that contributes to the character and appearance of the surrounding area', it is considered that the loss of the site is not such that it undermines the parkland character of the overall Mount Oswald developments, the designated park and garden, the setting of the listed building beyond to a degree that would justify refusal on this point as a stand-alone issue.

176. Tree Officers originally raised concerns for the proposal and the proximity to trees, however in response to additional information submitted during the course of the application acknowledge the areas identified for 'tree friendly' construction measures and products along with the requirements of NHBC guidelines and BS 3998:2010 for construction near trees, along with proposals for crown raising adjacent trees. These can form part of a condition on any approval and are considered to bring compliance with the requirements of Policy 40.
177. The proposals are concluded proportionately compliant with the requirements of Policy 39 of the CDP and Policy H3 of the Neighbourhood Plan.

#### Heritage and Archaeology

178. Policy 44 of the CDP sets out development will be expected to sustain the significance of designated and non-designated heritage assets, including any contribution made by their setting. Development proposals should contribute positively to the built and historic environment and should seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets whilst improving access where appropriate. The Neighbourhood Plan requires high levels of sustainability and design quality in the 'Neighbourhood Outside the Conservation Areas' (Policy H3) but offers no specific Policy advice for the historic environment in this area.
179. The NPPF advises that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification.
180. The Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. Any such harm must be given considerable importance and weight by the decision-maker. Under the Act also, special attention to the desirability of preserving or enhancing the character and appearance of a conservation area must be equally considered.
181. The proposed development site lies north-east of Mount Oswald Manor House, a Grade II listed building. The protected built structures of the Manor House, recently extended and renovated, the associated gatehouses, currently being part demolished and rebuilt under an approval for residential use (with extensions) and boundary walls are set within a reduced area of parkland setting. The master-planned development of the Mount Oswald Estate, latterly golf club, has reduced the extent of the parkland setting of the built structures, but with the restoration and extension scheme and planting has effectively

refocussed it within a tree surrounded core, expanding out into public areas shared with the amenity use of the new surrounding residential estates beyond.

182. Conservation Officers consider the intervening woodland between the principal listed building and the site renders inter-visibility 'unlikely'. Landscape Officers see the introduction of built form into the greenspace which provides a parkland setting and buffer between the college buildings and the locally designated Historic Park and Garden designation a significant harm. They advise that the cumulative effects of the proposed scheme in addition to proposed adjacent developments and resulting adverse impacts on the established 'parkland character' of the locality and on parkland character should be considered.
183. It is the view of the Case Officer that the extent and nature of the parkland, both in providing the setting of the listed building and of intrinsic value in its own right has already been significantly changed through the masterplanning of the overall Mount Oswald development, and the significant works undertaken to the listed structures. As noted above the masterplan envisaged development in this location, and immediately east, and the scale of the college north of The Drive was justified in expectation of this.
184. The intervening woodland is deciduous in nature meaning that through winter there are glimpsed views possible through it in either direction. There is therefore the case that there is potentially 'harm' to the listed buildings. However, taking into account the planned nature of the estate's development, including the planting schemes and woodland management that has and will be undertaken, the proposed relationship is qualified as of 'less than substantial' harm. Whilst great weight must be given to this less than substantial harm, the potential benefits of the scheme in providing modern specialist accommodation for which there appears to be a shortfall in the immediate area in a sustainable location is considered to outweigh this level of harm, and the effects on the listed building are concluded acceptable when assessed against the requirements of Policy 44 of the County Plan, and the statutory requirements of the Planning (Listed Buildings and Conservation Areas) Act and paragraph 202 of the NPPF.
185. In terms of the effect on the locally designated parkland, the development will be transformative, but again, is a planned and expected intervention of a scale to reflect adjacent development, in a location that retains the adjacent public footpath as physically unaffected, sitting alongside the replanned and enhanced setting of the listed building – the parkland setting reflecting this. Again, there is acknowledged 'less than substantial' harm to the parkland as the setting of the designated heritage assets and the potential benefits of the scheme are considered to outweigh this.
186. The site lies just outside the plan-defined inner setting of the World Heritage Site, and the actuality of the application site is that topography, existing trees and existing built structures ensure there is no physical or visual relationship, with UNESCO plans showing the site has having no direct line of sight with the Cathedral Tower. There is therefore no conflict with the requirements of Policy 45.
187. The required assessment leads to the same conclusion for the potential to affect the City Centre Conservation Area. The site is sufficiently detached from this Conservation Area so as to have no effect on it or its setting.
188. The County Archaeologist has confirmed that there no archaeological implications from the development.
189. The application is considered compliant with the requirements of Policy 44 of the CDP in so far as it is presented to date.

## Ecology

190. Policies 26, 35, 41 and 43 of the CDP seek to secure net gains for biodiversity and coherent ecological networks. Policy 41 states that proposals 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. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them. Increasing biodiversity is included within the environmental element of the three objectives of achieving sustainable development set out in the Neighbourhood Plan, and then reflected within the criteria of Policy S1.e.
191. The County Ecologist advises that the submitted information shows a small BNG loss of and had questioned some of the projections based on tree sizes. Notwithstanding this it is considered that taking into account the size of the application site an appropriate approach to achieve the required BNG is monies in lieu (£5,300) for the shortfall and the securing of monitoring reports through legal agreement to ensure that those elements of the BNG offer that are to be achieved on the development site are delivered as expected, retained and maintained.
192. Policy G1 of the Neighbourhood Plan requires that where the loss of blue or green assets of significant value is unavoidable then alternate provision should be provided on-site or off-site where this is not viable or practicable. There are definitions of what constitutes a green asset, but no methodology for assessing 'significance' or 'value'.
193. Officers consider that the advice of the County Ecologist has the potential to satisfy these requirements in both the County Plan and the Neighbourhood Plan although it must be noted that monies in lieu secured by legal agreement for ecology as a relatively small amount may or may not be spent in the Neighbourhood Plan area.

## Flooding and Drainage

194. Policies 35 and 36 of the emerging CDP relate to flood water management and infrastructure. Policy 35 requires development proposals to consider the effects of the scheme on flood risk and ensure that it incorporates a Sustainable Drainage System (SuDs) to manage surface water drainage. Development should not have an adverse impact on water quality. Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water. As part of the Sustainable Development requirements of Policy S1 of the City of Durham Neighbourhood Plan criteria k) requires all developments to demonstrate incorporation of sustainable urban drainage system (SUDS) to achieve improvements in water quality, aquatic ecosystems, and habitats in order to increase resilience to climate change. National advice within the NPPF and PPG with regard to flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to flood zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where a sequential test and some instances exception tests are passed, informed by a site-specific flood risk assessment.
195. The site is in Flood Zone 1 which is a low flood risk area.
196. For this surface water control, Council Drainage Officers have confirmed the information provided to date is acceptable, including the detailed audit of calculations. Imposition of a

condition will ensure Policy compliance. An informative will help lead the applicants to the necessary separate consents for off-site culvert works.

197. For foul drainage, Northumbrian Water have not replied to their consultation. The size of the site and its location within a master-planned modern development site lead to the conclusion that the requirements of Policy 36 for foul water disposal will be capable for resolution between the developer and the statutory undertaker
198. For the foul and surface water drainage requirements of CDP Policies 35 and 36 the imposition of conditions will ensure that the scheme meets compliance.

### Infrastructure and Open Space

199. Policy 26 (Green Infrastructure) of the CDP expects new development to maintain and protect, and where appropriate, improve the county's green infrastructure (GI) network. Development proposals should provide for new green infrastructure both within and, where appropriate, off-site, having regard to priorities identified in the Strategic GI Framework. New GI will be required to be appropriate to its context and of robust and practical design, with provision for its long term management and maintenance secured. The council expects the delivery of new green space to make a contribution towards achieving the net gains in biodiversity and coherent ecological networks as required by the NPPF.
200. Proposals for new residential development will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the council will require financial contributions secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality. The site sits within a wider masterplan area for Mount Oswald with strong GI links and spaces.
201. The standard requirement for the scheme using the standard methodology would be the sum of £52,836. The applicants note that their residents are likely to be infirm and potentially have restricted mobility. They suggest that the playspace and allotment elements of the calculator are not relevant and fail to meet the tests for financial demands to be directly, fairly and reasonably related to the scheme. Whilst Policy Officers caution against deviating from the standard calculator, the Case Officer considered these arguments reasonable, with the reduced requirements resulting in a required mitigation payment of £42,846 to mitigate demands the development could bring for use of open space.
202. This obligation would ensure compliance with the requirements of Policy 26 of the CDP and G1 of the CDNP and is considered an appropriate response to the requirements of the legal tests for such.

### Other Considerations

203. Policy 25 requires that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs.

204. NHS Local Healthcare has used a standard methodology to ascertain if mitigation is required to sure the demands the development could place on local healthcare services are met. Identifying that the Claypath & University and University Health Centres as the GP Practices that would be affected by the development, they suggest funding secured through a s.106 agreement would assist them in providing the additional floorspace required to provide services to patients. With a patient increase of 74 individuals, a contribution of £15,540 is requested. This would bring compliance with Policy 25 for this topic.
205. Policy 29 (Sustainable Design) of the CDP sets out the requirements to achieve well designed buildings and places. It should also be noted for comparison that the Nationally Described Space Standards would not be applicable if this development was classed as a purpose-built student accommodation (C2 use). However, the development would still be expected to provide a high standard of amenity in accordance with criteria e of the policy. Officers consider that this approach can be considered in this instance.
206. This Policy, complimented by Policy D4 of the Neighbourhood Plan also requires that developments 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'. The proposal plays on a high level of energy efficiency and the use of solar panels and air source heat pumps to provide a highly energy efficient building that will increase the viability of the operation, this it is contended has been a significant issue with older comparable uses to the point where it has affected their viability. Whilst there has been dispute from objectors as to how far this apparent viability issue was relevant to the two nursing homes that have been described as closing recently and whether their demise was more related to 'need', the point that more efficient operations will be more viable is accepted.
207. The application includes for the use of solar panels and air source heat pumps and will build to BREEAM standards. To ensure these are provided and that other options for seeking to achieve zero carbon buildings are explored/achieved a condition is proposed, appended to the end of this report.
208. Policy 32 seeks to ensure that the potential for contamination or unstable land is assessed, considered and mitigated on any development site.
209. For land contamination potential, Environmental Health Officers advise that the site sits within the larger site that have been investigated as part of the whole site. On the basis of the ground investigation report from 2017, no adverse comments are made, and it is confirmed that there is no requirement for a contaminated land condition. A requested 'informative' to cover the eventuality of unforeseen contamination being discovered, suggested by the Officer will be appended to any consent. Compliance with the requirements of Policy 32 in so far as it relates to contaminated land is concluded.
210. In terms of land stability, the land is not affected by records of the Coal mining legacy and the proposals therefore comply with the requirements of Policy 32 in so far as they relate to land stability.
211. The site lies within a Mineral Safeguarding Area. Policy 56 of the CDP states that planning permission will not be granted for non-mineral development that would lead to the



sterilisation of mineral resources within such areas unless specific criteria apply. The application site is underlain by deposits of coal, forming part of a larger deposit to surrounding area east of Durham City. Whilst some sterilisation could occur, it is considered the proposed development would have minimal impact on the future working of the more extensive deposit. In addition, given the site's location within the built extent of Durham City and sensitive receptors, the prior extraction of minerals may not be feasible as it could lead to an adverse impact on the environment and/or local communities. This outweighs the need to safeguard the mineral thereby satisfying Policy 56 criteria d and Paragraph 204 c) of the NPPF.

