



Area Planning Committee (Central and East)

Date Tuesday 14 May 2024
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 9 April 2024 (Pages 3 - 26)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/23/03271/FPA - Land to the north of Mill Road, Langley Moor, Durham, DH7 8HL (Pages 27 - 66)
Demolition of existing industrial building and erection of a retail unit (Class E) with associated car parking, hard and soft landscaping and associated works.
 - b) DM/22/01536/FPA - Old Arbour House, Crossgate Moor, Durham, DH1 4TQ (Pages 67 - 94)
Creation of an outdoor horse arena, with timber rail fencing and floodlighting, exclusively for personal use (retrospective).
 - c) DM/24/00334/FPA - 131 Grange Way, Bowburn, Durham, DH6 5PL (Pages 95 - 114)
Temporary change of use of the property from a C3 Residential dwelling to C2 Children's Home for a period of up to 3 years.

- d) DM/24/00201/FPA - 31 Bradford Crescent, Gilesgate, Durham, DH1 1ER (Pages 115 - 134)
Change of use from dwellinghouse (Use Class C3) to house in multiple occupation (HMO) (Use Class C4) including single storey rear extension, cycle parking and bin storage.
- e) DM/23/02397/FPA - Land North of 1-4 Bow View, Ushaw Moor, DH7 7BY (Pages 135 - 166)
Erection of 5no dwellings with associated site access and ancillary facilities.
- f) DM/24/00426/FPA - How Do You Do, York Road, Peterlee, SR8 2DP (Pages 167 - 182)
Change of use of restaurant to local convenience shop together with extension, new shop front, and external plant and bin enclosure.

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

Helen Bradley
Director of Legal and Democratic Services

County Hall
Durham
3 May 2024

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, K Robson, K Shaw and A Surtees

Contact: Martin Tindle

Tel: 03000 269 713

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 9 April 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Oliver (Vice-Chair), L Brown, S Deinali, J Elmer, P Jopling, D McKenna and R Manchester

Also Present:

Councillors J Blakey and G Hutchinson

1 Apologies for Absence

Apologies for absence were received from Councillors A Bell, I Cochrane, K Shaw and A Surtees.

2 Substitute Members

There were no Substitute Members.

3 Minutes

The minutes of the meeting held on 13 February 2024 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

Councillor L Brown, in relation to Items 5b and 5c, noted she was a Member of the City of Durham Parish Council, however, she was not a member of their Planning Committee and had not had any input into their submission in objection to applications on the agenda. She added that she was a member of the City of Durham Trust, however she was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

The Chair, Councillor D Freeman, in relation to Items 5b and 5c, noted he was a Member of the City of Durham Parish Council, however, he was not a member of their Planning Committee and had not had any input into their submission in objection to applications on the agenda. He added that he was a member of the City of Durham Trust, however he was not a Trustee and had not been party to their submissions in objection to applications on the agenda.

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

a DM/23/02164/FPA - Croxdale and Hett Working Mens Club and Institute, Front Street East, Croxdale, Durham, DH6 5HX

The Principal Planning Officer, Jennifer Jennings 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 Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application was for change of use and extension to rear of the former workingmen's club (Sui-Generis) to assisted living accommodation (C2) for 16- to 18-year-olds and was recommended for approval, subject to the conditions as set out in the report.

The Principal Planning Officer noted the application was for a maximum of 10 16–18-year-olds, and noted the property was two-storey, mid-terraced and was four parking bays wide at the front. She noted previous alterations which were considered insensitive, would be addressed as part of the application. It was explained there would be five parking spaces, and all rooms were compliant with nationally described space standards (NDSS). The Principal Planning Officer noted that there had been no objections from internal consultees, or Durham Constabulary, with objections having been received from Croxdale and Hett Parish Council, along with 48 letter of objection, and two further e-mails in objection subsequent to the publishing of the Committee papers. Members noted a summary of the objections was contained within the agenda papers, with the two further e-mails referring to a number of issues including: lack of GP/healthcare provision; the area being linked to a number of suicides and the potential impact on vulnerable young people; lack of nearby services, activities associated with the nearby public house; crime statistics; that there was already another children's home within 200 metres, would be all male, and close location to the local park.

The Principal Planning Officer noted the existing care home was around 500 metres away, beyond the settlement boundary and was not intended to be for all male residents. She noted the Council's Children and Young People's Directorate had supported the proposals, and it had been noted there would be no impact on residential amenity, with the young people to be housed being of 'low level need'. She noted there was a condition in respect of a detailed management plan for the facility, to be agreed by the Authority prior to occupation. The Principal Planning Officer concluded by noting that the application was considered to be in line with the County Durham Plan (CDP) and National Planning Policy Framework (NPPF) and explained as regards a recent Ministerial Statement from May 2023, which noted that Local Planning Authorities should support applications that provided appropriate accommodation for Looked After Children in their areas. She reiterated the support from the Council's Children and Young People's Directorate, adding there would be a 'Durham first' approach in terms of accommodating young people from the county. She concluded by noting the application was recommended for approval, subject to the conditions set out within the report.

The Chair thanked the Principal Planning Officer and asked Parish Councillor Ian Clarke, representing Croxdale and Hett Parish Council, to speak in relation to the application.

Parish Councillor I Clarke noted that the Parish Council were strongly opposed to the application, believing that it would lead to an unbalanced community. He added the Parish felt there was not sufficient information as regards the 24-hour support that would be in place, and there were no social activities for the age range proposed within the village. He noted there was a potential for an increase in anti-social behaviour, an increase in traffic to the back road, and added there had been community engagement prior to the application being submitted.

Parish Councillor I Clarke explained that the Parish Council had not objected to the previous care home application, 21 June 2021. He added that there appeared to be some inconsistencies within the report, with lack of clarity in terms of remote or on-site tracking, and whether the young people were to be of 'low need', as set out at paragraph 45 or 'low to medium' as set out later in the report. It was noted that there was no guarantee in terms of Ofsted, and indeed it was not clear who would be the actual provider.

Parish Councillor I Clarke explained that Croxdale was a small village of only 854 residents, split into effectively two smaller areas by the A167. He noted that the former Croxdale Inn now housed homeless people and those leaving prison, adding that the village was already not large enough to accommodate that facility and the existing children's home. He added that around a quarter of all residents were over 65, and an additional 10 young people at the proposed home would make them the majority of young people in the village.

He added that not all parishioners were able to access the information on the Council's website, and it was felt this was exclusionary and marginalised the elderly residents of the village. He emphasised that the Parish Council would not allow parishioners to become prisoners within their own homes.

Parish Councillor I Clarke reiterated that there had not been evidence that the health and recreational needs of any young people would be met, and noted that bus services to the village were limited after 6.00pm, there was only one shop that was limited in terms of goods, however, there were five licenced premises in the area. He noted the access route described was along an unadopted back road, with the activities associated with the proposal, the already poor condition could deteriorate further. He noted paragraph 30 of the report stated there would have been more traffic generated when the property had been operating as a Working Men's Club, however, the parish did not feel that was correct and that it would in fact be more from the proposed use as a children's home. He added that in terms of noise, the Parish also did not believe it would necessarily be less than that of the previous use.

Parish Councillor I Clarke concluded by asking the Committee to reject the application, based upon the residents' fear of crime and safeguarding young people from risk of exploitation, reiterating that while residents had supported the previous children's home, the application was simply too much for such a small village.

The Chair thanked Parish Councillor I Clarke and asked Councillor J Blakey, Local Member, to speak in respect of the application.

Councillor J Blakey reiterated the point that the previous application for a children's home had been welcomed and noted that in terms of Policy 18 – Access to Services, there was nothing in Croxdale for young people, and suggested they may struggle. She added her disappointment in terms of lack of response from the Police to consultation, having herself approached the Police to comment on the application. She noted the existing children's home, around 500 metres away from the application site, with vulnerable young people. She explained the proposals for additional children would add to the problems. She noted that there were already five children's homes within the electoral division and the issues with each all added up, with many children being from outside of County Durham, the issues being to the detriment to all residents.

Councillor J Blakey noted that to provide 24-hour support, one child required five support workers, therefore an additional 10 young people, there would be many more staff, including visits from social workers and others.

She added there was concern in terms of management, and noted a report in the early 2000s on looked after children and children's homes that had stated that larger children's homes were not the way forward, and that smaller 'home-like' properties provided a better environment.

Councillor J Blakey noted that should the application be granted, those in the room would not be impacted, however, it would impact upon the residents in Croxdale. She reiterated there was the halfway house within the village, as well as a number of vulnerable residents. She added that Croxdale was a small tightknit community and noted the new custody suite only half a mile along the main road, noting those released from there would make their way into the village as the first settlement they would encounter. She noted that the cost to the Council in terms of looked after children was phenomenal and added that the management plan should have been included with the application, to help avert residents' fears and concerns. She therefore asked the Committee to carefully consider the application and refuse the application on behalf of the local residents.

The Chair thanked Councillor J Blakey and asked Councillor G Hutchinson, Local Member, to speak in respect of the application.

Councillor G Hutchinson asked Members to consider the points already raised, and Councillor J Blakey's request to look very carefully at the application. He noted he would not normally speak at Committee, however, in this case he felt he must, based upon the strength of feeling from residents. In terms of the impact of vehicles attending the proposed care home, the previous use as a Working Men's Club, the majority would walk to the club, therefore if there were meetings with social workers on-site, there would be many more vehicles than in the past, and also there would not be sufficient parking for all involved. He noted the back road was in a poor state of repair, with numerous potholes, with his understanding that an emergency vehicle had been unable to get along that road and therefore would the application in fact be putting those young people at risk.

Councillor G Hutchinson noted the park opposite, with eight set of play equipment aimed at those aged 6-12 years old and asked where 16-19-year-old young people would go. He noted the local shop closed at 6.00pm, as the owner feared for their safety, adding there had been 26 incidents of violence, anti-social behaviour and burglary in the area. He explained that therefore there was a great worry in bringing young people into the village in that context. He reiterated that there was already an existing children's home in the area, and the additional young people proposed represented a safety concern.

He noted that 48 residents had written in objection to the application, a lot of those being older people, noting the number of people aged 7-8 in the areas was below the national average, and the village was an older community and therefore the Committee should consider the impact on the mental health of those older residents. He added that with the existing halfway house, private children's homes and nearby custody suite, there were already a number of worries for residents. He concluded by noting he hoped the Committee would consider the young people involved, the residents that would be impacted, especially the elderly, and refuse the application.

The Chair thanked Councillor G Hutchinson and asked Georgina Hollingsworth, who was speaking on behalf of local residents, to address the Committee.

G Hollingsworth noted that it was evident that the proposed children's home would be all male and added that residents felt that the location proposed represented a risk in terms of the mental health and wellbeing for residents and the young people, there being no facilities nearby in the village. She added that the other children's home housed four vulnerable young people, and the former Croxdale Inn had several ex-offenders, many of which had mental health and substance misuse issues, not a safe area for new young people to be housed. She added that the North East Ambulance Service, Tees, Esk and Wear Valley NHS Foundation Trust and Durham Constabulary regularly attended the former Croxdale Inn, which highlighted the ongoing issues with that facility.

G Hollingsworth noted that there was a fear for residents, and concerns for any young people to be housed in the proposed children's home, if not regulated. She added the proposals added to the village were not proportionate with its size and cited the fear of crime residents felt. She noted the 2021 approval for a children's home, less than 500 metres from the application site, also close to the halfway house as mentioned, with anti-social behaviour, drug misuse and dealing. She added that Public Health had referred to Croxdale as a high-risk area in terms of suicide and therefore was not a safe location for a children's home. She noted that around a quarter of all residents in Croxdale were over 65 years old.

G Hollingsworth explained that the report set out there had been no objections from the Highways Section, however, the unadopted back road was in a poor state of repair and the additional traffic would represent a negative impact on residents. She asked where the staff and visitors to the children's home would park, and also what impact would larger vehicles in connection with the construction phase would have on the unadopted back road. She highlighted the issue of emergency vehicles being able to access the rear, citing fire safety as a concern.

G Hollingsworth noted the fear of crime was a real concern and noted that the play area nearby was really only suitable for younger children, adding where would the older children from the proposed home go. She reiterated around a quarter of residents were older people and asked the Committee to refuse the application, based upon the residents' fear of crime, impact upon local community cohesion and the lack of demonstration of safeguarding for the proposed children's home, especially in the context of the nearby halfway house. She concluded by noting it was the wrong development in the wrong place.

The Chair thanked the speakers and asked the Principal Planning Officer to respond to the comments made.

The Principal Planning Officer noted that Durham Constabulary had been informed of the application and asked for their comments, she noted a locality risk assessment as regards the assisted living facility and had not raised any concerns. She noted she had spoken to the Police the previous day and they had not felt any concern in terms of crime statistics, being relatively low. She added that it was the position of the Highways Section that the previous use as a Working Men's Club would represent a similar use of the rear lane to that proposed and therefore there would not be any significant impact.

The Chair noted the agent and representatives from the applicant were present and asked if they could share information as regards the proposed management arrangements and the number of staff that would be present at the site.

Peter Richards, Chief Executive of Moving On, the applicant and operator of children's homes, explained that they managed around 150 young people within County Durham and as a statutory requirement, they had to keep an anti-social behaviour register. He explained he had not reported a single incident to their Board of Trustees in the last two years. He explained that there was no intention for the proposed children's home to be all male, and explained the majority of their homes were around 50/50 in terms of male/female split. He explained all homes were staffed 24 hours a day, 365 days a year, with the number of staff to flex according to the number of children present within the home at any one time, however, with always a minimum of four staff.

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

Councillor D Oliver noted there were two children's homes within his electoral division, housing three children each. He noted that while operated by a different organisation, they too operated a 'Durham first' approach.

He noted when those two homes' applications were made in 2020, prior to him becoming a county Councillor, there had been similar concerns raised at that time. He noted that since that time those homes had settled into the community and while he had been a County Councillor, he had received complaints in respect of anti-social behaviour or crime linked to those homes. He noted that the young people had a positive relationship with the area and were involved in the community. He asked if there was any data to suggest it would be contrary to his experience in terms of this proposed children's home, noting that Burnhope within his electoral division was of a similar size to Croxdale.

Councillor P Jopling noted that it would have been useful if there had been more information from the Police, however, she asked what activities Moving On provided for the young people in their care, and whether there were leisure activities set out within their management plan. She noted that Members were told Moving On was a good company, however, could they assure Members that these young people would not be wandering around, not knowing what to do with themselves.

The Chair asked if P Richards could respond. P Richard noted that, more than anything, the facility was designed to be a 'home'. He added that any activity the young people wish to undertake would be looked at, as normal for any other young person of that age growing up and citing examples of activities of other young people within Moving On children's homes such as horse-riding, trips to the beach, attending funfairs. He reminded Members that of the age group of 10-19 within their homes, they would expect those ages 10-16 to primarily be attending education through the week, and those 16-19 to be either in further education or work, however, they would be of course free to engage in activities and trips in their spare time, such as at weekends.

Councillor L Brown noted she had attended the site visit and it was her opinion that there would be issues in terms of car parking. She noted the previous 'management plan' was dreadful and glad there was a requirement for a new management plan, to be agreed by the Local Authority, via condition. She noted that the proposed parking stated five cars, however, there was none for other visitors. She noted that should other visitors park at the rear, there was potential to block residents access to garages. She noted bollard to the front of the property, preventing parking to the front directly, and therefore would displace any additional vehicles to park on the main road. She noted that parking issues were a big concern within children's homes within her electoral division, noting instance of criminal damage. She added that, as she often requested, that should the Committee be minded to approve the application, the start time for construction be changed from 7.30am to 8.00am, in order to protect residents' amenity.

Councillor J Elmer noted he too had attended the site visit and he too had been struck by the lack of parking provision. He noted that children's homes in his electoral division were much smaller, with only one young person, and that regularly generated four to five vehicles at the property. He added that it was understood that these types of facility did generate a high parking need, and he felt that five spaces for the proposed facility was inadequate. He added it had been hard to understand the implications in terms of parking or the management plan without clearly set out numbers of staff that would be on-site.

The Principal Planning Officer noted that data in terms of issues with children's homes was very specific to each child, and there was not a generic view in terms of issues associated with those types of facility. She reiterated she had spoken with the Police the previous day and they had not raised any issues with the application. She understood the fear of crime as described, however, Police often attending children's homes was an issue of safeguarding duty, rather than of any crime or anti-social behaviour.

The Principal DM Engineer, David Battensby noted that within the Council's Supplementary Planning Document (SPD) on Parking, the minimum requirement was for one parking space per three bedrooms, so five spaces for 10 beds represented approximately double the minimum provision required. He noted the extant permission in terms of the Working Men's Club or for three residential properties, would likely have generated more traffic. He noted that, given those extant permissions, any refusal on parking would not likely be sustainable upon appeal. He added that the front street was nine metres wide, including the running lanes and central cross-hatched section, and therefore parking on that road would not cause an obstruction and again as there were no major road safety concerns, such a refusal reason would likely not be sustained at appeal. He noted there was regular bus services that the staff and visitors could use in addition and reiterated that as the parking provision was greater than required by the SPD, was likely less than the extant permission, and that there were no issues in terms of parking on the front street.

The Chair noted Condition 5 stated that the management plan would be agreed by the Authority, and asked who at the Council would look at and approve that plan. The Principal Planning Officer noted that it would be shown to both the Police and colleagues from the Children and Young People's Directorate within the Council. She added that Environmental Health would also be approached as regards any potential for a statutory nuisance, and an element of any management plan would be the approach to tackling anti-social behaviour, protocols on missing children and other matters.

Councillor D McKenna asked, through the Chair, if the Chief Executive of Moving On could confirm whether they had consulted with the Parish Council in their application process. The Chair asked if P Richards wished to respond. P Richards noted Moving On had requested to attend a meeting of the Parish Council twice, however the offers had been refused. Councillor D McKenna asked if the Parish representative could confirm if that was the case. G Hollingsworth noted she was also a Parish Councillor, and while Moving On had made their offer, it was after consultation on the application had ended.

Councillor R Manchester asked whether it would be appropriate to have the Chair and Vice-Chair have sight of the management plan in due course. He added that the Parish Council representative had referred to uncertainty as regards who would be operating the proposed home, was it Moving On? As regards 24-hour provision on-site, was that something that could be conditioned, or was that not necessary and would be within the management plan and asked as regards soundproofing. The Chair asked if P Richards could respond. P Richards noted that Moving On would not own the property, rather would lease from the owner, however they would operate the children's home. He reiterated that Moving On delivered across 150 properties in the county and explained that there had been a lot of changes in terms of regulations within the sector and Moving On had received its Ofsted certification early this year. The Principal Planning Officer noted that 24-hour provision was stated, soundproofing was not a requirement that Environmental Health had requested and therefore it was not clear if it could be made a requirement at this stage.

Councillor P Jopling noted it was difficult as the Council had a duty of care for vulnerable young people, and therefore it was a case of weighing up the issues involved. She added that, if properly managed, there should not be any issue and reiterated she was disappointed there was not a more detailed response from the Police. She added that it was a concern that if an application for a site considered suitable by the Authority was not provided, then there could be difficulty in finding a suitable alternative. She noted she agreed with the comments from Local Members, however, she felt that if the Committee did not approve the application, then it would be disservice to those young people. She moved the application be approved, with any suitable amended conditions as the Committee felt necessary. Councillor D Oliver echoed the comments from Councillor P Jopling and agreed there was a bigger picture and noted a recent Audit Committee report that had set out the pressures within the care sector, noting the Planning Officer's report set out at paragraph 70 that there had been a 187 percent increase in usage of such facilities since the pandemic. He noted that given the need demonstrated, and accepting that no application was ever perfect, he would second approval.

Councillor L Brown asked whether a change of use application would be required if the use were to change from a children's home to a halfway hostel. The Principal Planning Officer noted that the provision was tied via Condition 3 within the report, specifying for use for children aged 16 – 18 years old, and with Condition 5 in terms of a management plan to be agreed.

Councillor D McKenna noted that he heard the concerns of residents as explained by the representatives at the meeting, however, while he would have liked to have had more details in terms of the management plan, he would support the application.

The Principal Planning Officer asked for clarity from the Committee in terms of addition conditions, noting reference to an 8.00am start time for construction works, and soundproofing to be added, albeit with Environmental Health not having required such soundproofing. Councillor R Manchester explained he felt it would be useful, as while there could be argued there was greater noise from the former Working Men's Club, how long had the club been closed and not in use, therefore he felt it would be suitable. The Chair asked if Councillors P Jopling and D Oliver as the mover and seconder for approval were happy with those additional conditions, they agreed. The Principal Planning Officer noted she would liaise with colleagues from Environmental Health as regards a suitable condition, though some standards may be through building control regulations.

The application had been moved for approval by Councillor P Jopling, seconded by Councillor D Oliver and upon a vote being taken it was:

RESOLVED:

That the application be **APPROVED**, subject to the conditions set out within the report, with a change to Condition 9 to 8.00am for start of construction works, and a suitable additional condition in respect of sound-proofing measures.

b DM/23/02538/FPA - 90 Gilesgate, Durham, DH1 1HY

The Principal Planning Officer, Paul Hopper 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 Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting.

The application was to convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms, and to convert outbuilding to office space including alteration to the external walls and roof and was recommended for approval, subject to the conditions as set out in the report.

The Principal Planning Officer explained that while there would be some overlap in terms of the issues raised with the next application, being the associated Listed Building Consent application, they were separate applications and would be presented as such.

The Principal Planning Officer noted the property was a Grade 2 Listed Building, situated within the Durham City Conservation Area. Members were shown elevations and proposed elevations, noting the material changes and reduction from a previously proposed dormer window to Velux roof lights. The Committee were asked to note the proposals for the outbuilding, with flat roof and two pitched roofs, to provide an office and washroom, with the Principal Planning Officer adding there was already an office within the outbuilding currently.

The Principal Planning Officer explained there had been no objections from internal consultees and the City of Durham Parish Council had objected to the application, in terms of the materials proposed being harmful to the Listed Building and Conservation Area, and that the application could facilitate a change of use to an house in multiple occupation (HMO) in future. He added there had been a number of objections from the public, as summarised within the report, with issues raised including: the original proposed use of granite, now stained hardwood; harm to the Listed building and Conservation Area; potential use as an HMO separation of the outbuilding use; and parking and access issues.

The Principal Planning Officer noted that Officer felt that the proposals as set out were in line with planning policies and noted that any potential change of use to become an HMO would require a separate application for that change of use. He explained that the Design and Conservation Team were satisfied there would not be any adverse impact upon heritage assets and the Highways Section were satisfied in terms of access and parking. Accordingly, he noted the application was recommended for approval, subject to the conditions set out within the report.

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

Parish Councillor C Lattin thanked the Chair and Committee and explained she would be representing the Parish Council and the Gilesgate Residents' Association. She noted that there were two important applications before Members today and thanked those Members that had attended the site visit the previous day. She noted that the Parish Council, as a general principle, warmly supported the opportunities of residents to adapt and develop their homes, as long as the development itself does not have any adverse impact on neighbouring dwellings nor diminish the sustainability of the community. She noted, as Members would be aware, that the planning system operated under a presumption in favour of sustainable development, where it accords with the local development plan. She noted that the Parish Council were not objecting, rather asking for a condition regarding permitted development rights. She concluded by noting she would address other issues within the Listed Building application.

The Chair noted that should some of those comments relating to the Listed Building application overlap, as had been suggested by the Planning Officer, it may be appropriate for the Parish Council to set out their position on all matters now.

Parish Councillor C Lattin noted that the Parish Council was particularly concerned with the so-called 'office', being substantial, with a shower room, kitchenette, dining facilities and sufficient space for a double bed. She added that with knowledge of the Gilesgate area, it was clear that the property could easily and swiftly transformed into habitable living accommodation, which itself carried with it additional requirements such as parking, bin storage, council tax, services and much more. She explained that on 31 March 2021, the Government confirmed a new Permitted Development right to allow the change of use in England from any use with Class E, commercial, business and service use class, to residential use, Class C3. She added the new right was 'Class MA'. Parish Councillor C Lattin noted that when assessing this particular permitted development right, the Parish Council noted that any such change of use would be subject to a 'prior approval' application requiring the Local Planning Authority's assessment of such a change of use in relation to: transport issues; contamination; flooding and noise risks; impact on the character of the conservation area; and whether rooms would have sufficient access to natural light and meet NDSS.

Parish Councillor C Lattin noted that therefore there was a real danger that, though such a prior approval process, there would be no opportunity to assess whether the appropriate privacy levels were maintained between new and existing dwellings.

She added that therefore the Parish Council believed that it was essential to apply a condition that removed the permitted development rights associated with the change of use of dwellings, as described in the General Permitted Development Order (GDPO), in order to allow consideration of any future change of use of the outbuilding, for instance to a self-contained flat, holiday accommodation or otherwise.

Parish Councillor C Lattin explained the Parish Council were asking for a condition to be applied, should Members be minded to approve the application, such that permitted development as describe be removed. She added that this had already been done for other similar applications within the City and would offer reassurance on the eventual use of the building. She concluded by noting the Parish Council believed that the condition was both necessary and reasonable with regard to Paragraph 55 of the NPPF.

The Chair thanked Parish Councillor C Lattin and asked Professor Brian Tanner, local resident and neighbour to the application property, to speak in respect of the application. It was noted there would be accompanying slides, to be shown on the projector screens.

Professor B Tanner explained his main objection was the proposals for the historic outbuilding, which was one of the very few remaining vestiges of the commercial and domestic activity behind Gilesgate in the Nineteenth Century. He explained it was divided by an interior party wall, half lying within the curtilage of the Grade 2 Listed Building, 90 Gilesgate, and half within the boundary of 89 Gilesgate.

He explained that the outbuilding was originally a washhouse and the mid-nineteenth century building has a very rare roofscape, incorporating a cupola vent covered in grey slate. He added that, according to Historic England, it appeared to be one of only four such pieces of architecture in the country; the others being National Trust properties. He noted this example was the only piece outside of a museum environment and was unique in County Durham. He explained that it was the roofscape, visible from Gilesgate and West View, was its principal historic importance, the roof being a simple square with four equivalent sloping sides rising to the cupola vent. He continued, noting the present proposal would wreck the beauty of the simple roof geometry by intruding into on of the roof slants. He added that by not considering the whole of the building, Planning Officers had not fully stated the impact and their assessment of preserving the essential historic features was therefore not correct. He noted that the proposals would destroy one quarter of the roofscape of a building which must be treated under the Planning (Listed Building and Conservation Areas) Act 1990 as a Grade 2 Listed Building and was therefore a designated heritage asset, as defined in the NPPF July 2021.

Professor B Tanner added that a flat roof was inappropriate half-way up the sloping roof and, whatever the demerits of the existing 1970s extension, that extension did not intrude into the roofscape, its height being at the bottom of the roof and leaving the original roof intact.

In respect of the modification to use black wood, Professor B Tanner noted while it represented a move to a traditional material, it was not being proposed to be used in a traditional manner. He added that nowhere else in the Conservation Zone was wooden cladding used for domestic walls, and while it may be found in old buildings in the south of England, it was not characteristic of the North-East. He explained that the present panelling on part of the building had been installed since 2018 by the present applicant, illegally, without planning permission or listed building consent, adding that the NPPF dismisses such detrimental existing alterations, stating that '*the deteriorated stage of the heritage asset should not be taken into account in any decision*'.

Professor B Tanner noted that, more importantly, wood cladding was, and is not used for roofing of domestic dwellings, neither in the Gilesgate Conservation Area nor traditionally elsewhere in England. He added that the flat component of the proposed roof was particularly inappropriate in wood and out of character within the Conservation Areas where brick and slate were the traditional building materials. He noted the owner of an adjacent West View property had been required to repair their roof with existing, traditional grey slate to maintain the character of the Conservation Area. He added that while the present design would indeed delineate the shape of the original building, it was not the walls of the building that were of architectural interest. Professor B Tanner reiterated that primarily lay in the roofscape, adding that a wooden roof extension would not match, and the raised flat component destroyed the lower part of one side of the existing slate roof, changing the character of the building.

Professor B Tanner noted that, as the proposals did not comply with NPPF 16 in terms of 'conserving and enhancing the historic environment', nor with CDP Policy 44 or Neighbourhood Plan Policy H2, and adversely detracted from a building that must be treated as a Grade 2 listed designated heritage asset, he would urge rejection of the application. He concluded by noting that such a change in character would be, as set out in the Officer's Committee Report, 'more contemporary', and would not be permitted on the main Grade 2 Listed Building and the law, through the Planning (Listed Building and Conservation Areas) Act 1990, explicitly required that the pre-1948 building within its boundary to be similarly protected.

The Chair thanked Professor B Tanner and asked Stuart Kent, agent for the applicant, to speak in support of the application.

Councillor P Jopling left the meeting at 11.05am

S Kent thanked the Chair and Committee and noted that the Council's Design and Conservation Officer, Lee Hall had supported the proposals as set out before Members. He added that the Council's professional Officers had agreed that the proposals were acceptable in terms of NPPF Part 16, CDP Policy 44 and Neighbourhood Plan Policy H2. He explained that the dark timber proposed matched that used within the main building and therefore was complimentary. He added that there were no proposals to alter the roof of the main house, rather to replace existing roof lights.

S Kent explained that the annex, was not anything other than an office space to the applicant and clarified that as a Listed Building, change of use via permitted development was not allowed. He noted that, as per the Officer's report, the application would not represent a detriment to the Listed Building or Conservation Area and therefore should be approved.

The Chair thanked the speakers and asked the Principal Planning Officer if he wished to respond to any of the matter raised.

The Principal Planning Officer reiterated that the application being considered at this point was the full planning application (FPA), and not the Listed Building consent, however, noting that impact upon the listed building was an issue for consideration for the FPA.

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

Councillor L Brown asked if Parish Councillor C Lattin should complete her comments in relation to the Listed Building, the Chair noted she would be afforded that opportunity within the next agenda item.

Councillor L Brown asked as regards the proposal from the Parish Council in terms of the removal of permitted development rights, in light of the comments from the applicant's Agent, especially in terms of reference to short-term lets. The Principal Planning Officer noted that permitted development rights related to some Class E properties being changed to residential use, he noted that use as a home office did not constitute Class E use and therefore would not fall under such rights in any case. He added that, accordingly, Officer did not feel there was a requirement to remove that 'right' as the existing building was not use Class E, indeed there would need to be a change of use application to Class E prior to attempting to use such a permitted development right. Councillor L Brown reiterated the concern in respect of potential short-term lets. The Principal Planning Officer noted that if permitted development rights were removed there could be unintended impact upon use.

Councillor L Brown asked as regards the impact upon parking. The Principal DM Engineer noted that if the proposals were for the outbuilding to provide residential accommodation, then the SPD set out that there would be a need to provide parking, and that in itself would require an application.

The Lawyer, Planning and Highways, N Carter noted that it was very unlikely that further planning permission would be required for the use as canvassed, the current application not changing from the existing C3 use. He therefore noted that he struggled to see the planning justification to add a condition to remove permitted development rights that would, in effect, be no different to any intensification of use by a family. Councillor L Brown noted she would suggest the Committee push for that extra condition removing permitted development rights, should it be minded to approve the application. The Lawyer, Planning and Highways noted that of course was a matter for Members to decide, however, his advice was that it was not required. He suggested canvassing the applicant, as they were present, for their view on such a condition.

S Kent asked for an example of the wording proposed. Through the Chair, Councillor L Brown noted wording to note if the property was sold in future. S Kent noted no objection to a condition that would prevent the annex being used as a let. The Principal Planning Officer noted that suitable worded condition could be worked up, should the Committee be minded to approve the application.

Councillor J Elmer asked if this application and agenda item was the appropriate point to bring up issues in terms of the Listed Building. The Principal Planning Officer noted that Listed Building matters were material in weight to the FPA application.

Councillor J Elmer noted his frustration in terms of it being clear that the main issue in connection with the application was a Design and Conservation matter, and there was no representative from the relevant Section, in contrast to an Officer from the Highway Department who was present to answer the Committee's question in that regard. He noted that the City of Durham Trust, within their comments on the application, had concerns that the application failed to meet the test in terms of an owner of a Grade 2 listed building in '*conserving historic features*', and that planning applications were an opportunity to restore historic features, for example the black wood proposed rather than brick, why not use brick?

Councillor J Elmer noted that a key feature was the roofscape, which would be lost if the proposals were enacted. He noted the comments stating the roof was only one of four examples within the county, and the only one within County Durham.

He noted he would have liked to have been able to understand, by hearing further from an Officer from the Design and Conservation Team, as regards their position in supporting the alterations to the roof as proposed. He noted the position was that the Council's Design and Conservation Team were taking an opposing view to that of the other conservation team within the City, namely the City of Durham Trust.

The Principal Planning Officer noted he would feedback comments from the Committee to the Design and Conservation Section and reiterate the invitation to attend the Committee where appropriate. The Chair asked, if the Committee were minded to approve the application, there was a proposal from Councillor L Brown to include an additional condition, however, approval or otherwise would need to be proposed and seconded. Councillor L Brown noted she was fearful that if the FPA was proposed, seconded and approved, then the Listed Building would be impacted upon, in terms of the cupola roof on the former washhouse. The Principal Planning Officer noted that Paragraph 40 of the report set out the position from Design and Conservation, that the contemporary intervention did not detract and therefore was in line with policy requirements, however, objectors were taking a contrary position.

The Chair asked, if the FPA was approved, would it be possible for the Committee to refuse the Listed Building application. The Principal Planning Officer noted that the impact upon the listed building was material and therefore he could not see a position where the FPA was approved and the Listed Building application was refused, the material considerations applied to both applications.

Councillor D Oliver noted he had listened to the concerns raised and understood the points made, however, he was broadly comfortable with the Officer's recommendation and therefore was content to move the application be approved, however, he would welcome further comments in terms of the additional condition proposed.

Councillor J Elmer explained he was now of the view, having taken into account all the information, there would be an impact from this application in terms of the Conservation Area and Grade 2 Listed Building, with the wooden cladding proposed and intrusion into the roofscape, and therefore he moved the application be refused. Councillor L Brown seconded the motion for refusal. The Chair noted a motion for refusal had been moved and seconded and asked for those Members to elaborate on their proposed reasons for refusal.

Councillor L Brown noted that it was that the Committee felt the application was contrary to CDP Policy 44 in terms of the impact the application would have on the character of the Conservation Area.

The Principal Planning Officer noted that there were other policies, namely in terms of listed buildings, Sections 66 and 72 of the Listed Building Act, and NPPF Part 16, as well as Policy H2 of the Neighbourhood Plan. Councillor L Brown noted she, and Councillor J Elmer wished their disappointment to be noted for the record that Officers from the Design and Conservation had not been in attendance at the meeting.

