



## Area Planning Committee (South and West)

**Date** Thursday 23 November 2023  
**Time** 10.00 am  
**Venue** Council Chamber, County Hall, Durham

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### Business

#### Part A

1. Apologies for Absence
2. Substitute Members
3. Declarations of Interest (if any)
4. Minutes of the Meeting held on 19 October 2023 (Pages 3 - 14)
5. Applications to be determined
  - a) DM/23/01681/FPA - Land to the East of Holdforth Crescent, South Church Road, Bishop Auckland, DL14 6DU  
(Pages 15 - 44)  
Erection of 22no. dwellings, together with formation of the site access, landscaping and associated works.
  - b) DM/22/00380/FPA - Former Windy Nook Picnic Area, Wolsingham, DL13 3DJ (Pages 45 - 76)  
Erection of 1no. retail unit (Class E).
  - c) DM/23/02367/FPA - Unit 40, Enterprise City, Green Lane, Spennymoor Industrial Estate, Spennymoor, DL16 6JF  
(Pages 77 - 90)  
Change of use from industrial unit (B Class) to specialist pet food supplies (Retail) (Class E) (Retrospective).

- d) DM/23/01885/FPA - Woodhouse Close Leisure Complex, Woodhouse Lane, Bishop Auckland, DL14 6JX  
(Pages 91 - 128)

Demolition of the existing Woodhouse Close Leisure Complex and Library and erection of a replacement Leisure and Community Centre and associated car parking and landscaping (amended description).

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

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

County Hall  
Durham  
15 November 2023

To: **The Members of the Area Planning Committee (South and West)**

Councillor J Quinn (Chair)  
Councillor A Savory (Vice-Chair)

Councillors E Adam, V Andrews, J Atkinson, D Boyes, D Brown, J Cairns, N Jones, L Maddison, M McKeon, S Quinn, G Richardson, I Roberts, M Stead and S Zair

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**Contact: Amanda Stephenson    Tel: 03000 269703**

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## DURHAM COUNTY COUNCIL

At a Meeting of **Area Planning Committee (South and West)** held in Council Chamber, County Hall, Durham on **Thursday 19 October 2023 at 10.00 am**

**Present:**

**Councillor J Quinn (Chair)**

**Members of the Committee:**

Councillors A Savory (Vice-Chair), V Andrews, J Atkinson, D Brown, N Jones, M McKeon, S Quinn, G Richardson, I Roberts, M Stead and S Zair

### **1 Apologies for Absence**

Apologies for absence were received from Councillor E Adam, Councillor J Cairns and Councillor L Maddison.

### **2 Substitute Members**

There were no substitutes.

### **3 Declarations of Interest**

There were no Declarations of Interest.

### **4 Minutes**

The minutes of the meeting held on 20 July 2023 were agreed as a correct record and signed by the Chair.

### **5 Applications to be determined**

#### **a DM/23/01617/FPA - Field Centre, Baldersdale, Barnard Castle, DL12 9UU**

The Committee considered a report of the Planning Officer for the change of use from a former field centre (C2 Use Class) to single private dwelling (C3 Use class) (for copy see file of minutes).

S Pilkington, Principal Planning Officer gave a detailed presentation of the application which included the site location, photographs of the site, aerial images (that showed the building to the North East corner, the car park and amenities that were on site) and the proposed site plan that showed there would be no changes to the site. Upon consultation the spatial planning team raised concern that any decision should guard against the loss of community facilities and services. The building had been last used as an education centre and was not deemed a community facility. There were eight letters of objection and five letters of support. The property had deteriorated over the years and was considered a Non-Designated Heritage Asset. The property would provide three large bedrooms, a bathroom, a home office, a kitchen, a snug and a lounge.

Mr Atkinson, neighbour addressed the committee in objection to the application. He informed the committee that he had lived in Teesdale from childhood and had settled as an adult in the village to raise a small family. He worked with schools and scout groups to provide outdoor activities. He did not operate his business for profit but to share his passion of the outdoors and sought reward in children's achievements and accomplishments. He gave an example of working with a child who had feared water but through paddle boarding the child had lost that fear. He felt that the less time children spent outdoors their mental health issues doubled.

Mr Atkinson had offered to purchase or lease the property from the church to extend the affordable service he provided to schools but he had been refused. He was saddened that the building had closed seven years ago and he believed the building should be given a chance to serve the community as an activity centre. He had planned to renovate the property as he saw a need and value for the area to provide an idyllic spot where children could experience the outdoors. He felt that if the application was approved there would be fewer opportunities like his proposal in the area for children to experience the outdoors as other enterprises had closed.