212. Policy 31 of the CDP states 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, aligning with similar requirements in part 15 of the Framework. The applicant has provided, and revised a Construction Management Plan and a Construction Environment Management Plan which seek to ensure that the construction process is managed to minimise impacts on surrounding land uses through restrictions including, but not restricted to dust and vehicle emissions and working hours. The suggested conditions, set out in the list below, will ensure that the necessary assessments and mitigations are delivered to bring compliance with Policy 31 through the reserved matters process.
213. Policy 28 (Safeguarded Areas) includes for protection of the Met. Office radar at High Moorsley. The height of the buildings proposed buildings is lower than those existant on site and with a separation of 8.6km there will be no impact on the data or the forecasts and warnings derived from it.
214. The application has been subject to an EIA Screening exercise concluding that it was not EIA development.
215. The proposal has generated no interest from local residents.

#### Planning Obligations

216. Paragraph 57 of the NPPF, and Paragraph 122 of The Community Infrastructure Levy Regulations 2010 set out three planning tests which must be met in order for weight to be given to a planning obligation. These being that matters specified are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. The S106 Agreement which would secure the following all of which are considered to meet the required tests should include:
  - A financial contribution of £15,540 is required to fund additional healthcare demands of the NHS Local Healthcare Trust likely to be generated by the scheme.
  - The County Ecologist considers that a payment in lieu of on-site mitigation is an appropriate response to the net-biodiversity loss identified in the submitted scheme, with a figure of £5,300 identified as required.
  - Further for bio-diversity the securing of a monitoring and maintenance plan for a 30-year period with implementation through a future Section 39 legal agreement.
  - A financial contribution of £42,846 to mitigate demands for open space proportionate to the detailed implications of its occupants informed by the

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## **CONCLUSION**

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217. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the Development Plan unless material considerations indicate otherwise. The Development Plan in this instance is formed of both the City of Durham Neighbourhood and the Durham County Plan.
218. The form of development was one anticipated as an option of the original masterplans that have informed the development of Mount Oswald that is heading towards its final phases. The locational sustainability is acceptable and will be increased if the anticipated retail unit comes forward.
219. There have been two principal areas of contention: Officers have considered the amenity relationship with the adjacent College and concluded that the two demographics and have the potential to coexist within reasonable expectations for residential amenity. The need for a Nursing Home and potential additional pressures on existing NHS facilities have been challenged by Council departments and local health providers, but offered mitigated as requested by NHS Estates. The obligations of the Local Authority under The Care Act are acknowledged, but Officers consider within their remit of representing the Local Planning Authority, to give significant and overriding weight to this issue would overreach s.38 of the Planning Act and not be defensible at appeal.
220. That the scheme offers both potential employment and specialist accommodation and these would usually be offered as clear benefits for any development must be qualified in this instance noting the objections on both issues. Officers consider that within the remit of the planning application both of these topics garner positive weight in the planning balance.
221. Policy 15 requirements for M4(2) and M4(3) access requirements are not met. The applicant considers these more relevant to standard forms of housing rather than their established model. The wording of the Policy could potentially be questioned and this is therefore not considered a viable reason for refusal, the applicant's explanation of a high staff ratio to assist residents giving some comfort in this regard. It is however attributed some negative weight in the balance
222. The scheme is considered to meet planning requirements for Highways, Sustainability, Historic and Natural environment.
223. All other aspects of the proposed development have been identified and considered in detail, with none that cannot be controlled or appropriately mitigated through legal agreement or the imposition of appropriate conditions.
224. On balance, it is considered that the merits of the scheme providing high quality specialist accommodation outweigh the identified conflicts, including landscape, heritage and open space issues within the County Durham Plan and the Neighbourhood Plan; the planning balance therefore lies with approval of the scheme.

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## RECOMMENDATION

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

- A financial contribution of £15,540 to fund additional healthcare demands of the NHS Local Healthcare Trust likely to be generated by the scheme.
- Monies to mitigate net-biodiversity loss, with a figure of £5,300 identified as required.
- The securing of a monitoring and maintenance plan for a 30-year period and the completion of a s.39 agreement.
- A financial contribution of £42,846 to mitigate demands for open space.

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:  
*Reason:* To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 15, 21, 22, 25, 26, 28, 29, 31, 32, 35, 36, 39, 40, 41, 43, 44, 45, 56, the Adopted Residential Amenity Guideline SPD of the County Durham Plan, Policies S1, S2, H1, H3, G1, G3, T1, C1 and C4 of the Durham City Neighbourhood Plan and Parts 2, 4, 5, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.
3. Notwithstanding any details of materials submitted with the application no erection of structures shall commence until details of the make, colour and texture of all walling, roofing, ancillary structures and retaining structure 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, Policy H3 of the Durham City Neighbourhood Plan and Part 12 of the National Planning Policy Framework.
4. 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 within this timescale.  
*Reason:* In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan, Policy H3 of the Durham City Neighbourhood Plan and Parts 12 and 15 of the National Planning Policy Framework.
5. Prior to the first occupation the development hereby approved, elevational details of all ancillary structures, including but not restricted to the substation, cycle storage, smoking shelter, bin store and garden furniture shall be submitted to and approved in writing by the Local Planning Authority. The structures shall be constructed in accordance with the approved details within this timescale.

*Reason:* In the interests of the visual amenity of the area and to comply with Policy 29 of the County Durham Plan, Policy H3 of the Durham City Neighbourhood Plan and Parts 12 and 15 of the National Planning Policy Framework.

6. No development shall commence until detailed drawings, including sections, showing the existing and proposed site levels, and the finished floor levels of the proposed development and those of existing neighbouring buildings (if any), has been submitted to and approved in writing by the Local Planning Authority. The development shall be undertaken in accordance with the approved details thereafter.

*Reason:* In the interests of the amenity of the surrounding areas and neighbouring properties, in accordance with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required as a pre-commencement condition to ensure that the implications of changes in level are properly considered and accounted for in the development.

7. Construction of the access junction and road, the 4no. electric vehicle spaces and the cycle storage shown on plans 0100 Rev.K must be complete and available for use on first occupation of the site.

*Reason:* In the interests of delivering sustainable transport and to comply with Policy 21 of the County Durham Plan, Policies S1, S2 and T1 of the Neighbourhood Plan and Part 11 of the National Planning Policy Framework

8. The submitted landscape scheme as shown on plan R3-641-03-LA-01, with tree protection as shown on plan R3-641-03-AR-03 must be implemented in the first available planting season following the commencement of building works.

Implementation of the development and the landscape scheme must be in accordance with the submitted Cell Web information guidance where hard surfacing is within the root protection area of retained trees. Construction of the road and footpaths will have to be above existing ground level and at least 1.5 /2m away from the trunks and buttress roots of retained trees.

- No roots are to be severed (except for hand digging to remove rocks or protrusions taking care not to sever any roots over 2.5cm in diameter).
- The soil must not be compacted.
- Oxygen and water must be able to diffuse into the soil beneath the engineered surface.
- Footpaths and Roads will have to be above existing ground level and at least 1.5/2m away from the trunks and buttress roots of the retained trees.
- Where there is a risk of waterlogging appropriate land drainage should be incorporated into the design. If land drainage is required within the root protection area it must be designed to avoid damage to the tree/s.
- Cell web must be laid in line with manufactures instructions, for footpaths cell web can be the minimum depth of 75mm. As the surface will be raised, the first branch of those trees of which the surface is placed under must also be taken into consideration due to height of pedestrians and vehicles.
- Edging materials should be laid at ground level supported on pins or pegs driven into the ground. Concrete edging cannot be constructed within the tree's root protection areas (RPA). The final surface must be porous to allow moisture to tree roots. Final surface must also be considered, due to leaf and tree debris which may cause the surface to be hazardous.
- All protective fencing must be in place prior to construction and placed at those distances measured within the tree survey.

Foundation depths of buildings must comply with NHBC guidelines chapter 4.2 building near trees.

All tree work must be undertaken to a high professional standard in accord with arboricultural best practice and in line with British Standard 3998:2010 Tree Work - Recommendations.

All surface work near trees must comply with BS 5837 2012.

A landscape management and maintenance plan to support the submitted landscaping scheme must be submitted to and approved in writing by the Local Planning Authority in advance of the provision of the landscape scheme, and thereafter adhered to for a minimum period of 5 years.

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

9. The Drainage scheme must be carried out in full accordance with the Drainage Strategy and Supporting documentation set out in: Drainage Strategy 23103-DCE-XX-XX-D-C-100 P05, Drainage Strategy and Calculations 23103 CAL01(d) 17.11.2023, 23103-DCE- Civils Drawings 01, Issue Sheet, 23103 Calculations v2 16.11.23.

*Reason:* Reason: To prevent the increased risk of flooding from any sources in accordance with Policy 35 of the County Durham Plan and parts 14 and 15 of the NPPF.

10. The submitted Framework Travel Plan, Ref: 22050 Mount Oswald FTP/1 dated 26.07.2023 shall be adhered to in full, adhering to the timescales set out in that document's Action Plan Framework (Table 4) and the monitoring arrangements set out in part 9.

*Reason:* In the interests of delivering sustainable transport and to comply with Policy 21 of the County Durham Plan, Policies S1, S2 and T1 of the Neighbourhood Plan and Part 11 of the National Planning Policy Framework.

11. Development must be undertaken wholly in accordance with the submitted Construction Management Plan Rev.B, which sets working hours at 07:30-18:00 Monday to Friday and 08:00-1300 Saturday and the Dust Management Plan Rev A.

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

12. Within 6 months of occupation of the development hereby approved a written Verification Report by a competent person must be submitted to the Local Planning Authority confirming the use of the solar panels and air source heat pumps indicated in the application and confirming the energy efficiency of the building to EPC A.

*Reason:* In the interests of sustainability as required by Policy 29 of the Durham County Plan 2020, Policy D4 of the Durham City Neighbourhood Plan and part 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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## **PUBLIC SECTOR EQUALITY DUTY**

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Section 149 of the Equality Act 2010 requires public authorities when exercising their functions to have due regard to the need to i) the need to eliminate discrimination, harassment, victimisation and any other prohibited conduct, ii) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it and iii) foster good relations between persons who share a relevant protected characteristic and persons who do not share that characteristic.

In this instance, Officers have assessed all relevant factors and consider that the scheme in reflecting in particular the reasonable expectations of residential amenity for residents of different ages and backgrounds, both existing and proposed, to a Policy compliant standard that ensures the development has the potential to be attractive to all and that it does not introduced an 'agent of change' that could undermine reasonable expectations of amenity in and from the use of existing surrounding land uses, demonstrating that the requirements of this Act have been considered.

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## **BACKGROUND PAPERS**

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

Statutory, internal and public consultation responses

The National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan 2020-2035

Durham City Neighbourhood Plan 2020

Residential Amenity Standards SPD (updated 2023)

'Housing our ageing population' Sep 2022, LGA (accessed 14.11.2023)



**Planning Services**

DM/23/02622/FPA

Full planning application for the erection of a 74-bed care home facility (Class C2 Use), with associated access road, car parking, cycle storage, landscaping, boundary treatments and refuse facilities.