The Lawyer, Planning and Highways asked the Members for clarification on exactly which policies and reasons the refusal was being put forward. He asked whether it was impact from the alterations to the annex roof that were deemed as unacceptable, in terms of a listed building and that the proposals did not 'preserve' its architectural merit, and therefore did not 'preserve or enhance' the Conservation Area. Councillor J Elmer noted that was correct, and also the choice of black timber cladding, which was not used elsewhere in the area, noting indeed the adjacent building was white.

Upon a vote being taken it was:

RESOLVED:

That the application be **REFUSED** as it was considered that the use of dark stained timber cladding to the external walls of the outbuilding and the alterations to its roof, would fail to preserve the special architectural interest and the historic fabric of the Grade II Listed outbuilding and its setting and would also fail to preserve or enhance the character or appearance of the Durham City Centre Conservation Area, contrary to the requirements of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990, Policy 44 of the County Durham Plan, Part 16 of the National Planning Policy Framework and Policy H2 of the Durham City Neighbourhood Plan.

c DM/23/02539/LB - 90 Gillesgate, Durham, DH1 1HY

The Principal Planning Officer, Paul Hopper 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 Principal Planning Officer advised that Members of the Committee had visited the site and were familiar with the location and setting. The application a Listed Building consent to convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms, and to convert outbuilding to office space including alteration to the external walls and roof and was recommended for approval, subject to the conditions as set out in the report.

The Principal Planning Officer noted the decision in respect of the previous application and explained that the position was much the same as set out previously, in that Officers felt the application was in line with NPPF Part 16, Policy 44 of the CDP and Section 66 of the Listed Building Act 1990.

The Chair thanked the Principal Planning Officer and asked Parish Councillor C Lattin to speak on the application.

Parish Councillor C Lattin noted the refusal of the FPA and noted the concerns of the Parish Council in terms of the impact of the application on the unique Victorian Washhouse outbuilding. She added it was a significant and very rare heritage asset and not just within the Gilesgate area, within the whole of Durham. She reiterated the point made by Professor B Tanner that Historic England confirmed that only three other such buildings exist in England, those three all being National Trust properties. She added that, in fact, 89 and 90 Gilesgate had formerly been one house, and when divided the party line ran through the washhouse, dividing its ownership in two, an anomaly that could not be simply set aside in terms of the Listed Building application.

Parish Councillor C Lattin noted that one must also take into account that the part retained within 89 Gilesgate still retained its original internal features, a flue suggesting some use as a forge, and part of a fireplace, and interesting flagging on the floor. She added that on the top, and centre of the building, which was also divided in two, there was the unique cupola with vents. She explained that the washhouse was on the list of County Durham's non-designated heritage assets and therefore should be protected by ensuring the integrity of the cupola and vents.

Parish Councillor C Lattin noted the Parish Council would draw the Committee's attention to Section 1(5) of the Listed Building Act 1990, that highlighted that buildings and other structures that pre-date July 1948, and were within the curtilage of a listed building, were to be treated as part of the listed building. She added that historic mapping suggested that the outbuilding was around 150 years old, and while the original use was uncertain, it was understood it may have originally been part of the Blacksmith's forge or used as a washhouse. She added that while the Parish Council welcomed the reduced scale of the alterations, and the removal of the previously proposed use of granite cladding, it objected to the discordant use of vertical hardwood timber cladding, stained in black, as the cladding and roofing on the historic building. She noted that it would create a material, appearance and texture that was totally at odds with the existing brick and slate appearance of the outbuilding and was starkly contrasting and unsympathetic to the white painted main listed building of 90 Gilesgate.

She added the Parish Council saw no reason why the proposed extension could not use bricks and slate to be in accord with the existing materials of Victorian bricks for the walls and slate roof tiles. She noted that use of those would enhance the heritage aspects of the building and be appropriate in appearance to match the aesthetic within the Conservation Area.

Parish Councillor C Lattin noted the proposed vertical black timber cladding was hostile to the original, valued building and in stark contrast to anything else in the local environment. She added that it clearly infringed Policy H2 of the Neighbourhood Plan which stated, '*development proposals within or affecting the setting of the Durham City Conservation Area should sustain and enhance its significance*', particularly with reference to rooftops, and having materials appropriate to the vernacular, context and setting. She noted that to intrude into the fourth quarter of the rooftop with black cladding would create a ludicrous and ugly mismatch. She reiterated that slate had been enforced on the re-roofing of the building behind and should be enforced in this case too.

Parish Councillor C Lattin noted that the outbuilding was not solely owned by the applicant, with half being owned by Professor B Tanner at 89 Gilesgate, and the proposal would cause irretrievable damage to his property. She concluded by noting the Parish Council believed the application failed to preserve the Grade 2 Listed Building and therefore was contrary to Section 66 of the Listed Building Act, and contravened Neighbourhood Plan Policy H2, as well as the aims of CDP Policy 44 and key parts of the NPPF.

The Chair thanked Parish Councillor C Lattin and asked Professor B Tanner to speak in relation to the Listed Building Application. Professor B Tanner noted he would not wish to further take up the time of the Committee and that his statement on the previous application applied.

The Chair asked S Kent, agent for the applicant to speak in support of the application.

S Kent noted the previous comments in terms of the rationale of the design and material choices. He noted there had been no objection from the Council's Officers in terms of the contemporary design within the Conservation Area, indeed he could refer to one such design within the Gilesgate area that had recently won a Royal Institute of British Architects (RIBA) award. He added that the black tone would compliment the main house and that cladding would not be a massive new addition, and indeed existing stone would be restored. He explained that the new contemporary features would allow clear delineation of old and new, helping to give a better read of the building and its history.

He added that the cupola on the roof would not be impacted, rather the roof would be altered at a lower level and there would be cooperation with the neighbour in terms of shared outbuilding, although it was noted there was deterioration to their side. He reiterated the position of the Council's professional Officers and agreed that the proposals represented a suitable design.

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

Councillor L Brown noted no reference to Neighbourhood Plan Policy H2 on the impact of the proposals, and proposed that the application be refused, along similar lines to the previous application.

Councillor D Oliver thanked the Agent for his information on the design, so that Members could better understand the thoughts behind the proposal. He added he felt the recommendation put forward by Officers represented a high bar and therefore he would not feel confident in overturning that recommendation and therefore moved approval.

Councillor J Elmer noted that the word 'subjective' had been used on several occasions when considering the impact upon the listed building and the Conservation Area. He noted that to cut through, he considered the opportunity presented by applications to restore and conserve our built heritage. He noted that, therefore, he would second Councillor L Brown's proposal for refusal.

The Principal Planning Officer noted that Policy H2 was not referred to within the slides on screen as it was not Listed Building specific, with that element having been removed from the policy at the Neighbourhood Plan consultation stage.

Upon a vote being taken it was:

RESOLVED:

That the application be **REFUSED** as it was considered that the use of dark stained timber cladding to the external walls of the outbuilding and the alterations to its roof, would dominate the host building and fail to preserve the special architectural interest and the historic fabric of the Grade II Listed outbuilding and its setting, contrary to the requirements of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework.

6 Appeals Decisions

The Chair noted that there had been a number of decisions received following appeals to the Planning Inspectorate subsequent to decisions made by the Committee. He noted a report detailing the outcomes would come forward to a future meeting and asked if Officers could give a brief update in advance.

The Principal Planning Officer, Paul Hopper noted that of four appeals, three had been upheld by the Inspector, with one appeal having been dismissed. He reiterated that a report would be tabled for a future meeting.

Councillor J Elmer asked if it would be possible to have sight of the relevant documents to see how Officer put forward the cases on behalf of the Committee. The Principal Planning Officer noted it would be possible to circulate the relevant documents to Members via e-mail in advance of such report being tabled.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/03271/FPA
Full Application Description:	Demolition of existing industrial building and erection of a retail unit (Class E) with associated car parking, hard and soft landscaping and associated works
Name of Applicant:	Aldi Stores Ltd.
Address:	Land to the north of Mill Road, Langley Moor, Durham, DH7 8HL
Electoral Division:	Brandon
Case Officer:	Gemma Heron (Senior Planning Officer) 03000 263 944 gemma.heron@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site relates to an existing industrial building and associated land within the Langley Moor and Littleburn Industrial Estate within Langley Moor. The site is accessed via Mill Road to the immediate south where there is existing on-street parking available for the building. In addition to this, the site includes a small parcel of land to the immediate west of the application site, next to the A690 which is currently open land and in Council ownership. To the west of the application site are residential properties, and to the north, south and east there are both residential properties alongside the continuation of the Industrial Estate.
2. In terms of planning constraints, the site is within the Langley Moor and Littleburn Industrial Estate which is a protected employment site within the County Durham Plan (CDP). The site is also located within the identified Coal Resource Area as designated by Policies 53 and 56 of the CDP.
3. The site is located approximately 215 metres outside of the designated Langley Moor Local Centre which is located to the north of the site. The Durham City Air

Quality Management Area Boundary is located approximately 1350m to the northern site boundary. The site is not within a Conservation area and there are no listed buildings within the surrounding area which the development would impact upon. There are no landscape designations on the application site, and the site lies outside of the Green Belt.

4. The application has been screened under the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. It is considered that the development is not 'EIA development' and therefore no Environmental Statement is required to be submitted in support of the application.

The Proposal

5. Full planning permission is sought for the demolition of the existing industrial building and the erection of a retail unit (Class E), with associated car parking, hard and soft landscaping and associated works.
6. The retail unit would approximately measure 71 metres by 36 metres, with a mono pitched roof to an approximate height of 6.3 metres from finished floor level. The building would be located towards the eastern boundary of the site and would be clad White Aluminium and Grey cladding, alongside a smooth black brick for the walls. Windows and doors would be powder coated Grey. It is also proposed that 80kWp solar panels would be sited on the roof, while air source heat pumps and air condition units would provide heating and cooling.
7. The scheme includes on-site parking spaces to be utilised in connection with the retail unit. This equates to 121 no. of spaces located to the west of the site, main the vehicular access to the site would be provided mid-way on the southern boundary of the site onto Mill Road. A secondary access providing access to a service yard would be provided adjacent to the western site boundary. A new pedestrian access is proposed from the eastern site boundary linking into the existing footpath network adjacent to the A690.
8. In terms of floorspace, the development would result in a gross floorspace of 2137m² with a new tradable floor area of approximately 1356m². The applicant has stated that the development would employ approximately 20 full-time and 20 part-time members of staff.
9. The application is being reported to planning committee in accordance with the Council's Scheme of Delegation as it constitutes a retail development with a floor space of more than 1000m².

PLANNING HISTORY

10. There is no relevant planning history to the site.

PLANNING POLICY

National Policy

11. A revised National Planning Policy Framework (NPPF) was published in December 2023. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
12. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
13. *NPPF Part 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.
14. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
15. *NPPF Part 7 - Ensuring the vitality of town centres*. Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period. 2
16. *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.
17. *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.
18. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
19. *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.

20. *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 Page 73 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:

21. 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, biodiversity net gain, climate change, design process and tools; determining a planning application; effective use of land; environmental impact assessment; flood risk and coastal change; healthy and safe communities; land affected by contamination; housing and economic development needs assessments; housing and economic land availability assessment; natural environment; town centres and retail; travel plans, transport assessments and statements; noise; planning obligations; use of planning conditions.

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

Local Plan Policy:

The County Durham Plan (CDP)

22. *Policy 2 (Employment Land)* Supports business, general industrial and storage and distribution development within specified employment allocations and also protects other existing employment sites from being changed to non-employment uses, unless appropriate marketing has been undertaken or that the use would not compromise the main employment use and would comply with retail Policy 9 where main town centre uses are being proposed. Where a non-employment development is proposed on the protected employment sites, any existing jobs on site must be relocated.
23. *Policy 9 (Retail Hierarchy and Town Centre Development)* seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county.

24. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
25. *Policy 25 (Developer Contributions)* advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
26. *Policy 29 (Sustainable Design)* 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 major developments to appropriately consider the public realm in terms of roads, paths, open spaces, landscaping, access and connectivity, natural surveillance, suitable private and communal amenity space that is well defined, defensible and designed to the needs of its users.

All major new non-residential development will be required to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good' (or any future national equivalent).

27. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
28. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.

29. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
30. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and wastewater infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
31. *Policy 39 (Landscape)* states that proposals for new development will only be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals are expected to incorporate appropriate mitigation measures where adverse impacts occur.
32. *Policy 40 (Trees, Woodlands and Hedges)* states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
33. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
34. *Policy 43 (Protected Species and Nationally and Locally Protected Sites)* development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst adverse impacts upon locally designated sites will only be permitted where the benefits outweigh the adverse impacts. Appropriate mitigation or, as a last resort, compensation must be provided where adverse impacts are expected. In relation to protected species and their habitats, all development likely to have an adverse impact on the species' abilities to survive and maintain their distribution will not be permitted unless appropriate mitigation is provided or the proposal meets licensing criteria in relation to European protected species.
35. *Policy 56 (Safeguarding Mineral Resources)* states that planning permission will not be granted for non-mineral development that would lead to the sterilisation of mineral resources within a Mineral Safeguarding Area. This is unless it can

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

36. The Council's Parking and Accessibility Supplementary Planning Document (SPD) 2023 provides guidance on parking and access for new development.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

37. There are no neighbourhood plans which apply to this application site.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

38. *Highways Authority* – Advise that subject to conditions, obligations and the applicant entering into a Section 278 agreement, that the scheme would be acceptable in regard to highway safety, including in terms of traffic generated and the impact on the wider network and in relation to the access and parking provision. The conditions and obligations shall include the access, car parking and cycle parking being laid out prior to the first use of the building as well as a Grampian condition to secure a 2-metre pedestrian island on the A690 to aid pedestrian movements from the development.
39. *Lead Local Flood Authority* – Offer no objections advising that the Flood Risk and Drainage Impact Assessment alongside the hydraulic calculations are acceptable subject to the surface water connection into the highways drain.

Non-Statutory Responses:

40. *Spatial Policy* – Advise on the relevant planning policies to assess the proposal. The site is located at Langley Moor and Littleburn Industrial Estate and is protected for B1, B2 and B8 Uses under Policy 2 of the CDP. The site is located outside of the defined Langley Moor Local centre and therefore, Policy 9 of the CDP is applicable as it relates to retail hierarchy and town centre development.
41. *Ecology* – Advise that the development would result in a net loss in biodiversity of - 0.31 units. To mitigate this, in this instance a commuted sum of £3500 is acceptable to provide for one biodiversity unit. The habitat type, extent and condition of on-site habitat creation detailed in the DEFRA Metric and supporting BNG Report should be appropriately conditioned alongside the

submission of a Landscape Ecological Management Plan (LEMP) prior to commencement.

42. *Environmental Health Nuisance* – Advise that using planning conditions, the development would not lead to an adverse impact. Planning conditions should be imposed to include the compliance with the noise impact assessment; no deliveries or servicing to be undertaken during the operational phase of the development between 23:00 to 06:00 on any day; details of any external lighting; construction hours and a construction management plan to include a dust action plan.
43. *Environmental Health Land Contamination* – Advise that a Phase 1 and 2 Assessment have been submitted which identify the need for further site investigations prior to remedial works including gas monitoring and a ground gas risk assessment. Therefore, a planning condition is required to secure the submission of an additional Phase 2 to 4 assessment.
44. *Air Quality* – No objection subject to planning conditions relating to the submission of a construction management plan to include a dust action plan and submission of traffic management plan.
45. *Landscape* – Advise that the proposed plant species and numbers for the landscaping scheme are appropriate. Advise that consideration should be made to the planting of trees along the frontage of the development along Mill Road to help soften the appearance of the building and parking area.

External Consultees

46. *Northumbrian Water Ltd* – No response received.
47. *Police Architectural Liaison Officer* – No response received.

Public Responses:

48. The application has been advertised by way of a site notice, press notice and individual notification letters.
49. In response, a total of 11 public comments have been received, comprised of 1 letter of objection, 5 letters of support and 5 letters of representation.
50. The concerns raised relate to:
 - Highway safety regarding the potential for increased traffic at the Mill Road/A690 junction. Traffic lights or a mini roundabout should be installed to assist in traffic calming and pedestrian crossing.
 - Increased traffic and use of the back lane (High Street South) as a car park to negate traffic issues.
 - Errors in the Transport Assessment as Section 3.8.8 is factually incorrect as the A167/A690 junction is subject to 40mph speed limit, not a 30mph limit. Section 3.4 relates to traffic base flows and assume this refers to

the stores anticipated peak times and is not representation of the actual highway peak.

- Questions in regard to the location of the pedestrian crossing.
- Question the need for an additional supermarket given that there is a Lidl and Tesco in Langley Moor.

51. The letters of representation and support commented the following:

- The proposal will be good for the area and the community.
- Job creation in the community to boost the local economy.
- Ideal for those who do not drive and can use public transport to access the supermarket.
- To shop locally would be a benefit to the community rather than travelling to an alternative supermarket or location.
- Rejuvenation of a disused site which is an eye sore at the entrance to the industrial estate.

52. Councillor Elmer (Brandon Electoral Division) – Advises there is widespread support for the application in the Brandon division but there are highway safety concerns regarding the need for junction improvements at Mill Road/A690 junction. The junction is already overloaded with queuing traffic past the proposed entrance to Aldi during peak hours and measures to improve the capacity of this junction need to be put in place.

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

Applicant's Statement

53. The application seeks full planning permission for the development of a Class E discount foodstore of 2,137 sq.m (gross)/1,356 sq.m (sales) on land to the north of Mill Road, Langley Moor. The proposals are located on a long-term vacant, former factory site, and will therefore make a significant contribution to urban regeneration in addition to the many wider economic, retail and employment benefits that will be realised.

54. Aldi have long sought to identify a site within the local area, to help improve consumer choice and better meet the needs of residents who currently travel to parts of Durham, Crook or Spennymoor to visit an Aldi foodstore. This has been borne out by the strong level of support received from residents during our public consultation exercise that we held before we submitted the application. Over 90% of the 229 respondents to this process indicated their support for the proposal, with a number specifically noting the need for improved shopping choices, new investment and jobs in the local area.

55. To support the planning application, a Planning and Retail Statement was prepared to address national and local planning policy relevant to the proposals. In terms of the site's employment land designation, this included extensive marketing evidence, from a local commercial agent, covering a period of over 4 years. This identified a range of reasons as to why the existing premises was

unattractive to the market and unfortunately, unlettable given its general age and condition. The agents concluded that *“Having explored all the options to achieve both a sale or letting of the site and considered the property market in general, it is clear that the long-term future of this site does not lie with industrial activity.”* We are therefore pleased to have been able to satisfy this element of planning policy.

56. In addition, a retail impact assessment was included as part of the application, with this informed by a household shopping survey to understand current patterns. The overall conclusions from this were that:
- The site is located on the edge of Langley Moor Local Centre and therefore would help support linked trips with the wider shops and services present;
 - Only 45% of consumer convenience expenditure is currently retained within the area with approximately £82m leaking to other destinations, such as Aldi’s stores in Crook, Spennymoor and Durham;
 - Both Tesco and Lidl stores in Langley Moor are overtrading by approximately £20m in total indicating a need for more choice within the area;
 - The proposals would only have a modest level of impact/diversion on the centre given this current performance and because of the recapture of lost leakage to Aldi stores elsewhere;
 - No sequentially preferable sites were identified; and
 - As a result, both the sequential and retail impacts tests have been fully satisfied.
57. The proposals will also deliver a range of important wider benefits to the area including a new pedestrian crossing over the A690 (as agreed with the Council’s transport officers), improved path linkages to enable linked trips with Langley Moor centre, in addition to the provision of new jobs and an investment of £6m in the area. A discount foodstore of the scale proposed would typically employ the equivalent of up to 40 full time members of staff, who are typically recruited from the local area. Additional jobs in the supply chain would also be created, alongside roles during construction ensuring a significant range of economic benefits would be delivered by the scheme.
58. Finally, Aldi stores boast strong environmental credentials both within their store design and in operation. This includes ensuring that the building will be BREEAM ‘very good’ in accordance with policy, the installation of EV bays within the car park and cycle parking, and the placement of solar panels on the roof, amongst others.
59. The proposed development therefore brings social, economic, regeneration and environmental benefits, falling within the definition of sustainable development, ensuring it will deliver clear public benefits to the locality.

PLANNING CONSIDERATION AND ASSESSMENT

60. 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 relate to the principle of the development, locational sustainability, scale/design/landscaping, highway safety, residential amenity, ecology, flooding/drainage, ground conditions and the building/fabric sustainability.

Principle of Development

61. 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) constitutes 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.
62. Paragraph 11c of the NPPF requires applications for development proposals that accord with an up-to-date development plan to be approved without delay. Paragraph 12 of the NPPF 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.
63. Accordingly, the proposal will need to be assessed against the most up to date development plan for the area, the County Durham Plan and the National Planning Policy Framework as well as relevant SPDs and guidance.

Employment Site Policy

64. The application site is located within the Langley Moor and Littleburn Industrial Estate which is allocated for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) under CDP Policy 2. For completeness, as the site is protected employment land under Policy 2 of the County Durham Plan, an assessment against Policy 6 (Development on Unallocated Sites) is not required.
65. Since the EIP of the County Durham Plan and shortly before the Inspector's Report was issued, changes to the use class order under the Town and Country Planning (Use Classes) (Amendment) (England) Regulations 2020 were proposed which have now taken effect. From 1st September 2020, whilst B2 and B8 Uses remain unchanged, B1 now falls under Class E Use. Whilst Policy 2 refers to B1 Uses being acceptable on this site, the broad range of uses under the new Class E use class may not be acceptable on the site. The intention is that it would be acceptable for light industrial, office and research and development use which formed the former B1 Use Class.
66. The proposed use of the site as a food retail unit falls within the Class E Use class. CDP Policy 2 identifies where the development of non-employment uses on allocated and protected employment sites will not be acceptable unless:

- a) *There is documented evidence of unsuccessful active marketing for employment use with at least one recognised commercial agent at local market levels, over a continuous period of at least 12 months for a change of use of a property, 2 years for the redevelopment of a protected site and development of an allocated site below 10ha and 5 years for the development of a plot of land on an allocated site of greater than 10ha; or*
- b) *The proposed use would not compromise the main use of the site for B class uses and would comply with Policy 9 (Retail Hierarchy and Town Centre Development) where main town centre uses are proposed.*

The Policy goes on to state that any new development for non-employment uses on employment allocations or existing protected employment sites must comply with the other relevant policies in the Plan and any existing jobs located on the site must be relocated.

- 67. In relation to criterion (a), as this proposal seeks the re-development of the site it needs to be advertised with at least one recognised commercial agent at local market levels over a continuous period of at least two years.
- 68. To evidence this, Appendix 9 of the 'Planning and Retail Statement' dated October 2023 provides a letter from a Director at 'Frew Pain and Partners Ltd' who are Commercial Agents and Property Consultants located in the North East. This satisfies the need for the site to be advertised with at least one recognised commercial agent at local level as outlined under CDP Policy 2 (a).
- 69. In terms of the marketing, the submitted information outlines that the site has been actively advertised since March 2019. Its advertising has included both freehold and leasehold options; the subdivision of the building; the design and build opportunities of the site as well as a rental basis. The marketing involved an in-house PDF marketing brochure being designed and circulated to interested parties; various marketing boards on the site which have been displayed to the front of the building along Mill Road; marketing of the site at other Durham based industrial estates; mailing in various forms including in free business magazine (Jungle Drums); full details being displayed on the website and discussions with Business Durham. A review of Frew Pain and Partners Ltd website the PDF Marketing brochure of the site which confirms the statements made in relation to the marketing undertaken.
- 70. The submitted information includes a range of enquiries which have been received on the site throughout the marketing period, this includes 14 enquiries by different businesses. However, none of these businesses progressed their interest to the occupation of the site and the evidence outlines several market factors which has impacted the interest in the site which include:
 - General age and internal layout of the building which restricts its functionality for other businesses.
 - Restrictive operational eaves height of the building as its construction is a dated lattice roof design which inhibits the central apex void to use racking and the installation of craneage for other businesses.

- Quality of the floor and loading capacity due to the age of the building which would require extensive work to improve its load bearing capacity.
- Poor circulation in yard for access vehicles.
- Close proximity to residential housing where some potential occupiers have been concerned about hours of trading and manufacturing processes which may impact residents.
- Overprovision of office accommodation which is circa 24% of the overall gross area which is higher than most traditional businesses require.
- Limited yard size compared to the size of the building.
- High cost of refurbishing the building to bring it up to current standards and regulations.
- Security.

71. It is considered the submitted information satisfies the policy requirement that the site be actively marketed for a continuous period of over two years by at least one recognised commercial agent at local market levels which has resulted in unsuccessful marketing for the site for its current employment use. The re-development of the site for a use outside of B1, B2 and B8 would be acceptable under CPD Policy 2 (a) in these circumstances.

Retail Policy

The Sequential Test

72. As the site is located in an out of out-of-centre location, due consideration must be given to the relevant parts of the NPPF, PPG and CDP Policy 9 (Retail Hierarchy and Town Centre Development) in relation to the developments impacts on existing retail centres.
73. As required by Paragraph 90 of the NPPF (Ensuring the Vitality of Town Centres), CDP Policy 9 sets out a retail hierarchy. In the context of the proposal, the site is located outside an identified centre, however a number of centres are located within or very close to the proposed primary store catchment including Durham City Sub Regional Centre, and the Local Centres of Bearpark, Brandon, Langley Moor and Ushaw Moor. As such, these centres shall be assessed as part of the planning application. Policy 9 of the CDP seeks to protect and enhance these retail centres and supports new town centre development across all of the County's centres that will improve choice and bring about regeneration and environmental improvements.
74. The proposed use of the site is Class E which falls within the definition of 'Main Town Centre uses' under Annex 2: Glossary of the NPPF. CDP Policy 9 requires proposals for town centre uses not within a defined centre to provide a sequential assessment. Therefore, the main issue relates to satisfying the sequential test in terms of the town centre first approach and assessing the impacts on existing centres (where applicable).
75. Paragraph 91 of the NPPF which states: '*Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres and then in edge of centre*

locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.'

76. Paragraph 92 of the NPPF which states: *'When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.'*
77. The Planning Policy Guidance (PPG) relating to 'Planning for town centre vitality and viability' provides guidance on how the sequential test should be used in decision making (Paragraph 011 Reference ID: 2b-011-20190722). This states that it is for the applicant to demonstrate compliance with the sequential test. The application of the test will need to be proportionate and appropriate for the given proposal. Where appropriate, the potential suitability of alternative sites will need to be discussed between the developer and local planning authority at the earliest opportunity.
78. The PPG further provides a checklist, as below, that sets out the considerations that should be taken into account in determining whether a proposal complies with the sequential test:
 - *'With due regard to the requirement to demonstrate flexibility, has the suitability of more central sites to accommodate the proposal been considered? Where the proposal would be located in an edge of centre or out of centre location, preference should be given to accessible sites that are well connected to the town centre. It is important to set out any associated reasoning clearly.'*
 - *'Is there scope for flexibility in the format and/or scale of the proposal? It is not necessary to demonstrate that a potential town centre or edge of centre site can accommodate precisely the scale and form of development being proposed, but rather to consider what contribution more central sites are able to make individually to accommodate the proposal.'*
 - *'If there are no suitable sequentially preferable locations, the sequential test is passed.'*
79. The PPG continues that in line with Paragraph 96 of the NPPF (updated to Paragraph 91 December 2023) to state: *'only if suitable sites in town centre or edge of centre locations are not available (or expected to become available within a reasonable period) should out of centre sites be considered. When considering what a reasonable period is for this purpose, the scale and complexity of the proposed scheme and of potentially suitable town or edge of centre sites should be taken into account.'*
80. The application has been accompanied by a Sequential Assessment (SA) which sets out the characteristics for the search criteria which include:
 - A Gross External Area of 2,173sq.m to allow for a net sales area of 1,356 sq. m of which 1,085 sq. m comprises convenience sales.
 - Customer car parking of at least 105 spaces.

- A minimum site area of 0.8 hectares (2 acres).
81. It continues to outline the fundamental requirements of a modern Aldi Store which include:
- Retail Sales Area: a circa 1,300 sqm floor area is required to provide approximately 2000 core product lines and the dimensions of the store are determined by the need to ensure adequate product display space. A rectangular shaped area for retail sales is required to specifically enable efficient transfer of products.
 - Storage and ancillary non-retail floorspace: the foodstore must be capable of being serviced by a HGV delivery vehicle and the site layout must enable the delivery vehicle to enter and leave in forward gear and for the vehicle to dock correctly.
 - Customer car parking.
82. Accordingly, it is necessary to define an area of search for sequentially preferable sites based on specific trading characteristics of a retail development of this size.
83. In identifying the primary catchment area, PPG explains that the '*application of the [sequential] test will need to be proportionate and appropriate for the given proposal*' (Paragraph 011 Reference ID: 2b-011-20190722). This reflects the approach for defining a catchment for the retail use based upon the area from which the majority of its trade will be drawn (i.e., its sphere of influence based on size, offer, etc.) and existing surrounding competition which might equally influence future patterns of trade. The Sequential Assessment identifies that its catchment area would be a 7-minute drive-time to/from the store. It also identifies that the retailer's website identifies that a new discount food store requires a catchment population of some 15,000 people. Based on up-to-date population data, the assessment identifies that within a 7-minute drive-time catchment area from the application site, there is circa 26,500 people. Therefore, the primary catchment area for the application is a 7-minute drive-time from the application site which is an appropriate catchment area for the development based on the submitted evidence.
84. Within a 7-minute drive-time of the application site, there are a number of allocated local centres which include: Langley Moor (immediate north), Brandon (to the southwest), Bearpark (to the northwest) and Ushaw Moor (to the northwest). Durham Sub Regional Centre (city centre) lies immediately out with the catchment area to the north. Whilst Durham City centre is outside the identified catchment area, it has been included in the sequential test. The assessment considers whether there are any sequentially preferable alternative sites within or on the edge of the centres identified above. It identified two other sites, based on the search criteria, for the development; 'Site 1: Open Space at Brandon' and 'Site 2: North Littleburn Road'.
85. Site 1 relates to 'open space at Brandon' which is circa 2.9 hectares in size and occupies a parcel of open space which is identified within the County Durham Plan as 'Amenity Open Space' as well as a section of the site being identified for 'Playing Pitches' under Policy 26 and the Council's Open Space Needs Assessment. The southern section of the site is partly located in the Brandon

Local Centre. By virtue of developing this site, there would be a loss in open space provision of which CDP Policy 26 states: *'Development proposals will not be permitted that would result in the loss of open space or harm to green infrastructure assets unless the benefits of the development clearly outweigh that loss or harm and an assessment has been undertaken which has clearly shown the open space or land to be surplus to requirements. Where valued open spaces or assets are affected, proposals must incorporate suitable mitigation and make appropriate provision of equivalent or greater value in a suitable location. Where appropriate there will be engagement with the local community.'* The loss of the open space would likely fail to comply with CDP Policy 26 which would be a key challenge for the development of this site. In looking at its suitability, alongside the issues in regard to open space, the site is located primarily in a residential area with little passing traffic and does not have the necessary prominence to be a successful/viable site for retail operation. The site is not considered to be suitable. It is also not clear if the site is 'available' as it is not currently being advertised for disposal. Therefore, Site 1 is discounted.

86. Site 2 relates to 'North Littleburn Road' which is approximately 0.73 hectares in size and is partly located within the Langley Moor Local Centre to the immediate west. To the east of the site is the railway line with agricultural land beyond, to the immediate south are residential properties with a mix of residential and commercial premises to the west and south. In looking at the suitability of the site, whilst the site is large enough to accommodate the development, this would be at the maximum extent of the flexibility that can be utilised to deliver such a scheme. The site has an irregular shape which would not suit the development given the requirements of a standard form and regular shape of the store. Also, the site is accessed via narrow access road which in its current form would not accommodate the proposed level of traffic which would be generated. The site also does not provide sufficient prominence to a main road to meet the needs of the applicant. Therefore, Site 2 is not suitable for the development. Turning to availability, the site is not being advertised for disposal which could be due to the recent planning approval (DM/19/03541/FPA) for residential development. Based on this, it is considered that site 2 can be discounted.
87. It is recognised that the sequential assessment only includes two sites that have been considered against the characteristics and requirements of the applicant and no other sites have been submitted for consideration. In reviewing this, it is acknowledged that there are limited opportunities in other locations in the primary catchment area that has been identified.
88. The Council's Spatial Planning Policy Team have reviewed the submitted sequential assessment and advise that the methodologies and conclusions of the report are sound. On this basis it is considered that the application has fulfilled the requirements of the Sequential Test as set out under CDP Policy 9, Paragraphs 91 and 92 of the National Planning Policy and Planning Practice Guidance and is considered to be acceptable in this regard.

The Impact Test/Assessment

89. CDP Policy 9 states: *'Proposals for retail, in excess of 1,500 sqm (gross) convenience floor space or 1,000 sqm (gross) comparison floorspace, proposed*

outside of a defined centre, and that could impact on a Sub Regional, Large Town or District Centre, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG.’ It continues to state: ‘Proposals for retail, as defined by NPPF, in excess of 400 sqm (gross) convenience or comparison floorspace, proposed outside of a defined centre, and that could impact on Small Town or Local Centres, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG.’