Mrs Sparrow addressed the committee on behalf of herself and her husband as joint applicants for the change of use of the disused field studies centre in Baldersdale, back to a residential dwelling. She explained that the reason for their application was to enable them to purchase the property as their home. She noted that this had been something that the pre-application advice had given that stated that the council would foresee no objection in principle to and therefore, they made their offer to purchase the property. She explained that her husband was from Teesdale and that they wanted to make their home and life in the area. She clarified that they both loved being outdoors and could not think of a more brilliant place to call their home.

Mrs Sparrow informed the Committee that they had built connections as a couple within the wider community in Cotherstone, where they were currently renting. She hoped that if they could make the property their long-term home, they would become part of the Baldersdale community as well. The property was being sold by the local Church to fund a children and family worker for the area, which they were keen to see moved forward.

She informed the committee that historically the building had been a schoolhouse that served Baldersdale, but the school had closed in the 1950s. After the closure, the property was a private home, and they aimed to make this a home once again. The property had never been run commercially and there were commercially run groups and hostel type accommodation in both Teesdale and Weardale. The property was a non-designated heritage asset and in need of repairs and updating and they believed that their application would result in the ability to conserve the property and invest in it for the future.

With regard to the accessible features of the property, Mrs Sparrow worked as an Occupational Therapist in Social Care with disabled people. Disabled people were disenfranchised from the countryside due to lack of facilities and support. The accessible features would be kept and improved for their longer-term plans as outlined in the supporting documentation.

Mrs Sparrow was keen to continue to support local businesses and economies of the local villages around Baldersdale as she wanted to see the place and its people do well. She thanked the committee for their time and consideration of the application and acknowledged the frustration that would have been felt by the other party initially having their offer accepted for the property but later withdrawn. However, this only happened because the estate agent had failed to submit her final offer to the vendor.

Mrs Tiplady, neighbour spoke in support of the application. She explained that she had lived in the farm next to the property for twelve years. The farm had been run by several generations of her partners family. Her partners father had attended the school that had operated from the premises. She noted that after the school closed it was changed into an education centre but had never been an outdoor centre as the garden was not big enough for activities. The area was isolated and she had welcomed the news as did her children that they would have new neighbours. She stated that with rural crime the additional neighbours would create extra vigilant support with someone living in close proximity.

The Principal Planning Officer clarified that Policy 10 (development in the countryside) within the County Plan could be key to protect an existing community facility. This had been considered by Officers and it was felt that the building was not deemed to be a community facility and had not met the day to day needs of the community as it had been closed for seven years.

Councillor S Quinn could see both sides of the debate. She noted that the building was derelict and had not been used for several years. Although it was a beautiful area she could understand the need for security for the nearby dwelling and **Moved** that the application be approved. She believed it would be a shame if the property fell into further disrepair to the point that it could not be recovered.

Councillor G Richardson queried if the application was overturned how Mr Atkinson would fund the outdoor centre.

Mr Atkinson explained that he had submitted an offer to buy the property but was refused at the last minute. He had planned to finance the outdoor centre through his father's pension and through monies paid by organisations like schools, girl guide groups and scout groups that used the facilities. It would be run as a business with a commercial mortgage that would offer activities at competitive prices that organisations could afford.

Councillor D Brown asked if the Public Right of Way (PROW) that ran through the grounds of the property could be diverted if it was deemed necessary.

The Principal Planning Officer responded that there would a separate procedure for the applicant to follow should they require the PROW to be diverted.

Councillor J Atkinson did not see the building as a community asset. He sensed that the renovations required to the building would be expensive. He **Seconded** Councillor S Quinn to approve the application.

Councillor A Savory remarked that the building was derelict and had not been used as an outdoor centre in the past. She thought the property would need a lot of repairs. She felt that the Children and Family worker that would be employed in the area by the sale of the property would be a much needed provision for children and families in the vicinity. She was in support of people who moved to the Dales to help sustain the area.

Councillor S Zair stressed that the Committee should determine the application that had been presented. He felt for Mr Atkinson but stated he would vote for the officer's recommendations to approve the change of use of the property into a residential dwelling.

Councillor M McKeon queried if the building could fit into the traditional idea of what a community building was. She questioned how the application fit within planning policy around tourism and the reduction in tourist accommodation. She thanked Mr Atkinson for his presentation but explained that Members were restricted by the planning framework.

The Principal Planning Officer stated that within the Durham County Plan the building could be recognised as a community building but it was never used as accommodation and therefore the tourism element could not be applied.