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**Date** December 2023

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/23/03302/VOC
<b>FULL APPLICATION DESCRIPTION:</b>	Variation of Condition 2 (Approved Plans) of approval reference DM/22/02767/FPA to add north facing window in side wall of rear extension, east facing window in side utility extension and remove north facing side window in snug area
<b>NAME OF APPLICANT:</b>	Mr Peter Newman
<b>ADDRESS:</b>	12 Ferens Park, Durham, DH1 1NU
<b>ELECTORAL DIVISION:</b>	Elvet and Gilesgate
<b>CASE OFFICER:</b>	Mark Sandford Planning Officer 03000 261156 <a href="mailto:mark.sandford@durham.gov.uk">mark.sandford@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 a detached two storey dwelling on a relatively modern residential estate in central Durham. The site is also located within the Durham City Conservation Area. There are residential dwellings to the east and south, separated by the access road, and those with common boundaries to the west (no. 18 Ferens Park), and the south (no.'s 14 and 15 – set perpendicular). The site slopes heavily downwards from south to north which sets no.'s 14 and 15 at a significantly lower height (2-2.5m) than the application property, and also means the rear garden of the property is split level. There are a mix of boundary treatments to the side and rear of the property including open boarded timber fencing (1-1.8m in height, brick walling and a variety of natural screening shrubs, bushes and trees. The front of the property is open plan.

### The Proposal

2. The application seeks a Variation of Condition 2 (Approved Plans) of approval reference DM/22/02767/FPA, to add a north facing window into the side wall of the previously approved rear extension, east facing window in the side utility extension and to remove a north facing side window in the snug area. The application is required as the previous approvals neglected to show the side window in the rear extension on the Proposed Ground Floor Plans (ref 1411/04) of the aforementioned approval.
3. The new window in the side of the rear extension being applied for under this submission is not the same design/size of that which is shown on the Proposed Elevations/3D Views/Section drawings from the approved application. The new window was also further revised in width during the course of the current application.

The new side window would measure 460mm in width, 2235mm in height, would be set off the rear elevation of the property by 225mm and 2250mm in height from the lowest ground level adjacent to the property. The new window to the front (adjacent to the utility room door would measure 4400mm in width, 1000mm in height and would be set 1400mm above ground level. The doorway formerly to the north facing side of the property has already been bricked up. This was to be replaced by a full height window, however this is removed from this submission.

4. The application is reported to the Planning Committee at the request of County Councillor Richard Ormerod who considered issues relating to harm to residential privacy to be such that the application should be determined by the Planning Committee.

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## **PLANNING HISTORY**

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5. The following summarises planning history at the site:
6. DM/15/01738/TCA – Fell 2 no. Cypress trees – Approved 06/07/15  
DM/16/01206/TCA - Felling of one Norway Maple tree protected by a conservation area (Section 211 notice) – Approved 18/05/16  
DM/19/03111/TCA - Lowering by around 1.5m down to just above the height of the garage cut back the overhanging branches by under 1m on either side of the fence of three trees within rear garden area protected by a conservation area (section 211 notice) – Approved – 23/10/19  
DM/22/00687/FPA - Single storey extension to front, side and rear and first floor front extension – Approved 16/05/22  
DM/22/02767/FPA - Proposed single storey extensions to the rear, side and front – Approved 16/12/22

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

7. 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.
8. 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.
9. *NPPF Part 2 - Achieving Sustainable Development.* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are

interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

10. *NPPF Part 4 - Decision-making.* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
11. *NPPF Part 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.
12. *NPPF Part 16 - Conserving and enhancing the historic environment.* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

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

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

## **LOCAL PLAN POLICY:**

### The County Durham Plan

14. *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.
15. *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.

16. *Policy 44 - (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
17. *Residential Amenity Standards Supplementary Planning Document (SPD)* This document provides guidance for domestic extensions and alterations, as well as basic guidelines regard separation distances for new dwellings and other development. .

#### **NEIGHBOURHOOD PLAN: DURHAM CITY**

18. DCS1 – *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.
19. DCH2 – *The Conservation Areas* expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

20. *City of Durham Parish Council* – Comments raised in relation to the concerns raised by neighbour (no. 15) in relation to privacy and suggested [obscure} glazing could be fitted to potentially mitigate the perception of overlooking.

#### **PUBLIC RESPONSES:**

21. The application has been advertised by way of individual notification letters to neighbouring properties.
22. Objection has been received from one household in the form of several letters highlighting specific concerns. These relate to the impact of the side window in the rear extension in terms of privacy, including to the majority of the windows to the rear of no. 15 Ferens Park, the lack of compliance with the separation distances provided for in the RAS SPD and that all measures provided to date do not mitigate the harm which would be caused.

*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:*

## APPLICANTS STATEMENT:

As has been requested of us, we write to provide a statement regarding the planning permission being contested for 12 Ferens Park, Durham (Planning Reference DM/23/03302/VOC). In this statement, we will address the complaints that the residents of 15 Ferens Park ('the Complainants') have raised in connection with the window referred to in 'Proposed Floor Plans'.

By way of background information, please note that throughout the whole of the Planning Application and build in question, we have regularly liaised with and exhibited full transparency with residents on the estate to avoid any issues such as this arising. We have an excellent relationship with those neighbours, and know of no other complaints despite the current upheaval and works underway.

The extension has been very carefully designed and considered with a great deal of time, effort and expense to ensure minimal impact on other residents on a crowded estate – it has resulted in our life savings being invested into the process. Our prerogative throughout has been to preserve and enhance the outdoor space that our three young children love in a way which is respectful to those living around us.

The Window in question has significant importance to us as a family, and in the original approved plans it was approximately three times the size. As a result of issues with the submitted plans, we did however revise the design to simply reinstate the original window, as per the house prior to any building works commencing. The key objective throughout has been to maintain visibility to our garden from the living space, ensuring that our children can play safely in the garden and can be seen whilst they do so. The removal or obscuring of this window would mean that we had no sight of a significant portion of our outdoor space which, importantly, leads to a gate and the road.

May we reiterate the overbearing issue here, that the Window is **not a new window**. In March 2023 when the Complainants purchased 15 Ferens Park, the window was present and remained in situ until August 2023. Had the Complainants consulted us prior to purchasing, we would have happily divulged any information that they would have wanted about the build, in the same manner as the full discussions we had with other neighbours. We knew nothing about the Complainants' position until after they completed on their purchase and building work was heavily underway.

The original window in question has been in place for over 20 years, and the new window has been specifically designed to match the specification of the previous window. Whilst there are claims from the Complainants that the Window has moved or increased in size, this is deeply misleading. The design of Window is such that it's projection from our house is less than that of the pre-existing window. This has already been proven as part of the planning process and evidenced to the Complainants. The illusion that the Window has moved position is due to the insertion of a single column of bricks alongside the pre-existing house. This has indeed **reduced the width** of the Window, rather than move it, and in doing so has reduced its impact on 15 Ferens Park. Whilst the overall height of the Window has changed, the only addition to the Window is above 1.8m. Importantly, above this height there are no limitations on the planning requirements as it does not impact on privacy (as only the sky is visible). Therefore, when we compare the relevant dimensions of this Window to the pre-existing window, there has been an overall reduction in the window size and consequential reduction of the impact on the neighbouring property (as evidenced in the table below). I therefore fail to see how this can be deemed in any way to have any negative impact on their privacy.

	Pre-Existing Window	Proposed Window
<b>Projection from house</b>	700 mm	685 mm
<b>Width of window</b>	700 mm	460 mm
<b>Surface area (below functional height of 1.8m)</b>	721,000mm <sup>2</sup>	473,800 mm <sup>2</sup> (35% overall reduction)

Furthermore, the pre-existing window was a bay window, which had views across the entire rear side of 15 Ferens Park. Therefore, the new window in fact enjoys a substantial reduction in the overall visibility of 15 Ferens Park and in doing vastly improves their privacy.

The Complainants also assert that the purpose of our internal room has changed, and that therefore their privacy is being impinged upon. Whilst we are unsure of how they can come to make this assertion, (and in any event the relevance of it), we can assure the Complainants that the previous use of this room was as a primary living space containing sofa's, children's toys and a television. This room has always been used as a primary living space and evidence has again been provided to support this. Under planning regulations, it has always and continues to be deemed a 'primary habitable space'. In fact, prior to the building work commencing this space was also the only accessway directly from the house into the garden and contained an elevated patio with outdoor dining table at that level. This argument therefore holds no stead as the footfall through this space was far greater under the original design.

The Complainants also make repeated references to the 21m rule throughout their objections. We therefore feel it prudent to address these in more detail. The Residential Amenity Standards SPD clearly states the '*it is not intended to apply the above separation/privacy distances rigidly and there may be instance where these distances can be relaxed; for example where the impacts on privacy can be reduced*'. The RAS SPD also specifies mitigating '*boundary treatments*' including the elevation of the boundary fence as an acceptable option for this. The rule also only applies to primary habitable spaces which the planning department considers as '*any room used or intended to be used for sleeping, cooking, living or eating purposes. This **excludes** such enclosed spaces as pantries, bath or toilet facilities, service rooms, corridors, laundries, hallways, utility rooms or similar spaces*'. Therefore, despite their repeated references to this, the rules that the Complainants refer to are not applicable to many of the rooms they are attempting to apply them. It is also important to note that this rule is only applicable for 'new' windows. I reiterate that this window has been present for over 20 years and has not moved or increased in functional size due to the building work being undertaken. We are simply attempting to re-instate an already existing window.

Despite all of the above, the concessions already made on our part, and in the interests of being as lenient and amenable as possible, we have already taken the move to offer further privacy to 15 Ferens Park by raising the adjoining fence to a height of 2m (in keeping with permitted development provisions which do not requiring planning permission). This is in line with the RAS SPD which states that a '*suitable screen fence may also be acceptable*'.

It is regrettable that the Complainants find the architects 'to scale' drawings of said fence to be misleading, however whilst we have not been privy to their 'figures' we consider those submitted by the Complainants to be distinctly more so and believe the lack of information on internal floor heights deems them irrelevant. We are more than happy to evidence this to the Councillors should they visit the site. It is also prudent to mention that the screening currently provided by bamboo planting was done so in good faith out of respect for the previous residents at 15 Ferens Park and can be altered as per the Complainants wishes. The plans

do in fact necessitate the retention of this screening as part of the planning process and hence this was addressed in our application.

We are unfortunately at a loss to be able to address the Claimants' argument that the Window is not located on our ground floor. The Claimant seems to be insinuating that the area of our house at ground level and containing the front door and living spaces does not amount to being 'ground floor'. This is a frankly bizarre argument that holds no merit. We apply a similar stance to the repeated argument that there was no North-facing window in situ prior to the building work commencing and that it was in fact a 'west facing bay'. These assertions are wholly untrue and have been proven incorrect in the extensive evidence that we have submitted to the planning department.

Throughout this process we have done everything within our power to maintain relationships and friendships with the other residents on Ferens Park. We have highly valued friendships with genuinely kind people who all look out for each other and their families, and who have reciprocated that respect throughout the 8 years that we have lived here. Unfortunately, here we have been met with a new neighbour who has acted in an unreasonable and disproportionate fashion. As a family we are shocked by the extremes that the Complainants have gone to in attempting to discredit our Planning Permission. However, as we believe that we have shown in this statement, despite the sheer quantity of complaints, those assertions are clutching at straws, and do not hold any basis under planning rules.

We have made significant concessions from our original plans and the original designs. This itself has led to significant stress, financial loss and delays in building time. It has also meant that our children have been unable to live in their family home for a protracted amount of time which is wholly unacceptable. We entered the process for these amended plans under good faith, to attempt to maintain a relationship with our new neighbour, and to ensure the best outcomes for all involved, however have been met with an astounding level of opposition from the Complainants.