90. This is reflects in Paragraph 94 of the NPPF which outlines: *‘When assessing applications for retail and leisure development outside town centres, which are no in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m² of gross floorspace). This should include assessment of:*
- a) The impact of the proposal on existing, committed and planning public and private investment in a centre or centres in the catchment area of the proposal; and*
 - b) The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).’*
91. PPG sets out that the *‘purpose of the test is to consider the impact over time of certain out of centre and edge of centre proposals on town centre vitality/viability and investment.’* (Paragraph 014. Reference ID: 2b-014-20190722.
92. In terms of floorspace, the development would result in a gross floorspace of 2137m² with a new tradable floor area of approximately 1356m². Therefore, a Retail Impact Assessment is required to support the application which has been submitted under Part 7 and Appendices 6, 7 and 8 of the ‘Planning and Retail Assessment’ which has been fully assessed with the Spatial Policy Team. Given the nature of the proposals, the Retail Impact Assessment (RIA) needs to consider both the convenience and comparison impacts.
93. As part of the RIA, a household survey has been undertaken focusing upon Zone 8b ‘Outer Durham’ and adjacent zones ‘8a, 5 and 9’ of the Council’s Retail and Town Centre Study dated 2017.
94. The defined catchment area, as outlined above, is within a 7-minute drive of the application site. The Retail Impact Assessment considers the impact of the proposal upon the following:
- Durham Sub-Regional Centre;
 - Langley Moor Local Centre;
 - Brandon Local Centre;
 - Bearpark Local Centre;
 - Ushaw Moor Local Centre.
95. In taking each centre in turn, first the impact upon Durham ‘Sub-Regional Centre’ has been considered. It recognises that Durham City has significant levels of floorspace and its influence extends over a wide area within the County where

the city has experience recent and continued investment. The assessment outlines that Durham City's convenience retailing sector accounts for 4.2% of all retail units located in the city centre with its comparison goods equating to 21% of all shop units within the centre. It identified there is a vacancy rate of 12.4% in Durham City with the vacant units being spread across the centre. However, in some cases, more than one vacant unit was recorded within a close area which does have an impact upon the aesthetics and health of the centre. In terms of accessibility, Durham City is regarded to be highly accessible with a range of public transport including a railway station and bus services with pedestrian activity found to be very high within the city centre with a focus around Market Place and along the High Street. In assessing Durham City, the Sub Regional Centre is regarded to be relatively healthy, despite having vacant units, which is largely due to high environmental quality through its historic qualities and pedestrian activity. In addition, Durham City Centre does not have an existing retail offer which would be in direct competition with the proposal in terms of floorspace, convenience and comparison goods. Therefore, the development at Langley Moor is not considered to have an impact on the vitality or viability of Durham City Centre.

96. In turning to the Langley Moor local centre, the Retail Impact Assessment highlights that the local centre is focused on the High Street (A690) north to south. The local centre includes a 'Lidl' and 'Tesco' food store with the proposed 'Aldi' lying approximately 250 metres of the south of the centre on Mill Road. Due to the location of Lidl and Tesco, the nature of their offer alongside the proximity of the development in relation to the local centre, the proposal is considered to have the greatest impact upon Langley Moor local centre. To explore this further, it contains a total of 48 shop units with the convenience retailing sector accounting for 6.3% of all retail units. The most prominent convenience stores within the local centre are Tesco (smaller format to that of a typical Tesco superstore) and Lidl (full-sized standard) food stores. In relation to comparison goods, 14.3% of all units were found to be selling comparison goods. Langley Moor was found to have a vacancy rate of 12.5% with none of the vacant units being of a scale which would facilitate the development of the proposal. The Retail Impact Assessment states that Langley Moor Local Centre is perceived to be healthy, largely due to their only being 6 vacant units with two convenience food stores and an offer of leisure services. In considering the impacts upon Lidl and Tesco, based on the advice of the Council's Spatial Planning Policy Team the conclusions of the RIA that Lidl and Tesco are able to sustain the impacts of the development due to their strong trading performance in their stores are considered sound. Therefore, the proposal is not considered to have an impact on the vitality and viability of Langley Moor Local Centre.
97. In relation to Brandon Local Centre, it is regarded as a very small local centre with a small number of shops and services. It has nine units with one of these being a convenience store (11.1% of all units) as 'The Co-operative Store' and one comparison good store (11.1% of all units). It had three vacant units and due to the scale of the units, even if combined, they would not facilitate an Aldi store. The assessment determined that the Brandon Local Centre was perceived to be below average in terms of retail health due to its vacancy rate and low environmental quality despite being utilised by residents. As Brandon offers limited convenience retailing, it is considered that the Aldi proposal would

not have a significant adverse impact on the vitality and viability of Brandon local centre.

98. Regarding Bearpark Local Centre, it contains a total of 12 units with the convenience stores accounting for 2 of this (16.7% of all units), no comparison good stores and no vacant units. The most prominent convenience store is a 'Morrisons Daily' and due to this, there is no direct competition within the local centre. Bearpark Local Centre is perceived to be moderately healthy with the absence of any vacant units having a positive impact. Based on this, it is considered that the development of an Aldi would not negatively impact on the vitality and viability of Bearpark.
99. Regarding Ushaw Moor Local Centre, it contains a total of 17 units with 3 convenience stores (including a Co-op and a Premier Store), no comparison good stores and two vacant stores. Given this, there is no direct competition within the local centre. Ushaw Moor is perceived to be healthy, due to the presence of only two vacant units in the centre with three small convenience stores with a range of leisure services. Although the local centre is easily accessible by means of public transport Ushaw Moor is less accessible by vehicle due to the lack of parking facilities. Given this, it is considered that the development would not have an adverse impact on the vitality and viability of the centre.
100. Considering the above, whilst it is recognised that the greatest impact would be upon Langley Moor Local Centre given the proximity of the development to the centre, alongside the location of both 'Tesco' and 'Lidl', based on the RIA, the development would not lead to a significant adverse impact upon Durham Sub Regional Centre, and the local centres of Langley Moor, Brandon, Bearpark, and Ushaw Moor. The RIA is acceptable with regard being had to the vitality and viability upon the town or local centres identified as the evidence shows there would be no likely significant impacts.
101. The application has fulfilled the requirements of the RIA set out under CDP Policy 9, Paragraph 94 of the NPPF and Planning Practice Guidance to be acceptable in this regard.
102. PPG sets out that '*Where evidence shows that there would be no likely significant impact on a town centre from a edge of centre or out of centre proposal, the local planning authority must then consider all other material planning considerations in determining the application, as it would for any other development*' (Paragraph 018 Reference ID: 2b-018-20190722). Therefore, the other sections of this report will make this assessment.

Conclusion in relation to retail impacts

103. In conclusion and having regard to the Sequential and Retail Impact Assessments submitted, based on the advice of Council's Spatial Planning Policy Team both the tests (sequential and impact assessment) have been appropriately undertaken in accordance with the NPPF, PPG and Policy 9 of the CDP requirements. In undertaking the sequential assessment, a town or local centre approach has been applied to the scheme. However, the findings indicate there are no suitable and available sequentially preferable locations,

and on this basis, the sequential test is considered acceptable. In addition, the proposals are not anticipated to have a significant adverse impact on the nearest retail centres as demonstrated by the Retail Impact Assessment. Overall, it is considered that the development would comply with CDP Policy 9, Paragraphs 91 and 92 of the National Planning Policy Framework and Planning Practice Guidance in this regard.

Locational Sustainability of the Site

104. CDP Policy 21 requires all developments to deliver sustainable transport by providing appropriate, well designed, permeable and direct routes for walking, cycling and bus access, so that new developments clearly link to existing services and facilities together with existing routes for the convenience of all users. CDP Policy 29 requires that major development proposals provide convenient access for all users whilst prioritising the needs of pedestrians, cyclists, public transport users, people with a range of disabilities, and emergency and service vehicles whilst ensuring that connections are made to existing cycle and pedestrian networks.
105. The NPPF sets out at Paragraph 114 that in assessing applications for development, appropriate opportunities to promote sustainable transport modes should be taken. Paragraph 116 continues this to state that applications for development should give priority first to pedestrian and cycle movements and so far as possible, facilitate access to high quality public transport with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use.
106. In considering this the development against the above policy context, Langley Moor is identified as a 'Local Centre' within the County Durham Plan. Local centres are found within many villages across the county and support a number of local shops and services that meet local residents' daily shopping needs. The application site would be within the settlement of Langley Moor where there is a range of facilities accessible, albeit outside of the defined centre.
107. In relation to access to public transport, the Chartered Institute of Highways and Transportation 'Proving for Journeys on Foot' document contains suggested acceptable walking distances for pedestrians to access facilities and services. In terms of access to bus routes, a walk of 400 metres falls within the 'desirable' range.
108. In this respect, the site is within the 400-metre walking distance of approximately seven bus stops in the immediate area. This allows for users of the development to make use of public transport with options available in the vicinity of the site.
109. Also, the development includes a pedestrian footway across the open land from the A690 and a new pedestrian crossing to allow for pedestrians to access the site in a safe and suitable manner. This would allow for the site to be accessed safely by pedestrians which aids in the sustainability of the application site, being accessible by foot. The proposal would also include cycle storage on-site which would encourage and facilitate the use of cycles to access the site which is another sustainable form of transport.

110. Overall, the site has access to public transport and is within the settlement of Langley Moor. Therefore, the application site is within a sustainable location in accordance with Policies 21 and 29 of the County Durham Plan, and the National Planning Policy Framework. A condition will be imposed requiring the submission of a Travel Plan.

Scale/Design/Landscaping

111. CDP Policy 29 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 total, CDP Policy 29 sets out 18 elements for development to be considered acceptable, including: buildings being adaptable; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.
112. In addition, CDP Policy 29 sets out that major development proposals should create a well-defined, easily navigable and accessible network of streets and spaces which respond appropriately to local context.
113. 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.
114. Policy 40 (Trees, Woodlands and Hedges) states that proposals for new development will not be permitted that would result in the loss of, or damage to, trees, hedges or woodland of high landscape, amenity or biodiversity value unless the benefits of the scheme clearly outweigh the harm. Proposals for new development will be expected to retain existing trees and hedges or provide suitable replacement planting. The loss or deterioration of ancient woodland will require wholly exceptional reasons and appropriate compensation.
115. Part 12 of the NPPF sets out that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
116. The site is within an area that has a mixed-use appearance which demarcates the character of the area as both industrial and within a residential setting. The existing building on the site is of an industrial appearance, commensurate with its use and is a prominent building along Mill Road and visible from the A690. It is considered that the demolition and loss of the existing building, whilst it would change the appearance of the site, given the surrounding context, would not detract from the character and appearance of the area.
117. In relation to the new building and associated works, the building will be located within the most eastern area of the site in a similar position to the existing building. It would be of a design and style that would be commensurate with its

proposed use as a retail unit/supermarket. It would be of a proportionate size and scale for the site, with the materials being acceptable. The surrounding area has a variety of sizes, scales, materials and designs of building and the new building will not cause any harm to the character of the surrounding area and would respond appropriately to the local context. Also, it is considered that the proposal would be an improvement to the area as the existing site appears as an unused and overgrown site which does not make a positive contribution to the character and appearance of the area. This development would re-use a site in a prominent location within the local area.

118. The Landscape Team have been consulted as part of the application and advise that the proposed plant species and numbers for the landscaping scheme are appropriate. They also advise that consideration should be made to the planting of trees along the frontage of the development to Mill Road to help soften the appearance of the building and parking area. This has been discussed with the applicants and they advise that tree planting in this location cannot be achieved due to underground services in this area. In considering this, whilst additional trees to the frontage with Mill Road would be welcomed, given that these cannot be delivered, based on the previously developed nature of the land within an industrial estate, the proposed landscaping is acceptable without additional planting to Mill Road.
119. The application has been accompanied by an Arboricultural Impact Assessment and Arboricultural Method Statement with accompanying plans. Trees 6-9 and Groups 3 and 6 directly conflict with the building and car park and will need to be removed to facilitate the development. Tree 5 will also be removed due to structural defects and a limited safe useful life expectancy. Trees 5, 6-9 and Groups 3 and 6 are identified in the assessment as unsuitable for retention 'U'. In considering that the assessment identifies these trees as 'U' and unsuitable for retention, they are not considered to be of high landscape, amenity or biodiversity value and their removal would be acceptable in accordance with Policy 40 of the CDP. The remaining trees will be retained on the site and tree protection measures will be installed to protect these trees which will be conditioned accordingly.
120. Overall, the design of the development is considered to respond positively to the local area and would comply with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. Whilst the proposal will result in the removal of trees, the landscaping plan will provide new planting to the previously developed land which will adequately compensate for the loss of the trees. This will comply with Policies 39 and 40 of the County Durham Plan.

Highway Safety/Access

121. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision. Similarly, CDP Policy 29 advocates that convenient access is made for all users of the development together with connections to existing cycle and pedestrian routes. CDP Policy 6 criterion (e) require development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.

122. The Council's recently adopted Parking and Accessibility SPD sets out parking standards for new developments but recognises that applicable standards may be reduced on a case-by-case basis, particularly where a development is in an accessible location.
123. The NPPF sets out at Paragraph 114 that safe and suitable access should be achieved for all users. In addition, Paragraph 115 of the NPPF states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe.
124. The site is accessed via Mill Road which is accessed via the A690 to the east. Concerns have been raised by members of the public, alongside the local Councillor, in relation to highway safety and particularly in regard to the traffic and congestion between the Mill Road and A690 junction. The concerns raised request measures to improve this junction which include either traffic lights or a mini roundabout.
125. In terms of the highway improvements, the proposal would upgrade the existing access to the site from Mill Road and proposes to create a new footpath next to 110 High Street South, linking directly to the development from the A690 from the retail unit. The scheme includes the creation of a 2-metre pedestrian island on the A690 to aid non-motorised users to get across the A690 to and from the proposed store.
126. The Highways Authority have been consulted as part of the application. The application has been supported by a full Transport Assessment (TA). Under this, consideration has been made of the trips generated and the number of junctions on the local road network to include consideration of:
- A690/Mill Road junction;
 - A690/East View;
 - A690/Station Road;
 - A690/Black Road/Littleburn;
 - A690/Nevilles Cross/B6302 Broom Lane;
 - A167/A690.
127. The TA summarised that the peak supermarket hours are Friday 3pm to 7pm and Saturday 9am to 1pm. Outside of these peak times, the number of trips generated by existing Aldi stores is between 30 and 50 vehicular trips on the local road network per hour. In the context of the A690 in this part of Langley Moor, which currently carries circa 1400 trips per hours, an increase of 30-50 trips would have a negligible impact on the local road network.
128. In the supermarket peaks, the proposed use is expected to generate around 340 vehicular trips in (170 arrivals and 170 departures). However, it should be noted that approximately 50% of these trips are pass-by trips, so already on the network making a trip. The other 50% are new trips who were not previously on the local road network. Therefore, the additional impact of the new store is actually 170 trips in the peak hour (85 arrivals and 85 departures).

129. The Highways Authority has reviewed the submitted TA and advise that the scope of the assessment and its conclusions are sound. It is advised that the applicant has appropriately modelled all the junctions identified above in both a 2028 and 2028 + development traffic scenario for both the Friday PM peak, and the Saturday peak. The TA concludes that all junctions, with the exception of Neville's Cross, continue to work well within their design capacity in both the 2028, and the 2028 + development traffic scenario. Neville's Cross is a strategically important junction in Durham, and the existing issues of queue and delay are already known. While this development would add additional vehicles through this junction in the already over capacity peak periods, the additionality is so small as a result of this development that it would not meet the tests set out in NPPF Para 115 of having a severe cumulative impact. Therefore, the impact from this development on Neville Cross junction is minimal.
130. Access to the site from Mill Road would be via the existing vehicular access point and upgrading works to this access would be undertaken as part of the development. Suitable visibility from the junction of 2.4m x 43m would be achieved and therefore, on the Advice of the Highways Authority the access is considered to be a safe and suitable vehicular access to serve the site. Servicing would take place from a separate access further to the east, in the location of an existing access. The site would be served by 16.5m articulated lorries, auto tracking has been provided demonstrating that a vehicle of this size can enter the service area in a forward gear, manoeuvre safely and leave the site in a forward gear. The proposed servicing arrangements are therefore considered to be acceptable.
131. Regarding the concerns and suggestions raised by members of the public and local councillor in relation to highway safety, the suggestion for a change in the layout of the A690/Mill Road has been considered. However, regarding the installation of a dot mini roundabout, the junction does not meet this criterion. Dot mini roundabouts should only be used where the combined peak flows on all legs of the roundabout are less than 500 vehicles per hour. The peak flows at the A690/Mill Road junction are circa 1400 per hour and over 1000 outside the peak hours. The A690 is a main strategic route in Durham and has the dominant flows. Therefore, the opportunity for right turners to make the manoeuvre out of Mill Road even with an in-situ dot mini roundabout would be limited. In addition, localised widening would be required on the A690 to accommodate the deflection required to accommodate a dot mini roundabout. This widening could not be achieved due to the properties on the west side of the A690. It is also considered that most of the traffic associated with the proposed Aldi would be inter peak e.g. it would be visiting the store outside of the existing peak periods when traffic, and any queuing traffic on Mill Road, would be less than in peak periods.
132. While the Local Highway Authority advise that it has no concerns over the impact of vehicular movements associated with the proposed development, the A690 is a busy road in terms of vehicle flows carrying circa 15,000 vehicles per day, with 1400 in the peaks and between 1000 and 1200 vehicles per hour outside the peaks. These flows can make crossing the road difficult for pedestrians. Discussions have taken place between the applicant and Highway Authority to address this concern. To mitigate this, a 2-metre pedestrian island with tactile paving on the A690 is proposed. The Highways Authority have

reviewed this and consider this to be acceptable to allow non-motorised users to cross the A690 safely to access the store. They comment that as this is required to make the development acceptable in highway terms, it would need to be secured via a Grampian condition and be built and available for use prior to the first use of the building.

133. In relation to parking, the proposal will provide 121 parking spaces which includes 5% accessible bays, 5% active electric vehicle charging bays and 20% passive electric vehicle charging bays. This level of parking would be compliant with the Parking and Accessibility SPD 2023. A total of 16 cycle parking spaces would be provided which exceeds the requirement of 13 cycle parking spaces which is required for the development. Therefore, the parking and cycle storage complies with the Parking and Accessibility SPD to be acceptable in this regard.
134. Overall, whilst recognising that the development would add to trips onto the Nevilles Cross junction, which is already operating over capacity, on the advice of the Highways Authority the level of impact because of the development is considered to be minimal and would not meet the tests for refusal set out under Paragraph 115 of the NPPF. Other junctions around the site would continue to operate satisfactorily, while appropriate vehicular and access arrangements are considered to be provided. The proposals also comply with the Councils Parking and Accessibility SPD (2023). Overall, the development would maintain highway safety in accordance with Policy 21 of the County Durham Plan, and Part 9 of the National Planning Policy Framework in relation to highway safety and access.

Residential Amenity

135. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
136. Parts 12 and 15 of the NPPF 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.
137. The site is within the industrial estate but also in proximity to residential properties which is an established relationship between the uses in this area.
138. The building will be built approximately 40 metres from the closest boundary to the residential properties and their gardens to the west with the car parking in the intervening space between the residential gardens and the new building. This ensures there is an acceptable level of separation between the residential gardens and the building to ensure there is no harm to the existing residential properties regarding overlooking, an overbearing impact or overshadowing.
139. The application includes the retention of the existing palisade fence to the north and a new 2 metre weldmesh fence to a section of the northwest boundary next to the residential properties. The installation of a new fence along this boundary,

given its height, will not cause harm to the residential amenity of surrounding properties. Notwithstanding this, a condition is recommended to be imposed requiring the exact details of all of the boundary treatments to be submitted.

140. The development proposes a new pedestrian crossing on the A690 which includes tactile paving to the existing public footpath and the creation of an island to allow pedestrians to cross the A690 safely. One of the public comments raised questions around the location of the pedestrian and what development this would include. In addressing this, as the works are only tactile paving to the existing footpath with an island in the public highway, these works are not considered to have an adverse impact upon residential amenity.
141. The Council's Nuisance Action Team have been consulted on the application and a noise impact assessment has been submitted. They advise that they have undertaken a technical review of the information submitted in relation with the relevant TANs (Technical Advice Notes) and advise that the development will not lead to an adverse impact upon residential amenity using planning conditions. The conditions should include compliance with the noise impact assessment; no deliveries or servicing to be undertaken during the operational phase of the development between 23:00 to 06:00 on any day; details of the external light; the submission of a construction management plan to include a dust action plan alongside construction hours.
142. A condition will be imposed to restrict the opening hours of the development to be 06:00 to 23:00 Monday to Saturday and Bank Holidays and 09:00 to 18:00 on Sundays. It is considered that as the site is a mixed-use area within an industrial setting with residential properties in the vicinity, that the restriction of the opening hours to these timeframes would be acceptable to secure the residential amenity.
143. In regard to air quality, the application site is located approximately 1275 metres (as the crow flies) from the boundary of the Durham City Air Quality Management Area (AQMA). Accordingly, an Air Quality Assessment has been submitted in support of the application, assessing the development impact in this regard. The Council's Air Quality Team have been consulted on the application and advise that following amendments and points of clarification that the submitted report adequately assesses the developments impact on air quality, specifically on the AQMA. It is advised that subject to conditions to control and mitigate potential construction related impacts development as it will not lead to an adverse impact in relation to air quality, including specifically on the AQMA.
144. Overall, subject to conditions, the proposals are considered to provide an acceptable standard of amenity for existing residents and would not have an adverse impact upon air quality in accordance with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

Ecology

145. Paragraph 180 d) of the NPPF advises that decisions should minimise impacts on and provide net gains for biodiversity. In line with this, CDP Policy 41 seeks

to secure net gains for biodiversity and coherent ecological networks. Policy 43 relates to protected species and nationally and locally protected sites. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.

146. The proposal has been accompanied by a Preliminary Ecological Assessment (PEA) alongside a Bat Survey Report and a Biodiversity Net Gain (BNG) DEFRA Metric and accompanying report. The Bat Survey report concludes that sections of the building are deemed to provide negligible bat roosting potential and the other sections were deemed to hold low bat roosting potential.
147. The PEA outlines mitigation measures including vegetation clearance to be undertaken outside the nesting bird season and working practices to follow during the construction of the development. This information has been reviewed by the Council's Ecology Team who advise that the methodology and conclusions of the submitted reports are sound and the mitigation measures are acceptable. Therefore, a condition should be imposed requiring the compliance with these measures.
148. Regarding BNG, the proposal would introduce wildflower planting around the site with 14 species of wildflower and grasses being planted. The Ecology Team advise that this would be acceptable and that the habitat type/extent and condition of on-site habitat creation should be conditioned. The Ecology Team also request the submission of a detailed landscape and ecological management plan (which is also considered to be a biodiversity management and monitoring plan) to show how the proposed habitats will be created and managed appropriately.
149. Despite on-site habitat creation, this would not result in a biodiversity net gain and the DEFRA Metric demonstrates that the site will result in a net loss of - 0.31 Biodiversity Units overall. In this case, the loss in biodiversity is proposed to be mitigated by the payment of £3500 to the Council to deliver as mitigation to ensure that a net gain is delivered. This is proposed to be secured through a S106 legal agreement.
150. Subject to adherence to planning conditions and the entering of a legal agreement to secure a financial contribution of £3500 for BNG, the proposal would accord with Policies 41 and 43 of the County Durham Plan and Paragraph 180 of the National Planning Policy Framework in this respect.

Flooding/Drainage

151. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 173 of the NPPF advises that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 175 of the NPPF goes on to advise that major developments should incorporate sustainable

drainage systems unless there is clear evidence that this would be inappropriate.

152. CDP Policies 35 and 36 relate to flood water management and infrastructure. CDP 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. CDP Policy 36 seeks to ensure that suitable arrangements are made for the disposal of foul water.
153. The application site is located within Flood Zone 1, however due to the size of the site the application has been accompanied by a Flood Risk Assessment and Drainage Strategy. This sets out how the surface water would be managed on site in accordance with the drainage hierarchy. The reports set out that infiltration to the ground is not possible due to the site being underlain by natural superficial deposits comprising firm sandy to very sandy slightly gravelling clay. The nearest watercourse to the site is the Goats Beck located around 0.3km to the south and the route to this watercourse is via numerous elements of third-party land which is deemed to be unfeasible to discharge to. It is therefore proposed to connect the SUDS basin into a highway drain which will provide an indirect connection to the public sewer.
154. In assessing the proposed strategy, the Lead Local Flood Authority advise that the scheme is acceptable. Following a review of the relevant hydraulic calculations it is advised that the development would adequately manage and treat surface water on the site before being discharged.
155. Overall, the surface water and foul drainage for the site is considered acceptable and complies with Policies 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

Ground Conditions

156. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 189 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
157. The application site is outside of the Coalfield High Risk Area and accordingly, there is no need for a Coal Mining Risk Assessment and the Coal Authority have not been consulted on the proposal.
158. However, the application is located within the Coal Resource Area for mineral safeguarding. Policy 56 (Mineral Safeguarding Areas) seeks to prevent planning permission from being granted for non-mineral development that would lead to the sterilisation of mineral resources. It sets out where development may be applicable within these areas where criterion e refers to Appendix C of the CDP which sets out exemptions to this. Appendix C states '*All planning applications which occur within a Mineral Safeguarding Area as shown on the policies map should be accompanied by a mineral assessment except the following: Infilling in an otherwise built-up frontage within a settlement.*'

159. In this case, the application site is between a row of residential development to the west and existing industrial buildings to the east. Given this, it would meet the infill exemption of the policy with no realistic prospect of mineral extraction on the site. Therefore, no mineral assessment is required in accordance with Policy 56 of the County Durham Plan.
160. The Council's Contaminated Land Team have been consulted on the proposal and have advised that additional site investigations are required in addition to gas monitoring. They advise that a Phase 2 to Phase 4 land contamination should be secured via planning condition to safeguard the development from contaminated land.
161. Overall subject to relevant planning conditions, the proposal is considered to comply with Policies 32 and 56 of the County Durham Plan and Part 14 of the National Planning Policy Framework and is acceptable regarding ground conditions.

Building/ Fabric Sustainability

162. CDP Policy 29 criterion (c) requires all development to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source.
163. CDP Policy 29 criterion (d) requires all development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials, during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable waste and prioritising the use of local materials.
164. In addition, CDP Policy 29 states: '*All major new non-residential development will be required to achieve Building Research Establishment Environmental Assessment Method (BREEAM) minimum rating of 'very good' (or any future national equivalent).*'
165. The Building Research Establishment Environmental Assessment Method (BREEAM) is the national standard for assessing the sustainability of new construction developments. The application is accompanied by a BREEAM pre-assessment report which sets out the development is targeted to achieve a BREEAM Rating of 'Very Good' with a targeted percentage of 60.32% which would exceed the 55% required percentage to achieve BREEAM Very Good. As BREEAM is a two-stage process, a condition will be imposed requiring the submission of the final BREEAM certificate prior to the first use of the building to certify the building has been constructed to a 'Very Good' BREEAM standard as required by Policy 29 of the CDP.
166. In addition, the scheme shall incorporate 80kWp solar photovoltaic array on the roof of the building alongside an air source heat pump being supplemented by a refrigeration heat recovery scheme to provide heat.

167. Therefore, the proposal would comply with Policy 29 of the County Durham Plan regarding sustainability principles.

Public Sector Equality Duty

168. 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.
169. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

170. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The Council has an up-to-date development plan which is the County Durham Plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision making, this means approving development proposals that accord with an up-to-date development plan without delay.
171. Regarding the principle of the development, the application site is located within the Langley Moor and Littleburn Industrial Estate which is allocated as employment land under CDP Policy 2. As the development is for a Class E use on employment land, the site has been actively marketed for a continuous period of over two years by at least one recognised commercial agent at local market levels which has resulted in unsuccessful marketing for the site for its current employment use. This satisfies CPD Policy 2 (a) and the re-development of the site for a non-employment use is considered acceptable.
172. To continue, having regard to the Sequential and Retail Impact Assessments submitted, it is concluded that both the tests have been undertaken in accordance with the NPPF, PPG and Policy 9 of the CDP requirements., the findings conclude there are no suitable and available sequentially preferable locations, and on this basis, the methodologies and conclusions of the sequential test are considered acceptable. In addition, the proposals are not considered to have a significant adverse impact on the nearest retail centres as demonstrated by the Retail Impact Assessment. The proposal therefore complies with CDP Policy 9, Paragraphs 91 and 92 of the National Planning Policy and Planning Practice Guidance to be acceptable in this regard.
173. Regarding the design of the development, it is concluded that it responds positively to the local area in accordance with Policy 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework. Whilst the proposal will result in the removal of trees, the landscaping plan will provide new

planting to the previously developed land which will adequately compensate for the loss of the trees, in accordance with Policies 39 and 40 of the County Durham Plan.

174. In terms of highway safety, whilst concerns have been expressed by local residents and Councillor, based on the advice of the Highways Authority the development would ensure that the surrounding highway network would continue to operate satisfactorily, recognising the existing impacts at the Nevilles Cross Junction. The inclusion of a pedestrian crossing on the A690 would allow safe crossing of pedestrians to access the site. Overall, it is concluded that the proposals would comply with the Councils Parking and Accessibility SPD (2023) in terms of parking provision, Policy 21 of the County Durham Plan, and Part 9 of the National Planning Policy Framework in relation to highway safety and access.
175. In terms of the residential amenity, subject to conditions, the proposals are considered to provide an acceptable standard of amenity for existing residents according with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.
176. In regard to the air quality, it is advised that subject to conditions to control and mitigate potential construction related impacts, the development as it will not lead to an adverse impact in relation to air quality, including specifically on the AQMA.
177. In relation to ecology, subject to adherence to planning conditions and the completion of a legal agreement to secure a financial contribution of £3500 for BNG, the proposal would be acceptable in accordance with Policies 41 and 43 of the County Durham Plan and Paragraph 180 of the National Planning Policy Framework.
178. Regarding surface water and foul drainage, the application has appropriately worked through the surface water hierarchy and would appropriately treat and attenuate before discharge. The development complies with Policies 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework in this respect.
179. Regarding ground conditions, subject to planning conditions, the proposal complies with Policy 32 and 56 of the County Durham Plan and Part 14 of the National Planning Policy Framework.
180. The building would be designed and constricted to 'Very Good' BREEAM standards, incorporating solar panels and an air source heat pump in accordance with Policy 29 of the County Durham Plan regarding sustainability principle.
181. The proposed development has generated some public interest, with letters of objection and support having been received. Concerns expressed regarding the proposal have been taken into account, and carefully balanced against the scheme's wider social, environmental and economic benefits.

182. The development is considered to accord with the development plan as a whole and there are no material considerations which indicate otherwise. The application is therefore recommended for approval subject to the completion of a Section 106 Agreement to secure a financial contribution for BNG and conditions.

RECOMMENDATION

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

- A financial contribution of £3,500 to deliver biodiversity net gain.

And the following conditions:

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

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

2. The development hereby approved shall be carried out in accordance with the following plans and documents:

- Location Plan. Drawing Number: 0001 Rev P01 received by the Local Planning Authority on 8th November 2023
- Proposed Site Plan. Drawing Number: 0002 Rev P03 received by the Local Planning Authority on 26th January 2024
- Proposed Elevations. Drawing Number: 0005 Rev P03 received by the Local Planning Authority on 26th January 2024
- Proposed Floor Plan. Drawing Number: 0003 Rev P02 received by the Local Planning Authority on 29th November 2023
- Proposed Pedestrian Crossing. Drawing Number: AMA/48017/SK004.1 Rev P01 received by the Local Planning Authority on 7th February 2024
- Proposed Landscape Plan. Drawing Number: NSH 011 P101 Rev B received by the Local Planning Authority on 31st October 2023.

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 2, 9, 21, 25, 29, 31, 32, 35, 36, 39, 40, 41, 43 and 56 of the County Durham Plan and Parts 2, 4, 6, 7, 9, 11, 12, 14 and 15 of the National Planning Policy Framework.

3. No development shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall be prepared by a competent person and shall consider the potential environmental impacts (noise, vibration, dust and light) that the development may have upon any nearby sensitive receptors and as a minimum shall include but not necessarily be restricted to the following:

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction taking into account relevant guidance such as the Institute of Air Quality Management Guidance on the assessment of dust from demolition and construction 2023.
2. Details of methods and means of noise reduction/suppression.
3. Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
4. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
5. Designation, layout and design of construction access and egress points.
6. Details for the provision of directional signage (on and off site).
7. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
8. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
9. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
10. Routing agreements for construction traffic which shall include an assessment of the levels of trips generated through the construction phase of the development alongside evidence to demonstrate the development will not adversely impact on air quality.
11. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
12. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
13. Management measures for the control of pest species as a result of demolition and/or construction works.
14. Detail of measures for liaison with the local community and procedures to deal with any complaints received.

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

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

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

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

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

5. No development shall commence until a Biodiversity Management and Monitoring Plan (BMMP) shall be submitted to and approved in writing by the Local Planning Authority. The BMMP shall demonstrate how the specific on-site biodiversity net gain units that are to be created on the site (as shown on Habitats Map -Proposed. Figure 2 as contained in 'Biodiversity Metrics' Report dated February 2024) will be achieved, managed and maintained on site, and will include a mechanism for reporting to Durham County Council in Years 2, 5, 10, 15, 20 and 30 following habitat creation. The works shall be carried out in accordance with the approved details and thereafter be retained and managed as detailed.

Reason: In the interests of achieving a biodiversity net gain in accordance with Policy 41 and 43 of the County Durham Plan.

6. No development above the damp proof course level shall be undertaken until details of 6no. active electric vehicle charging points and 24no. passive electric vehicle charging points shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the electric vehicle charging points shall be constructed in accordance with the approved details and 6no. active electric vehicle charging points shall be brought into use before the first use of the development hereby approved and retained in perpetuity unless replaced with an equivalent or better low carbon vehicle power source.

Reason: To ensure a satisfactory form of development in accordance with Policy 21 of the County Durham Plan, Part 9 of the National Planning Policy Framework and Parking and Accessibility SPD 2023.

7. Notwithstanding the details submitted as part of the application, no development above damp-proof course level shall be undertaken until details of all means of enclosure and knee rails of the site shall be submitted to and approved in writing by the Local Planning Authority. The means of enclosures and knee rails shall be constructed in accordance with the approved details thereafter.

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

8. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on 'Retained Trees shown on Proposed Layout with Protective Measures Indicated' Drawing Number: AIA TPP as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010.

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

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

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

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

9. Prior to the first use of the development hereby approved, the access, vehicle parking and pedestrian footpath as shown on 'Proposed Site Plan' Drawing Number: 0002 Rev P03 received by the Local Planning Authority on 26th January shall be constructed in accordance with the approved details and made available for use.

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

10. Prior to the first use of the development hereby approved, details of at least 13 cycle storage and/or cycle parking facilities compliant with the Council's Parking and Accessibility SPD 2023 shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed details and made available prior to the first use of the development. The approved provision shall be available for the use of cycles at all times for the duration of the use hereby approved.

Reason: To encourage sustainable transport modes of travel in accordance with Policy 21 of the County Durham Plan, Part 9 of the National Planning Policy Framework and the Parking and Accessibility SPD 2023.

11. The development hereby approved shall not be brought into use until the pedestrian crossing as shown on 'Proposed Pedestrian Crossing' Drawing Number: AMA/48017/SK004.1 received by the Local Planning Authority on 7th February 2024 has been constructed in accordance with the approved details and made available for use.

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

12. Prior to the first use of the development hereby approved, a Building Research Establishment Environmental Assessment Method (BREEAM) final certificate to demonstrate the buildings minimum rating of 'very good' (or any future national equivalent standard) shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure that the development achieves a sustainable form of development to comply with Policy 29 of the County Durham Plan.