In entering this process, we hoped to avoid the need to seek Judicial Review of the original plans (containing a significantly larger window in this space). We hoped that by holding back on exercising this option available to us, it would show our good faith, and allow the Planning process to continue. If however, the reinstatement of the window is denied then we will be forced to pursue that plan. This would be a significantly worse option for all parties involved, but unfortunately the only one available to us to achieve the safety of our children in their home.

Whilst the Complainants have chosen to submit a great number of complaints, the sheer volume does not legitimise any of them. Many of them are due to misinterpretation of planning rules or are misleading in their nature. We sincerely hope that the Councillors will recognise this and see the levels we have gone to in order to ensure that our plans meet necessary planning requirements. We therefore hope that you will **accept the Planning Department's recommendation** especially in light of the extensive knowledge, experience and scrutiny that they have applied to the plans over this lengthy process. To override a planning recommendation which has been so heavily scrutinised would only act to undermine the principles of the planning process.

In summary our sole aim is to reinstate a window which has been present for 20 years, and in doing so, to ensure the safety of our children so they can enjoy the outdoor space that we have created for them. The amendments we have made in an attempt to appease our neighbour have reduced the overall functional size of the window and its impact on the Complainants. In doing so we have vastly improved the privacy of their property and it is unfortunate they fail to recognise this. We are simply asking that we are now allowed to live in the family home we have created and can put this awful process behind us. We hope this

can be taken into consideration and that the plans can be approved in alignment with the Planning Department's recommendations.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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23. 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) 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.
24. This planning permission to vary Condition 2 of Planning Permission DM/22/02767/FPA relates solely to those amendments to the approved drawings as described in Paragraphs 2 and 3 of this Committee Report. In all other respects the permission as previously approved remains unaltered.
25. In relation to the changes to the side elevation of the rear extension it is noted that proposed floor plans as approved through previous Planning Permission DM/22/02767/FPA failed to identify any window in the north facing, side elevation of the rear extension. This application seeks to amend the previously approved floor plans and elevations to install a window to this elevation.
26. Works to implement Planning Permission DM/22/02767/FPA have commenced, and construction has progressed with the single storey rear extension partially complete. During those works a window aperture in the side of the rear extension was the subject of a complaint and investigation by the Council's Planning Enforcement Team which established a discrepancy between the approved ground floor plans and section and elevation detail. This application seeks to regularise that position and also includes amendment to the position and size of the window.
27. 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 impact on the residential amenity of neighbouring occupiers and the character and appearance of the Durham City Centre Conservation Area.

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

28. 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.
29. CDP Policy 44 (Historic Environment) seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
30. The site is a modern detached property on a mid-1990's residential estate which has little architectural and no historic interest. The property is set well within it, the



proposed alterations to the scheme are minor in nature and the development has no impact on the setting of the conservation area. It is considered the development would preserve the character of the conservation area, in accordance with the requirements of section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

## Impacts on Privacy

31. CDP Policy 31 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.
32. The proposed additional window to the front elevation would serve a utility room. This is of a design and scale commensurate with the host property and given the nature of the room it would serve, and the separation distance achieved to adjacent properties, is considered to have no adverse impact to the existing level of privacy currently enjoyed by both the application property and those adjacent to it. It is noted that no objections or comments have been received in regard to this element of the proposals.
33. The applicant has advised that the side window in the rear extension is required to provide full surveillance of the rear garden from the rear living room/kitchen/dining area, as the applicant has young children. Since originally submitted, the applicant has amended the size and position of the window to reduce its width to 460mm, and to move it further east in the elevation, closer to the rear wall of the property as originally built, that being 225mm from the rear wall.
34. The site is quite complex with falling away from north to south, setting this property significantly above no.'s 14 and 15 Ferens Park. This property also has a split level to both parts of the dwelling, and the rear garden. The site level difference effectively puts windows at the ground level of this property at the first-floor level at no.'s 14/15. No. 15 Ferens Park is heavily overlooked by surrounding properties and in particular from the rear elevation and garden area of this property. Although there is a standard height fence between the properties it offers little privacy and all windows, and the rear garden of no. 15 can be directly observed. There is some additional planting behind the boundary fence, and this does obscure intervisibility between the properties, specifically from the rear extension. The Council's Residential Amenity Standards Supplementary Planning Document 2023 (RASSPD) provides guidance in relation to minimum separation distances (such as 21 metres between facing elevations containing windows to habitable rooms). However, it is noted that properties within this development predate the adoption of this guidance and as such in some cases are below those current standards.
35. Objection has been received from the occupier of No. 15 Ferens Park who considers that the window to the northern elevation of the rear extension would be harmful to residential amenity from reduced privacy. In doing so they note that the window does not accord with the separation distances as set out in the RAS SPD and that despite the window being of similar width and sill height to the window which was previously contained in the rear off-shoot or the original dwelling, views from within would be fundamentally different and more frequent, given the nature of the use and the depth of the new room provided by the extension.

36. In situations such as this, where a window was previously in place which had a harmful impact upon the privacy of a neighbour is replaced with another window which also impacts upon privacy, the planning department must assess the difference between the two and examine whether a significant increase in harm has/would occur.
37. The property formerly had a heavily glazed rear off-shoot which was demolished to make way for the rear extension. The off-shoot served as part of a playroom and another section as a bay window within a living room. The playroom also served as the location for the only rear access to the property, in the form of a set of glazed, full height French doors, with half height windows at either side, and half height glazed side return windows. One of the side return windows was a 600mm wide unit facing north towards no. 15, as well as views being able to be taken from the rear facing windows/doors albeit at an angle. These views are taken at a similar distance to that of the new window, also significantly below the current separation distances. Although the new window is taller than the playroom window, its height in terms of privacy is irrelevant as the additional height does not allow for any greater viewing towards no. 15.
38. The new window aperture is partially constructed (the window frame has not been fitted) and as such allows for direct views to be taken both from the window towards no. 15, and from no. 15 towards the window and the case officer considered both vistas when formulating a recommendation. The new window aperture is clearly visible from the ground floor kitchen of no. 15 which features a set of full height French doors and can be seen from two first floor windows fitted with obscured glazing but obviously only when opened. Conversely, when no. 15 is viewed through the aperture only three windows/doors are readily visible, the ground floor kitchen, first floor bathroom and a secondary window to a first-floor bedroom/study. Both of the observable first floor windows are fitted with obscured glazing, and it should be noted that for planning purposes a bathroom is not considered to be a habitable room (only those used for cooking, eating, sleeping and general living are deemed as such). The rest of no. 15s rear windows are shielded from view from the new window aperture by the planting between the properties, which the plans show would be retained. This can be secured by planning condition.
39. Therefore, the assessment falls to the difference between the former views from the playroom window toward no. 15s kitchen doors/windows and the views from the window in the new extension. The window in the new extension is slightly closer to boundary with no. 15 by approx. 400mm, however it is slightly less wide being 460mm as opposed to the original 600mm. The new window is located in a more central part of the room it would serve and as such there is potentially wider arc of views that could be taken from, however the former arrangement had an entirely glazed rear outlook, as opposed to the now predominantly solid corner facing no. 15 and as such it is debatable which offered the greatest views in that direction.
40. To further mitigate harm to privacy, amended plans were submitted which show the inclusion of a 2 metre high boundary fence to the properties northern boundary to reduce views from the side window toward the kitchen windows/doors of no. 15. The proposed fence does not run along the full length of the garden to minimise any overshadowing and dominance. This measure is in line with the suggested means of improving privacy between developments and neighbouring properties as outlined in the RAS SPD. The fence section in this location would prevent overlooking to the garden of no.15 and partially shield views of the kitchen window from the new side window. It would also have the advantage of shielding the currently completely unobstructed views of no. 15 from the side access walkway and patio areas which are

directly adjacent to the common boundary. The installation of the fence and its retention in perpetuity can be appropriately secured by way of a planning condition.

41. In considering the impact of the proposed changes, weight should be afforded to the fallback position provided by those Permitted Development Rights available to dwellinghouses. In this instance the application property has no restriction to the range of Permitted Development Rights available as they have not been restricted by any previous planning permissions and as such, once the current works were complete, permitted development rights would be available which include the installation of windows to ground floor gable elevations.
42. In summary, whilst it is acknowledged that the window is at a suboptimal separation distance from a neighbouring property and would to some extent be harmful to privacy, and therefore not in strict accordance with CDP Policy 31, the level of harm caused is similar to that previously experienced from the windows of the previous playroom. The applicant has sought to mitigate the harm through several revisions of the plans, changing the window from being 1800mm to 600mm wide, and then a further reduction to 460mm wide as well as committing to retaining the planting between the properties and incorporate addition screening in the form of the fencing section. This submission includes measures which will improve the level of privacy between the dwellings as well as enable the Local Planning Authority to exercise control over the retention of the existing planting.

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## **CONCLUSION**

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43. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material planning 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).
44. The proposal seeks amendment to a previously approved scheme of alterations to an existing dwelling and as such is acceptable in principle. The proposed changes could be satisfactorily accommodated by reason of size, scale and design without adverse impact to residential amenity of adjacent neighbours from loss of privacy and would preserve the special character and appearance of the Durham City Centre Conservation Area in accordance with Policies 29, 31 and 44 of the County Durham Plan, Parts 2, 4, 12 and 16 of the NPPF and Policies S1 and H2 of the City of Durham Neighbourhood Plan.
45. The application has generated some local interest and whilst the concerns and objections raised have been taken into account, they are not considered sufficient to sustain refusal of the application in this instance 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 to the following conditions:

1. 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 Policies 29, 31 and 44 of the County Durham Plan and Parts 2, 4, 12 and 16 of the NPPF.

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

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

3. The proposed fence section shown on Proposed Elevation Plan 114/06E and Existing and Proposed Fencing Arrangement 1411/13 (received 29/11/23) shall be constructed prior to the first occupation of the rear extension, and retained in perpetuity.

Reason: In the interest of privacy and to comply with Policy 31 of the County Durham Plan

4. The hedge screening as shown in Existing and Proposed Roof Plan 1411/12B (Received 29/11/23) shall be retained in perpetuity.

In the event of the hedge dying or otherwise failing, planting of equal height and density shall be used and retained as above.

Reason: In the interest of privacy and to comply with Policy 31 of the County Durham Plan.

5. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or in any Statutory Instrument revoking or re-enacting that Order with or without modification) any additional glazing in a north facing elevation shall be fitted with obscured glass to Pilkington Level 3 or greater, and retained as such in perpetuity, (with the exemption of the glazing covered by this application).

Reason: In the interest of privacy and to comply with Policy 31 of the County Durham Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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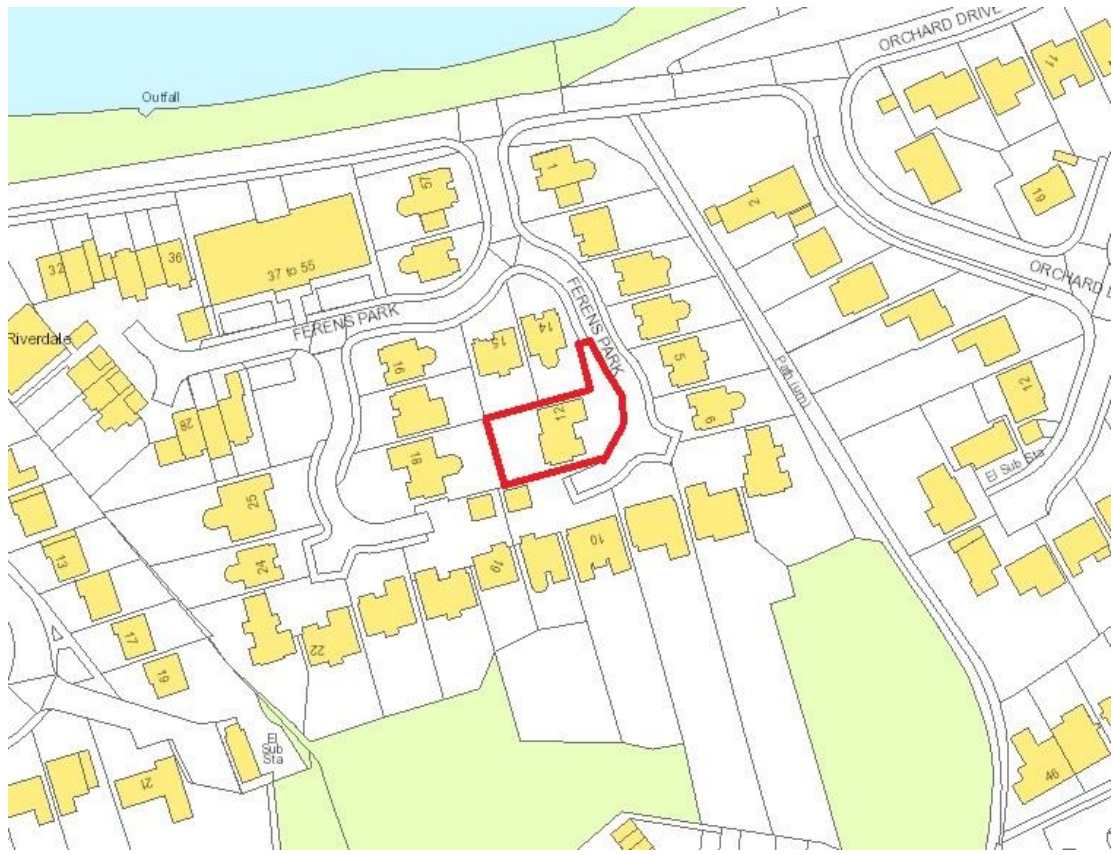
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant 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 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 Residential Amenity Standards Supplementary Planning Document 2023
- Durham City Neighbourhood Plan 2020



**Planning Services**

Variation of Condition 2 (Approved Plans) of approval reference DM/22/02767/FPA to add north facing window in side wall of rear extension, east facing window in side utility extension and remove north facing side window in snug area  
 12 Ferens Park, Durham, DH1 1NU  
 Ref: DM/23/03302/VOC

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**Comments**

**Date** 09 January 2024

**Scale** Not to Scale

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## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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<b>APPLICATION No:</b>	DM/23/00476/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Temporary siting of mobile home for a period of 3 years to be occupied by the farm manager.
<b>NAME OF APPLICANT:</b>	Mrs Patricia Sobota
<b>ADDRESS:</b>	Whitehouse Farm Wheatley Hill Durham DH6 3LX
<b>ELECTORAL DIVISION:</b>	Trimdon and Thornley
<b>CASE OFFICER:</b>	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

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### DESCRIPTION OF THE SITE AND PROPOSALS

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#### The Site:

1. The application site relates to Whitehouse Farm which lies to the west of the settlement of Wheatley Hill and is located within the open countryside for planning purposes. The site is accessed via a tarmac track from Wingate Lane and a Public Right of Way (Thornley Footpath no. 7) runs through the site.
2. The existing farmland comprises approximately 15 hectares and is used to rear and sustain cattle.

#### The Proposal:

3. Planning permission is sought for the temporary siting of a mobile home for a period of 3 years to be occupied by the farm manager. The development is required to provide a full-time on-site presence for the farm manager for the specified period.
4. The mobile home is to be sited to the north of the existing farmhouse and cluster of farm buildings. The mobile home would measure approximately 3.65 metres by 9.15 metres with an overall height of 2.4 metres.
5. The application has been called in to the planning committee by Cllr Jake Miller to consider the impact on employability and the requirement for the accommodation at the site.

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### PLANNING HISTORY

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6. No relevant planning history.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 2 - Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. NPPF Part 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 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.
12. 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.
13. 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:**



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

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

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

##### The County Durham Plan

15. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
16. Policy 10 - Development in the Countryside - states that development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.
17. Policy 12 - Permanent Rural Workers' Dwellings - sets out the criteria needed to demonstrate the acceptability of a new permanent agricultural, forestry and other rural workers' dwellings outside the built-up area. These criteria include: details of the nature and demands of the work that demonstrate an essential functional need for a permanent full time worker to live on site; details that the rural business activity has been established for at least three years and is financially sound; the proposed dwelling should not be harmful to the landscape and character of the area; the scale of the dwelling should be commensurate with the functional requirement; the functional need cannot be fulfilled by another existing dwelling in the unit or area.
18. 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.
19. Policy 27 - Utilities, Telecommunications and Other Broadcast Infrastructure - requires any residential and commercial development to be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.
20. 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.

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. Policy 32 - Despoiled, Degraded, Derelict, Contaminated and Unstable Land - requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
23. Policy 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.
24. 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.
25. 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.
26. The Council's Residential Amenity Standards Supplementary Planning Document January 2023 provides detailed guidance in relation to extensions and other works to dwellinghouses to ensure that these do not have an adverse impact upon the host dwelling, the character of the wider area and residential amenity.

<https://www.durham.gov.uk/media/41575/Residential-Amenity-Standards-SPD-January-2023-/pdf/ResidentialAmenityStandardsSPDJanuary2023.pdf?m=638107754686670000>

27. The County Durham Parking and Accessibility Standards Supplementary Planning Document 2023 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/43186/Parking-and-Accessibility-Supplementary-Planning-Document-2023/pdf/ParkingAndAccessibilitySupplementaryPlanningDocument2023.pdf?m=638324411438670000>

Neighbourhood Plan

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

29. Highway Authority – consider that the short-term temporary use for agricultural purposes would be acceptable from a highway's perspective, however, raise concern in relation to a permanent dwelling from a sustainability point of view.
30. Wheatley Hill Parish Council - support the application on the grounds that they support the farming industry and particularly local farmers. They comment that the mobile home is for use by the farm manager who carries out day to day running of the farm, as the applicant no longer lives there. The manager currently commutes from Peterlee and has difficulties getting to work and often needs to be at work in short notice at unsociable hours. They also note that the manager is required on site 24hrs a day to deal with any problems arising and consider their presence to also be beneficial from a security point of view. The PC consider that if the application is refused it could lead to the applicant ceasing farming the land and would result in the manager's redundancy.

### **INTERNAL CONSULTEE RESPONSES:**

31. DCC Ecology – raise no objection. The site is outside the HRA 6k buffer.
32. DCC Environment, Health and Consumer Protection (Contaminated Land) – have no adverse comments to make and confirm there is no requirement for a contaminated land condition, however, they recommend an informative relating to unforeseen contamination.
33. DCC Environment, Health and Consumer Protection (Nuisance Action Team) – are satisfied that the development would not lead to an adverse impact and is unlikely to cause a statutory nuisance.
34. DCC Public Rights of Way – raise no objection on the basis that Thornley Footpath 7 which runs through the farmyard, appears to be unaffected by the proposals. However, they do also provide some general advice with regards to the footpath.
35. DCC Spatial Policy – provide guidance and sets out the policies and issues that are relevant to this application.

### **PUBLIC RESPONSES:**

36. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. At the time of writing no representations have been received.

*The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?keyVal=RQDMR6GD0JA00&activeTab=summary>*

#### **APPLICANT'S STATEMENT:**

37. This statement is to be read in conjunction with original planning statement dated 15th. February 2023 and the additional statement dated 21st. March 2023 in response to the Planning Officers initial comments on the application.

The Council's description of the application is very specific. It is for the 'Temporary siting of a mobile home for a period of 3 years to be occupied by the farm manager'.

The Planning Departments objection to the proposal is based on their application of Policy 12 (page 96 of the County Durham Plan) which specifically refers to PERMANENT RURAL WORKERS DWELLINGS and also Policy 10 – DEVELOPMENT IN THE COUNTRYSIDE (page 56 of the CDP).

Our proposal is not for a permanent dwelling, only the temporary placement of a mobile home and we have addressed the planning objections raised in our March 21st.

We note that all the County Councillors for the ward are in support of our proposal as are Wheatley Hill Parish Council, who have submitted a letter strongly in favour of our application.

We also note that none of the Council departments consulted during the planning process have raised any conclusive objections to our proposal.

As requested, we have provided site photographs and a screening assessment. We have also provided a letter from the applicants accountants confirming that the long established farm business is financially sound and in a position to continue on that basis for the foreseeable future.

Throughout the application process we have emphasised that if the current tenants of the farmhouse vacate the premises then the Farm Manager would be able to move into to the then vacant farmhouse and the temporary mobile home would be removed.

We are happy to have this as a Planning Condition attached to an approval of the application.

However, the applicant has stressed that she is not willing to forcibly evict her tenants because she is unwilling to go back on her word that the tenants could remain in the property as long as they desired.

At the time the agreement was made with her tenants it must be stressed that the applicant was not in a strong negotiating position.

They have been good tenants and she has no issues with them.

It seems totally iniquitous that the Planning Section's view is that the applicant should evict the tenants to resolve the current situation.

We conclude that the temporary location of a mobile home is not equivalent to the building of a permanent dwelling and the criteria raised by CDP policies 10 & 12 are not entirely appropriate in this instance.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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38. 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 planning issues in this instance relate to the principle of development, impact on visual amenity and the character of the landscape, residential amenity, impact on highway safety, green infrastructure, broadband, ground conditions and ecology.

### Principle of development

39. 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.
40. 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 indicate that the plan should not be followed.
41. The proposals relate to the temporary siting of a mobile home at Whitehouse Farm, to the north of the existing farmhouse and associated buildings, to provide accommodation for the farm manager. The application site is located outside of any established settlement boundary and is located within the open countryside for planning purposes.
42. NPPF paragraph 80 states that the development of isolated homes in the countryside should be avoided unless, amongst other things, there is an essential need for a rural worker, including those taking majority control of a farm business to live on site. Paragraphs 84 and 85 are supportive of economic growth in rural areas including through the sustainable growth and expansion of all types of business and enterprise in rural areas providing it respects the character of the countryside and ensures locations are made as sustainable as possible.
43. CDP Policy 10 (Development in the Countryside) does not permit development in the countryside unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The development is not considered to benefit from any of the exceptions in Policy 10, however, it would be considered to relate to other specific policies within the plan, namely, policy 12 relating to permanent rural workers' dwellings. Therefore, it is considered that this Policy is of most relevance in this instance.