13. Prior to the first use of the development hereby approved, details of any external lighting to be installed on the site shall be submitted to and approved in writing by the Local Planning Authority. The details provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting shall be erected and maintained in accordance with the approved details thereafter.

Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

14. Prior to the first use of the development hereby approved, the habitat retention and creation as shown on Habitats Map -Proposed. Figure 2 as contained in 'Biodiversity Metrics' Report dated February 2024 shall be carried out on the site.

Reason: In the interests of achieving a biodiversity net gain in accordance with Policy 41 and 43 of the County Durham Plan.

15. Prior to the first use of the development, a Travel Plan (conforming to the National Specification for Workplace Travel Plans, PAS 500:2008, Bronze level) comprising immediate, continuing or long-term measure to promote and encourage alternatives to single occupancy car use shall be submitted to and approved in writing by the Local Planning Authority. The submitted details shall include mechanisms for monitoring and review over the life of the development and timescales for implementation. The Approved Travel Plan shall thereafter be implemented, monitored and reviewed in accordance with the approved details.

Reason: To reduce reliance on the private motor car and to promote sustainable transport methods in accordance with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

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

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

17. The development hereby approved shall be carried out in accordance with the 'External Finishes' Specification as shown on 'Proposed Elevations' Drawing Number: 0005 Rev P03 received by the Local Planning Authority on 26th January 2024.

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

18. The drainage for the approved development shall be carried out in accordance with the following:

- Flood Risk and Drainage Impact Assessment, Doc Ref: P22-231-ZZ-XX-HYD-RP-C-9000 Status: S4 and Issue Number: P05 received by the Local Planning Authority on 20th February 2024.

Reason: To ensure effective drainage measures and sustainable principles are adhered to, and to safeguard the proposed development from flood risk, whilst not increasing flood risk elsewhere in accordance with Part 14 of the NPPF and Policy 35 of the County Durham Plan.

19. No deliveries shall be taken or dispatched from the site or servicing of the building shall take place between the hours of 23:00 to 06:00 on any day.

Reason: In the interests of the residential amenity of the surrounding area to comply with Policy 31 of the County Durham Plan.

20. The use of the site and building shall not be open for customer access outside the hours of 06:00 to 23:00 Monday to Saturday and Bank Holidays and 09:00 to 18:00 on Sundays. No customers shall remain on the premises outside the hours of 06:00 to 23:00 Monday to Saturday and Bank Holidays and 09:00 to 18:00 on Sundays.

Reason: In the interests of the residential amenity of the surrounding area to comply with Policy 31 of the County Durham Plan.

21. The development hereby approved shall comply with the details of '4.3 Fixed Plant Noise of the Noise Impact Assessment' (Reference: NIA/10965/23/11191/v1/Aldi Mill Road, Durham' for the lifetime of the development.

Reason: In the interests of the residential amenity of the surrounding area to comply with Policy 31 of the County Durham Plan.

22. The development hereby approved shall be carried out in accordance with 'Arboricultural Method Statement' by All About Trees received by the Local Planning Authority on 31st October 2023.

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

23. All planting, seeding or turfing and habitat creation as shown on 'Proposed Landscape Plan' Drawing Number: NSH 011 P101 Rev B and 'Planting Schedule' shall be carried out in the first available planting season following the practical completion of the development.

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

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

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

Replacements will be subject to the same conditions.

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

24. 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.

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/22/01536/FPA
Full Application Description:	Creation of an outdoor horse arena, with timber rail fencing and floodlighting, exclusively for personal use (retrospective)
Name of Applicant:	Mr Anthony Lewis
Address:	Old Arbour House, Crossgate Moor, Durham, DH1 4TQ
Electoral Division:	Deerness
Case Officer:	Jennifer Jennings (Principal Planning Officer) Tel: 03000 261 057 Email: jennifer.jennings@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is located in the countryside beyond the western edge of Durham City. It forms part of the land holdings of Old Arbour House, a non-designated heritage asset (NDHA), which consists of the main dwelling house, along with outbuildings and stable block to the north west of the dwelling and the horse arena, subject to this application, further north west of the stable block. The remainder of the applicant's land noted on the site location plan extends to the south west of the dwelling towards Toll House Road, that connects the A167 to the east with Bearpark to the west.
2. The land is open paddock land with post and wire fencing and hedgerow around the boundaries and internal timber rail fencing subdividing the land. The land slopes upwards from the roadway some 15 metres, with the dwelling house and arena located at the highest point on the ridge. The dwelling house and outbuildings are largely screened from views from the roadway by existing

planting on the nearby slope, but the tree cover does not extend to where the arena is located.

3. The outdoor horse arena is already in situ and has been in its current format since at least March 2022, but not earlier than July 2021 according to historic Google Earth views. The arena consists of a large rectangular levelled area, measuring 42m by 20m, with a light sand-coloured surface fibre mix finish. It is surrounded with timber rail fencing on all sides (approximately 1.5 to 1.6 metres in height), with three floodlights on posts of 4 metres high located to its north west boundary edge.
4. The site is located within the Durham City Green Belt and within the designated Area of High Landscape Value. It also sits within the historic local park of Bearpark; an extensive parkland with high-status ownership associated with the ruined Beaufort priory, a scheduled monument. This is listed in Durham County Councils *Local List of Historic Parks, Gardens and Designed Landscapes* which was adopted in March 2020 as a non-designated Historic Asset (NDHA). The site is within the setting of the Registered Battlefield of Neville's Cross. Footpath no. 10 also runs adjacent to the north eastern boundary of the arena.

The Proposal

5. The application seeks full planning permission for the retention of the existing horse arena, fencing and floodlighting. Equestrian activities are established on site, therefore the use of the land does not form part of this application. The main elements for consideration relate to the engineering works to install the finished arena and associated flood lights. The use of the arena would be for personal use only.
6. The local ward member has requested that the application be reported to planning committee due to concerns over its location within the green belt and the historic Beaufort site. Further concerns are raised with regards the impact of floodlights on this hilltop location.

RELEVANT PLANNING HISTORY

7. Full planning permission was granted in 2008 under planning reference 4/08/00341/FPA for the demolition of 2 no. modern redundant agricultural sheds in association with change of use and conversion of redundant agricultural buildings to form 3 no. dwellings including erection of open-fronted garage block.

PLANNING POLICY

National Policy

8. A revised National Planning Policy Framework (NPPF) was published in December 2023. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
9. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
10. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
11. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
12. *NPPF Part 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.
13. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *NPPF Part 13 - Protecting Green Belt land*. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence. Green Belt land serves 5 purposes; to check the unrestricted sprawl of large built-up areas; to prevent neighbouring towns merging into one another; to assist in safeguarding the countryside from encroachment; to preserve the setting of

historic towns; and to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.

15. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
16. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.
17. *NPPF Part 16 - Conserving and enhancing the historic environment*. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

National Planning Practice Guidance:

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

19. *Policy 1 (Quantity of Development)* outlines the levels of employment land and housing delivery considered to be required across the plan period.
20. *Policy 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.
21. *Policy 13 (Equestrian Development)* considers equestrian development as appropriate within the countryside subject to a number of criteria including; development being of an appropriate scale, size and design; buildings well related to the farm steading; proposals not unacceptably affecting the character, heritage or nature conservation value or the locality; appropriate screening being in place; appropriate waste management; and the amenity of neighbouring properties is protected and a safe access can be achieved.
22. *Policy 20 (Green Belt)* development proposals within the Green Belt will be determined in accordance with national planning policy. There is a presumption against inappropriate development in the Green Belt unless very special circumstances can be demonstrated. The National Planning Policy Framework (NPPF) sets out several exceptions as well as other forms of development which may be inappropriate in the Green Belt.
23. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
24. *Policy 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.
25. *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.

26. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that 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.
27. *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.
28. *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.
29. *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
30. *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.
31. *Policy 44 (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.

Neighbourhood Plan:

32. The application site is located within an approved designated Neighbourhood Plan Area for Bearpark, however, there is no indication that further progress beyond this has taken place and there are therefore no Neighbourhood Plan policies in force for the identified area.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

33. *Bearpark Parish Council* – No comments received.
34. *City of Durham Parish Council* – Note that the site is not within their Parish boundary, but affects residents that reside within their Parish area. They object to the application on the grounds that the development would create issues of noise and light pollution and consider there is conflict with policies 13, 29 and 31 as a result. They also raise concerns over lack of information in relation to manure management at the site.
35. *Highways Authority* – They raise no objections to the application on highway safety grounds.

Non-Statutory Responses:

36. *Design and Conservation* – Upon assessment, conclude that the development causes an adverse impact within Bearpark historic park, garden, and designed landscape (NDHA) and within the setting of the registered battlefield. Accordingly, it would be recommended that the application is in conflict with the principles of NPPF Section 16 and CDP Policy 44. They note, however, that harm can be avoided by removing the 3no floodlighting columns with the stark contrast to the surrounding pastureland mitigated by using a darker surface material but more in terms of providing hedge/tree planting to reduce the visual impact by naturally screening the surfacing and equestrian paraphernalia.
37. *Landscape Section* – consider that the proposals would cause a degree of harm to the local landscape character and would not help to conserve or enhance the special qualities of the Area of Higher Landscape Value (AHLV). Notwithstanding this, the proposal is appropriately located next to an existing group of buildings / farmstead, therefore whilst the principle of the retention of the arena could be accepted, acceptability of the overall scheme would be dependent on the removal of the lighting columns, the installation of a visually recessive surface and the provision of mitigation native tree, hedge or shrub planting around the perimeter of the arena to help filter and screen the proposal but also whether it is considered that conditions could be imposed to prevent further intensification and proliferation of equestrian paraphernalia to reduce the

visual impact of proposal and ensure that the proposals are not an obtrusive or incongruous addition within the landscape.

38. *Ecology* – No objection. However, consider that removal of the lighting would avoid any negative ecological impacts on bat foraging and wildlife using the pond.
39. *Environmental Health Nuisance* – Consider that the proposals have the potential to create a statutory nuisance but recommend the imposition of conditions limiting the use of the arena for personal use only and for no more than two horses. In addition, they recommend conditions for the flood lights to adhere to standard guidance to prevent light overspill as well as a limit to the hours of their use.
40. *Environmental Health Contamination* – No requirement for a planning condition for any assessments.
41. *Archaeology* – Following Historic Desk Based Assessment and noting the close proximity of the arena to the designated area of Neville's Cross Battlefield, conditions for a Watching Brief are requested to be attached to any approval.

External Consultees

42. *Historic England* – No comments.

Public Responses:

43. The application has been advertised by way of a site notice and individual notification letters sent to neighbouring properties.
44. Five letters of objection have been received, including from the City of Durham Parish Council, as discussed above, and the City of Durham Trust. They raise the following concerns:
 - The structure of the valley means that noise travels effectively from the farm, therefore pounding of horses on the arena would be an intrusion
 - The floodlights suggest this activity will take place at night causing further noise intrusions
 - The floodlights will be an eyesore
 - Residents have to contend with busy A167 and school floodlights to the front of dwellings, further floodlighting to the rear in the open countryside should not be allowed.
 - Fencing is out of character for the countryside
 - Use will not be just for personal use and will attract other horse riders given its size
 - The location of the floodlighting on top of an elevated ridge is inappropriate and will cause light pollution
 - Concerns over impact on the designated Green Belt and the historic parkland, in particular the lighting on the Beaurepaire ruin.

- Site is used for recreational walks with a footpath nearby, the fencing will appear as a blot on the parkland landscape.
- Previous development for quad bikes refused and consider this proposal is a stealth method for further commercial activity at the site.
- No requirement to exercise horses in the nighttime.
- Impact of light and noise pollution on wildlife.
- City of Durham Trust considers the development inappropriate development in the Green Belt contrary to NPPF and CDP policy, negatively impacting on openness. Further considers that the proposal will impact negatively on the character of the countryside and the historic amenities of the area and nearest residents, particularly in relation to the floodlighting. Activities on the site are also considered to be an intensification and would attract use beyond personal use.

Applicants Statement:

45. Surface Material

Having considered the sites setting within the landscape the surface treatment is difficult to distinguish as there is nothing rising above ground level apart from the fencing and lighting columns. From the Bearpark – Moorsley Bank footpath, the footpath sits below the height of the site by between 12 to 5 metres with a distance between the footpath and site of approximately 280 metres. As the site is at a greater elevation than the footpath and the surrounding land most views will be from lower ground looking up and across from 280 metres. As the proposal is a flat surface, level with the land abutting it, it will not be highly visible within the landscape. It is acknowledged that the surface treatment is different from the surrounding grass land, however, because it is level, and enclosed the treatment itself will not be overtly visible unless viewed from above or Google Earth.

Fencing

The applicant has considered the option of removing the fencing from this application, but instead has opted to keep the fencing within the application. The LPA must recognise that the fencing is permitted development and could remain. This is a material consideration and should be afforded significant weight. The LPA should not seek to control or consider the fencing as part of this application or landscape assessment.

Sub-division of Field

The sub-division of the field does not require planning permission. Fields are regularly subdivided either by temporary or permanent means. The measures for subdivision often fail to fall within the definition of development or are permitted development not requiring planning permission. The LPA must recognise that the subdivision is permitted development and could remain. This is a material consideration and should be afforded significant weight. The LPA

should not seek to control or consider the subdivision as part of this application or landscape assessment.

Land Profiling

The site is at a higher level than the surrounding levels, is a flat surface, level with the land abutting it and will not be highly visible within the landscape. It is acknowledged that the surface treatment is different from the surrounding grass land, however, because it is level, and enclosed the treatment itself will not be overtly visible within the wider landscape.

Lighting Columns

The impact of the lighting columns is increased at night when the lights are illuminated, however this is for a limited period and can be controlled by condition. Further to the lights being controlled by condition to limit their use, there use is also naturally limited depending on the time of year. It is anticipated that for at least 8 months of the year, the lights will not be required. This short period of time across the year, alongside the duration of their use cannot mean that the lights cause an unacceptable harm to the character, quality, or distinctiveness of the landscape.

Design

The surface material cannot be easily seen or identified, the fencing and subdivision can be done without planning permission and the three lights, when not illuminated are difficult to distinguish within the landscape. Therefore, the impact that is caused will be when the lights are in use, but only on the setting of the northern boundary of the Battlefield and not the Battlefield itself.

Mitigation

The first is the imposition of a planning condition to control the duration of the floodlights and to ensure that the lights automatically switch off after a period. This does two things, firstly, it ensures that the impact of the illumination is limited to a brief period, only in the months where early evening light is poor, and secondly, it ensures that the lights are not left on beyond their use, i.e. for an extended period or overnight.

The second is the imposition of a planning condition to ensure existing and additional planting to the western and northern boundary of the surface and enclosure is planted or retained. Due to the topography of the site, and in particular that views are up towards the site from the surrounding land, additional planting to the western and northern banks will have an immediate impact on firstly screening the surface and enclosure, but also the lighting columns.

Conclusion

There will be limited and localised impact on the landscape character and general appearance of the area. However, this will be for short periods, and for only a small proportion of the year because of the lighting. The other impacts on landscape, design and conversation would and could exist without planning permission and appropriate weight should be afforded to this position as part of the decision-making process. Notwithstanding this position, the Applicant is happy to accept controlling planning conditions and has suggested mitigation to further reduce this limited impact. It is therefore considered, that on balance, taking account of all material planning considerations and proposed mitigation that this application should be approved.

PLANNING CONSIDERATION AND ASSESSMENT

46. 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 relate to the Principle of Development, Design and Conservation, Landscape and Visual Impact, Residential Amenity, Ecology, Archaeology, other matters.

Principle of Development

47. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at NPPF Paragraph 12. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
48. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. 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.
49. The site is located within open countryside and within the designated Green Belt and an Area of High Landscape Value. Policies 10, 20 and 39 are considered relevant to the consideration of the scheme. As the works relate to equestrian activities, policy 13 is also of relevance.
50. Policy 20 of the CDP relates to Green Belt development and states that proposals within the Green Belt will be determined in accordance with national planning policy as detailed within Section 13 of the NPPF.

51. The NPPF attaches great importance to Green Belts, and identifies, at Paragraph 143, that the Green Belt serves five purposes. Paragraph 154 states that the construction of new buildings within the Green Belt should be considered as being inappropriate development, except in specific, identified instances, whilst Paragraph 155 identifies certain other forms of development as also being not inappropriate (i.e. appropriate) in the Green Belt, provided they preserve its openness and do not conflict with the purposes of including land within it.
52. At Paragraph 152 it states that inappropriate development is, by definition, harmful to the Green Belt and should not be approved, except in "very special circumstances". Paragraph 153 clarifies that Local Planning Authorities should ensure that substantial weight is given to any harm to the Green Belt, and that 'very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm, is clearly outweighed by other considerations.
53. The current application relates to the retention of an outdoor horse arena along with fencing and floodlighting in association with an existing equestrian use at the site. The proposals would be considered to fall within exception para. 154b) which allows for the provision of appropriate facilities (in connection with the existing use of land) for outdoor sport and outdoor recreation. However this exception only applies where the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it.
54. The outdoor horse arena is already in place and allows an assessment of the works in terms of their impact on openness. In relation to this particular scheme, it is noted that the main aspects requiring planning permission relate to the engineering works to create the surface of the arena, along with the other elements including the three floodlights.
55. A review of historical maps and street views on Google Earth reveal that in 2009 the site was largely uninterrupted and connected with the adjacent field to the north west as ploughed land. By 2014 the land appears to be disturbed and relates more to paddock use. Looking at aerial views from 2020 there are visual signs of an oval shaped track on the land that indicates it has been used as a running track for horses, and by 2021 the surface treatment on this same area of land has been altered to include a lighter colour material to that of the surrounding land. By 2022, the land has been formally changed to a clear rectangular shaped arena with a lighter surface treatment.
56. Historical street view imagery on Google Earth viewed from Toll House Road show that whilst the application site has always been on a ridge, between 2009 and 2015, the area of land has undergone works to build up the embankment to level the site as it falls towards the north west. These operational works are evidently complete well in excess of four years, and are therefore immune from enforcement. The levelled land has since been used for exercising of horses, with the arena now formally in place on this embankment. As such the latest operations on site to fully install the surfaced arena are not considered to create

any impacts on the openness of the Green Belt in visual or spatial terms, as the works to the land are at surface level only and the land itself remains in use for outdoor recreation involving the exercising of horses.

57. The other elements in particular the fencing and floodlights are more visually perceptible both from the nearby PROW and Toll House Road. It is noted that as the fencing is less than 2 metres in height and not adjacent to any highway, these aspects of the works could be undertaken without the benefit of planning permission. Such structures are not uncommon in countryside locations and being open timber rail fencing it is not considered that it negatively impacts on the visual openness of the Green Belt. In any case, historic street view images on Google Earth show fencing running along this ridge since at least 2015.
58. The three 4 metres high flood light columns however are considered to draw attention to the site from both the PROW but particularly from Toll House Road. Although it is accepted they are slimline poles, their existence at this height on the ridge along with the line of fencing makes the site appear prominent, indicating operations taking place and contributing to an incursion into the open countryside location. When lit, this effect would be exacerbated. Given their visibility from the main road to the south of the site, it was advised that they be removed from this prominent location and relocated to the north east side of the arena. Although still visible from the PROW, in this amended location, as noted on amended drawings, they would not be visible from the road and the lighting columns would be more contained within the visual field of the nearby buildings. Further discussion in terms of impacts of floodlights on the visual and residential amenities are discussed in more detail later in the report, but for the purposes of this assessment in terms of impact on Green Belt openness, it is considered that the relocation of the lighting helps to limit this impact substantially.
59. In relation to the second test of para. 154b) of NPPF Green Belt policy, the provision of an outdoor arena in this location, adjacent to an existing grouping of buildings and land already established in equestrian use is not considered to conflict with the reasons for which this land has been designated as Green Belt, as outlined in para. 143 of the NPPF. In particular, the outdoor arena, consisting of an engineered surface area for horse exercising is not considered to amount to urban sprawl or a merging of neighbouring towns. Although the formalised surfacing of the arena appears as an encroachment into the countryside area, particularly from aerial views, it provides an all weather surface for exercising horses and such a use is not considered inappropriate in the countryside area. Although the land is contained within a local historic park area, and the impact of this is discussed later in the report, it is not considered that the arena conflicts with the Green Belt purpose to preserve the setting and special character of historical towns and to assist in urban regeneration, as its existence on site allows for an appropriate use in this area.
60. Overall, the outdoor horse arena is considered acceptable in Green Belt policy terms, as it relates to an appropriate outdoor recreational use. In addition the fencing on site is appropriate in appearance and would be deemed permitted development in any case given its height and location. The relocation of the floodlighting columns is considered to reduce the impact particularly when

viewed from Toll House Road, and subject to conditions to strictly limit their usage (discussed later in report) it is considered that overall the proposals would suitably preserve the openness of the Green Belt and would not conflict with the purposes of including land within this designation.

61. With regards to assessment of the development against Policy 10, Development in the Countryside, this policy states that development will not be permitted unless allowed for by specific policies in the plan, of which Policy 13, Equestrian Development, is one such policy. In general this policy is permissible towards equestrian development, considering it to be an appropriate countryside use. As already stated, the equestrian use, along with stables and other paraphernalia associated with the keeping of horses is well established on site and as such, the proposed retention of the existing arena is deemed acceptable in principle in line with this policy.
62. Subject to other considerations detailed below, the proposed retention of the arena is deemed acceptable in principle in line with policies 20, 10 and 13 of the County Durham Plan and Part 13 of the NPPF.

Impact on the Character and Appearance of the Area

63. As previously outlined, the site is located within an area of heritage significance, including the NDHA associated with the historic farm grouping of Old Arbour House and the local listed garden associated with Bearpark as well as adjacent to the Registered Battlefield. The site is also located within an Area of High Landscape Value.
64. Key policies relevant to the determination of development that would affect these designations are policy 44 in relation to the Historic Environment and Policy 39 relating to landscape and AHLV.
65. Policy 44 states that 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. With reference to Registered Battlefields and parks and Gardens, regard should be given to the sustainable management of the battlefield site / landscape, its features and setting. With regards non designated heritage assets (NDHA), a balanced judgement will be applied where development impacts upon the significance and setting of NDHA. In determining applications which would affect a known or suspected non-designated heritage asset with an archaeological interest, particular regard will be given to ensuring that archaeological features are generally preserved in situ.
66. Policy 39 states that development affecting AHLVs will only be permitted where it conserves and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm.

67. Policies 10, 29 and 13 also provide policy advice on protecting heritage and landscape and are also of relevance in this case.
68. Policy 10 provides a number of general design principles for all development in the countryside, requiring development by virtue of siting, scale, design and operation to not give rise to unacceptable harm to the heritage, biodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively which cannot be adequately mitigated or compensated for. In addition development must not impact adversely upon the setting, townscape qualities, including important vistas or form of a settlement which cannot be adequately mitigated or compensated for. Policy 29 requires similar provisions.
69. Policy 13 requires that proposals do not by virtue of their siting, design, scale, materials or layout, lighting or through the inappropriate intensification of existing bridleways, routes and land, unacceptably affect the character, heritage or nature conservation value of the locality either individually or cumulatively with other development. In relation to arenas, proposals should provide appropriate measures for screening with trees and hedges.
70. These policies wholly align with Parts 12 and 15 of the NPPF which promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside and optimise the potential use of the site.
71. Consultations were undertaken with both Design and Conservation and Landscape section for their views on the impact of the proposal to retain the arena and lighting on this sensitive landscape and historic setting.
72. Design and Conservation highlighted within their response the heritage significance associated with the site and determined that the development had changed the character and appearance of the former pasture land, through modification of the landform, creation of a fenced enclosure and installation of a different surface treatment along with the three floodlighting columns, intensifying the urbanisation at this rural fringe location.
73. In their detailed assessment on the impacts to the local parkland NDHA, Design and Conservation Officers noted that in relation to the Beaurepaire, scheduled monument, there is an absence of intervisibility between the development and the heritage asset on account of the distance between the two sites, the intervening topography, woodland, and trees. However, they confirm that there is a historic relationship between Beaurepaire and the subject site as it falls within its extensive parkland. The value of the parkland views in the area in which the development features is high as despite the monument itself being unseen, it features in a range of locally valued views from the PROWs across the scenic historic landscape. Beyond the long-standing residential dwellings at Arbour House Farm prior to the development being implemented there would have been a dark environment that is to be expected in a countryside location beyond the urban limits. In this context the 3no floodlights would have an

anticipated adverse visual impact when in use by being visually detracting in night-time views across the landscape, and from certain vantage points impacting adversely upon the dark skyline, conflicting with the predominant landscape character.

74. Further to this, Design and Conservation officers comment that the development has also resulted in a change to the character and appearance of the site from grassed pastureland to surface materials of silica and fibre which is visually in stark contrast to the surrounding pastureland, and therefore out of keeping in the historic parkland context. Consequentially, there is some harm caused within Bearpark historic park, garden, and designed landscape NDHA.
75. Design and Conservation further comment that the development is situated on the edge of the northern boundary of the registered battlefield, but the area of interest associated with the battlefield is known to extend beyond this boundary, and the wider topography of the area is a fundamental part of the story and legibility of the battlefield site. The battlefield is extensively developed on the eastern side but the land to the west remains largely agricultural. The development is counter to the prevailing natural agricultural character of the battlefield site in the west impacting in the landscape where major elements are unchanged since the battle took place. Prior to the developments implementation the subject site was part of a larger area of pastureland that assimilated naturally into, and complemented, the surrounding landscape character. There are numerous, well used, PROWs across the area that offer the opportunity for public appreciation of the history of the battlefield site in terms of the landform and landscape character. The 3no floodlight columns are situated on the higher ground of the flat plateau area and are seen from the surrounding PROWS. As the battlefield site in the west is primarily a dark environment given its mostly undeveloped agricultural character, the floodlights at night are anticipated to represent visually incongruous features that detract from the experience of this landscape, thereby impacting adversely on the setting of the registered battlefield.
76. In relation to the impacts on the Old Arbour Farm NDHA, the development is considered to relate to the existing farm group, by reason of sitting directly adjacent to it, but given its association with the equestrian buildings and use here, the development is not considered to form a detracting or incongruous feature in the visual envelope of the NDHA, the impact considered minor that is not harmful.
77. In terms of landscape impacts, given the siting of the arena within an Area of High Landscape Value, landscape colleagues confirmed that from the adjacent Footpath (Bearpark No.10), the proposal has resulted in a significant change to the open pasture and predominantly rural character of its surroundings, given it is noticeably different appearance relative to its surroundings resulting from the surface material. The additional fencing and subdivision of the field, land reprofiling to create a level platform and erection of the lighting columns have contributed to the landscape and visual impact and urbanisation of the site. The likely ancillary clutter associated with type of development would also contribute to this.

78. They further comment that the lighting columns, given their height, are, both a prominent and incongruous addition on the land (especially from the road (C17) to the south where they are seen against the skyline) which is an unwelcome intrusion into the rural and previously undeveloped character of the site.
79. Taken together, the comments from both the Design and Conservation officer and the Landscape officer clearly identify an adverse impact on the Bearpark Historic park and garden NDHA, Registered battlefield along with a degree of harm to the local landscape character that would not help to conserve or enhance the special qualities of the Area of Higher Landscape Value (AHLV).
80. Notwithstanding this, there is agreement that the proposal is appropriately located next to an existing group of buildings / farmstead, therefore whilst the principle of the retention of the arena could be accepted, acceptability of the overall scheme would be dependent on the removal of the lighting columns, the installation of a visually recessive surface and the provision of mitigation native tree, hedge or shrub planting around the perimeter of the arena to help filter and screen the proposal.
81. The applicant was requested to amend the proposals to take account of the recommendations to mitigate the impacts. In response they commented that the arena is located on an area of land that has been previously disturbed through installation of a ground source heating system back in 2010. As such the works relate to resurfacing works on previously disturbed ground. They further comment that given the surface has been previously altered and is recognised as a flat surface the impact of the renewed surface would only appear more significant when viewed from above. The surface treatment is at ground level and does not rise or protrude significantly from the immediate land levels that adjoin it. In addition as the site is at a greater elevation than the footpaths and surrounding land most views will be from lower ground looking up and would therefore not be visible in the wider landscape, being located on high ground.
82. In relation to the floodlighting, the applicant considers that the columns are not overtly visible within the landscape given their slender nature and would appear like any other structure or infrastructure identified in the local landscape, such as streetlighting, electricity poles and telephone poles. The main impact would be experienced when they are lit, but this would be for very limited periods of time during winter months, the use of which could be strictly controlled by condition.
83. The applicant was agreeable to the imposition of a landscaping condition which would require the provision of a detailed scheme for native planting on the south and west embankment of the site along with a condition for its implementation.
84. Whilst it is disappointing that there is no agreement to install a visually recessive surface or remove the floodlighting, particularly as cumulatively, these features along with the land reprofiling to create the level platform and fencing has somewhat urbanised the site, it is accepted that the land reprofiling is immune from enforcement and use of the site for equestrian activities established, with

the fencing outside of planning control. As such the key outstanding elements relate to the surface materials and three floodlighting columns. It is not considered that the surface materials would provide a particularly strong case to warrant a refusal in their own right, given their limited visibility from wider viewpoints.

85. The floodlighting however is considered somewhat obtrusive when viewed from Toll House Road, and an amended plan has been received indicating their new location to the north eastern side of the site, taking them out of views from the main road where they are currently seen against the skyline. This would of course bring them into closer views for users of the footpath, but they would be seen in conjunction with the adjacent buildings. The main impact would remain when they are in use and illuminated at night given the dark environment of the wider surrounding historic landscape environment. In mitigation, further landscaping would be required by means of condition along this northern edge to help filter and screen the proposal, alongside a condition to control hours of use during winter months to no more than 2 hours between 1700 and 2000 hours.
86. In determining the suitability of this mitigation against policy requirements, paragraph 209 of the NPPF, also reflected in policy 44 of the CDP, states that the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset. Policy 10 requires that development should not give rise to unacceptable harm to the heritage or intrinsic character of the countryside that cannot be adequately mitigated. Whilst policy 13 requires that proposals do not, by reason of siting, materials or lighting unacceptably affect the character and heritage of the locality.
87. In this policy context, the retention of the floodlighting would incur policy conflict, but could be strictly controlled by condition, limiting to a reasonable degree its impact on the surrounding historic environment at night. Details of the lighting indicate that it would be focussed with limited overspill beyond the site but a condition could be applied seeking precise details of this and to ensure they are suitable for this location. Given the wide coverage of the NDHA and the localised and limited hours of use of the lighting and its location next to a grouping of residential properties, it is considered that on balance the mitigation proposed through control of the lighting, would reduce the scale of the harm associated with their use on a small localised area of the NDHA that would be temporarily affected. Alongside this, the imposition of a landscape condition to provide planting on the south and west embankments to screen the highly visible and established levelled landform, as well as the northern boundary of the arena would provide beneficial visual improvements to the historic area and would be viewed as suitable compensation for the existing works at the site in line with policy 10. The planting of native species would improve the visual amenities and ecological value of the area, in particular the embankment helping to assimilate the site better within the surrounding environment. In so doing, any approval with such a condition would help to enhance the special

qualities of the AHLV landscape in line with requirements of policy 39 and would be viewed as a public benefit.

88. In consideration of the various issues raised by relevant consultees as well as through objections, it is clear that the current situation presents some harm, experienced largely through the engineered landform and retention of the floodlighting. However the landform is beyond control through planning and the repositioning of the floodlights on site would help to reduce the impact they present, and through controlling their use, alongside a robust landscape scheme, both secured by condition, suitable mitigation is considered to be afforded to the scheme. Noting that the landform is established on site, along with the equestrian use, the mitigation proposed by means of landscaping would help to improve the existing situation, screening the works from wider views, as well as the surface materials from nearer views, and would represent a public benefit overall, that would go some way to outweigh the harm identified. On balance and in consideration of the existing situation, subject to suitable conditions, the proposals would be considered to accord with policies, 10, 13, 29, 39 and 44 of the CDP and part 16 of the NPPF.

Residential Amenity

89. Parts 12 and 15 of the NPPF 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.
90. Criterion r) of Policy 10 is not permissible towards development that would impact adversely upon residential or general amenity, whilst policy 13 requires that proposals should not adversely impact on the general amenity of neighbouring properties and the wider area. CDP Policy 29e) further states that all new development should provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.
91. CDP Policy 31 states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulative, on health, living or working conditions or the natural environment. Proposals which would have an unacceptable impact such as through visual intrusion, visual dominance, loss of light, noise, and privacy will not be permitted unless satisfactory mitigation measures can be demonstrated. The policy further states that development which does not minimise light pollution and demonstrate that the lighting proposed is the minimum necessary for functional or security purposes will not be permitted.
92. The supporting text to Policy 31 advises that light pollution is artificial light that illuminates areas that are not intended to be lit. The intrusion of overly bright or poorly directed lights can cause glare, wasted energy, have impacts on nature conservation, and affect people's right to enjoy their property. Development proposals with the potential to result in unacceptable levels of light pollution, either individually or cumulatively with other proposals, should be accompanied

by an assessment of the likely impact to show that the lighting scheme is the minimum necessary for functional or security purposes and that it minimises potential pollution from glare and spillage.

93. A small number of objections were received in relation to the application, including three objections from residents living at Moor Edge. The main emphasis of the objections related to noise and light disturbance from the horse related activities and lighting at night. Concern was also raised that the scale of the proposals would suggest that a more commercial use is proposed on the site, bringing further noise and disturbance to what is an open countryside location. It is noted that no comments were received from nearest residents living within the Old Arbour Farm complex or along Toll House Road.
94. Environmental Health were consulted for their views on the scheme. They comment that based on the information submitted there is a potential that the development could breach the thresholds within the TANS for noise and lighting, indicating that without further controls it could lead to a significant impact.
95. They further comment that the application specifies that the use of the arena will be strictly for personal use only, that there are only two horses on site at present and that the arena will only ever be used for one horse at a time. The application also states that the proposed floodlighting will only be operated for a maximum of two hours per day, between the hours of 1600 to 1900 during the months of daylight saving. Information has also been provided in relation to the floodlighting to be operated, which involves three units at 4m height, although this detail does not fully demonstrate compliance with the Institution of Lighting Professionals (ILP) Guidance for the reduction of obtrusive light.
96. The Environmental Health officer acknowledges that public concerns have been raised regarding the potential for light and noise impact from the use of such a development. They note however that the development has been in operation for some time, works are stated to have been completed in November 2021, and upon undertaking a search of the Civica database, it has not revealed any complaints relating to the use of the arena which would suggest that the use, as described within the application published on 13 July 2022, is suitable with appropriate mitigation measures in place.
97. In assessing the environmental impacts which are relevant to the development in relation to their potential to cause a statutory nuisance, as defined by the Environmental Protection Act 1990, the Environmental Health Officer is of the opinion that the granting of planning permission for the development may potentially result in a statutory nuisance being created, without appropriate mitigation measures/controls being put in place to control noise and light impacts.
98. Mitigations that they recommend include conditions to ensure the proposed arena is restricted to personal use only and to no more than two horses at any time and not between the hours of 1901 to 0659 on any calendar day. Controls on the type of floodlighting along with the hours of use are also recommended.