44. CDP Policy 12 (Permanent Rural Worker's Dwellings) permits proposals for new permanent agricultural, forestry and other rural workers' dwellings outside the built-up area provided that it can be demonstrated that:
  - a. the nature and demands of the work involved means that there is an essential existing functional need for a permanent full-time worker to live at, or very close to, the site of their work in order for the enterprise to function effectively, or the dwelling is required to accommodate a person with majority control of the farm business;
  - b. the rural business activity has been established for at least three years, is currently financially sound as verified by a qualified accountant, and has a clear prospect of remaining so;
  - c. the proposed dwelling is not harmful to the rural landscape and character of the area and is physically well related to the activities required;
  - d. the scale of the dwelling is commensurate with the established functional requirement of the enterprise; and
  - e. the functional need could not be fulfilled by another existing dwelling on the unit, or any other existing accommodation in the area which is suitable and available for occupation by the workers concerned.
45. In the supporting text of the Policy, paragraph 5.88 states that whether the need is essential in any particular case will require a demonstration that there is a functional requirement for a full time worker to be available at all times on the site for the enterprise to function properly; that the enterprise is financially sound so that this functional requirement is likely to continue well into the future; and that the need for a dwelling could not be met by existing buildings on the site or existing housing in the area. Cases will be judged on the needs of the enterprise and not the personal preferences of the specific individuals.
46. A statement and other supporting information have been submitted with the application which sets out the reasons why the dwelling is considered to be required in this instance. The statement suggests that there is a requirement to provide a full-time on-site presence for the farm manager, who carries out the day to day running of the farm on behalf of the applicant and her husband, who no longer live at the farm due to health reasons. The supporting information sets out that there are approximately 50 cattle on the farm at any one time and the farm manager is engaged in all aspects of caring for the cattle and needs to be on site on a 24-hour basis to deal with problems that are likely to arise. The farm manager is also required to assist with calving during December and March. In addition, it is suggested that the full-time on-site presence of the farm manager would assist with security of the site and deter crime. The farm manager has also provided a statement outlining his present difficulties getting to the farm and dealing with incidents requiring immediate attention.
47. In respect of CDP Policy 12 a) while the information seems to suggest that the farm manager needs to be on site on a 24-hour basis to deal with problems that are likely to arise, it is not considered that sufficient information has been provided to demonstrate that there is an essential existing functional need to live at the site permanently in order for the enterprise to function effectively. There is no breakdown of specific activities with details of working hours to demonstrate that the duties amount to the requirement of 1 full time equivalent worker to be present on site, such information being expected to accompany applications of this nature. While the information submitted does suggest the farm manager has some difficulties getting to the site and that there have been incidences that have required his immediate attention, some of which have been during the night, the evidence provided is not considered to be sufficient to demonstrate that the farm manager is required to be

onsite on a permanent basis in order for the enterprise to function effectively or that the enterprise has not been functioning effectively. The applicant has therefore failed to demonstrate compliance with criteria a) of Policy 12.

48. In terms of CDP Policy 12 b) the applicant has provided a short statement from their accountant which suggests that the business is on a sound financial footing and will continue to trade for many years going forward. However, this is not considered to meet the tests of Policy 12 which requires the applicant to demonstrate that the rural business activity has been established for at least three years, is currently financially sound as verified by a qualified accountant and has a clear prospect of remaining so. No accounts or financial information have been provided in order that compliance with this requirement can be fully assessed, despite being requested of the applicant. Accordingly, the applicant has failed to demonstrate compliance with criteria b) of Policy 12.
49. In relation to CDP Policy 12 e) there is an existing farmhouse on the site which is currently occupied on a rent-free basis by tenants who are not connected with the farm or farming activities. The applicant has explained that they have a verbal agreement in place and the arrangements began following the applicant and her husband leaving the farm, due to ill health and needing to find a tenant to live there for security reasons. While the applicant has suggested the tenants have lived there for five years and they are not willing to break that agreement, they have provided no reasons or justification for this, given they now consider there is a demand for onsite presence of a farm worker to operate their farm. It is reasonable to make the assertion that the farm manager could live in this accommodation and be on hand to deal with emergencies if this rental arrangement was not in place. It is therefore considered that the existing dwelling on the unit could fulfil any functional need and be available for the occupation of the farm manager. The case put forward for the requirement of this temporary mobile dwelling is therefore considered to be a personal preference rather than an essential functional requirement contrary to Policy 12 e).
50. In addition, while the applicant suggests that should the current tenants vacate the farmhouse it would then become available for use by the farm manager, it is noted that the tenants have already lived here for five years and with no timescales in place in terms of the property being vacated, this arrangement could be in place indefinitely.
51. Notwithstanding the existing farmhouse on site, Policy 12 e) also requires it to be demonstrated that the functional need could not be fulfilled by other existing accommodation in the area which is suitable and available for occupation. In the Statement provided by the farm manager he also mentions that he has been unable to find a suitable home nearby due to financial circumstances, however, no further information has been provided. A Rightmove search appears to show that within 1 miles of the site, 32 properties are currently available for sale with a starting price of £50,000 which would suggest that there are properties for sale in the local area.
52. In addition, it is noted that security is raised as a concern and it is considered that the permanent presence of the farm manager would help to deter crime and trespassing. While concerns around crime are genuine and the applicant has referred to an incident which was reported to the police last year, there are no details of other incidents occurring at the site or that the site is particularly vulnerable to crime opportunities. It is not necessarily considered that the addition of the mobile home would act as a security deterrent anymore than the existing occupied farmhouse does. In addition, it is noted that the site has existing CCTV, however, there is nothing to demonstrate that the applicant has exhausted all viable means to improve security.

53. In respect of d) given that there is an existing dwelling on site, it is not considered that the provision of an additional dwelling is commensurate with the established functional requirement of the enterprise.
54. CDP Policy 10 also sets out a range of General Design Principles which new development in the countryside must meet. Of most relevance to this application are criteria l), p), q) and r) which require that development by virtue of their siting, scale, design and operation must not:
- l. give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for;
  - p. be solely reliant upon, or in the case of an existing use, significantly intensify accessibility by unsustainable modes of transport. New development in countryside locations that is not well served by public transport must exploit any opportunities to make a location more sustainable including improving the scope for access on foot, by cycle or by public transport;
  - q. be prejudicial to highway, water or railway safety; and
  - r. impact adversely upon residential or general amenity.
55. Criteria l), q), and r) will be considered in more detail in the relevant sections of this report. In relation to p), due to the relatively isolated nature of the site it is considered that there would potentially be a reliance on unsustainable modes of transport, such as the car, to access facilities and services in the nearest settlements. While there is a PROW running through the site which joins Wheatley Hill to the north-east and Wingate Lane to the south, both are unlit.
56. While the support for the development from the Parish Council is acknowledged, it is noted that there is an existing property on the site which could fulfil any functional need and it is not considered that sufficient information or justification has been provided in terms of essential need for the mobile home or financial justification. Therefore, the principle of the development in the countryside is considered to be unacceptable and contrary to NPPF paragraph 80 and CDP Policies 10 and 12.

#### Impact on visual amenity and the character of the landscape

57. NPPF paragraph 124 advises that the creation of high-quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work.
58. CDP Policy 10 l) requires new development by virtue of their siting, scale, design and operation, not to give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside. Policy 12 c) requires the dwelling to not be harmful to the rural landscape and character of the area and to be physically well related to the activities required. Policy 29 (Sustainable Design) requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features and Policy 39 (Landscape) permits proposals for new development where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views.
59. The proposals relate to the siting of a mobile home to the north of the existing farmyard and existing farmhouse and associated farm buildings. The submitted plans indicate it would measure approximately 3.65 metres by 9.15 metres with an overall height of



2.4 metres. The applicant has confirmed that the dwelling would be finished in a light shade of green.

60. Whitehouse Farm sits in a prominent location to the north of Wingate Lane. The Council's Landscape officer was consulted on the proposals and commented that mobile homes are not generally considered to be of a high standard of design and would not be accepted on a permanent basis. Static caravan residency often attracts piecemeal unregulated development and clutter. In this case, whilst the proposal would be located next to existing built form and an existing residential dwelling, a caravan and any associated elements would be prominently visible from public vantage points. These effects would be temporary and reversible should the mobile home be acceptable on a temporary basis.
61. However, the Landscape officer did suggest that the appearance of the mobile home could be improved with appropriate landscaping and being clad in naturalistic muted colours. They suggested that a location to the rear of the farm could also be considered, where it would be screened by existing built form. The comments made by the Landscape officer were forwarded to the applicant, however, no amendments were forthcoming. The applicant has advised that the dwelling is to be sited in the proposed location because it gives a clear siting of the only access road into the farm all the way back to the farm gates at the junction with the old A181 road. However, it is noted that the existing farmhouse which is sited to the south of the existing cluster of farm buildings would likely have sighting of the access which would negate the functional requirement for the new dwelling to be sited in this location from a security point of view.
62. Taking the above into account, it is considered that while the design and siting of the mobile home is not ideal and would likely appear prominent in the landscape, noting that the development is proposed on a temporary basis only, it is considered that should planning permission be granted that this could potentially be mitigated through appropriate conditions relating to materials and suitable landscaping to provide screening to the development and help it to assimilate better with the surrounding area.
63. CDP Policy 29 also requires all proposals to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and provide renewable and low carbon energy generation and minimise the use of non-renewable and unsustainable resources during both construction and end use. No details have been provided in this regard; however, it is considered that details could be secured via condition should permission be granted.
64. Taking the above into account, the development is considered to accord with the aims of NPPF Part 12 and CDP Policies 10, 12, 29 and 39.

#### Impact on residential amenity

65. Paragraph 130 of the NPPF requires planning decisions to 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.
66. In line with this, CDP Policy 10 r) requires development by virtue of its siting, scale, design and operation not to impact adversely upon residential or general amenity. 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. Policy 29 e) 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.

67. The dwelling will be sited to the north of the existing farmhouse and farm buildings. Due to the nature of the development and association with the existing farm and farming activities it is not considered that there would be any adverse impact on residential amenity. Due to separation distances, there would be no impact on amenity of the existing occupants of the farmhouse or the proposed occupant of the mobile home.
68. The Council's Environmental Health Nuisance Action Team (EHNAT) were consulted on the proposals and considered that, given the proposed location of the mobile home on a temporary basis, in principle the development would be unlikely to have a significant impact in terms of any statutory nuisance and associated matters.
69. Taking the above into account, the proposals are not considered to raise any adverse impacts in terms of residential amenity in accordance with CDP Policies 29 and 31 and NPPF Part 15.

#### Impact on Highway Safety

70. NPPF Paragraph 110 requires new development to provide safe and suitable access to the site.
71. CDP Policy 10 q) states that by virtue of their siting, scale, and design, development must not be prejudicial to highway, water or railway safety. CDP Policy 21 (Sustainable Transport) requires development to 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. Development should also have regard to the Parking and Accessibility Supplementary Planning Document (2023).
72. The mobile home is proposed to be sited to the north of the existing farmyard and no additional hardstanding is proposed as part of the development. The development will share the existing private access to the farm which joins Wingate Lane to the south of the site.
73. The Council's Highway Development Management section were consulted on the proposals and considered that the short-term temporary use for agricultural purposes would be acceptable from a highway's perspective. They also consider there to be adequate parking space available within the farmyard to serve the new dwelling. However, they do consider that the longer-term use of the unit would not be sustainable in terms of connection with facilities and services and would constitute development in the countryside. They would not support long-term use due to the reliance on the private motor vehicle for transportation. However, the proposals are presented as a temporary requirement in this case and although the Highways concern is noted, it would not be justified as a reason for refusal as part of this application.
74. On that basis, it is not considered that the development would result in any unacceptable harm regarding highway safety and adequate parking could be provided. The development is therefore considered to accord with the aims of NPPF Part 9 and CDP Policies 10 and 21.

#### Green Infrastructure

75. CDP Policy 26 (Green Infrastructure) states that proposals that would result in the loss of, or deterioration in the quality of, existing Public Rights of Way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. Thornley Footpath 7 runs through the farm site. The Council's PROW Team were consulted on the proposals and raised no objection. The development is therefore considered to accord with CDP Policy 26.

#### Broadband

76. CDP Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure) requires new residential development to be served by high-speed broadband connection. No details have been provided in this regard; however, it is considered that should planning permission be granted then submission of details could be secured via an appropriate condition.