99. Given the comments from Environmental Health, noting in particular that the use has taken place for at least the last 2 years, without any record of complaints, the mitigation proposed appears reasonable and in line with the suitable function of the arena for personal use, as is proposed. Although the objections are noted, these properties are located approximately 400 metres from the siting of the arena. It is accepted that when the floodlights are lit, light would travel, however, the application of suitable conditions for precise details of the lighting to be installed along with control over the hour of use is deemed a suitable mitigation and would ensure the proposals adhere to the requirements set out in policy 31.
100. Subject to the conditions referenced, the proposed retention of the arena and floodlighting would be considered acceptable in accordance with relevant policies 10, 13 and 31 of the CDP.

Highway Safety/Access

101. The proposed retention of the arena for personal use raises no issues or concerns with regards highway safety, access or parking. There is therefore no conflict with policies 21 and relevant parts of policy 10 and 13 of the CDP in this regard.

Archaeology

102. CDP Policy 44 states that in determining applications which would affect a known or suspected non-designated heritage asset with an archaeological interest, particular regard will be given to ensuring that archaeological features are generally preserved in situ or if justified appropriately excavated and recorded with the results fully analysed and made publicly available.
103. The works have already been carried out on site, however in consultation with the County Archaeologist, although regrettable that the ground has already been disturbed without an appropriate watching brief in place, there remains an opportunity to undertake investigative works to monitor for any potential archaeological interest on the site. Given the close proximity of the Registered Battlefield, a condition is there required for a written scheme of investigation to be submitted, along with the completion of a report to be submitted detailing results of investigations. On this basis, subject to these conditions, any approval for the retention of the arena on site would accord with CDP Policy 44 and Part 16 of the NPPF.

Other Matters

104. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. NPPF Paragraph 189 requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination. Contaminated land confirmed that there was no requirement for any reports but an informative should be included as standard.

105. CDP policy 43 requires that in relation to protected species and their habitats, all development which alone or in combination, has a likely adverse impact on the ability of species to survive, reproduce and maintain or expand their current distribution will not be permitted unless appropriate mitigation can be provided, which maintains a viable population. Ecology raised no objections to the scheme, noting however, that the lighting had the potential to impact on potential bats in the area. However as noted, given the proposed controls to be applied through planning conditions strictly limiting their use to no more than two hours and during winter months only, and their location close to existing residential properties, the retention of lighting would not be considered to adversely impact on the protected species or potential habitat.
106. Comments were received in relation to the lack of information provided pursuant to management of waste and manure associated with the equestrian use. As the equestrian use is well established on site, and the proposals relate to the retention of the arena and lighting, it is not considered in this case that such details are required for the determination of this application.

CONCLUSION

107. NPPF Paragraph 11c requires applications for development proposals that accord with an up to date development plan to be approved without delay. 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.
108. The proposal seeks permission to retain the existing arena with floodlighting, noting that the site is located within open countryside and within the designated Green Belt, Area of High Landscape Value, NDHAs associated with Old Arbour Farm and the local listed garden and Parkland of Bearpark, containing the scheduled monument of Beaurepaire, as well as being directly adjacent to the boundary of the Registered Battlefield of Nevilles Cross.
109. The proposals have been carefully considered against all relevant policies in terms of protecting the various heritage and non designated heritage assets, as well as the sensitive environment associated with its open countryside location and AHLV designation. It is acknowledged there is some limited degree of harm relating to the unauthorised development as currently exists (as outlined in detail in previous sections), which largely relates to the retention of the floodlighting, it is considered in this case that the imposition of various conditions to approve their relocation, control their use, as well as control the general use of the arena would suitably mitigate against any potential harm. As the existing landform is considered lawful and the equestrian use is established on site and the arena is considered to be appropriate in this location, particularly

the Green Belt location in this case, it is considered the imposition of further landscape conditions would help to improve the local environment and enhance the amenities associated with the AHLV, improving the existing situation and providing a public benefit. The proposals are therefore considered to comply with policies 10, 13, 20, 29, 31, 39 and 44 of the County Durham Plan and Parts 12, 13, 15 and 16 of the NPPF.

110. The application has generated some limited public interest which has been considered as part of this report, but given the mitigation proposed, it is considered that the concerns raised would not in this case be sufficient to warrant a refusal. On this basis, subject to conditions listed below, the application is presented to Planning Committee with a recommendation to approve.

Public Sector Equality Duty

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

RECOMMENDATION

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

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

Plan	Drawing No.	Date Received
Lewis Outdoor Arena Location Plan	LOA-ASM-00 Sheet 2/3	13/07/22 24/05/22
Amended light columns location	WRAR12856	11/03/24

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 10, 13, 20, 29, 31 and 44 of the County Durham Plan and Parts 12, 13, 15 and 16 of the National Planning Policy Framework.

2. Within one month of the permission hereby granted a detailed landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority.

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

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

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

Trees, hedges and shrubs scheduled for retention.

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

Details of planting procedures or specification.

Finished topsoil levels and depths.

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

Details of land and surface drainage.

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

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

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

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

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

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

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

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

Replacements will be subject to the same conditions.

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

4. Within three months of the permission hereby granted, a written scheme of investigation setting out a programme of archaeological work in accordance with 'Standards for All Archaeological Work in County Durham and Darlington' shall be submitted to and approved in writing by the Local Planning Authority. The programme of archaeological work will then be carried out in accordance with the approved scheme of works.

Reason: To safeguard any Archaeological Interest in the site, and to comply with Policy 44 of the County Durham Plan and Part 16 of the National Planning Policy Framework.

5. Within 12 months of the date of the completion of the fieldwork, as detailed in the Written Scheme of Investigation required through condition 4, the post investigation assessment shall be completed in accordance with the approved Written Scheme of Investigation. The provision made for analysis, publication and dissemination of results, and archive deposition, should be confirmed in writing to, and approved by, the Local Planning Authority.

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

6. The existing three floodlights that are located adjacent to the southwest perimeter of the arena shall be removed within one month of the date of this permission.

Reason: To protect general amenities of the area, in accordance with Policy 10, 13, 31 and 44 of the County Durham Plan and Part 15 and 16 of the National Planning Policy Framework.

7. Details of the proposed replacement three external floodlights hereby approved shall be submitted to and approved in writing by the Local Planning Authority prior to them being first brought into use. The detail to be provided shall include a plan indicating their precise location adjacent to the north east perimeter of the arena, along with details to demonstrate they would be orientated and shielded or otherwise designed and positioned such that they meet the requirements of the Guidance Notes for the Reduction of Obtrusive Light GN01:2020. The external lighting shall be erected and maintained in accordance with the approved details thereafter.

Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.

8. The approved floodlights shall only be operated for a maximum of two hours between the hours of 1600hrs and 1900hrs, on any calendar day between 1 November and the following 31 March and at no other time.

Reason: In order to minimise light spillage in the open countryside location and to protect general amenities of the area, in accordance with Policy 10, 13, 31 and 44 of the County Durham Plan and Part 15 and 16 of the National Planning Policy Framework.

9. The arena shall not be occupied by any more than two horses at any time on any calendar day and no horse shall be present in the arena between the times of 1901hrs to 0659hrs on any calendar day.

Reason: To protect the amenities of the area in accordance with Policy 10, 13 and 44 of the County Durham Plan and Part 15 and 16 of the NPPF.

10. The horse arena hereby approved shall not be used or operated as a trade of business.

Reason: To protect the amenities of the open countryside and wider area in accordance with Policies 10, 13, 31 and 44 of the County Durham Plan and Parts 15 and 16 of the NPPF

11. The use of the horse arena hereby approved shall be used only by the applicant and occupiers of Old Arbour House.

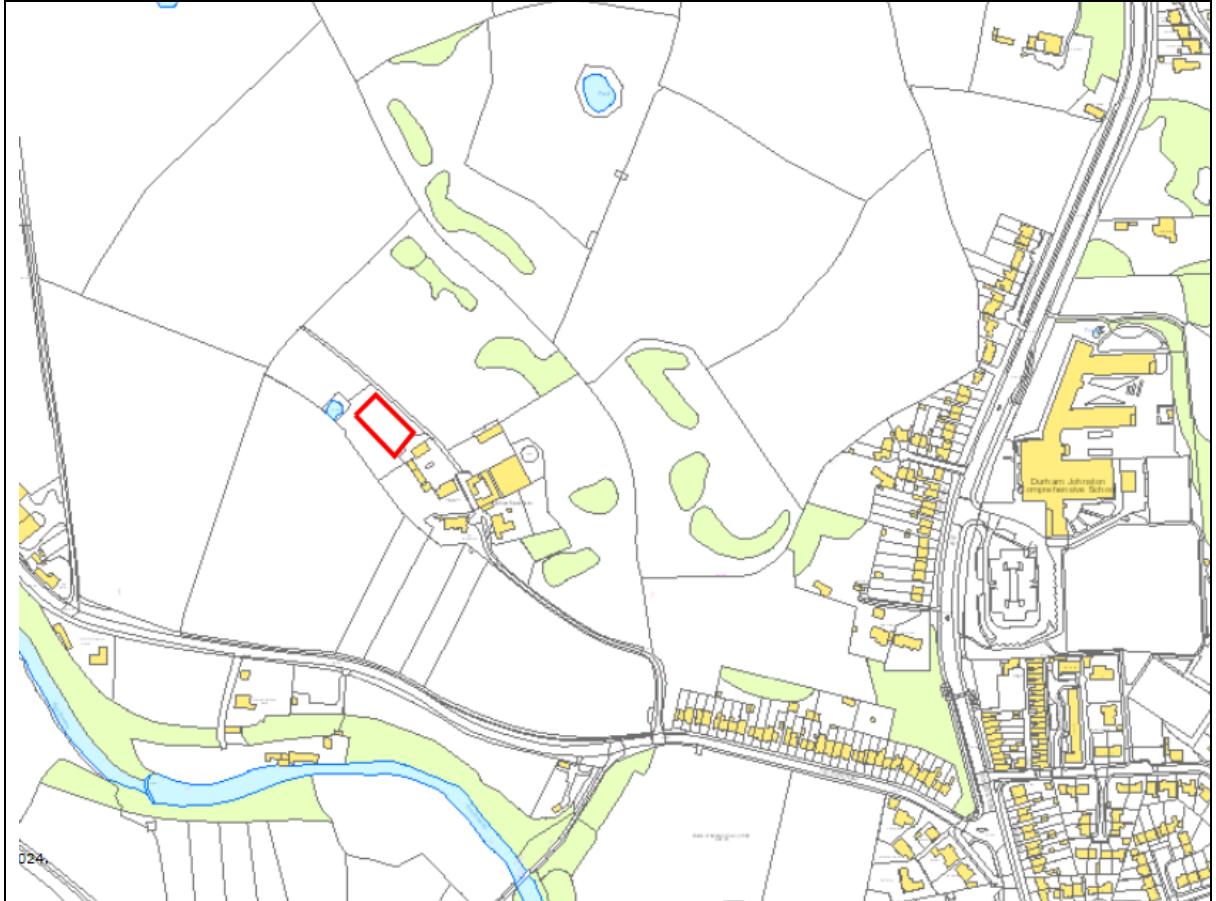
Reason: To protect the amenities of the open countryside and wider area in accordance with Policies 10, 13, 31 and 44 of the County Durham Plan and Parts 15 and 16 of the NPPF

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Statutory consultation responses
Internal consultation responses
External consultation responses



<p>Planning Services</p>	<p>Creation of an outdoor horse arena, with timber rail fencing and floodlighting, exclusively for personal use (retrospective)</p> <p>Old Arbour House, Crossgate Moor Durham, DH1 4TQ</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Comments</p>	
	<p>Date: 14th May 2024</p>	

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/24/00334/FPA
FULL APPLICATION DESCRIPTION:	Temporary change of use of the property from a C3 Residential dwelling to C2 Children's Home for a period of up to 3 years.
NAME OF APPLICANT:	Mr Lee Sowerby - Juniper Care and Support LTD
ADDRESS:	131 Grange Way Bowburn Durham DH6 5PL
ELECTORAL DIVISION:	Coxhoe
CASE OFFICER:	Lisa Morina Senior Planning Officer Telephone: 03000 264877 Lisa.morina@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site:

1. The application site is a two-storey detached dwelling located within a residential estate in Bowburn. Land levels to the site are flat. The property benefits from an open plan front garden area with a detached garage to the side of the property. The rear garden area is enclosed by fencing.

The Proposal:

2. Consent is sought to temporarily change the use of the property from a C3 Residential dwelling to a C2 Children's Home for a period of up to 3 years. The home will accommodate up to 2 children aged 8-17 years.
3. It is understood the property has been in use on a sporadic basis as an unregulated crisis arrangement provision for one looked after child. The tenancy started on the 24 February 2023 with young person care starting on the 10 March 2023. The applicants have confirmed that they have cared for 3 young people to the date of submitting the full planning application.

4. For transparency they have confirmed that they are currently caring for a young person that came to them on 9th February 2024 on a short term placement and as such the proposal is considered on a retrospective basis.
5. This application is being reported to Planning Committee at the request of Cllr Jan Blakey due to anti-social behaviour issues.

PLANNING HISTORY

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

PLANNING POLICY

NATIONAL POLICY

7. A revised National Planning Policy Framework (NPPF) was published in July 2023. The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
8. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
10. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
11. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
12. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located

where the need to travel will be minimised and the use of sustainable transport modes maximised.

13. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. *NPPF Part 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.

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

LOCAL PLAN POLICY:

County Durham Plan

16. 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.
17. Policy 18 (Children's Homes) will only be permitted where there is a gap in service provision; the site offers a positive, safe environment with access to services and community facilities; the scale will allow the occupants to be appropriately matched regarding welfare; the occupants will not be placed at risk, it is unlikely to result in unacceptable impact on residential amenity, fear of crime or community cohesion; and appropriate measures for emergency access, outside space, highways access, parking and servicing can be achieved. Applications must be supported by information regarding management and safeguarding.
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 Parking and Accessibility Supplementary Planning Document.

19. Policy 29 Sustainable Design details general design principles for all development stating that new development should contribute positively to an areas' character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
20. 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.
21. Residential Amenity Standards SPD – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
22. Parking and Accessibility SPD – provides guidance on road widths and parking standards for new developments.

Neighbourhood Plan

23. The application site is located within the Cassop-Cum-Quarrington Neighbourhood Plan area and the following policies are considered of relevance:
24. Policy CCQ4 (Achieving Beautiful and Successful Development) seeks to deliver beauty and successful place-making and be efficient in terms of functionality and use of resources. To achieve this development should be appealing and foster a sense of delight and wellbeing for occupants, visitors and passers-by, have a positive and coherent identity and character, thereby creating or contributing to a distinct sense of place and belonging, enhance the positive qualities of the site and setting and improve negative ones, and be efficient in terms of functionality and resource use.

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

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY/EXTERNAL RESPONSES:

25. Highways – No objection raised
26. Durham Constabulary – No objection raised
27. Cassop-Cum-Quarrington Parish Council have expressed concerns about the application. It is our understanding that the property has already been operating as a children's home and that the residents from neighbouring properties have raised a number of complaints regarding the impact which the home has had on the area. Whereas a change of use application may enable certain conditions to be imposed

on the property, it is currently not operating in a way which minimises the impact on local residents and has been disruptive to the community.

28. Given the level of complaints from parish residents, the Parish Council has serious concerns about this application and asks that you take this into account when considering the change of use.

INTERNAL CONSULTEE RESPONSES:

29. Environmental Health (Noise) – No objection raised
30. Policy – Advice on policy requirements
31. Children and Adults Services – No objection, need within the area for Childrens Homes.

PUBLIC RESPONSES:

32. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. To date, 47 letters of objection has been received with the following concerns:

- Concern regarding whether the information provided is factually correct.
- The Management Plan states that "We acknowledge that until we are a registered provider we are unable to support young people in County Durham but we are agreeable to the Durham First Approach and we look forward to being in a position to provide care for young people from our own community in the future." This is not true as Juniper Care are already caring for young people at this property.
- Parking Provision on the estate is already at capacity with most properties having more vehicles than the allocated number of parking spaces.
- Inconsiderate parking is causing anxiety and conflict with residents and creating highway safety concerns.
- No evidence that Juniper Care have made any attempt to develop positive relationships with the local community as stated in their Management Plan.
- The property is already in use as a children's home for the last 11 months
- There has been a noticeable impact on resident's mental health and wellbeing and community spirit which is considered detrimental.
- Reasons for objection are based on factual evidence that the issues are already occurring rather than speculation about what may happen
- Various Incidents of Anti-social behaviour/noise and disturbance including:
 - loud music
 - foul language and shouting
 - Litter from overflowing bins / cigarettes
 - Trespassing in neighbouring gardens with abusive language to neighbours
 - Revving car engine
 - Abusive behaviour to ambulance workers
 - Intoxicated resident children
 - Strangers looking through windows and nearby vehicles
 - Intimidation – feeling unsafe
 - Criminal Damage including windows of the property have been smashed
 - Property belonging to neighbouring ESH offices has been vandalised.
- Devaluation of properties

- Lack of communication with the applicant
 - Increased police presence and pressure on police
 - Concern regarding the number of children to carer ratios given existing issues
 - The proposal would be contrary to policy 18 of the CDP
 - The proposal is totally driven for profit.
 - The company has a total disregard for legislation
 - The business use is out of character on the estate.
 - Restrictive covenants on the site restricts the use of the property
33. PCC Joy Allen, as Police and Crime Commissioner for Durham has also provided concerns regarding the demand on policing from the private, charity sector and unregulated children's homes and as such they are concerned – both for the vulnerable children and young people who are placed there, often from out of area whereby little information is known about the child locally, the amount of police resources this takes up responding to children reported missing from these homes and community concerns that are raised with me, linked to the increase in crime and ASB.
34. They go on to consider that children can often be placed in areas (without consultation with the force) associated with high crime and high harm which can put these vulnerable young people at significant risk. As Corporate Parents, Durham County Council have a responsibility to look after County Durham's children and although I know that children and young people's services across the country are in crisis due to an underfunded system which is in-need of reform, the impacts on policing locally are significant.
35. One child alone could be responsible for over 100 calls for assistance. Sadly the absent home owners do not contribute to policing or other services in our area, whilst making significant profits from young people's vulnerabilities, and for me this has to stop.
36. They conclude with that they feel we have reached saturation point in County Durham whereby we cannot continue to put children in accommodation that is not appropriate for their needs, They deserve better than this and consider that the Planning Committee have a moral and legislative responsibility as Corporate Parents to refuse this application.

APPLICANT'S STATEMENT:

37. This planning application is submitted by Juniper Care and Support for a change of status from C3 to C2. This application is for a proposed new Ofsted registered provision. The planning submission is temporary and for a duration of 3 years. Our robust management plan outlines that the home will provide care for up to 2 looked after children between the ages of 8 – 17.
38. Juniper Care and Support LTD was established in 2022 and we have been caring for and making a significant positive impact to young people since 2023. We have been operating as a short term crisis response service that provides high quality care, rapid psychological intervention, considered and bespoke activity and education for young people to break cycles of risk taking behaviour. The positive impacts we have made in collaboration with our young people alongside internal and external support would be impossible to capture within this statement. We support the most vulnerable young people in society and the progress they make with us is unmeasurable, our support has and will continue to save lives. Our young people come to us when they have no one, and when they are rejected by everyone! Their

lives have been destroyed by unimaginable trauma and loss that is completely outside of their control. We carefully help them open up to the care, love and support they need, and we do this together. This support includes fast tracked clinical intervention and education and has helped all our children onto a positive next stage of their lives that was not available to them prior to their time with our amazing team. Below is a summary of one of many independent comments about the service we provide.

39. “Juniper Care and Support have cared for a young person who has come on leaps and bounds and are able to have much more mature conversations, have settled in school and are able to control their emotions, which they were unable to do in previous placements. They are now starting to lead more of a normal childhood which I didn’t think would be possible because of their own struggles. They have an amazing relationship with the staff. Management are excellent and are always welcoming and I cannot believe the difference in the young person, their progress has been huge. The difference is that I believe that the young person understands they are cared for. I cannot recommend Juniper Care highly enough. I have had a lot of experience with children’s homes/residential units over the last 10 years and I cannot speak highly enough of my experience with Juniper Care.”
40. We have increased our management oversight significantly in February 2024, our new Deputy Manager has experience within a senior role working with looked after children and is also an experienced primary deputy head teacher working in County Durham schools. He is very well placed to support our also recently appointed highly competent and experienced registered manager. We are unique in that we are a small family company with both directors coming from a children support background. We employ amazing care workers that have a combination of children’s care and educational experience. We also have a professional relationship with a senior psychologist who supports our children from the beginning and throughout their time with us. We have also introduced more stringent controls on parking. Initially this was a challenge as staff viewed large numbers of cars parked on the footpath on their way to our home and subsequently deemed this as acceptable. To counter this perception, and to ensure adherence, the parking plan now falls under company policy as a direct management instruction.
41. We have also highlighted our strong agreement with the Durham First Approach within process and all local authority correspondence. This is a significant priority for us and additional measures are in place to ensure we can register our home empty if planning is granted. The Council’s Sufficiency and Commissioning Strategy states “There are very few 1 or 2 bedded homes in County Durham, that can offer specialist care and support to meet the needs of our most challenging children and young people. We have an increasing need for smaller homes” Our service, if planning is granted will help support Durham with this identified need.
42. We have liaised with Durham Constabulary, Commissioning and Planning since 2022 and they have provided essential information to our service, this is something we are very grateful for.

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

PLANNING CONSIDERATIONS AND ASSESSMENT

43. 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.
44. The NPPF is a material planning consideration in this regard. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 219 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
45. The County Durham Plan is now adopted and is considered to represent the up-to-date Local Plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.
46. In this context, it is considered that the main planning issues in this instance are as detailed below

Principle of the Development

47. The application site falls within the built-up area of Bowburn and is an existing residential dwelling located on a residential estate. Consent is sought to change the use of the property to a children's home falling within Use Class C2.
48. The property will accommodate up to 2 young people between the ages of 8 – 17 years old, there will also be 2 members of staff on duty each day. The shift pattern is 24 hours on, 48 hours off on a rolling rota. Shift change will occur at 10am.
49. At this point, officers wish to draw attention to a Written Ministerial Statement that was issued on 23rd May 2023 by Baroness Scott of Bybrook, the minister for Faith and Communities. The statement notes that 'the planning system should not be a barrier to providing homes for the most vulnerable children in society. When care is the best choice for a child, it is important that the care system provides stable, loving homes close to children's communities. These need to be the right homes, in the right places with access to good schools and community support. It is not acceptable that some children are living far from where they would call home (without a clear child protection reason for this), separated from the people they know and love. Local planning authorities should give due weight to and be supportive of applications, where appropriate, for all types of accommodation for looked after children in their area that reflect local needs and all parties in the development process should work together closely to facilitate the timely delivery of such vital accommodation for children across the country.'
50. In respect of the County Durham Plan, it is considered that both policy 6 and 18 of the County Durham Plan are of relevance. Policy 6 (Development on Unallocated Sites) states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:
 - a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;

- c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
- d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
- e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
- f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
- g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
- h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
- i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
- j. where appropriate, it reflects priorities for urban regeneration.

51. The application site is within the built up area and in respect of criteria a, the site is within an existing residential estate and as such it is considered that the use would be compatible with the surrounding residential uses. Criteria b, c and d are not considered relevant to this proposal as the development would not result in the loss of open land or backland development and being a change of use no design changes are proposed. Part e is considered in more detail elsewhere in this report however, it is not considered that there are any significant concerns.
52. The site is located within a sustainable location close to shops and services in Bowburn and within walking distance of a bus route with regular services to Durham City. As such the proposal would accord with criteria f of Policy 6. The property is an existing dwelling and as such criteria g would be complied with. Criteria h to j are not considered relevant to this proposal.
53. Policy 18 (Childrens Homes) states that in order to promote the creation of sustainable, inclusive and mixed communities, applications for children's care homes, will only be permitted where they accord with a number of criteria listed under a-g including there being a need for such uses and the suitability of the location.
54. The supporting text associated with policy 18 states at paragraph 5.179: "The children and young people living in children's homes are among the most vulnerable in society. Whilst children's homes have traditionally been for children under 16, provision for young people beyond the age of 16 years old would also be determined against this policy or Policy 15 (Addressing Housing Needs), where they are 18 years and older. Many have special educational needs or disabilities, including social, educational and mental health difficulties and many are victims of abuse or neglect. It is therefore vital that we do everything possible to provide consistent high quality provision for children and young people to improve their experience of being looked after in care, helping them to overcome their previous experiences, and setting them up for futures which allow them to achieve their potential."
55. An assessment of each criteria is listed below:
 - a. the applicant is able to demonstrate that the development will address any gaps in service provision to the satisfaction of the Local Planning Authority;

56. Criteria a) of policy 18 of the CDP requires new development to demonstrate an established need for the facility. Durham County Council has a duty, as stated in section 22G of the Children Act 1989, to take steps to secure, as far as reasonably practicable, sufficient accommodation for looked after children within their local authority area.
57. The Council has undertaken an assessment of existing children's home provision as detailed in the Council's document; 'Sufficiency Strategy for Children Looked After and Care Leavers 2020-2023'. That exercise has identified gaps in current service provision within this area of care and a requirement throughout the County for small scale children's homes of the type proposed at the host property.
58. It is noted that the Police and Crime Commissioner have raised a general concern regarding the number of Children/s homes within the area and that we should not be allowing any more.
59. The Council's Children and Adult Services (CAS) team have been consulted for their views on the scheme. They confirmed that they have had discussions with the provider and confirm they are a relatively new provider to market and have only been operational since January last year.
60. It is understood they are intending to register a dual home for two children but potentially run as solo provision in the first instance. They are seeking permission to allow for the dual registration to give the home flexibility to safely match an additional young person into the home if progress is made by first placement.
61. Smaller homes and specifically solo provision are required in Durham in line with the Council's current sufficiency strategy. Whilst Durham County Council have not worked with this provider before they have indicated that they are agreeable to the Durham First approach.
62. The site is currently being used as an unregulated crisis arrangement however Durham are not utilising the crisis provision currently running at the address and in order for Children and Adults Services to use them, they would be required to register with OFSTED and meet all regulatory requirements which would be separate to the planning process. The applicants have confirmed they are in agreement to meet with this regulatory requirement.
63. In this regard it is understood that the application represents an important element in meeting that demand and is specifically referenced at page 16 of the strategy. In light of the above it is considered that sufficient information has been provided to demonstrate that the development would meet policy 18 a) of the CDP in that there is a clearly established need for the facility.
64. b. sites offer a positive and safe environment for the occupants of the premises ensuring that there is appropriate access to local services and community facilities;
65. Given the application site is within an existing residential area the site would provide a safe and suitable environment for future occupants being framed by other similar uses and benefitting from a good level of access to local shops, services, transport links and other community facilities. As such criteria b is considered to be complied with.
66. c. the size/scale of the children's home will allow the occupants to be appropriately matched with regard for each child's welfare and taking into account their individual circumstances;

67. The proposed home is intended to accommodate a maximum of 2 children however it is understood in the initial instance it would be a solo occupancy also. Concern has been raised that the site expanding in terms of the number of children accommodated has potential for further issues to be raised. However, it is considered that a maximum number of two children could be accommodated on the site. It is also noted that this could be restricted via planning condition to prevent any further increase in children. The proposal is therefore considered to suitably comply with part c) of policy 18.
68. d. the occupants would not be placed at risk having regard to the latest crime and safety statistics in the area and that this has been agreed in advance with Durham Constabulary, the council's Children and Young People's Services (CYPS) and other appropriate agencies;
69. Concern has been raised that the proposal has resulted in an increased presence and pressure on policing in the area but no concern has been raised as to the risk to occupants.
70. Durham Police and the Councils CYPS have not objected to the proposal and also the case officer has been made aware of other agencies who have provided support for the proposal which includes social workers working with children who have been looked after at this property. The locality risk assessment also notes that no concerns have been raised. The proposal therefore, is considered to be in accordance with policy 18 d).
71. e. it is unlikely to cause unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion;
72. The National Planning Policy Framework is a material planning consideration in planning decisions. Paragraph 96 in Part 8 of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion. Paragraph 135 in Part 12 of the NPPF states that planning decisions should ensure that developments 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.
73. Objections have been received by a significant number of local residents raising concerns in relation to crime/fear of crime and noise and disturbance issues which they consider has already occurred resulting in the property not being suitable for a children's home and as this consent proposes to increase the number of children this could further exacerbate the concerns.
74. This will be discussed in more detail within the residential amenity section below however, it is not considered that the use of the property for two looked after children would result in an unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion than the existing use of the dwelling as a C3 residential dwelling which given the size of the property could also accommodate 2 children albeit in a family setting. There is therefore not considered to be a conflict with Part e of this policy, although further discussion on this is provided below.

75. f. appropriate measures will be in place to ensure access for emergency vehicles and safety measures such as fire escapes; and
76. g. satisfactory outside space, highway access, parking and servicing can be achieved.
77. In respect of parts f) and g), 6no off-street parking spaces would be provided at the side of the site. Access to the property can be via the front or rear and while objections have been received in relation to parking provision on the highway, it is not considered that the proposal in itself would cause this issue. Given this, it is considered that emergency access vehicles would be able to access the property safely as they would any other existing property within the street.
78. Outdoor amenity space is considered acceptable as it would be for the existing use of the property as a residential family home. It is therefore considered that criteria f and g of policy 18 would be complied with.
79. Policy 18 further states that planning applications for children's homes must be accompanied by information regarding the management of the home, together with an assessment to ensure that necessary safeguards can be achieved to ensure the welfare of the looked after children. This will include consideration of any crime or safety concerns in the area, in consultation with Durham Constabulary, DCC Children and Young People's Services and any other appropriate agencies.
80. A management plan has been submitted in support of the application which has been agreed by the Police and as such is considered acceptable and will form part of the approved plans. A condition will also be added to ensure the management plan is complied with at all times.
81. Part 15, paragraph 191 of the NPPF advises that planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development.
82. In relation to part a) of policy 18, The Local Authority has a statutory duty, as stated within Section 22G of the Children Act 1989 to take steps to secure sufficient accommodation for looked after children within their local authority area.
83. Taking all the above into consideration and objections received, it is considered that the proposal would broadly comply with the criteria identified within policy 18 of the CDP and as such, the principle of the proposal is considered acceptable, subject to further considerations below.

Impact on Residential Amenity

84. Policy 18 e) of the CDP states that new children's homes will only be permitted where it is unlikely to cause unacceptable individual or cumulative impact on residential amenity, fear of crime or community cohesion. This is considered to present an approach consistent with paragraph 195 of the NPPF which advises that planning policies and decisions should ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. Paragraph 96 in Part 8 of the NPPF states that planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful

buildings which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.

85. The application has received significant objection from neighbouring residents who raise a number of issues and concerns particularly in relation to crime, fear of crime and impact on residential amenity in terms of community cohesion, noise and disturbance including:
- loud music
 - foul language and shouting
 - Litter from overflowing bins / cigarettes
 - Trespassing in neighbouring gardens with abusive language to neighbours
 - Revving car engine
 - Abusive behaviour to ambulance workers
 - Intoxicated resident children
 - Strangers looking through windows and nearby vehicles
 - Intimidation – feeling unsafe
 - Criminal Damage including windows of the property have been smashed
 - Property belonging to neighbouring ESH offices has been vandalised.
86. Concern has also been raised that this information is based on factual evidence given the issues are already happening and that there has been a noticeable impact on resident's mental health and wellbeing and community spirit which is considered detrimental. Concern has also been raised regarding the ratio of carers to young people and the management of the site.
87. As discussed above, Durham Constabulary have raised no objection to the proposal and raised no issues within their locality risk assessment. Whilst the PCC has commented and advised that in general terms these uses have a significant impact on policing locally, the Architectural Liaison Officer has raised no objection.
88. The impact of the development upon residential amenity is a key material consideration in determination of this application with particular regard to the requirements of policy 18 e) of the CDP and paragraph 195 of the NPPF.
89. Planning policies and decisions must reflect relevant international obligations and statutory requirements. Relevant here is Section 17 of the Crime and Disorder Act 1998 which places a duty on the local authority in the exercise of its functions to have due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent crime and disorder in its area and the misuse of drugs, alcohol and other substances. Whilst this is a qualified duty, crime and the fear of crime is capable of being a material planning consideration. A planning balance between the established need for the facility and these issues therefore, needs to be considered.
90. In relation to the fear of crime this needs to be objectively justified, have some reasonable basis and must relate to the use of the land, in planning terms, and not be based on assumptions alone. The approach in criteria e) of policy 18 is consistent with Paragraph 135f) of the NPPF which states that planning decisions should 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.

91. Fear of crime can have a detrimental impact upon residential amenity and an individual's quality of life. However, it is not a forgone conclusion that a children's home for young people would inevitably result in an increase in crime, where the fear of crime is considered a material consideration this must be supported by robust evidence, and each application must be considered on its own merits and specific circumstances, avoiding generalisations.
92. Whilst the likely level of noise generated by the proposal is difficult to quantify due to the varying needs of individual users, it is nevertheless noted that the number of proposed children that the facility would accommodate is limited to no more than 2, and that this could be secured through planning condition.
93. Notwithstanding this, it is important to note the small scale of occupation proposed as well as the ratio of staff to children, which would be similar to what could be considered a traditional home environment. Two children within the house with two carers present at all times, would mean that there would be a high level of care and surveillance available, allowing any issues to be addressed promptly. In any case the dwelling could accommodate a large family with a smaller adult to child ratio without the need for planning permission, which in itself could have the potential to result in a similar impact on neighbouring residents from an increase in noise.
94. The Council's Environmental Health Section has been consulted and confirm that it is difficult to quantify the impact a children's home may have on a locality in terms of statutory nuisance. A statutory nuisance would equate to excessive and/or unreasonable use of a premises which directly interferes with the rightful peace and enjoyment of someone's property.
95. They go on to confirm that it is noted a management plan has been submitted, which states residents in the home will be supervised 24 hours per day. Fundamentally it is this management plan and the supervision of residents which will directly alleviate any impact on the locality in terms of statutory nuisance and anti-social behaviour.
96. They go on to state that the proposed premises is situated in a residential area and on balance the introduction of a small children's home is not unreasonable providing relevant guidance and good practice is adhered to. In their view in order to maintain a reasonable standard of amenity to nearby residents they would suggest adherence to the submitted management plan and the number of residents is conditioned.
97. They therefore, conclude that the information submitted demonstrates that the application complies with the thresholds stated within the TANS. This would indicate that the development will not lead to an adverse impact and the application is unlikely to cause a statutory nuisance.
98. Policy 18 e) states that new development will only be permitted where it is unlikely to cause unacceptable individual or cumulative impact on fear of crime or community cohesion. Part 8 of the NPPF relates to the promotion of healthy and safe communities, states within paragraph 96 that planning decisions should aim to achieve healthy, inclusive and safe places which are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion.
99. Paragraph 97 further states that in order to provide social, recreational and cultural facilities and services to meet community needs, planning decisions should take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community.