#### Ground Conditions

77. CDP Policy 32 states that development will not be permitted unless the developer can demonstrate that 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; the site is suitable for the intended use; and all investigations and risk assessments have been undertaken by an appropriately qualified person. The Council's Environmental Health Contaminated Land section were consulted on the proposals and confirmed that they have assessed the historical maps and submitted screening assessment with respect to land contamination and have no adverse comments to make. On that basis, there is no requirement for a contaminated land condition and the development is therefore considered to accord with CDP Policy 32 in this respect.

#### Ecology

78. CDP Policy 41 (Biodiversity and Geodiversity) does not permit development if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. The Council's Ecology section were consulted on the proposals and raised no objection to the development, noting that the site lies outside of the Council's 6km HRA buffer. The development is therefore considered to accord with CDP Policy 41.

#### Public Sector Equality Duty

79. 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.
80. 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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81. NPPF Paragraph 12 states that where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities

may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.

82. The proposal constitutes new residential development in the open countryside and Policy 10 does not permit such development unless allowed for by the listed exceptions or another policy in the plan. Policy 12 provides support in principle for the development of new permanent agricultural worker's dwellings providing they demonstrate compliance with certain specified criteria. In this instance there is already an existing property on the site which could fulfil any functional need, and it is not considered that sufficient information and justification has been submitted to demonstrate a functional need for the dwelling or the viability of the business. Consequently, it is considered that the proposal is contrary to guidance contained within NPPF paragraph 80 and CDP Policies 10 and 12. In addition, it is not considered that the proposed temporary nature of the accommodation would overcome this conflict.
83. When assessed against other relevant policies in the development plan, it is not considered that the development would result in significant harm to the visual amenity and character of the landscape, that could not be mitigated. In addition, there are not considered to be any significant adverse impacts in terms of residential amenity, highway safety, contaminated land, ecology and the Public Right of Way would be unaffected by the proposals. It is considered that other matters such as provision of broadband could be dealt with via condition.
84. While support from the Parish Council is acknowledged, as described above it is considered that the development would be contrary to CDP Policies 10 and 12 and there are not considered to be any material considerations in this instance that would outweigh that conflict. Therefore, on that basis, the application is recommended for refusal.

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## **RECOMMENDATION**

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

The proposals would result in new residential development within the open countryside, and it is not considered that sufficient information and evidence has been submitted to demonstrate that there is a functional need for a new dwelling in this location or that the business is currently financially sound and will remain so. Furthermore, insufficient information has been provided to demonstrate why any functional need could not be met by the existing dwelling on site or elsewhere. On that basis, the development is considered to be contrary to National Planning Policy Framework paragraph 80 and County Durham Plan Policies 10 and 12.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

Statutory, internal and public consultation responses

The National Planning Policy Framework (2021)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Residential Amenity Standards SPD (2023)

County Durham Parking and Accessibility Standards (2023)



<p><b>Planning Services</b></p>	<p>Whitehouse Farm Wheatley Hill Durham DH6 3LX</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.</p> <p>Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding.</p> <p>Durham County Council Licence No. 100049055 2023.</p>	<p>Temporary siting of mobile home for a period of 3 years to be occupied by the farm manager.</p>	
	<p><b>Date</b> December 2023</p>	<p><b>Scale</b> NTS</p>

# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	DM/23/02725/FPA
<b>FULL APPLICATION DESCRIPTION:</b>	Change of use from dwellinghouse (Use Class C3) to house in multiple occupation (HMO) (Use Class C4)
<b>NAME OF APPLICANT:</b>	Mr Richard Watters
<b>ADDRESS:</b>	4 Monks Crescent Gilesgate Durham DH1 1HD
<b>ELECTORAL DIVISION:</b>	Belmont
<b>CASE OFFICER:</b>	Michelle Hurton Planning Officer <a href="mailto:Michelle.hurton@durham.gov.uk">Michelle.hurton@durham.gov.uk</a> 03000 261398

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### The Site

1. The application site is a two-storey semi-detached property located within Monks Crescent, Gilesgate which is a residential housing estate to the east of Durham City Centre.
2. The property has an integrated garage to the side and access to the rear garden is via a gate located to the side of the garage. The front lawn is enclosed with a low brick boundary wall and the rear garden is enclosed with timber fencing. The property is framed to all sides by residential dwellings.

### The Proposal

3. The application seeks planning permission for the conversion of the property from a dwellinghouse (Use Class C3) to a small House in Multiple Occupancy (Use Class C4). Works to facilitate the conversion are wholly internal and externally the dwelling would remain fundamentally unaltered, with the exception of minor works predominantly to the rear and an extension to the existing drive to accommodate an additional 2 vehicles.
4. The application is reported to planning committee at the request of Belmont Parish Council who consider the application raises issues relating to the over proliferation of HMO properties in a residential area, the transient nature of the occupants, increased car ownership and that there is no need for further student accommodation in the city. They consider that these issues are such that they require consideration by the committee.

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## **PLANNING HISTORY**

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5. None relevant to the current application.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

#### National Planning Policy Framework

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. NPPF Part 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.
8. 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.
9. 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.
10. 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.
11. 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.
12. 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.



13. 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.
14. 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:**

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

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

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

##### The County Durham Plan

16. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
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 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
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. Policy 35 Water Management states that all new development should adopt the hierarchy of preference in relation to surface water disposal.
23. Policy 36 Disposal of Foul Water states that all new development should adopt the hierarchy of preference.
24. The Council's Residential Amenity Design Guide (SPD) which provides detailed guidance in relation to extensions and other works to dwellinghouses to ensure that these do not have an adverse impact upon the host dwelling, the character of the wider area and residential amenity.

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

## **NEIGHBOURHOOD PLANNING POLICY**

25. There is not a Neighbourhood Plan relevant to the determination of this application.

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## **CONSULTATION AND PUBLICITY RESPONSES**

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### **STATUTORY RESPONSES:**

26. The Highway Authority raises no objection to the application following receipt of an amended site layout plan showing the widening of the driveway to accommodate a

total of three in curtilage parking spaces to the front and removing the proposed use of unbound gravel to permeable block paving.

27. County Councillors Eric and Lesley Mavin object to the application due to the increase in HMOs within the area and the detrimental impact is having on residents, occupants will be transient residents not likely to integrate well with existing residents, HMO properties are in a state of disrepair and unkept having a detrimental impact on the value of other houses, issues with noise and anti-social behaviours, occupants keeping unsociable hours and being generally disturbing a quiet respectful area
28. Belmont Parish Council objects to the application due to the over proliferation of HMO properties in what is a residential area, the transient nature of the occupants, an expected increase in car ownership and that there is no need for additional student accommodation.

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

29. 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 1.2%, there are two unimplemented consents within the 100m radius being 5 and 9 Monks Crescent. Accounting for one unimplemented consent the percentage figure would be 2.4% and accounting for two unimplemented consents the percentage figure would be 3.6%.
30. HMO Licensing have confirmed that the property will not need to be licensed following completion of the works and advise how to comply with the relevant fire safety, amenity and space standards.

#### **PUBLIC RESPONSES:**

31. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. Seven letters of objection have been received in response. Reasons for objection are summarised as:
  - Impact upon existing residential amenity in that the proposal would adversely impact upon neighbouring properties from increased noise and disturbance, living directly opposite with a view into a bedroom.
  - Impact upon parking and highway safety, specifically that the site would increase number of cars parking in the street.
  - Impact upon social cohesion in that the introduction of an additional HMO would imbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential areas which is evidenced by properties being put up for sale since numbers 5 and 9 Monks Crescent got permission to become HMOs.
  - There are too many student properties in the street.
  - Impact on the Character and Appearance of the area, specifically that landlords of HMO properties neglect the gardens and parking spaces of the properties, bins are not pulled in attracting vermin to the area and properties become looking deteriorated.
  - Mental health issues arise as residents living near HMOs fear noise, loss of neighbours and devaluation of properties.

- HMOs bring in transient dwellers who do not become part of the community.
- Properties within the street are being put up for sale due to number of HMOs in the street
- Covenant on properties stating dwellings should remain as family homes

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

#### **APPLICANT'S STATEMENT:**

32. Durham University is a member of the Russell Group of leading research intensive universities with continued strong demand for places to study at the university. The adopted County Durham Plan recognises that Durham University is a major asset to the city, shaping the built environment, contributing to the cultural and heritage offer, developing highly skilled individuals as well being a major employer and a purchaser of local goods and services.
33. The Durham University Strategy 2017-2027 sets out clear goals to deliver world class research, education and a wider student experience and it is clear that the provision of a sufficient range and supply of high quality affordable and accessible residential accommodation options that meet the current and future aspirations of the student population will be key to supporting the wider student experience and the overarching strategic objectives of Durham University.
34. The County Durham Plan acknowledges that students make up a significant proportion of the term time population of the City contributing greatly to its culture, economy and vibrancy. However, it is also recognised that there can be adverse impacts on the amenities of residents in areas where student HMOs are dominant. Whilst the concerns of local residents and other third parties in relation to the impact of the proposals on the character of the area and residential amenity are acknowledged, the property lies within an area where significantly less than 10% of properties are Class N exempt. This 10% threshold is set out within the adopted County Durham Plan as the 'tipping point' whereby an imbalance between HMO properties and non-student properties could occur to the detriment of residential amenity.
35. Accounting for the current application and other recent approvals, only 3.6% of properties within a 100m radius would be Class N exempt and, having regard to guidance contained within the Council's own adopted Development Plan, it is clear that the proposals would not unacceptably undermine the character of the area or residential amenity given the 10% 'tipping point' is not close to being breached in this location. Furthermore, a robust student management plan will be put in place and occupants will also be subject to the University's code of conduct and associated disciplinary procedures for any breaches. It should also be acknowledged that students seeking properties on the outskirts of the city are generally looking for a quieter residential environment and tend to be a different demographic than those students who may look to live within the Viaduct area or other more central locations close to the City Centre nightlife. On this basis, the applicant remains firmly of the opinion that the proposed small HMO would not generate levels of noise and disturbance and general activity that would unacceptably impact on neighbouring residents in the locality. The proposed HMO will also be served by sufficient levels of car parking and will not give rise to any unacceptable impacts on the local highway network, with no objections raised by the Council's Highways Department and also

satisfies the other relevant policy requirements of Part 3 of Policy 16 and the wider County Durham Plan.

36. The current application would therefore fully accord with the requirements of Policy 16 of the adopted County Durham Plan delivering high quality student accommodation and supporting the provision of accommodation options to support the identified growth of Durham University, which is a key objective of the adopted Development Plan. The application proposals therefore represent an entirely acceptable form of development in this location that would fully accord within the adopted County Durham Plan and there is no justifiable basis for refusing planning permission in this instance.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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37. As identified in Section 38(6) of the Planning and Compulsory Purchase Act 2004 the key consideration in the determination of a planning application is the development plan. Applications should be determined in accordance with the development plan unless material considerations indicate otherwise. In assessing the proposals against the requirements of the relevant planning guidance and development plan policies and having regard to all material planning considerations it is considered that the main planning issues in this instance relate to the principle of development, impact on the character and appearance of the area, impact on residential amenity and community balance/social cohesion, impact on highway safety and other matters.

### **Principle of the Development**

38. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a 4-bed HMO (Use Class C4).
39. Policy 6 (Development on Unallocated Sites) of the County Durham Plan (CDP) 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.
40. In addition, Policy 16, Part 3 of the CDP is also relevant which relates to the conversion of houses for multiple occupation. 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 House in Multiple Occupation in Class C4 or a sui generis use (more than six people sharing) will not be permitted if:
  - a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
  - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in combination with the existing number of Class N Student exempt units would exceed 10% of the total properties within the 100 metres area; or

c. less than 10% of the total residential units within the 100 metres are exempt from council tax charges (Class N) but, the application site is in a residential area and on a street that is a primary access route between Purpose Built Student Accommodation and the town centre or a university campus.