100. Whilst it is acknowledged that residents hold fears that crime in the area would increase as a result of the proposals and information has been provided in that there have been issues with one of the young people who has been living there however, there is no evidence to underpin this (i.e. in the form of crime numbers or that noise reports have been submitted to the nuisance action team etc). Significantly, it is noted that there is no objection from the Durham Constabulary Architectural Liaison Officer.
101. As the courts have held that the fear of crime is only a material consideration where the use, by its very nature, would provide a reasonable basis for concern, it is considered that a refusal reason framed around this issue would not be capable of being sustained. As stated above, issues of crime and the fear of crime are material considerations in the determination of the application but given there is no objection to the application from the Police Architectural Liaison Officer, it is not considered that there is a sufficient evidence base on which it could be reasonably concluded that there would be a material increase in crime as a result of the proposals and as such this should be afforded limited weight in the determination of this application.
102. It is acknowledged that residents have stated that the information is factual as it is based on experiences from current use of the site, however, the details provided appear to be anecdotal and would not be considered sufficient to demonstrate an increase in crime in the absence of a police report. As stated the Police have not raised any objection and it is considered if there was an increase in crime reports, this issue would have been raised by them.
103. This approach is reflected in a recent appeal decision elsewhere in the County in relation to a 7 bedroom children's home where the inspector (in allowing an appeal against the Council's decision to refuse the application) concluded that there was no substantive evidence to demonstrate that there would be a reasonable evidential basis for the fears expressed by local residents and that in the absence of firm evidence that the appeal scheme would materially increase the risk of, or fear of, crime they did not find that the proposed development in that instance, would have a detrimental impact on the living conditions of local residents.
104. Concern has been raised that the applicant has not made attempts to develop positive relationships within the local community. In relation to social cohesion the introduction of up to two children to the area in a large detached dwelling is unlikely to result in any unacceptable impact to existing social cohesion and the information supporting the application details measures to aid integration in this regard. The applicant also notes these concerns raised and has confirmed they will work on relationships. In light of the above, it is considered that the development would accord with the requirements of policies 18 e) and 31 of the CDP and paragraph 96 of the NPPF.
105. Information however has been submitted from neighbours to say that issues have occurred during the time in which the property has been used to house a looked after child. It is noted that the application has been used on a crisis basis which is not registered with OFSTED and as such, tighter controls would be applied as registered children's home.
106. A suitable level of detail has been provided about the running and management of the site and whilst it is not within the remit of the planning system to seek to control the day to day functioning of the care home, it is considered that it would be appropriate to include conditions to exercise some control over the proposals.

107. In particular a planning condition is considered warranted which restricts the use of the property to a children's care home for no more than two young persons and for no other purpose falling within Class C2 of the Town and Country Use Classes Order 1987. This is considered necessary as occupation of the property for other uses falling within Class C2 (for example a nursing home or hostel) would likely create differing residential amenity impacts that would need to be assessed as part of a separate planning application. A further condition would also be applied for its temporary use for three years, as well as adherence to the management plan.
108. In light of the above and subject to conditions, it is considered that the development would accord with the requirements of policies 18 e) and 31 of the CDP and parts 8 and 15 of the NPPF.

Impact on streetscene

109. Part 12 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creating better places in which to live and work, therefore helping to make development acceptable to communities.
110. In broad accordance with Part 12 of the NPPF, Policy 29 (Sustainable Design) of the CDP seeks to ensure that all development proposals achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities; create buildings and spaces that are adaptable to changing social, technological, economic and environmental conditions. Furthermore, criteria d, of policy 6 requires development to be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement.
111. Concern has been raised that the business use would be out of keeping with the area however, no external changes are proposed to the property therefore, the proposal is considered acceptable in respect of policies 6d, 29 and part 12 of the NPPF.

Highway Safety

112. CDP Policy 21 states that any vehicular traffic generated by new development following the implementation of sustainable transport measures, must be able to be safely accommodated on the local and strategic highway network; that car parking at residential developments should ensure that a sufficient level is provided for both occupants and visitors to minimise potential harm to amenity from footway parking, and that appropriate provision for electric vehicle charging, including charge points and laying of cables, should be made on both residential and non-residential development where parking is provided. In turn criteria e. of policy 6 requires development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity.
113. Concern has been raised that parking provision on the estate is already at capacity with most properties having more vehicles than the allocated number of parking spaces and that inconsiderate parking is causing anxiety and conflict with residents and creating highway safety concerns in that emergency vehicles may not be able to pass the property. Also, that there are too many properties related to the site which park on the public highway.

114. The views of the Highway Authority have been sought and they have confirmed that the property has a double garage and double width, double length driveway, essentially giving the property 6 off street spaces. Given that it is only proposed to have 2 staff on site at any one time, even factoring in visitors, and staff change overs, it is not considered that this development would be prejudicial to road safety or have an impact which could be considered severe as set out in the test in NPPF paragraph 115. Given the position and nature of the application property the proposed development would ensure access for emergency vehicles in accordance with policy 18 of the CDP.
115. Inconsiderate parking is not a matter for the planning system to address. and as the road outside is public highway this does not prevent people parking on the highway. Photos have been provided that cars are parking on the highway however there is no evidence to relate them to this property and should people block access, this would be a police matter.
116. Therefore, it is not considered that this proposal would result in a detrimental impact to road safety or a cause a severe cumulative impact to the surrounding road network and as such accords with policies 6e and 21 of the County Durham Plan and part 9 of the NPPF.

Other Issues

117. Concern has been raised that the property has already been in use as a Childrens home and that there has been lack of consultation with the residents from the applicants. The applicant is aware of these concerns and is willing to work with the residents to improve relationships. A refusal reason could not be sustained in this instance. Planning legislation allows for applications to be submitted on a retrospective basis.
118. Concern has been raised with regard to the extent of the consultation/publicity undertaken by the Local Planning Authority in relation to the current planning application. This consisted of the display of a site notice and neighbour notification letter to surrounding residents which exceeds the statutory requirements outlined in associated legislation. Normally neighbours in front of behind the site and those with an adjoining boundary would be consulted along with the display of the site notice.
119. Devaluation of properties have also been raised however this is not a material planning consideration.
120. It has also been raised that there are restrictions on the property being used as a business under the covenant consent. This would be a private law matter and is also not a material planning consideration.
121. Concern has been raised that the Management Plan states that "We acknowledge that until we are a registered provider we are unable to support young people in County Durham but we are agreeable to the Durham First Approach and we look forward to being in a position to provide care for young people from our own community in the future." But that this is not true as Juniper Care are already caring for young people at this property. Whilst the Company may currently not be able to look after Durham children, they may have been able to look after children from other authorities.

122. Objectors consider that the company has a total disregard for legislation and that it is totally driven for profit only. These are not material planning considerations which can be considered as part of this application.

Public Sector Equality Duty

123. 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.
124. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

CONCLUSION

125. The council has a duty, as stated in section 22G of the Children Act 1989, to take steps to secure, as far as reasonably practicable, sufficient accommodation for looked after children within their local authority area. Where a child cannot remain safely at home and comes into the care of the Local Authority, the council becomes the 'corporate parent' for that child. The term 'corporate parent' means the collective responsibility of the council, elected members, employees and partner agencies, for providing the best possible care and safeguarding support for the children and young people who are looked after by the council.
126. The applicant has demonstrated a need for small care homes within the County and the proposal is therefore considered acceptable in principle. For the reasons detailed within this report the development is considered to accord with policy 18 of the CDP along with policies 21, 29 and 31 of the CDP subject to the conditions, in as much as it would not have any detrimental impact upon residential amenity, the character and appearance of the area, highway safety, social cohesion and crime and the fear of crime.
127. Whilst significant objections have been raised by nearby residents they were not considered sufficient to sustain refusal of planning permission for the reasons detailed in this report. The proposal is therefore recommended for approval for a temporary period of 3 years from the date of the decision. By allowing a temporary consent, this will allow officers to assess the running of the site over this period and if issues do arise which are not dealt with effectively this will enable officers to review the proposal as opposed to a permanent consent being granted.

RECOMMENDATION

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policy(ies) 18, 29 and 31 of the County Durham Plan and Parts 8, 12 and 15 of the National Planning Policy Framework.

2. The property shall be used only as a children's care home to accommodate no more than 2 young persons under the age of 18 and for no other purpose falling within Class C2 of the Town and Country Planning (Use Classes) Order 1987.

Reason: In the interests of residential amenity in accordance with policy 18 of the County Durham Plan.

3. The use of the property (subject to this application) as a children's care home, hereby permitted, shall be discontinued on or before the day 36 months from the date of this permission and shall revert back to its previous use as a dwelling (Use Class C3).

Reason: In the interests of residential amenity and to allow the impacts of the development in this regard to be monitored and reviewed after 36 months in accordance with Policy 18 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

4. The proposal shall be carried out in accordance with the Grange House Management Plan submitted 7 February 2024.

Reason - To protect the amenity of neighbouring residents and the future occupants to ensure that a satisfactory form of development is obtained, in accordance with Policy 18 of the County Durham Plan.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

The National Planning Policy Framework (2023)

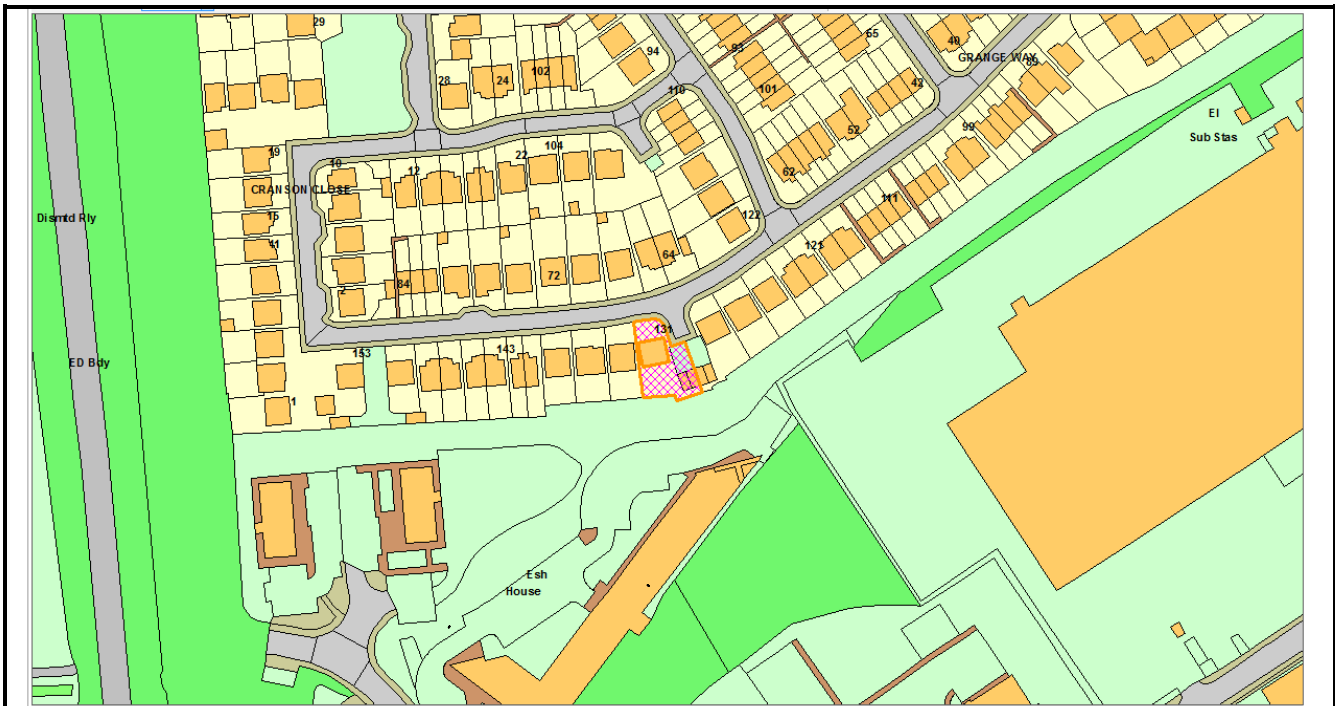
Residential Amenity Standards Supplementary Planning Document January 2023

Parking and Accessibility SPD Adoption Version 2023

National Planning Practice Guidance Notes

County Durham Plan

Statutory, internal and public consultation responses



<p>Planning Services</p>	<p>Temporary change of use of the property from a C3 Residential dwelling to C2 Children's Home for a period of up to 3 years at 131 Grange Way, Bowburn, Durham, DH6 5PL</p> <p>Application Reference: DM/24/00334/FPA</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>	<p>Date: May 2024</p>	<p>Scale NTS</p>

Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/24/00201/FPA
FULL APPLICATION DESCRIPTION:	Change of use from dwellinghouse (Use Class C3) to house in multiple occupation (HMO) (Use Class C4) including single storey rear extension, cycle parking and bin storage
NAME OF APPLICANT:	Sugar Tree Ltd
ADDRESS:	31 Bradford Crescent Gilesgate Durham DH1 1ER
ELECTORAL DIVISION:	Belmont
CASE OFFICER:	Mark Sandford Planning Officer Mark.sandford@durham.gov.uk 03000 261156

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site is a two-storey mid-terraced property located within Bradford Crescent, Gilesgate which is part of a residential housing estate to the east of Durham City Centre.
2. The property has residential neighbours to either side, no. 29 Bradford Crescent to the east, and no. 33 to the west, which has a pedestrian access alley separating the properties at ground floor. There is a small yard type garden space to the front which is enclosed by a low-brick wall and fence, and a larger grassed garden to the rear which is accessed via the aforementioned side access alleyway and enclosed by a 1.8m timber fence. There are further residential properties to the rear/north (Kenny Place) which are separated by a pedestrian walkway and the gardens of the corresponding properties, and to the south (Bradford Crescent), separated by the main vehicular highway through the estate.
3. There is no vehicular driveway or garage associated with the property, as is common to almost all properties in the area. A wide footpath is present to the front of the site which provides some level of on-street parking for local residents.

The Proposal

4. 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)

and would contain three bedrooms (reduced from the original proposal which comprised six bedrooms). The proposal also includes the erection of a single storey rear extension to provide an enlarged kitchen and lounge area. No other external alterations are proposed, save for the removal of a redundant chimney stack from the roof.

5. The application is reported to planning committee at the request of a ward Councillor who considers the application raises issues relating to the over proliferation of HMO properties in a residential area, the effects of the proposed extension on neighbouring properties and increased demand on parking in the area. They consider that these issues are such that they require consideration by the planning committee.

PLANNING HISTORY

6. None relevant to the current application.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

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

12. NPPF Part 9 Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
13. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
14. NPPF Part 14 – Meeting the challenge of climate change, flooding and coastal change - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
15. NPPF Part 15 Conserving and Enhancing the Natural Environment - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

NATIONAL PLANNING PRACTICE GUIDANCE:

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

17. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
18. 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.

19. 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.
20. 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.
21. 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
22. 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.
23. Policy 35 Water Management states that all new development should adopt the hierarchy of preference in relation to surface water disposal.
24. Policy 36 Disposal of Foul Water states that all new development should adopt the hierarchy of preference.
25. 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.
26. The Councils Parking and Accessibility (SPD which provides detailed guidance in relation to parking and other related requirements for all developments to ensure that would not have an adverse impact upon highway safety.

NEIGHBOURHOOD PLANNING POLICY

27. There is no Neighbourhood Plan relevant to the determination of this application.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

28. The City of Durham Trust – Objects to the proposal with comments were received based on the five bedroom version of the proposal. Concerns raised that the proposal would put too many tenants into the property, does not meet NDSS standards and would be harmful to the amenity of nearby residents contrary to CDP Policies 29 and 31.
29. Highway Authority – Considered the initial proposal for 6 bedrooms and then 5 bed roomed HMO to be unacceptable due to increase in parking demand not being met under the requirements of the 2023 Parking and Accessibility SPD.
30. Following revision to a 3 bed roomed HMO the Highway Authority noted that whilst - no off street parking is available on Bradford Crescent, the 2023 Parking and Accessibility requires 2 off street spaces for a 2 bed property. However, it also requires 2 spaces for a 3 bed, and therefore, given the reduction in bedrooms from the original proposal of 5 down to 3, there would be no net material increase in parking demand for the amended scheme over the existing property. On this basis, the Highway Authority raises no objections to the amended scheme.

INTERNAL CONSULTEE RESPONSES:

31. HMO Data confirmed at the time of the initial application that the percentage of properties within the 100m radius of and including the application site that are exempt from Council Tax as 8.2%, with no unimplemented or pending consents within the 100m radius, this information was provided from the data as at November 2023. Due to the case officer being made aware of a new application, the HMO data officer was reconsulted. The latest data available (April 2024) confirms that the number of N Class properties has since dropped to 7.1%, again there are no unimplemented consents within the 100m radius, however there is one application pending at no. 42 Bradford Crescent (ref DM/24/00812/FPA). If approved this would increase the figure to 8.2%.
32. HMO Licensing have confirmed that the revised version of the proposal will not need to be licensed following completion of the works, however provided advice with regard to how to comply with the relevant fire safety, amenity and space standards.
33. Spatial Policy Section advises on relevant policies within the County Durham Plan. They further comment that the proposal is compliant with the percentage criteria of Policy 16. Assessment should be made of the proposed rear extension and any potential impact on neighbouring properties.

External Consultee Responses:

34. The Police Architectural Liaison Officer offered no comment/objection to the proposal, however advice was provided as to ensure the property meets the Secured By Design recommendations.

PUBLIC RESPONSES:

35. The application was advertised by way of site notice and neighbour notification letters were sent to nearby properties. Forty-two letters of objection have been received in response, including from a Ward Member (Cllr Christine Fletcher) and the Local MP (Mary Kelly Foy). Reasons for objection are summarised as:
- Over concentration of HMOs in the area leading to imbalance in the local community contrary to Policy 31 of the County Durham Plan
 - Noise and anti-social behaviour, particularly for the elderly residents in Kenny Place and those with young families
 - Additional traffic and no off-street parking, the proposal does not comply with the Parking and Accessibility SPD
 - The property is on a bus route which may be obstructed by further vehicles
 - Loss of an affordable house to local population which will be empty for much of the year and people selling up to move
 - Conversion to 5 bedroomed property out of keeping with the character of the area
 - Poor garden and refuse maintenance. The applicant/landlord has previously failed to respond to requests for up keep of their existing student properties
 - Student newspapers and other sources indicate that incentives are required to retain students and the need for such properties is dwindling
 - The proposed works would bring noise disruption, especially to those who work nightshifts
 - The small size of the proposed bedrooms will likely only appeal to undergraduates who are more likely to lead noisy and disruptive lifestyles

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:

36. The current application proposals involve the change of use of an existing dwellinghouse (Use Class C3) to a 3-bedroom HMO (Use Class C4) within an area where less than 10% of properties within a 100m radius are Class N exempt. The proposed development will deliver high quality HMO accommodation operated by one of the largest student landlords in the City to meet the needs of students seeking such forms of accommodation.
37. The proposed HMO would deliver safe and secure accommodation that meets the standards of the well-established accreditation scheme supporting the provision of a range of high quality student accommodation options to meet the needs of students studying at the university, whilst ensuring that there will be no unacceptable impacts on highway safety, community cohesion or the amenity of non-student residents due to the limited size of the proposed HMO, the management arrangements that will be in place and the fact that there is not an existing overprovision of student properties in the immediate locality given the 10% threshold has not been breached. The application proposals therefore fully comply with Policy 16(3) and other relevant policies of the County Durham Plan (CDP).

38. It is noted that Members have refused a number of recent similar applications for HMO related development against Officer recommendation generally citing concerns over the impact of such forms of development on community cohesion and residential amenity. However, recent appeal decisions, including at 41 Fieldhouse Lane and 58 Bradford Crescent have found such concerns to be largely unfounded having regard to the provisions of the relevant policies of the adopted CDP. The appeal decision at 58 Bradford Crescent is particularly pertinent lying approximately 130m to the east of the current application property and owned by the same applicant. The appeal was ultimately dismissed due to a proposed bedspace within the property not complying with Nationally Described Space Standards (NDSS), however, in relation to other key considerations and concerns cited by local stakeholders and also by Members in refusing planning permission, the Inspector concluded as follows:

- The proposal would retain an appropriate mix of housing in the area and would accord with Policy 16 of the CDP in respect of this issue;
- The proposal would be acceptable in terms of parking and highway safety and would accord with Policy 16 of the CDP;
- Several properties in the area display small window stickers and lettings boards bearing the name of student letting agents, indicating that they were HMOs. However, the properties otherwise bore limited indication of such use, and appeared externally similar to the majority of other properties in the area. The proposal would be appropriate in terms of its effect on the character and appearance of the area.
- The proposal would not adversely affect the living conditions of nearby occupiers and would accord with Policies 16, 29 and 31 of the CDP, which together seek for development to provide high standards of amenity and security, and to avoid unacceptable impacts on health, living and working conditions.

39. The current application proposals comply with NDSS, which was the sole reason for the appeal at 58 Bradford Crescent being dismissed. The wider conclusions drawn by the Inspector in relation to housing mix and community cohesion, highways; impact on the character and appearance of the area; and impact on residential amenity can evidently be applied equally to the current application proposals and it is evident that there is therefore no reasonable basis to refuse planning permission for 31 Bradford Crescent on the basis of the findings of the previous Inspector. The application proposals fully accord with the relevant policies of the adopted Development Plan and planning permission should therefore clearly be granted.

PLANNING CONSIDERATIONS AND ASSESSMENT

40. 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.
41. 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

42. The proposal relates to the change of use from a residential dwellinghouse (Use Class C3) to a House of Multiple Occupancy (Use Class C4) as well as a single storey rear extension. The original proposal sought planning permission for a six bedroomed HMO. This was subsequently revised to five bedrooms through the submission of amended plans and finally to three, again reflected in amendments to the proposed layout. It is this final amendment which is to be considered by the planning committee.
43. The General Permitted Development Order 2015 (GPDO) permits the change of use from C3 (dwellinghouses) to uses within C4 (houses in multiple occupation HMOs). HMOs are small shared houses occupied by between three and six unrelated individuals, as their only or main residence and who share basic amenities such as a kitchen or bathroom. The proposed floor plans submitted with the application indicate that the proposal is such that the extensions would normally benefit from the provisions contained within the GPDO if the overall projection of the single storey extension was reduced in height by 323mm. With regard to the proposed use, an Article 4 direction came into effect on 17 September 2016 withdrawing permitted development rights for change of use from C3 to C4, thereby necessitating this application.
44. CDP 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.
45. 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.
46. 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.

47. It is noted that objections have been received from neighbouring residents, a local Councillor, Parish Council and MP 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 Bradford 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.
48. 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 31 Bradford Crescent, 7.1% of properties would be class N exempt as defined by Council Tax records. There is however a pending planning application being considered for 42 Bradford Crescent (ref DM/24/00812/FPA), which if permission was granted for that application, would increase the percentage figure to 8.2% although it should be noted that this is pending application and cannot be afforded weight in the determination of this application but has been noted in objection by residents. As this concentration would be below the 10% threshold stated in the CDP and is not located on a route between a PBSA and university campus or town centre, the development can be considered acceptable in principle, subject to further consideration of the impact of the proposal upon residential amenity and highway safety.
49. 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 this 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 cannot be afforded any weight.
50. 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.

51. Objections have been received with concerns raised 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 in Bradford Crescent being put up for sale following previous HMO approvals in the area. Paragraph 63 of the NPPF considers the need to create mixed and balanced communities and this is reflected in the requirements of Part 3 of policy 16 which 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.
52. A recent appeal decision relating to the Council's Non-Determination of a similar application at No. 58 Bradford Crescent, Gilesgate is considered relevant to the current application. That appeal related to the Council's Non-Determination of an application for the case of use from C3 to C4 and considered all aspects of the proposal, rather than just specific reasons for refusal. Whilst dismissing the appeal due to one of the bedroom widths as being significantly below NPPF standards the Planning Inspector considered the impact of the proposal upon 'housing mix' and assessed the proposal against the requirements of policy 16 in this regard. In that case the percentage of properties within 100 metres of the appeal property was 9.4% (when taking into account the presence of one unimplemented planning permission). Accordingly, the Planning Inspector considered the principle of development to be acceptable with regards to its impact upon housing mix given the concentration of HMOs was below the 10% stated in policy 16. It is noted that in this instance the concentration of HMOs within 100 metres is similar at 8.2%.
53. Taking account of the above it is considered that the principle 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

54. 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.

55. In this instance the application site is a mid-terraced dwelling located within a residential area and as such the nearest residential property(ies) adjoin the application site to the east and 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 a Local Councillor for the division, Parish Council and the local MP.
56. 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.
57. 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.
58. In dismissing an appeal against the Council's decision to refuse planning permission for the change of use of No. 1 Larches Road from Small HMO (C4) to Large HMO (Sui Generis) the Planning Inspector afforded considerable weight to representations from nearby residents that the existing small HMO was having a detrimental impact to residential amenity from noise and disturbance and that an additional 3 occupants (resulting in 9 in total) residing in the property would result in unacceptable additional noise, disturbance and anti-social behaviour, detrimental to the living conditions of neighbours.
59. Notwithstanding the above it is noted that this related to the change of use to a large HMO which itself falls into another use category and a unit of residential accommodation which proposed a total of 9 occupants. In the case of the current application the total number of residents is 3 and this is to be secured via planning condition to restrict future subdivision (noting that Use Class C4 allows up to 6 occupants before a material change of use is considered to have occurred).
60. In addition, it is important to note that a subsequent appeal decision relating to the Council's decision to refuse planning permission for the change of use from Small HMO (C4) to Large HMO (Sui Generis) at No. 41 Fieldhouse Lane – similar to the appeal proposals at No.1 The Larches - was allowed and permission granted. In that case the same Planning Inspector took an alternative approach and considered that an effective tenant management plan and other conditions, would satisfactorily mitigate any potential unacceptable impacts associated with noise and disturbance.

61. Clearly, there is some lack of consistency between the two appeal decisions cited and reduced weight should be afforded to those when considering the current application accordingly. In addition, it should be noted that in those instances the proposals related to changes of use from C4 to a Large HMO and are not directly comparable to the current proposal to change the use of the property from C3 to C4.
62. Recently, the Council has received notification of appeal decisions regarding the Council's decision to refuse planning permission for changes of use from C3 to C4 at No. 33 St Bede's Close and No.5 Lyndurst Drive. In both cases the Planning Inspectorate allowed the appeals, and on the matter of the impact of the proposals upon residential amenity from increased noise and disturbance, concluded that 'even if future occupiers of the proposed development were more frequent users of the night time economy, this does not infer that there would be an unacceptable impact in terms of noise and disturbance to other nearby residents' and that 'the issues raised are not a predictable consequence of HMOs as opposed to single occupation dwellings, but rather a matter of individual behaviour and suitable management. In both cases the Planning Inspector considered that experiences and perceptions of HMOs are largely anecdotal and the poor experiences arising from other HMOs do not indicate that this will be exacerbated if the appeal proposal is allowed'. In both cases the Planning Inspector noted the Council's EHO raised no objection to the applications originally.
63. The applicant has provided a Property Management Plan detailing how the property would be managed and confirmed within the supporting planning statement, that the property would be appropriately maintained by Harrington Sales and Lettings Limited, 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 Council's Environmental Health (Nuisance Action) team have assessed the submitted plan and find it would adequately fulfil this requirement. Its implementation and use would be conditioned 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.
64. 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.
65. The scheme proposes internal alterations at ground floor level to create a new bedroom which would replace part of the existing lounge and a single storey rear extension to create an enlarged kitchen/lounge area. Although the property is a terraced dwelling, the property adjoining the bedroom area is separated by the walkthrough alleyway which should ensure there is not a significant impact for the individual residing in this bedroom, than if for example, the neighbouring properties lounge was attached.
66. The proposed floor plans indicate that the party wall at first floor will be upgraded with Gypliner 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 Gypliner 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.

67. In relation to the proposed rear extension, it would have no windows/glazing in either side wall and while it would include a door and windows in the rear elevation, the property has a 1.8m timber fence around the rear garden which is sufficient to protect the privacy of the Kenny Pace properties to the north.
68. When considering the impact of single storey rear extensions upon adjacent properties the Council's Residential Amenity Standards Supplementary Planning Document (RAS SPD) states that in order to minimise the potential for impact to neighbouring properties, and, to help determine whether a more detailed daylight and sunlight assessment is needed, the Council operates what is known as a '45 degree code'. The code is applied by drawing an imaginary line at 45-degrees from the mid point of the nearest window to a habitable room on any of the adjoining owner's property and a line 45-degrees above the horizontal from the mid-point of the window. If any of these lines cut through any part of the proposed development this is a clear indication the extension may result in a detrimental impact on the neighbouring property
69. On this occasion the proposed extension has a projection length of 2925mm, therefore the code is not applicable. However, measurements taken on site and compared to the submitted plans shows that the proposed structure would comply with the 45 degree code.
70. 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.
71. 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 front garden/yard area and therefore accords with criteria e) of Part 3 to Policy 16. In addition, noting the extent of the overall 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.
72. 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.
73. 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.
74. In the original submission only one of the six bedrooms met the minimum NDSS requirements. Consequently, the applicant amended the scheme altering the internal

layout and removing one of the bedrooms which allowed two of the bedrooms to meet the minimum floor area requirement and improving the remaining three to just below the 7.5sqm threshold. Due to other factors (concerns raised by the Highway Authority that the proposal failed to provide adequate parking in accordance with the Council's Parking Standards), the proposal was revised again to provide three bedrooms, all of which now comfortably exceed the NDSS requirements.

75. 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 3 bedspace, 3 person dwellings. However, it does include standards in relation to 3 bedspace 3 person dwellings and it is noted that this requires an overall area of no less than 84sq m. 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.
76. 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

77. 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.
78. 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.
79. It is noted that limited external alterations are proposed to facilitate the change of use comprising solely of the single storey rear extension. This is considered acceptable in principle and a common type of addition to a residential dwelling, subject to the inclusion of a planning condition which requires materials used to match the host property.
80. The character and appearance of the surrounding area incorporates two storey and single storey terraced and 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.
81. 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. When considering the recent appeal at No. 58 Bradford Crescent the Planning Inspector assessed the impact of HMOs in this regard and concluded that in that case, whilst several properties within the locality displayed small window stickers and lettings boards bearing the name of student letting agents, indicating they were HMOs, the properties otherwise bore limited indication of such use, and appeared externally similar to the majority of other properties in the area. In relating to the current application, the planning officer visited the site and observed similar and drew similar

conclusion that the proposal would be appropriate in terms of its effective on the character and appearance of the area in accordance with policies 16 and 29 of the CDP. In addition, it is noted that any breach of planning control which was considered to amount to untidy land could be resolved by the Council (should it occur) through appropriate enforcement mechanisms, namely a Section 215 Notice.

82. 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.
83. 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

84. 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.
85. Objections have been raised by concerned residents, Cllr Fletcher and the local MP that the development would increase the number of cars parking in the street.
86. The initial proposal was for a six bedroomed HMO, which was later revised to five bedrooms. The Highway Authority commented that such a proposal would not be compliant with the 2023 Parking and Accessibility SPD (PAS SPD) and would likely lead to potential highway safety issues. Due to this the proposal was revised to a three bedroomed property.
87. Following this revision, the Highways Authority offers no objection to the application, noting that while no off-street parking is available on Bradford Crescent, the PAS SPD usually requires 2no. off-street spaces for a two bedroomed property (the existing circumstance for the property), and that it also only requires 2no. spaces for a three bedroomed property (the proposal). As such there would be no net increase in the requirement for parking provision and therefore no impact upon highway safety.
88. Cycle storage is shown as provided within the rear garden, accessed by the alley walkway 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.
89. Therefore, notwithstanding the concerns raised by residents, ward member and local MP in relation to parking and access, it is considered that the development would not 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

90. 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.

CONCLUSION

91. 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.
92. 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.
93. 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

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

RECOMMENDATION

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

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with 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. 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.

4. Before any part of the development hereby approved is brought into use, the scheme of sound proofing measures shown on the Proposed Floor Plans & Elevations (drawing no. 1383-03 Rev B received 18th March 2024) shall be implemented. The aim of the insulation should be to ensure the requirements of BS 8233: 2014 in relation to sleeping areas are met within the rooms.

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

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

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

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

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

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

6. The development shall be operated strictly in accordance with the measures detailed in the submitted Property Management Plan (received 24/01/24) for the life time of the HMO use.

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.

7. The small HMO hereby approved shall be occupied by no more than 3 persons at any one time.

Reason: To provide adequate internal amenity space in the interests of residential amenity in accordance with the requirements of policies 29 and 31 of the CDP

8. The cycle storage provision shown on the Existing & Proposed Site Plan (Drawing No. 1360-04 REV B received 18th March 2024) shall be fully installed and 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.

STATEMENT OF PROACTIVE ENGAGEMENT

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

BACKGROUND PAPERS

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

Statutory, internal, and public consultation responses

The National Planning Policy Framework (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)



<p>Planning Services</p>	<p>DM/24/00201/FPA Change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (Use Class C4) including single storey rear extension, cycle parking and bin storage</p>	
<p>This map is based upon Ordnance Survey material with the permission of Ordnance Survey on behalf of Her Majesty's Stationary Office © Crown copyright. Unauthorised reproduction infringes Crown copyright and may lead to prosecution or civil proceeding. Durham County Council Licence No. 100022202 2005</p>		
	<p>Date 14 May 2024</p>	<p>Scale NTS</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/23/02397/FPA
Full Application Description:	Erection of 5no dwellings with associated site access and ancillary facilities
Name of Applicant:	Mr John Slatter
Address:	Land North of 1-4 Bow View, Ushaw Moor, DH7 7BY
Electoral Division:	Deerness
Case Officer:	Jill Conroy (Planning Officer) Tel: 03000 264 955 Email: jill.conroy@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is greenfield land and currently forms part of the Valley View Farm, land holding. It is located on the eastern approach to the settlement of Ushaw Moor, north of the recent residential development of Bow View, which is accessed via Temperance Terrace, which runs parallel to the north of Cockhouse Lane (B6302).
2. The site relates to a rectangular parcel of agricultural land measuring approximately 1.21 hectares. The land has a slight gradient, sloping upwards towards the north and contains a native hedgerow with along the northern, eastern and southern boundaries. To the south and east of the land are residential dwellings with agricultural fields abutting the remaining sides.
3. In terms of planning constraints, the site lies out with any local or national landscape designation, however, is in relatively close proximity to the boundary of an Area of Higher Landscape Value (AHLV). Public Footpath no. 53 (Brandon & Byshottles) runs west of the site in a N-S direction. The site lies within a High-Risk Coal Mining Area.

The Proposal

4. Full planning permission is sought for the erection of 5no. detached dwellings ranging from 4-5 bedrooms, over 1.5 to 2.5 storeys with associated site access and ancillary facilities. The dwellings would be constructed from brick and render under a blue/black concrete tile roof with uPVC windows and composite doors. Dwelling type A would measure 14.0 metres x 9.0 metres, standing to 6.9 metres in total height. Living accommodation would be provided across two levels with a total of 4 no. bedrooms and an office/bedroom. Dwelling Type B would measure 17.6 metres x 9.9 metres, standing to 6.9 metres in total height. Dwelling type B would include the provision of an attached garage with general living accommodation across two levels with a total of 3 no. bedrooms and 2 no. further office/bedrooms. Dwelling Type C would measure 11.9 metres x 10.1 metres, standing to 8.8 metres in total height. It would include living accommodation across three levels with a total of 3 no. bedrooms and an office/bedroom. Dwelling types A and C will also include the provision of a detached double garage of the same material palette.
5. The site would be accessed from Temperance Terrace, however, an existing agricultural access taken from Cockhouse Lane (B6302) will be temporarily utilised during the construction period of the development. This access will be permanently stopped up post construction.
6. The proposed development would include a drainage strategy to address foul and storm water drainage which incorporates a SUD's drainage pond.
7. The application is being reported to Planning Committee upon the request of Councillor Wilson to allow full consideration of the additional traffic implications, drainage issues and environmental impacts of the proposed development.

PLANNING HISTORY

8. No relevant planning history.

PLANNING POLICY

National Policy

9. A revised National Planning Policy Framework (NPPF) was published in July 2018 (with updates since). The overriding message continues to be that new development that is sustainable should go ahead without delay. It defines the role of planning in achieving sustainable development under three overarching objectives – economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways.
10. *NPPF Part 2 Achieving Sustainable Development* - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable

development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.

11. *NPPF Part 4 Decision-making* - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
12. *NPPF Part 5 Delivering a Sufficient Supply of Homes* - To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay.
13. *NPPF Part 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
14. *NPPF Part 8 Promoting Healthy and Safe Communities* - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
15. *NPPF Part 9 Promoting Sustainable Transport* - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
16. *NPPF Part 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
17. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

18. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 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:

19. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance Suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to; air quality; 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; noise; public rights of way and local green space; planning obligations; 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 (CDP)

20. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
21. *Policy 10 (Development in the Countryside)* states the development will not be permitted unless allowed for by specific policies in the Plan or Neighbourhood Plan or unless it relates to exceptions for development necessary to support economic development, infrastructure development or development of existing buildings. The policy further sets out 9 General Design Principles for all development in the Countryside.

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

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

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

22. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
23. *Policy 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.
24. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* States amongst its advice that new residential and commercial development should be served by a high speed broadband connection or appropriate infrastructure for future installation if direct connection is not appropriate, practical or economically viable.
25. *Policy 29 (Sustainable Design)* requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out 18 elements for development to be considered acceptable, including: making positive contribution to areas character, identity etc.; adaptable buildings; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals. Provision for all new residential development to comply with Nationally Described Space Standards, subject to transition period.
26. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that 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.

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

33. *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.
34. Residential Amenity Standards SPD (January 2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
35. Parking and Accessibility Standards SPD (2023) – Provides details of levels of parking required on development sites and encourages the use of more sustainable modes of travel.

<https://www.durham.gov.uk/cdp>

Neighbourhood Plan:

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

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

37. *Brandon & Byshottle Parish Council* – There are concerns that the small street leading to the development would not be a convenient access and would impede pedestrians and emergency service vehicles. On street parking is already at capacity and additional traffic would impact on highway safety. The proposed site is not well-defined, easily navigable within a network of streets, as such, paths and other rights of way will be impacted upon. Lastly, there is an issue with flood water from the field.
38. *The Coal Authority* – No objection subject to conditions
39. *Highways Authority* – Following submission of additional information which shows the required visibility splays are achieved and that the surface of the temporary haulage road within the extents of the highway boundary is acceptable, there are no objections to the application subject to conditions.

Non-Statutory Responses:

40. *Ecology* – Following submission of further information and subject to condition, there are no objections to the development from an ecological perspective.
41. *Landscape Section* – Following submission of additional details showing an indicative section of planting to the western boundary of the site, there are no objections subject to condition for full planting details to be provided.
42. *Trees* – No objection following submission of AIA whereby the tree protection and management identified in the report should be conditioned. A landscaping scheme should also be provided by way of condition.
43. *Design and Conservation* – The amended site layout has suitably addressed previous concerns in relation to the dominance of garages within the streetscene. There are now no objections raised.
44. *Public Rights Of Way* – It is noted that an access haul road to the development site crosses Brandon and Byshottle Public Footpath 53. This is acceptable for the duration of the construction phase however should be removed following completion. This should be secured by way of condition.
45. *Environmental Health Nuisance* – Considering, the scale of the development, the construction phase is likely to be relatively brief and assuming works are kept within suitable hours (via an appropriate condition), it is not expected that the impact of this phase likely to lead to a breach of the levels stated in the TANS.
46. *Environmental Health Contamination* – No adverse comments to make and no requirement for a contaminated land condition.
47. *Archaeology* – The applicant has submitted a report on a trial trench evaluation of the site. This has identified that anomalies detected in the geophysical survey are archaeological in origin and further survey work is required. Conditions are therefore recommended.

Public Responses:

48. The application has been advertised by way of Site Notice and individual notification letters being sent to 60 neighbouring properties.
49. Twelve individual letters of objection have been received, along with a single petition containing 5no signatures. The comments have been summarised below:
 - Concerns with regards to a general increase in traffic along Temperance Terrace, vehicle parking and general highway safety.
 - Concerns with regards to flooding and drainage issues.
 - The buildings will obstruct views of the open field.

- The three-storey dwellings will overshadow existing buildings, reducing natural sunlight.
- The development will create additional noise, dust and mess for residents during construction.
- Concerns around the loss of the green space around the village.
- Concerns around impact on local wildlife.
- The proposal includes only limited visitor parking for the development which is inadequate.
- There are concerns with regards to the validity of the documents provided including a serious breach of copyright and GDPR.
- Concerns are raised regarding former mining activities below ground on the field.
- The development will impact on local house prices.
- There are concerns that further development will increase the risk of subsidence of adjacent properties.
- The proposed dwellings will impede on privacy levels of adjacent properties.

Applicants Statement:

50. This Applicants Statement has been prepared to assist in the understanding of the scheme as part of the Planning Application for Land North Of 1-4 Bow View Ushaw Moor DH7 7BY. The site is established within the existing residential enclave that is Ushaw Moor with easy access to the local amenities including shops, schools and public transport.
51. The scheme is a low density development comprising of 5No. 4/5 bedroom detached houses and offers larger houses to families to remain in the area. Currently a large proportion of the housing stock provided in Ushaw Moor is a mix of 2 & 3 bedroom units. The houses have been designed to take into account the topography of the site with the two units positioned to the lower end of the site, designed as one and half story, which link between the bungalows to the adjoining site and this proposal. The three houses on the upper portion of the site are to be built into the hill with a front elevation of two and half story whilst the rear will be one and half story. Welby Drive on the adjoining site is a similar albeit larger scale and higher density development which has built into the side of a sloping site. With reference to CDP 29, the development creates spaces that are adaptable to social & technological change and enable multi-generational living which also embraces new sustainable technologies, including solar PV generation and air source heat pumps.
52. In addition, a drainage strategy has been provided to meet the requirements of CDP 35 which caters for a new foul and storm water drainage system incorporating a SUD's drainage pond to control the outflow of water during periods of high demand.
53. Additional trees & hedgerows are to be provided to the existing hedgerow boundaries to ensure the site is adequately screened while enhancing the ecological and bio-diversity of the site. The topography of the site has been

used to incorporate the proposed dwellings into the site to minimise height & scale where practically possible & the low density minimises impact of the local vicinity. The scheme caters for natural bio-diversity with areas being set aside to make improvements to the flora and fauna including the planting for a mixture of native shrubs and trees which will further enhance wildlife in the immediate area.

54. The applicant has taken onboard comments from the local residents in relation to the potential for increased traffic during the construction phase of the project and proposed to create a temporary haul road which will divert this traffic away from existing residential streets to an access point on the B6302, which has been discussed and agreed with the Highways Department.
55. In summary the proposal has been designed incorporating local concerns to ensure the requirements of the CDP Can be achieved. This includes density and design, use of sustainable technologies and addressing concerns raised by local residents uses of the development both during and after the completion of the proposed construction of the project, therefore enabling the scheme to be supported.

PLANNING CONSIDERATION AND ASSESSMENT

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

Principle of Development

57. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035 and is therefore considered up to date.
58. The application site relates to an undeveloped parcel of land on the western edge of the settlement of Ushaw Moor. The site is bound to the south and east by existing housing developments, with open countryside to the north and west.

59. The site is not allocated for housing under Policy 4 of the CDP; Policy 10 of the CDP deals with development in the Countryside, and states that "Development in the countryside will not be permitted unless allowed for by specific policies in the Plan", in this instance given that the site is on the edge of, and well related to the settlement of Ushaw Moor, Policy 6 is the most relevant policy for the consideration of this proposal.
60. Policy 6 of the County Durham Plan supports development on sites which are not allocated in the Plan, but which are either within the built-up area or outside the built up area but well related to a settlement, stating that such development will be permitted provided it is compatible with uses on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
61. As detailed above policy 6 of the CDP permits development on unallocated sites provided it meets the criteria set out within the policy. In this regard it is considered that the proposal is well related to the settlement and can draw in principle support from this policy given that the site is bounded on two sides by existing compatible residential uses, well related to the settlement and would not be prejudicial to any existing or permitted adjacent uses (criteria a), it is within the existing built framework of Ushaw Moor and as such would not lead to coalescence with neighbouring settlements (criteria b), would not result in a loss of open land that has any recreational, ecological or heritage value (criteria c), would not result in the loss of a valued village facility (criteria g). and would make use of previously developed land (criteria l). Consideration of criteria d, e and f of policy 6 are considered elsewhere within this report. It is not considered that criteria h, i and j are relevant due to the outline nature of the proposal.
62. It is therefore considered that the principle of residential use in this location is acceptable subject to the relevant material considerations as set out below.

Sustainable Development

63. The overriding objective of planning is to contribute to the achievement of sustainable development; this objective is echoed in the NPPF particularly as the presumption in favour of sustainable development is the golden thread running through the NPPF. In applying the presumption and in viewing the Government agenda to build more homes due regard must be had to the requirement to provide homes that meet the needs of the community and that are in the right location.
64. Considerable weight should be given to the fact that the authority can now demonstrate in excess of a five-year housing land supply but that does not override the requirement that is set out with the National Planning Policy Framework to ensure that development is sustainable. The NPPF paragraph 8

sets out the three dimensions that form sustainable development, namely, economic, environmental and social. The three roles are mutually dependent and should not be taken in isolation.

65. Critically, paragraph 11 of the NPPF states that, for decision-takers, applying the presumption in favour of sustainable development means approving development proposals that accord with an up-to-date development plan without delay. Whilst Paragraph 12 of the NPPF on the other hand stipulates that where a planning application conflicts with an up-to-date 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.
66. The proposed development is located within the envelope of the existing settlement with residential uses to the East and South. The site has easy access to sustainable transport links with a bus route to the south of the site on the Cockhouse lane approximately 75.0m from the access to the site providing direct access to Esh Winning and Durham City, along with other bus services from stops within the main settlement approx. 350.0m from the site entrance. The proposal will have easy access to the various amenities within the centre of Ushaw Moor such as (shops, pubs and community facilities) approx. 400.0m. it is therefore considered that the site is a suitable sustainable location in line with section 2 of the NPPF and the aspirations of paragraph 79 of the NPPF in supporting the vitality and viable of communities.
67. Policy 15 additional requires that all housing developments of 5 or more units must provide a minimum of 66% of the units to be Building Regulation M4(2) compliant. In this regard it is considered that a planning condition can secure this requirement.
68. Policy 19 of the County Durham Plan requires that developments secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom build schemes. In this regard the development would provide the opportunity for a mix of dwelling sizes and types. It is therefore considered that the mix of dwellings within the site is acceptable and in accordance with the provision of Policy 19.

Principle of development summary

69. In this instance, subject to the proposal securing the relevant planning contributions and obligations as required by policy 25 of the CDP then the application would be considered to be in general accordance with Policy 6 of the County Durham Plan and Section 9 of the NPPF.

Landscape and Visual Impact

70. CDP Policy 6 sets out that development must not result in the loss of open land that recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for.

71. CDP Policy 10 under the general design principles states that development in the countryside must not give rise to unacceptable harm to the heritage, biodiversity, geodiversity, intrinsic character, beauty or tranquillity of the countryside either individually or cumulatively, which cannot be adequately mitigated or compensated for;
72. CDP Policy 39 states proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals would be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Development affecting Areas of Higher Landscape Value will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of development in that location clearly outweigh the harm.
73. Policy 40 advises that proposals for new development will not be permitted which would result in the loss of, or damage to, trees of high landscape, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Where development would involve the loss of ancient or veteran trees it will be refused unless there are wholly exceptional reasons and a suitable compensation strategy exists. Proposals for new development will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate stand-off 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. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.
74. Parts 12 and 15 of the NPPF promotes good design and sets out that the planning system should contribute to and enhance the natural and local environment by (amongst other things) recognising the intrinsic character and beauty of the countryside and optimise the potential use of the site.
75. The application site is not within any specific landscape designation; however it lies within 250m of an area identified in the CPD as an Area of Higher Landscape Value (AHLV).
76. The site lies in the West Durham Coalfield which forms part of the larger Durham Coalfield Pennine Fringe National Character Area (NCA 16). It lies in the Deerness and Hedleyhope Valleys Broad Character Area which belongs to the Coalfield Valley Broad Landscape Type. The site is made up of Surveyor enclosed land (Valley farmland: wooded pasture local landscape type). The site lies within an area identified in the County Durham Landscape Strategy (2008) as a Landscape Conservation Priority Area with a strategy of conserve and restore. Key visual receptors of the site will be users of the Public Right of Way 53 (Brandon and Byshottles Parish) which runs in a N-S direction, west of the application site.

77. The Council's Landscape Team have been consulted on the application. They comment that the proposal would result in the loss of open agricultural field, with existing hedgerows to the site boundary which would be potentially impacted by the development. As such, it was advised that an Arboricultural Impact Assessment be undertaken. Comments went on to advise that the development would extend the settlement of Ushaw Moor and that the domestic/residential nature of the development would negatively impact to the open agricultural character of the public right of way (PRoW) to the western boundary, with visual impacts largely dependent on materiality and boundary treatments. The Landscape Officer has advised that the site boundary and relationship to the PRoW should be reconsidered with sufficient off-set provided to permit an adequate landscape corridor to provide for an appropriate level of structural landscaping to screen or assimilate the development into its surroundings and provide a more attractive new settlement boundary.
78. The Councils Arborist has also been consulted and advised that the proposed layout would not appear to directly impact any trees, however, there are several trees/hedges on the perimeter of the site, in particular the eastern boundary which could be impacted by the proposal and associated construction activities, as such, in order to support an application a tree survey was requested.
79. The applicant subsequently provided a Tree Survey and report for the site with Landscape colleagues deferring this matter to the Councils Arborist. DCC's Arborist advise that they concur with the arboricultural assessment and recommendations and advise that a condition is included to ensure full compliance with the arboricultural tree protection/management requirements as detailed within the report.
80. The applicant has also provided amended plans detailing an indicative area to the western boundary in which to provide appropriate screen planting. Full details of planting will be included as a condition to ensure appropriate delivery.
81. Following the amendments and subject to conditions, both the Councils Landscape Officer and Arboricultural Officer raise no objections to the proposed development. As such, the proposal is considered to accord with Policies 6, 10, 29, 39 and 40 and Parts 12 and 15 of the NPPF in this respect.

Scale/Design

82. CDP Policy 6 requires development to be appropriate in terms of scale, design, layout and location to the character, function, form and setting of, the settlement.
83. CDP Policy 10 under criteria o requires new development in the countryside, by virtue of their siting, scale, design and operation to not impact adversely upon the setting, townscape qualities, including important vistas, or form of a settlement which cannot be adequately mitigated or compensated for.
84. CDP Policy 29 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 total, Policy 29 sets out 18 elements for development to be considered acceptable, including: buildings being adaptable; minimising greenhouse gas emissions and use of non-renewable resources; providing high standards of amenity and privacy; contributing to healthy neighbourhoods; and suitable landscape proposals.

85. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 127 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.
86. The site is not located within a conservation area, with no adjacent designated heritage assets, however as set out above, the site is located adjacent to an AHLV.
87. The surrounding built up area is characterised by a combination of dwelling types with modest, terraced properties to the east, which are simplistic and traditional in their size, form, proportions and detailing. To the south, is a new housing estate comprising a range of semi-detached and detached dwellings, of a uniform character and material palette, ranging from two to three storey properties.
88. The proposed properties are detached, 4no of which containing detached garages with the remaining single property containing an integral garage. Each plot of which containing a driveway with large expanse of hardsurfacing and driveway centred around a new access road taken from Temperance Terrace. The proposed scale of development is deemed to be commensurate with the size of the plot.
89. DCC's Design and Conservation Team were consulted on the application and commented that the scheme takes a contemporary approach to design and highlight the importance of ensuing an appropriate form of development due to the edge of settlement location. In this instance however, concerns were initially raised regarding the proposed layout of the scheme, noting that the streetscene would be heavily dominated by large, detached garages and hardsurfacing rather than dwelling frontages and landscaping. This would be particularly exacerbated given the raising land levels of the site. The applicant was advised to amend the design accordingly.
90. Discussions were undertaken regarding garage positioning where it was accepted that due to the site constraints, it would not permit the garages to be set to the rear of the properties. However, an amended layout has subsequently been provided which repositions the garages from their original dominant location. DCC's Design and Conservation Officer is now satisfied with the scheme on the whole, subject to conditions relating to external materials.

91. Accordingly, the proposal is now deemed acceptable in terms of design, scale and materials and would have due regard to local character of the area, thereby complying with Policies 6, 10 and 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

Residential Amenity

92. Parts 12 and 15 of the NPPF 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.
93. CDP Policy 31 states that all new development that has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours and vibration or other sources of pollution, either individually or cumulatively, will not be permitted including where any identified mitigation cannot reduce the impact on the environment, amenity of people or human health to an acceptable level.
94. A Residential Amenity Standards Supplementary Planning Document (SPD) has been adopted by the Council, which recommends that dwellings should benefit from private, usable garden space of at least 9 metres long. In considering this, each of the dwellings have a private amenity space which complies with the required 9 metres distance set out in the Residential Amenity Standards SPD.
95. The Residential Amenity Standards SPD also sets out the following separation distances for new development to comply with:-
- 'A minimum distance of 21.0m between habitable room windows, where either dwelling exceeds single storey, and a minimum of 18.0m between habitable room windows and both dwellings are single storey.
 - Where a main facing elevation containing a habitable room windows is adjacent to a gable wall which does not contain a habitable room window, a minimum distance of 13.0m shall be provided where either dwelling exceed single storey or 10.0m where both dwellings are single storey.'
96. Concerns have been raised from local residents that the proposed dwellings will impede on privacy levels of adjacent properties, overshadow existing buildings thus reducing natural sunlight and obstruct views of the field.
97. In regard to this, to the north and west of the application site are open fields. There are residential dwellings to the south and east of the site, however the development achieves the minimum separation distances as outlined in the Residential Amenity Standards SPD. Whilst screen planting is detailed to the east, which will break up any direct views across in this regard, there is high-level fencing to the rear of the plots to the south which will also create a screening effect. Overall, it is not considered that the proposed development will impact neighbouring properties in terms of loss of privacy.

98. The dwellings have been designed to accommodate the existing topography of the site and are 1.5 storeys to the lower, southern section of the site and 2.5 storey to the more norther section, however, these dwellings will be set into the land, to minimise any impact on light to the existing neighbouring dwellings. Therefore, it is considered that the proposed development will not result in significant detrimental impact on light to warrant refusal of the application.
99. Whilst it is accepted that views of the field will change as a result of the proposed development, this is not a material planning consideration and will not be given any weight in this regard.
100. In terms of the amenity of future occupiers, the dwellings would provide four and five bedrooms respectively and would be compliant with the Nationally Described Space Standards (NDSS) which requires a 5-bedroom, 8 person dwelling over two storeys to have a 128 square metres gross internal floor area with a minimum of 3.5 square metres of built in storage provision and a 4-bedroom, 8 person dwelling at three storeys to have 130 square metres gross internal floor area with a minimum of 3 square metres of built in storage provision. In this instance, dwelling type A would provide approximately 187 square metres internal floor area, dwelling type B approximately 190 square metres internal floor area and dwelling type C would have approximately 203 square metres internal floor area, all in excess of the NDSS requirements.
101. Concerns have been received from local residents with regards to the additional noise, dust and general mess caused during the construction phase of the development.
102. The Councils Environmental Health Dept. have been consulted and note that the development is noise sensitive, advising that the locality may be regarded as a semi-urban, rural setting with both residential housing and agricultural fields adjacent to the site. However, noting that there are no major roads near to the site, the relevant noise levels should be relatively low and comply with the thresholds stipulated in the Technical Advice Notes (TANs). Comments go on to further advise that given the scale of the development, the construction phase is likely to be brief and assuming works are kept within suitable hours, via an appropriate condition, it is not expected that the impact of this phase would likely to lead to a breach of the levels stated in TANs. Accordingly, there are no objections from Environmental Health and that the development would unlikely cause a statutory nuisance.
103. Overall, the proposals are considered to provide a good standard of amenity for existing and future residents, according with CDP Policy 31 and Part 12 and 15 of the NPPF.

Highway Safety/Access

104. CDP Policy 21 outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity, expecting 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. Criterion e) of Policy 6 requires development to not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. Criterion q) of Policy 10 does not permit development in the countryside where it would be prejudicial to highway safety.

105. CDP Policy 26 states that development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians, cyclists and horse riders. 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. Where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.
106. Specifically, the NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. 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.
107. Concerns have been received from local residents with regards to an increase in traffic along Temperance Terrace, vehicle and visitor parking and general highway safety.
108. The development proposes vehicle access to be taken from Temperance Terrace to the east. Temperance Terrace is an adopted residential street road with access taken off Cockhouse Lane (B6302). A new road will serve the dwellings providing in-curtilage driveway/parking areas to the front of each property, with space for up to a minimum of 2no vehicles each.
109. Whilst permanent vehicle access is to be taken from the east, the development proposes a temporary haulage road to be taken directly from an existing agricultural access from Cockhouse Lane. The haulage road will also include a site compound area, permitting construction vehicle access from this route with a view of avoiding unnecessary disturbance to the residents of Temperance Terrace during the construction phase of the development.
110. The Highway Authority have reviewed the application and have advised that the proposal includes a 5.5m wide internal road with footpath, service margin and turning facility. The in-curtilage car parking requirements for the proposed 4/5-bedroom properties would accord with the requirements of the Parking and Accessibility Standards SPD, which is 3 incurtilage parking spaces per dwelling. Whilst plans depict 2no vehicles to the front, there is sufficient space for an additional vehicle. In addition, there is allocated space for visitor parking as required. The proposal details a bin collection point positioned directly behind the adopted highway which is deemed acceptable. The application includes a swept path analysis for a 11.2m length service vehicle which confirms that the vehicle can enter and exit the internal road layout in forward gear.

111. The Highway Authority also commented that a pre and post construction road condition survey would be required due to the tight turning manoeuvres for construction vehicles during the works. However, the applicant has provided amended plans to include the provision of a haulage road to be taken from an existing agricultural access off Cockhouse Lane to the application site to avoid the need of construction vehicles passing along Temperance Terrace. The Highway Authority is satisfied with the proposed revision to the scheme subject to amendments to the detailed visibility splays, which have since been updated.
112. The Highway Authority have commented that the scheme, as amended is now acceptable and would raise no serious highway safety concerns.
113. The temporary haulage road will cross over the Public Right of Way (PRoW) no.53. DCC's Public Right of Way Officer has been consulted and advises that the proposed arrangement is acceptable for the duration of the construction period, however, it must be removed and returned to its former condition, post works. In addition, it is advised that safety signage is provided for both vehicles and pedestrians using the crossing and shall be maintained by the developer. Lastly, the road surface crossing and the path surface directly to the sides must remain free from excess mud, water run off etc. from haulage traffic. All of these requirements have been detailed on the proposed site plan and shall form the basis of a planning condition to ensure compliance. Overall, however no objection is made to the development in this regard.
114. Overall, noting the concerns of the local residents, it is considered that the scheme has suitably addressed all outstanding matters in terms of access. The resultant proposal would not be prejudicial to highway safety or pedestrian access and would therefore accord with CDP Policies 6, 10, 21 and 26 and Part 9, 12 and 15 of the NPPF.

Ecology

115. NPPF Paragraph 180 d) advises that opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate. In line with this, CDP Policy 41 seeks to ensure new development minimises impacts on biodiversity by retaining and enhancing existing diversity assets and features. Proposals for new development should not be supported where it would result in significant harm to biodiversity or geodiversity.
116. Policy 43 sets out that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts while 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.

117. Concerns have been raised from neighbouring properties that the proposed development will have an impact on the local wildlife.
118. The application is supported by a Preliminary Ecological Appraisal which has assessed the likely presence of protected species or habitats on the site. The Council's Ecology Officer has reviewed this information and advised that although the content of the PEA is acceptable, the habitat survey methods did not take the correct approach, therefore further details were requested. The applicant has subsequently provided this information and DCC's Ecologist is now satisfied with the information provided and raises no objection to the proposals subject to the applicant entering into a Section 39 legal agreement to appropriately secure the enhancement and creation habitats as detailed in the submitted Defra Metric and the mitigation/recommendations detailed in the revised PEA, along with a 30-year management and maintenance plan. The detailed landscape scheme to be conditioned as detailed in paragraph 80 above will coincide with the needs of the S.39 agreement.
119. Overall, subject to condition and securing a Section 39 agreement, a biodiversity net gain can be achieved on the site to comply with Policy 41 and 43 of the County Durham Plan.

Drainage

120. Part 14 of the NPPF seeks to resist inappropriate development in areas at risk of flooding, directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere. Paragraph 167 advises that when determining planning applications, local planning authorities should ensure that flood risk is not increased elsewhere and that where appropriate applications should be supported by a site-specific flood-risk assessment. Paragraph 169 goes on to advise that major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate.
121. CDP Policies 35 and 36 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.
122. The site is not located within a flood zone; however, local residents have raised concern with regards to flooding and drainage issues. Information has been submitted with the application advising that the proposed foul water will be connected to the mains sewer and that the scheme will incorporate a SUD's drainage pond to control the outflow of water during periods of high demand. Further specific details of the proposed drainage arrangements will be

considered by Building Regulations; however, for the purposes of Planning, it is considered likely that surface water could be adequately attenuated before being discharged, thereby according with Policies 35 and 36 of the CDP.

Ground Conditions

123. Part 15 of the NPPF seeks to prevent unacceptable risks from pollution and land stability. Where a site is affected by contamination or where land stability issues arise, responsibility for securing a safe development rests with the developer and/or landowner. Policy 32 relates to despoiled, degraded, derelict, contaminated and unstable land and requires developers to demonstrate that any land subject to this can be satisfactorily addressed by appropriate mitigation measures prior to the construction and occupation of the proposed development as well as the site being suitable for the proposed use and that all the necessary investigations and risk assessments have been undertaken.
124. Concerns have been raised about further development increasing the risk of subsidence to adjacent properties and also regarding former mining activities below ground on the field.
125. The Council's Contaminated Land Team have been consulted on the application acknowledging the submission of a Phase 1 Geo-Environmental Desk Study (Land Contamination Risk Assessment) and have advised that they have no adverse comments to make and therefore no requirement for land contamination conditions, however an informative has been suggested.
126. Therefore, based on the comments from the Contaminated Land Team, the proposal is considered to comply with CDP Policies 32, 56 and NPPF Paragraph 183.
127. The site is partially located within the Coalfield High Risk area and accordingly the Coal Authority have been consulted. Following discussions with the Coal Authority and submission of further reports, they now have no objection to the development subject to the inclusion of conditions which require the submission of a scheme of intrusive investigations and remediation to be carried out.
128. Taking into account the above, the proposal will be acceptable in terms of ground conditions subject to planning conditions and would comply with Policy 32 of the County Durham Plan.

Sustainable Construction

129. CDP Policy 29 requires new development to minimise the use of non-renewable and unsustainable resources, including energy, water and materials during both construction and use by encouraging waste reduction and appropriate reuse and recycling of materials, including appropriate storage space and segregation facilities for recyclable and non-recyclable water and prioritising the use of local materials.

130. No specific information in relation to this has been provided. However, the site is within the gas network and a condition can be included to secure the submission of this information to show how the proposal would comply with this policy requirement, including the use of renewable energy and carbon reduction measures.
131. Policy 27 of the CDP states that any residential and commercial development should 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.
132. According to the OFCOM availability checker, the site has access to superfast broadband in accordance with Policy 27 of the CDP.

Other Issues

133. The Council's Archaeologist has commented on the application advising of the necessity of conditions including a Written Scheme of Investigations to set out a programme of archaeological works and a post investigation assessment. Accordingly, subject to these conditions, the proposal would comply with Policy 44 of the CDP.
134. Concerns have been made to the Council over the validity of the supporting documentation due to a breach of copyright issues in one of the submitted reports. The Council were made aware of a situation of copyright and acted accordingly. The document was removed from the file upon notification of the breach.
135. Comments have been made that the development may impact on local house prices. This however is not a material consideration of which can be considered as part of this application.
136. Concerns have also been received regarding the loss of green space around the village. The land is privately owned agricultural land and not designated as open space, therefore there is no loss in this regard.

CONCLUSION

137. The proposal is for the erection of 5no dwellings with associated site access and ancillary facilities, which is to be located on the edge of the settlement of Ushaw Moor, which is deemed acceptable in principle with regards to Policy 6 of the County Durham Plan.
138. Despite numerous concerns from local residents, the proposed development does not raise any issues, which cannot be suitably mitigated against in terms of landscape and visual impact; scale/design; highway safety/access; ecology; residential amenity; drainage; ground conditions; sustainable construction and other issues. The proposal therefore is considered to accord with Policies 6, 10, 21, 26, 27, 29, 31, 32, 35, 36, 39, 40, 41 and 43 of the CDP and Parts 2, 4, 5, 6, 8, 9, 12, 14 and 15 of the NPPF.

139. There are no material considerations which indicate otherwise and therefore the application is recommended for approval subject to the following conditions and a section 39 legal agreement:

RECOMMENDATION

That the application be **APPROVED** subject to the following conditions and a Section 39 legal agreement:

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 following plans and documents:

001A	Proposed Site Location Map and Site Layout	09.04.2024
002D	Proposed Site Location Map and Site Layout	09.04.2024
003	Proposed Plans and Elevation House Type A	08.08.2023
004	Proposed Plans House Type B	08.08.2023
005	Proposed Plans House Type C	08.08.2023
006	Proposed Elevation House Type B and C	08.08.2023
007	Proposed Garages	08.08.2023
008D	Proposed Site Layout/Ecological Study	09.04.2024
009D	Proposed Site Layout Map	09.04.2024
0010A	Existing and Proposed Site Layout	09.04.2024

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 06, 10, 21, 26, 27, 29, 31, 32, 35, 36, 39, 40, 41 and 43 of the County Durham Plan and Parts 2, 4, 5, 6, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.

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

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

4. No development shall commence until a detailed landscaping scheme has been submitted to and approved in writing by the Local Planning Authority.

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

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

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

Trees, hedges and shrubs scheduled for retention.

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

Details of planting procedures or specification.

Finished topsoil levels and depths.

Details of temporary topsoil and subsoil storage provision.

Seeded or turf areas, habitat creation areas and details etc. Details of land and surface drainage.

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

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

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

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

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

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

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

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

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

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

Replacements will be subject to the same conditions.

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

6. The development shall take place in strict accordance with the arboricultural tree protection and management as detailed within the submitted Arboricultural Implications Study, produced by Arbor Division Ltd, submitted 02.10.23. The protective fencing as detailed in the report shall be installed prior to the commencement of the development hereby approved and should be retained thereafter during construction.

Reason: In the interest of visual amenity to ensure appropriate protection of trees on site in accordance with Policies 29, 39 and 40 of the County Durham Plan and Part 15 of the National Planning Policy Framework

7. The development shall take place in strict accordance with the Recommendations and Mitigation detailed in the submitted Preliminary Ecological Appraisal, produced by Veronica Howard, dated February 2024 as revised.

Reason: To protect protected species and their habitats and to comply with policy 43 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

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

Reason: To safeguard any archaeological interest in the site, and to comply with part 16 of the National Planning Policy Framework (NPPF). Required to be a pre-commencement condition as the archaeological investigation/mitigation must be devised prior to the development being implemented.

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

Reason: To comply with paragraph 211 of the NPPF, which requires the developer to record and advance understanding of the significance of heritage assets, and to ensure information gathered becomes publicly accessible.

10. No built development shall commence on each plot until:-

a scheme of intrusive site investigations has been carried out to establish the risks posed to the development of that plot by past coal mining activity, and;

any remediation works and/or mitigation measures to address land instability arising from coal mining legacy, as may be necessary, have been implemented in full in order to ensure that the site is made safe and stable for the development proposed.