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

d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);

e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;

f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and

g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.

42. It is noted that objections have been received from neighbouring residents, local Councillors and Belmont Parish Council raising concern that the proposed change of use would result in the over proliferation of HMOs in the area given the number of HMO properties within Monks Crescent at present, and that this would unbalance the community. They also consider that the applicant has not demonstrated any need for additional student accommodation of this type in this location. In addition, concerns have also been raised regarding how the HMO data is collected and the methodology used in Policy 16, Part 3 of the CDP. With regard to the latter, it is noted that the policy and the methodology contained within it was considered sufficiently accurate and robust during the examination in public of the CDP in 2020. The policy has proven to be 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.

43. 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 small HMO that within 100 metre radius of, and including 4 Monks Crescent, 1.2% of properties would be class N exempt as defined by Council Tax records. However, there are two previous planning permissions relating to No's 5 and 9 Monks Crescent for the change of use from C3 to C4 capable of implementation which if effected, would increase the percentage of properties within 100m to 3.6%. As this concentration would be below the 10% threshold stated in the CDP, the development can be considered to comply with policy 16, Part 3, criteria a) and b) (criteria c) not being relevant) and is acceptable in principle, subject to further consideration of the proposal against other criteria on Policy 16, Part 3 and the impact of the proposal upon residential amenity and highway safety.

44. It is noted that objections have also 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 Durham City generally. 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 as

there is no policy basis for the applicant to demonstrate need, the lack of any specific information within the application with regards to need can be afforded only very limited weight.

45. 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.
46. Objections have been received citing that the development would have an adverse impact upon social cohesion and unbalance the community to the extent that there would be an over proliferation of this type of accommodation in the locality forcing families out of residential areas which is evidenced by properties being put up for sale since numbers 5 and 9 Monks Crescent were granted planning permission for change to small HMOs (Use Class C4). 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 seeks to strike an appropriate balance through the 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. Furthermore, existing residents selling their own properties and impact upon property values are not material planning considerations which can be taken into account.
47. Taking account of the above it is considered that the principal of development is acceptable, and the proposal would accord with the requirements of Policy 16 of the CDP and Paragraph 62 of the NPPF in this regard.

### **Impact on residential amenity**

48. 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.
49. In this instance the application site is a semi-detached dwelling located within a residential area and as such the nearest residential property adjoins the application site to the north-west, with further residential properties to all sides. In nearly all cases

those responding to the application in objection cite concerns around increased noise, and fear of noise, disturbance and antisocial behaviour as a result of the development and this includes the Local Councillors for the division and Belmont Parish Council. In addition, concerns have been raised that the owners/occupiers of the property adjacent to the site will have direct view into the ground floor bedroom of the proposed HMO.

50. The development would fall within the thresholds associated with Council's Technical Advice Notes (TANS) relating to noise. 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 in terms of comings and goings at 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 personal habits of the individuals residing there and as such, might differ greatly.
51. The application site is located within a residential area predominantly characterised by family homes. The impact of the development upon residential amenity is a material consideration in determination of the 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 an 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 several previous planning applications in this regard and proved successful in defending those at appeal. 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.
52. Notwithstanding the above, it is considered that the applicant provides an effective plan as to how the property would be managed and confirmed within the supporting planning statement, that the property would be appropriately maintained by J W Wood Student Letting, who are a well-established student accommodation letting agent within Durham City and that requirements will be included within tenancy agreements around noise and anti-social behaviour with appropriate penalties should these be breached. The submission, agreement and implementation of precise details of a management plan can be secured through planning condition should the committee be minded to grant planning permission. Therefore, subject to the inclusion of a planning condition in this regard, the development is considered to accord with the requirements of policies 16 and 31 of the CDP.
53. Furthermore, the applicants have confirmed that the property will meet all relevant safety standards with gas and electrical safety certificates, as well as mains linked smoke detectors. The windows and doors will be fitted with locks and the property lies within a residential estate with street lighting for natural surveillance from surrounding properties. Therefore, providing safe and secure accommodation in accordance with policy 16 Part 3 criteria g.
54. The scheme proposes a new bedroom at ground floor level which would replace part of the existing lounge/dining area. As the property is a semi-detached dwelling, the adjoining property would be of a handed design and therefore the ground floor bedroom would be adjacent to a lounge/dining area in the adjoining house which could lead to a greater impact for the individual residing in this bedroom, as well as



potentially leading to complaints against the reasonable use of the neighbouring ground floor.

55. The Council's EHO has advised that should the bedroom be subject to appropriate sound insulation this would mitigate any adverse impact in terms of the transfer of noise. The proposed floor plans indicate that the party wall at both ground and first floor will be upgraded with Gyplyner Independent wall lining or similar to meet the required mitigation to which the Council's EHO raises no objection. As such, a condition could be attached to planning permission requiring the sound proofing measures described in the application to be installed (i.e. the Gyplyner wall lining) or similar - which meets the requirements of Approved Document E (Resistance to the passage of sound) of the Building Regulations 2004 (As Amended) prior to the first use of the property as a small HMO.
56. In relation to concerns that the occupiers of the property opposite No. 4 Monks Crescent would have direct views into the proposed bedroom at ground floor level it should be noted that the separation distance between the two properties is a pre-existing and well-established arrangement and the views would be a similar arrangement to those at first floor level. Both the bedroom and lounge are considered to be habitable rooms and there would not be any greater impact in this regard. In any event it is noted that minimum separation distance of 21 metres as contained within the SPD would be achieved.
57. In light of the above, the development is not considered to have any unacceptable impact upon overbearing, overshadowing or loss of privacy as a result in accordance with policy 31 of the CDP and the relevant SPD.
58. The property includes adequate external space to accommodate sufficient bin storage facilities as shown on the proposed site layout plan which will be located within the garden area that extends to the south-east of the property and therefore accords with criteria e) of Part 3 to Policy 16. 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.
59. 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.
60. 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.
61. In the original submission of the scheme the ground floor bedroom did not meet the minimum NDSS requirements. Consequently, the applicant has amended the scheme altering the internal layout and relocating an internal wall. This has increased the

footprint of the bedroom in question from approximately 7.3sq metres to 7.63sq metres. As such this now complies with minimum NDSS and Licencing Requirements, although it is noted the property would not require a licence. All of the bedrooms now meet the minimum requirements of the NDSS being in excess of the required 7.5sq metres per room.

62. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 4 bedspace, 4 person dwellings. However, it does include standards in relation to 4 bedspace 5 person dwellings and it is noted that this requires an overall area of no less than 97sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide adequate internal space delivering approximately 85sq metres of total internal floorspace.
63. In light of 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 the character and appearance of the area**

64. Paragraph 124 of the NPPF advises that the creation of high quality buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work. Policy 29 of the CDP requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
65. Neighbouring residents have raised objections to the proposed development stating that a HMO's will have a negative impact on the residential housing estate, stating that HMOs are not adequately maintained and that students are short term occupiers with no stake in local community.
66. It is noted that limited external alterations are proposed to facilitate the change of use comprising solely of the removal and replacement of the rear window within the integral garage to a smaller obscurely glazed window and the remaining area will be blocked up with brick. This is considered acceptable in principle and similar to other works undertaken at properties in the locality subject to the inclusion of a planning condition which requires materials used to match the host property.
67. The character and appearance of the surrounding area incorporates two storey and single 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. There is also separate legislation which relates to untidy land and buildings for such matters which the Councils can utilise to resolve any issues should they arise.
68. 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.

69. Taking the above into consideration, it is considered that the proposed development would accord with Policy 29 of the CDP and Part 12 of the NPPF.

### **Highway Safety and Access**

70. Policy 16 of the CDP requires new HMO's to provide adequate parking and access and Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with paragraph 110 of the NPPF which requires new development to provide safe and suitable access to the site.
71. Objections have been raised by concerned residents and Belmont Parish Council that the development would increase the number of cars parking in the street.
72. The Highway Authority offers no objection to the application and does not consider there would be any adverse impact in terms of highway safety as a result of the proposals. They have assessed the proposal against the requirements of the current DCC parking standards and advised there is requirement for additional in curtilage parking provision and this has been reflected in an amended site plan, showing the provision of a total of 3no off street parking spaces which complies with the requirements of the Council's relevant Supplementary Planning Document.
73. With regard to concerns that the development would increase the presence of parked vehicles within surrounding streets, it is noted that given the increase of in curtilage parking as described above, the proposed use would not increase on street parking to an extent that it would adversely impact upon existing network capacity. 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.
74. Cycle storage is shown as provided within the existing garage and its provision is a requirement of criteria (d) of Part 3 to Policy 16 of the CDP. As such it is considered appropriate to include a planning condition should permission be granted to secure provision of the cycle storage prior to first occupation and retention whilst the property is in use as a small HMO.
75. Therefore, notwithstanding the concerns raised by residents and the Parish Council 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 policy 16 and 21 of the CDP and paragraph 110 of the NPPF.

### **Other Matters**

76. Objections have been raised regarding the proposed change of use resulting in the devaluation of properties. Further concerns have been raised regarding people selling their properties due to the HMOs in the area resulting in them being pushed out of the area. Devaluation of properties itself is not a material planning consideration and the issue of noise and social cohesion has been discussed elsewhere in this report. It is therefore considered that the proposed change of use to a small HMO should not result in mental health issues arising.
77. Objections have been raised that the property developers for the dwellings included a covenant on the dwellings stating that they are to remain as family homes. Covenants are not material planning considerations and therefore cannot be taken into consideration during the assessment of the application.

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## CONCLUSION

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78. 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.
79. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the introduction of a small HMO in this location would not unacceptably imbalance the existing community towards one dominated by HMOs, 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.
80. 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 Policies 6, 16, 21, 29 and 31 of the County Durham Plan and Parts 2, 4, 8, 9, 12 and 15 of the National Planning Policy Framework.

### Public Sector Equality Duty

81. 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.
82. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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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.

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

3. Prior to first occupation of the property for the use hereby approved, the party wall with No. 2 shall be upgraded with Gyplyner Independent wall lining or alternative that accords with the requirements of Approved Document E (Resistance to the passage of sound) of the Building Regulations 2004 (As Amended),.

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 Policy 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

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

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

5. 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 of CCTV coverage, 24-hour security or warden presence, student warden schemes or other management operations, 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 29 and 31 of the County Durham Plan

6. In undertaking the development that is hereby approved:

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

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

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

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

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

7. The cycle storage provision shown on the proposed site plan (Drawing No. 1360-04 REV C received 04 December 2023) shall be available for use prior to the first use of the property as a small HMO (Use Class C4) and shall thereafter be retained for use at all times whilst the property is occupied as a small HMO.

Reason: To promote sustainable modes of transport in accordance with policies 6 and 16 of the County Durham Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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

Statutory, internal, and public consultation responses

The National Planning Policy Framework (2023)

National Planning Practice Guidance Notes

County Durham Plan (2020)

Durham County Council Residential Amenity Standards SPD (2022)

Durham County Council Parking and Accessibility SPD (2023)



**Planning Services**

DM/23/02725/FPA Change of use from dwellinghouse (Use Class C3) to small house in multiple occupation (HMO) (Use Class C4) at 4 Monks Crescent Gilesgate Durham DH1 1HD

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**Date** 09 January 2024

**Scale** NTS

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