The intrusive site investigations and remedial works shall be carried out in accordance with authoritative UK guidance.

Reason: The undertaking of intrusive site investigations, prior to the commencement of development, is considered to be necessary to ensure that adequate information pertaining to ground conditions and coal mining legacy is available to enable appropriate remedial and mitigatory measures to be identified and carried out before building works commence on site. This is in order to ensure the safety and stability of the development, in accordance with Policy 32 of the County Durham Plan and Paragraphs 178 and 179 of the National Planning Policy Framework.

11. Prior to the first occupation of the development a signed statement or declaration prepared by a suitably competent person confirming that the site is, or has been made, safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing. This document shall confirm the methods and findings of the intrusive site investigations and the completion of any remedial works and/or mitigation necessary to address the risks posed by past coal mining activity.

Reason: To ensure the safety and stability of the development, in accordance with Policy 32 of the County Durham Plan and Paragraphs 178 and 179 of the National Planning Policy Framework.

12. 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.

13. Prior to the first occupation of the development hereby approved, the temporary vehicle access road from Cockhouse Lane, shall be permanently closed and the land reinstated to its former condition, including the reinstatement of the grass verge.

Reason: In the interest of visual amenity and to accord with Policies 21, 29 and 39 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

14. No property shall be occupied until the internal estate road has been constructed.

Reason: In the interest of highway safety and to accord with Policy 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.

15. The proposed development shall be supported by a detailed scheme, which shall be submitted to and approved in writing, prior to the erection of the dwellings hereby permitted, to minimise greenhouse gas emissions, with the aim of achieving as close as possible a zero carbon buildings. The scheme shall include, but not be limited to, provision of renewable and low carbon energy generation. The agreed renewable and low carbon energy measures shall thereafter be installed in accordance with the approved details thereafter.

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

16. Prior to the first occupation of any of the dwellings hereby approved, a plan shall be submitted to and agreed in writing by the Local Planning Authority that details 3no. (66% of the total dwellings) plots that will be constructed to Building Regulation M4(2) standards and thereafter, the development shall be constructed in accordance with the approved details

Reason: To provide an adequate level of housing mix to meet the needs of people with disabilities in accordance with Policy 15 of the County Durham Plan and Section 5 of the NPPF

17. Prior to the first occupation of any of the dwellings hereby approved, details of 1no. electric vehicle charging point per dwelling and its location shall be submitted to and approved in writing by the Local Planning Authority. Thereafter, the development shall be constructed in accordance with the approved details and retained in perpetuity unless replaced with an equivalent or better low carbon vehicle power source.

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

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

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

Details of methods and means of noise reduction/suppression.

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

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

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

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

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

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

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

Routing agreements for construction traffic.

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

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

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

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

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

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

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

19. The garage for the proposed dwelling hereby approved shall be completed prior to the first occupation of dwellings and made available thereafter for the parking of vehicles for the lifetime of the development and shall not be used as or converted into habitable accommodation.

Reason: Reason: In the interests of highway safety to comply with Policy 21 of the County Durham Plan and the Parking and Accessibility SPD.

INFORMATIVES

1. If unforeseen contamination is encountered, the Local Planning Authority shall be notified in writing immediately. Operations on the affected part of the site shall cease until an investigation and risk assessment, and if necessary a remediation strategy is carried out in accordance with the YALPAG guidance and agreed with the Local Planning Authority. The development shall be completed in accordance with any amended specification of works.
2. Under the Coal Industry Act 1994 any intrusive activities, including initial site investigation boreholes, and/or any subsequent treatment of coal mine workings/coal mine entries for ground stability purposes require the prior written permission of The Coal Authority, since such activities can have serious public health and safety implications. Failure to obtain permission to enter or disturb our property may result in the potential for court action. Application forms for Coal Authority permission and further guidance can be obtained from The Coal Authority's website at: www.gov.uk/get-a-permit-to-deal-with-a-coal-mine-on-your-property
3. In areas where shallow coal seams are present caution should be taken when carrying out any on site burning or heat focused activities.

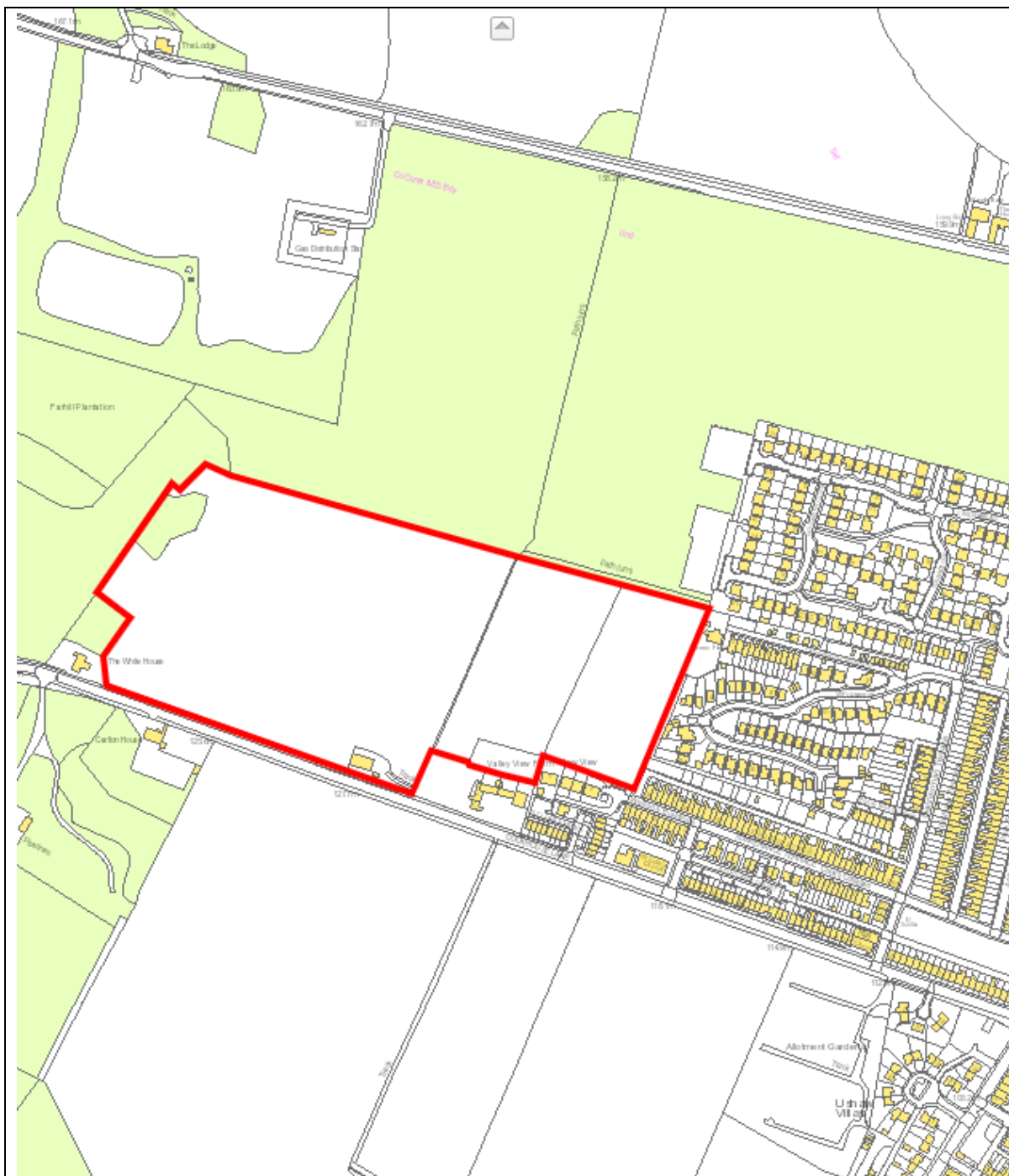
STATEMENT OF PROACTIVE ENGAGEMENT

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

to improve the economic, social and environmental conditions of the area in accordance with the NPPF.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Residential Amenity Standards Supplementary Planning Document January 2023
Parking and Accessibility Standards Supplementary Planning Document 2023
Statutory consultation responses
Internal consultation responses
External consultation responses



Planning Services

Erection of 5no dwellings with associated site access and ancillary facilities.

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Date: 24 April 2024

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No:	DM/24/00426/FPA
FULL APPLICATION DESCRIPTION:	Change of use of restaurant to local convenience shop together with extension, new shop front, and external plant and bin enclosure
NAME OF APPLICANT:	Mr Alan Yip
ADDRESS:	How Do You Do York Road Peterlee SR8 2DP
ELECTORAL DIVISION:	Peterlee West
CASE OFFICER:	Michelle Penman Planning Officer Michelle.penman@durham.gov.uk 03000 263963

DESCRIPTION OF THE SITE AND PROPOSALS

The Site:

1. The application relates to an existing mixed-use building comprising of a public house, restaurant, dance hall and hairdressers. The site is located on the outskirts of Peterlee to the north of the main town centre. Vehicular access is currently taken from York Road to the west of the site.
2. The building is situated within a predominantly residential area, however, a local amenities centre is positioned immediately to the north of the site and comprises a post office, betting shop and other local businesses.

The Proposal:

3. The proposals relate to the change of use and conversion of the restaurant element of the building to a local convenience store together with a small single-storey extension to provide sufficient retail space for the business, a new shop front, and associated external plant and bin enclosure.
4. The building appears to have originally been a public house with a function room and later a restaurant element was established. Other uses, such as a hairdressers, are also noted within the wider building and there are no permissions for these uses. However, they clearly operate separate to the public house and restaurant functions and are therefore considered to be separate planning units. Nevertheless, it is

considered that a change of use would be required for the current proposals but that the building is fundamentally commercial in character.

5. The application is reported to planning committee at the request of Councillor Louise Fenwick and Councillor Susan McDonnell on grounds of impacts on the amenity of neighbouring residents and anti-social behaviour.

PLANNING HISTORY

6. 5/PLAN/2008/0120 Formation of decked area and ramp and erection of retractable awning. Approved 15th April 2008.

5/PLAN/2007/0748 Formation of decking area for use as smoking area. Approved 21st December 2007.

PLANNING POLICY

NATIONAL POLICY

National Planning Policy Framework

7. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
8. NPPF Part 2 - Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
9. NPPF Part 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 6 - Building a Strong, Competitive Economy - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
11. NPPF Part 7 - Ensuring the Vitality of Town Centres - Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
12. NPPF Part 8 – Promoting Healthy and Safe Communities - The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and

community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.

13. NPPF Part 9 – Promoting Sustainable Transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. NPPF Part 12 - Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
15. NPPF Part 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:

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

17. The following policies of the County Durham Plan (CDP) are considered relevant to this proposal:
18. 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.

19. Policy 9 (Retail Hierarchy and Town Centre Development) seeks to protect and enhance the hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county. Proposals for town centre uses, as defined by National Planning Policy Framework not located within a defined centre (, as shown on the policies map, will be required to provide a sequential assessment.
20. 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.
21. 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
22. 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.
23. 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.
24. Policy 41 (Biodiversity and Geodiversity) restricts development that would result in significant harm to biodiversity or geodiversity and cannot be mitigated or compensated. The retention and enhancement of existing biodiversity assets and features is required as are biodiversity net gains (BNG). 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.
25. The current County Durham Parking and Accessibility Supplementary Planning Document 2023 sets out the Council's approach to parking requirements on development sites. They are designed to make sure there is enough parking at our homes and for our shops and employment locations and to encourage the use of more sustainable modes of travel including walking, cycling and use of public transport.

Neighbourhood Plan

26. There is no neighbourhood plan relevant to the determination of this application.

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

27. The Highway Authority raises no objection to the proposals from a highways perspective.

INTERNAL CONSULTEE RESPONSES:

28. Design and Conservation raise no objections.

29. Environment Health (Nuisance Action) raise no objection to the application, subject to the inclusion of conditions relating to construction works and a scheme of sound proofing measures.

30. Spatial Policy provided guidance on policies and issues relevant to the determination of this application and consider the development to accord with Policy 9.

PUBLIC RESPONSES:

31. The application has been advertised by means of site notice and by notifying neighbouring residents by letter. At the time of writing five letters have been received in response to the application, including from Cllr Louise Fenwick, Cllr Susan McDonnell and Grahame Morris MP.

32. The objections and concerns raised in relation to the application are summarised as follows:

- Increased disturbance and light pollution from the shop entrance, advertisements, security lights, and from car headlights as cars are leaving the car park.
- Existing issues with light pollution from cars will be exacerbated by the development, particularly on evenings and during winter months
- Increased noise and general disturbance in quiet area
- Impact on amenity and quality of life of occupants in adapted bungalows, located opposite to the site, many of which are elderly or vulnerable adults with health conditions
- Potential anti-social behaviour and groups congregating outside of the shop
- Increased litter
- Noise and disruption from deliveries
- Additional traffic and parking on the pavement or road
- Noise from plant equipment
- Not appropriate location, should utilise vacant units in adjacent parade

33. A letter in support of the application was also received and considered that there is currently no access to local convenience stores and such access within walking distance would be a great benefit to the community. A local shop will also reduce emissions from people driving to other locations.

The above is not intended to list every point made and represents a summary of the comments received on this application. The full written text is available for inspection on the application file which can be viewed at <https://publicaccess.durham.gov.uk/online-applications/applicationDetails.do?activeTab=documents&keyVal=S8WQ8SGDGHY00>

APPLICANT'S STATEMENT:

34. None Provided.

PLANNING CONSIDERATIONS AND ASSESSMENT

35. 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.
36. The National Planning Policy Framework is a material planning consideration in this regard. The County Durham Plan is the statutory development plan and the starting point for determining applications as set out at Paragraph 12 of the NPPF. The NPPF advises at Paragraph 225 that the weight to be afforded to existing Local Plans depends upon the degree of consistency with the NPPF.
37. The County Durham Plan (CDP) was adopted in October 2020 and as such represents the up-to-date local plan for the area. Consequently, consideration of the development should be led by the plan if the decision is to be defensible.
38. In this context, it is considered that the main planning considerations relate to the principle of development, impact on residential amenity, impact on the character and appearance of the area, parking and highway safety, and other matters.

Principle of Development

39. The proposals relate to the change of use and conversion of the restaurant element of the existing building to a local convenience store which is located within Peterlee. As such, policies 6 (Development on Unallocated Sites) and 9 (Retail Hierarchy and Town Centre Development) are the key policies relevant to the determination of this application.
40. 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, provided the proposals accords with all relevant development plan policies and:
 - a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;

- f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities services unless it has been demonstrated that they are no longer viable;
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration.
41. Paragraph 85 of the NPPF states that planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.
42. The application site lies within the built-up area of Peterlee and relates to an existing building currently in use as a restaurant attached to a public house. Although the surrounding area is predominantly residential in character the existing building is commercial and there is a parade of shops located immediately to the north of the site. On that basis it is considered that the development would be a compatible use in accordance with criteria (a). However, the compatibility within neighbouring residential properties will be considered in more detail elsewhere in this report.
43. Criteria (b) and (c) are not considered relevant to this proposal as the development is located within the built-up area and would not result in ribbon development, inappropriate backland development, or the loss of open land. Criteria (d) and (e) relate to design and highway safety and will be considered in more detail elsewhere in this report.
44. In terms of criteria (f), the development relates to a site with an established commercial use and there are commercial uses within the existing shopping parade to the north. The site is located within a predominantly residential area with a bus stop located in close proximity which provides services into the centre of Peterlee with good connections to surrounding settlements.
45. In relation to criteria (g) the development would result in the loss of the restaurant use, however, the use has not been identified as an asset of community value and there remains a choice of licenced restaurants within Peterlee. The development would not therefore result in the loss of a settlement's or neighbourhood's valued facility or services. The development is not considered to conflict with criteria (h) to (j).
46. Taking the above into account, it is considered that the change of use, together with the extension, to a local convenience shop would be acceptable in principle in accordance with Policy 6 of the CDP. However, Policy 9 (Retail Hierarchy and Town Centre Development) is also relevant and seeks to protect and enhance a hierarchy of retail centres in the County. The Plan will look to support new town centre development across all the County's centres that will improve choice and bring about regeneration and environmental improvements. Proposals for town centre uses, as defined by the NPPF not located within a defined centre, as shown on the policies map, will be required to provide a sequential assessment. This is in line with paragraphs 91-93 of the NPPF.
47. As this is a town centre use outside of a defined centre, then a Retail Sequential Test (Document no. JH/DW/001), prepared by Fairhurst and dated October 2023, has been

submitted in support of the application and seeks to appraise the locality to determine whether there are any sequentially preferable sites for the proposed development. Based on the proposed floorspace, the applicants have assumed that the catchment of the proposed development would be a 10–15-minute walk or 1km. The assessment has identified that there are no defined centres within the catchment, however, potential vacant units within or on the outskirts of Peterlee Town Centre have been considered.

48. The proposal involves the development of a retail unit of approximately 232sqm, however, to demonstrate flexibility, the applicant would consider units 20% smaller or 20% larger, however, they stipulate that there is a commercial requirement for the units to be able to operate between 7.00am and 10.00pm. Despite there being significant numbers of vacant units within the town centre, there have been no units identified that are suitable or available. The units were either not being marketed, not of the required size or not available to be operated for the applicant's chosen hours of business.
49. The Council's Spatial Policy team were consulted on the application and accept the sequential analysis, commenting that given the nature and size of the store it is not realistic for it to be located in the town centre, away from the catchment area it is intended to serve. Despite this the applicant has considered units within the town centre and concluded none were either available or suitable. Given the above, it is considered that the applicant has met the requirements of the sequential test detailed within the NPPF and Policy 9.
50. It is acknowledged that some comments have been received suggesting that, while a local convenience shop is needed in the area, the proposed site is unsuitable and would be better situated within the existing shopping parade to the north of the site. The comments suggest that a newsagent recently closed and that there are vacant units which should be utilised. Notwithstanding the requirements of Policy 9 and the NPPF, together with the applicant's commercial requirements, a brief online search carried out by the case officer did not appear to reveal any units for sale or to let within the adjacent shopping parade.
51. Considering all of the above the principle of development is considered to be in accordance with Policies 6 and 9 of the CDP subject to more detailed consideration of other relevant matters and policy requirements below.

Impact on Residential Amenity

52. Paragraph 135 (f) 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 and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
53. Policy 31 (Amenity and Pollution) of the CDP displays broad accordance with the aims of Paragraph 135 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. 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.
54. Policy 6 (a) of the CDP requires development to be compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land. In addition, Criteria (e) of

Policy 29 (Sustainable Design) states that all development proposals will be required to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties.

55. It is acknowledged that a number of concerns have been raised in relation to potential increased noise and disturbance, anti-social behaviour, and light pollution resulting from the development. In particular, there are concerns in relation to impacts on the amenity and quality of life of occupants in the adapted bungalows located opposite to the site, many of which are elderly or vulnerable adults with health conditions.
56. The application proposals include the installation of external plant which is to be sited to the rear of the unit within an enclosed area, along with bin storage. An Assessment of External Plant Noise (Reference: ARR/C/2217.106 Rev A), prepared by ADC Acoustics and dated 20th September 2023, has been submitted in support of the application. Based on the assumption of all equipment running on full load throughout the night, the report concludes that the predicted noise from the external mechanical plant in the proposed position is likely to require some minor mitigation for the apartments to the northwest of the store. The submitted drawings show the proposed location of the plant to be enclosed by a 2.4m acoustic fence, in accordance with the recommendations of the report.
57. The Council's Environmental Health Nuisance Action Team have been consulted on the application and have undertaken a technical review of information submitted in relation to the likely impact upon amenity in accordance with the relevant Technical Advice Notes (TANs). The EHO notes that the development relates to an existing commercial premises, therefore, it is envisaged relevant impacts will be within reasonable parameters given the character of the area. The EHO are also not aware of any matters concerning the premises which would indicate that the development will lead to an adverse impact, providing relevant good practice and guidance is complied with. In addition, it is considered unlikely that the development would cause a statutory nuisance.
58. Concerns have been raised in relation to impacts on residents of York Road and particularly occupants of the adapted bungalows situated directly opposite the proposed development and access. In particular, there is concern that the amenity and quality of life of these occupants will be compromised as a result of intrusive light, particularly from car headlights when parking and exiting the premises. It is suggested that this is an existing issue which will be exacerbated by the proposed use.
59. It is acknowledged that the development could lead to an increase in traffic movements and car headlights would likely be more noticeable on an evening and particularly during winter months. However, as already noted, this is an existing commercial site which includes the public house and restaurant, and the access is established. On that basis, the impacts of the existing uses and vehicular traffic could change at any time, albeit within the permitted hours of use of the premises. There will be a separation distance of approximately 43 metres between the new shop front and frontage of the nearest bungalows opposite and approximately 22 metres from the site access to the bungalows. The properties are set back from the main road and existing commercial centre with a grass area and some established trees providing a buffer. As such, while there could be some impact on the properties opposite, it is not considered to be so harmful that a refusal could be sustained in this instance.
60. In terms of lighting from advertisements, this will be subject to a separate application for advertisement consent and an informative will be added in this regard. With regards to lighting from the premises itself and security lighting, it is considered that this could

be dealt with via a condition to secure the submission of details, prior to the first occupation of the development.

61. Concerns have also been raised in relation to general increased noise and disturbance from the proposals as a result of additional vehicles and the nature of the use. In terms of increased noise, as already noted the Council's EHO raised no objections to the application and as already discussed this is an established commercial site with current opening hours of 12pm to 11pm. Given the size of the proposed shop and position adjacent to the existing parade of shops, it is not considered that the development would result in a significant increase in noise and disturbance to a degree that would result in a detrimental impact on the amenity of neighbouring residents. While vehicles may park on the highway opposite to the bungalows, it is noted that the bungalows are set back from the highway and are separated by a grassed area. Therefore, it is not considered that any impacts on amenity on this basis would be so significant as to sustain refusal of the application.
62. There are also some concerns that the development could lead to anti-social behaviour resulting from the sale of alcohol or groups congregating outside of the shop. However, it is noted that the sale of alcohol is dealt with under separate legislation and whether the site would be suitable for the sale of alcohol would be a matter for the licensing authority. In addition, as already noted the EHO raised no objections, and no evidence has been submitted to suggest that there are any ongoing issues on the site or neighbouring commercial units. The proposed use would not be expected to create these issues, however, as already discussed it is considered that sufficient distance and separation would remain between the development and neighbouring properties, with the highway in between, to reduce any potential impacts.
63. In addition, concerns have also been raised in relation to increased litter. It is noted that there is an existing litter bin to the south of the site and adjacent to the bus shelter to the north, however, it is considered that a condition can be affixed to any planning permission granted to secure details for the provision of additional litter bins on the site.
64. Taking the above into account, the proposals are not considered to result in any significant adverse impacts on the amenity of surrounding occupants that would sustain a refusal of the application in this instance, in accordance with Policies 6, 29 and 31 of the County Durham Plan and Part 15 of the NPPF.

Impact on the Character and Appearance of the Area

65. Paragraph 131 of the NPPF states that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities.
66. Policy 6 (d) requires development to be appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement. Policy 29 requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.
67. The proposals include refitting the existing restaurant element of the building to form a new One Stop store. To provide adequate retail space and storage a single-storey flat roof extension is proposed to the northern side of the building, together with a new shop front and external plant and bin store. The proposed extension will seek to match

the existing and will be finished in painted brickwork with the height of the flat roof carried through from the existing. The new shopfront will comprise of grey window frames (RAL 7016) which will reflect the existing grey windows.

68. The Design and Conservation section were consulted on the proposals and commented that the public house forms part of the original local centre associated with the western expansion of Peterlee New Town to the Acre Rigg Farm area in the mid-20th century. Its relationship to the local shopping parade is integral to the social and architectural design of the town, making its retention and continued use desirable. It has considerable social value, and some retained architectural and historic value reflecting the New Town planning approach. Map regression confirms the building has been altered and extended in a somewhat ad hoc manner.
69. Officers consider that the current proposal seeks to integrate the proposed extension to reflect the previous alterations and harmonise the appearance with that which exists. It is considered to have been handled carefully and appears successful. The proposed shopfront will be a clear modern intervention; however, it relates to the established principal access points of the building. The proposed external plant and storage are not considered to result in any design concerns and officers raised no objections from a design point of view.
70. Taking the above into account, the development would be considered to have an acceptable impact on the character and appearance of the building and surrounding area and would accord with the aims of Part 12 of the NPPF and Policies 6 and 29 of the County Durham Plan.

Parking and Highways Safety

71. Policy 6 (e) of the CDP permits development which will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity. Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network.
72. This displays broad accord with Paragraph 114 of the NPPF which requires new development to provide safe and suitable access to the site. Paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
73. The Durham County Council Parking and Accessibility SPD Adoption Version 2023 sets out the Council's approach to parking provision. For retail uses the guidance recommends 1 parking space per 25m² of Gross Floor Area, 2 short stay spaces for visitors and 1 long stay cycle space per 100m². This part also sets out that these guidelines for car parking are not minimum or maximum standards but rather recommendations that are intended to be applied equally across the County. However, where development is situated in an accessible location or in an LCWIP area, as defined in section 2, a lower parking requirement may be negotiated with Highways officers.
74. The Design and Access Statement submitted with the application confirms that the current on-site parking arrangements are not clearly marked, however, there are approximately 34 no. existing parking spaces to serve the whole site. Based on the DCC Parking Standards 46 no. spaces would be required in total to serve the existing and proposed uses on site, 7 no. of which would be required to serve the new retail use. There are roughly 10 no. marked parking spaces for the restaurant which are

located adjacent, and these spaces will be utilised for the new retail use with an additional 2 no. parking spaces, one of which will be accessible.

75. The Highway Authority were consulted on the proposals and advised that analysis of the accident history indicates that there are no incidents associated with the site during the standard search period. Officers note that parking provision has been carefully considered for the site and whilst it would not comply with the DCC Parking Standards for a new site it is acknowledged that the site has existed for a significant period. It is therefore accepted that the parking is a mixture of extant use and proposed use. It is also accepted that there will be shared trips associated with the adjacent businesses and that the adjacent car park as well as on-street parking will be utilised. It is therefore considered that the level of parking provision is agreeable. On that basis, the Highway Authority offer no objection to the proposals from a highway's perspective. An informative is also recommended in relation to undertaking works in the highway and will be added to any consent granted.
76. A cycle stand has been indicated on the site plans to the front of the proposed shop, however, no further details have been provided. Although the site is established it is considered appropriate to include these facilities to improve the sustainability credentials of the site in line with the Parking SPD guidance. It is therefore considered that a condition requiring the submission of precise details of such facilities, to be agreed by the LPA and installed prior to first use, would be necessary in this instance.
77. Concerns have been raised in relation to increased traffic movements and parking on the highway. In particular, concerns have been raised by a local resident and Grahame Morris MP in relation to existing parking issues, particularly on a weekend when the function room is in use which leads to parking on pavements. While these concerns are acknowledged, it is considered that this is an existing situation which sporadically occurs and not one which appears to be replicated on a daily or necessarily weekly basis. Whilst the proposals could place additional strain on parking, it would generally be capable of accommodation within the available parking. On this basis, it is considered that it would be difficult to justify a refusal on safety grounds.
78. While it is noted that concerns have been raised, no objection has been raised by the Highway Authority and given the existing established use of the site, it is not considered that the development would result in any significant additional adverse impacts on highway safety or congestion that would sustain refusal of the application in this instance. The development is therefore considered to accord with the aims of Part 9 of the NPPF and Policies 6 and 21 of the County Durham Plan.

Other Matters

79. Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land) states that development will not be permitted unless it can be demonstrated that any land issues can be satisfactorily addressed, and the site is suitable for the proposed use. The Council's Contaminated Land officer was consulted on the application and has assessed historical maps and the submitted screening assessment form and have no adverse comments to make. No contaminated land conditions are required.
80. Policy 41 (Biodiversity and Geodiversity) of the CDP 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 Ecologist was consulted at the pre-application stage and confirmed that the site looked to be low risk for bats and that no further surveys were required.

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.

CONCLUSION

83. In summary, subject to conditions, it is considered that the principle of development is acceptable in planning terms and would accord with the aims of Policies 6 and 9 of the CDP, subject to appropriate planning conditions described within the report and listed below.
84. When assessed against other relevant policies of the County Durham Plan it is not considered that the proposed development would have a significant detrimental impact on residential amenity or on highway safety that would sustain a refusal of the application in this instance. The proposals would also have an acceptable impact on the host building and the character and appearance of the surrounding area. On that basis, the development would accord with Policies 6, 9, 21, 29 and 31 of the County Durham Plan and Parts 9, 12 and 15 of the NPPF.
85. Whilst the concerns raised by local residents, Cllr Louise Fenwick, Cllr Susan McDonnell and Grahame Morris MP are acknowledged, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application. Considering the above, the application is reported to the Committee with a recommendation to approve the application, subject to conditions.

RECOMMENDATION

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

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

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

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

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

3. Prior to the development hereby approved first being brought into use details of any external lighting shall be submitted to and approved in writing by the Local Planning Authority. The detail provided shall demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting shall be erected and maintained in accordance with the approved details thereafter.

Reason: In order to minimise light spillage and glare, in accordance with Policy 31 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.

4. In undertaking the development that is hereby approved:

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

No internal works audible outside the site boundary shall take place on the site other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1400 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.

5. Prior to the development hereby approved first being brought into use details of cycle storage facilities shall first be submitted to and approved in writing by the Local Planning Authority. Thereafter, the cycle storage facilities shall be constructed in accordance with the approved details and shall be retained in perpetuity for the lifetime of the development.

Reason: In the interests of amenity and to encourage sustainable modes of transport in accordance with Policies 21, 29 and 31 of the County Durham Plan and Parts 9, 12 and 15 of the National Planning Policy Framework.

6. The development hereby approved shall not operate outside the hours of 0700 to 2200hrs on any day of the week.

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

7. Prior to the development hereby approved first being brought into use a scheme for the management of litter associated with the premises, to include additional litter bins, shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be operated in accordance with the agreed details.

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

STATEMENT OF PROACTIVE ENGAGEMENT

The Local Planning Authority in arriving at its decision to approve the application has, without prejudice to a fair and objective assessment of the proposals, issues raised, and

representations received, sought to work with the applicant in a positive and proactive manner with the objective of delivering high quality sustainable development to improve the economic, social and environmental conditions of the area in accordance with the NPPF. (Statement in accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015.)

BACKGROUND PAPERS

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

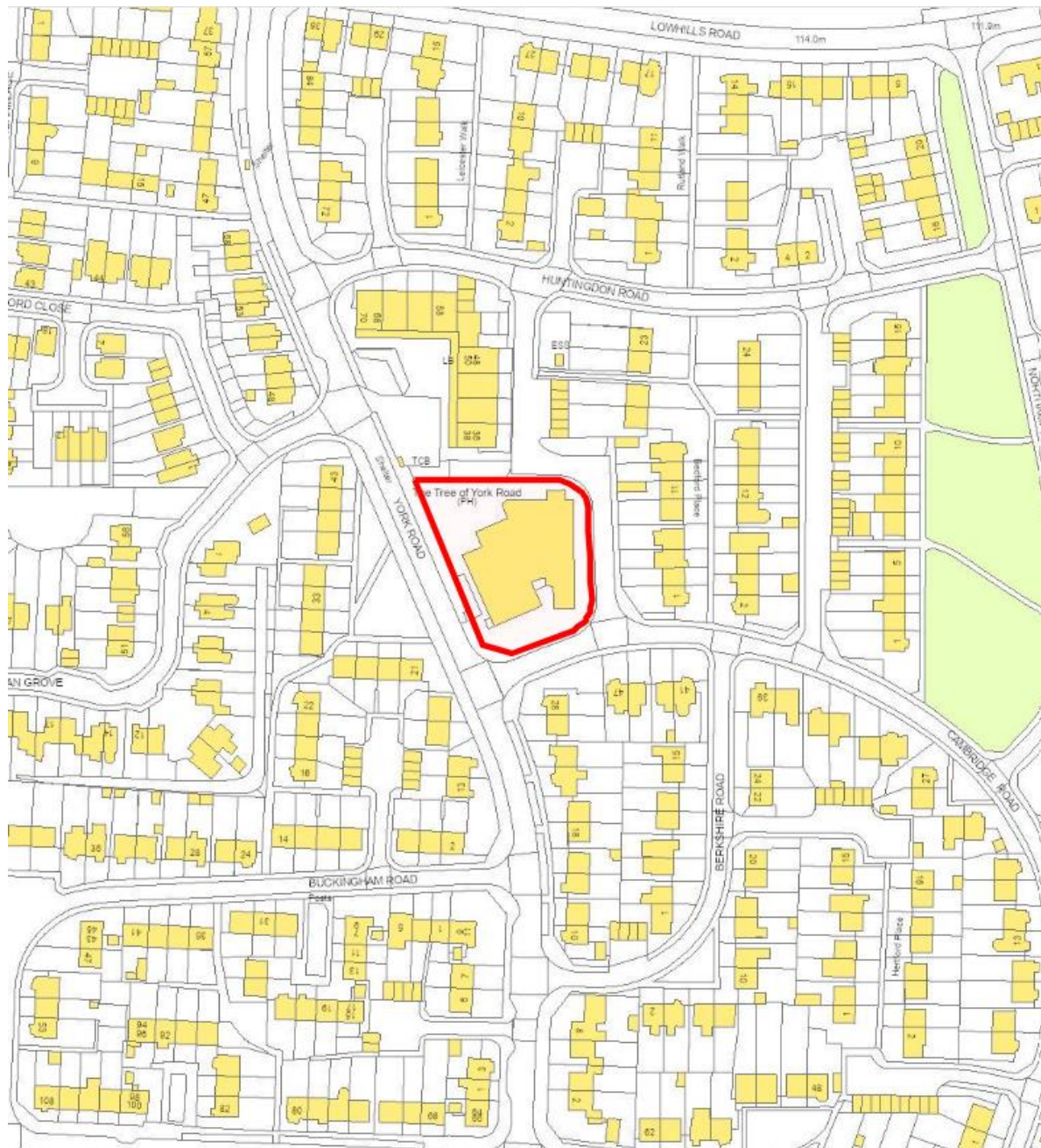
Statutory, internal and public consultation responses

The National Planning Policy Framework (December 2023)

National Planning Practice Guidance Notes

County Durham Plan (2020)

County Durham Parking and Accessibility Standards 2023



Planning Services

Change of use of restaurant to local convenience shop together with extension, new shop front, and external plant and bin enclosure at How Do You Do, York Road, Peterlee, SR8 2DP.

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Comments

Date April 2024

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