Councillor G Richardson was saddened by the application that the Dales would lose such a building and as such he would vote against the recommendation.

Upon a vote being taken it was:

### **Resolved**

That the application be **APPROVED** subject to the conditions listed in the report.

#### **b DM/23/01275/PA - Land Northwest of South Thorpe, Wycliffe, DL12 9TU**

The Committee considered a report of the Planning Officer regarding prior approval for the provision of a lagoon for the storage of slurry 60m by 40m with 3.5-metre-high bund. The application was for Prior Approval under Article 3 Schedule 2 Part 6, Class A (b) of the Town and Country (General Permitted Development) Order 2015 (as amended) for the siting of the development (for copy see file of minutes).

S Pilkington Principal Planning Officer gave a detailed presentation of the application which included aerial photographs, site images that showed the level changes to the land, hedge rows and a site location map that highlighted a large caravan park and the village of Wycliffe nearby. The site was of an agriculture nature and an arable field with an access track from the South. The proposed lagoon would be hidden behind a hedge row with a floating cover. The application was subject to consultation where twelve letters of objections had been received along with an objection from the Parish Council.

The main summary of objections were on the grounds of odour, water pollution and visual impact. The site location bordered North Yorkshire and not Darlington Borough Council as stated in the report. The siting of the lagoon was necessary for agricultural purposes. A separate application was required to establish the impact on ecology and nitrate neutrality as the land was in an area of constraint for the Tees Valley catchment area.

Mrs Bayles, neighbour spoke on behalf of herself and the community in opposition to the application. She thanked Councillor G Richardson for requesting the application be brought to committee for debate. She was concerned that the lagoon once constructed would contain 8,146 cubic metres or 1.7 million gallons of pig slurry in one specific area supposedly from single use. She thought that the size and design of the proposal was more in keeping for industrial use. She noted that in 2010 the applicant had applied to Richmond Council for retrospective planning to increase the number of pigs from 4,000 to 10,000. To date the applicant had 7500 pigs and as such his storage facilities were deemed inadequate and out of date to deal with the slurry. She queried why it had not been incumbent for the applicant to improve and extend his storage facility at the current location away from residential dwellings when he increased the number of pigs he had.

Mrs Bayles was worried that issues with the Environment Agency and ecology as stated in the report had not been addressed. She was troubled that Environmental Health had not identified odour as a statutory nuisance in the long term use of the site. She was concerned that heavy rain caused by climate change would create water egress into the lagoon and create a significant negative impact on the environment. She was apprehensive that highways had deemed the road in the area as inadequate but had then contradicted itself to state that it would be adequate for 300 tankers to navigate the A66. She felt that the applicant had not articulated the lives of residents who were only 400 metres away from pig faeces.

Mr Salvin, agent addressed the Committee in objection to the application. He informed the Committee that he had been a local councillor at Teesdale District Council for the South Thorpe area and was accustomed to making decisions on planning committees. He thought that the engineered structure of the lagoon would be alien to the unspoilt landscape of the area. The lagoon would be visible with a short section being seen on the skyline above the hedge row. He did not feel that the site was sufficiently distanced from the A66 or the dual carriage. He was concerned that there would be 8,146 cubic metres of slurry which should halved in principle in relation to the production unit.



Mr Salvin was concerned that the lagoon and the main farmhouse were in two different counties and that highways, Natural England, Environmental Health and planning had not raised any issues with the siting of the lagoon that would be close to the Yorkshire Dales on high land. He thought a full planning application should be submitted to ensure a full range of consultees was accessed. He requested that the application be refused.

Mr Derby, agent spoke on behalf of the applicant in support of the application. He stated that under the General Permitted Development Order 2015 (GPDO) for agricultural use the construction of the lagoon did not require full planning application to be submitted. The GPDO allowed planning permission on agricultural land of five hectares or more and he confirmed that Newsham Hall Farm was 900 hectares. There were storage facilities close to the existing farmhouse but these were now outdated and did not provide the five month storage capacity to comply with the nitrate vulnerable zone or the six month storage capacity to comply with the farming rules for water regulations. Slurry was imported to be spread on the fields but this was not always available in bad weather.

Mr Derby noted that the proposed new storage capacity would meet regulations and sited in a more central location would allow slurry to be spread in any weather conditions. As the proposed location was in an area of high land value the lagoon would need to ensure that it would not harm the heritage of the site. The excavation of the land would create bunding around the lagoon that would be grassed to prevent erosion of the banks. There was limited public viewpoints of the lagoon within an existing field and any views from the PROW due to the topography of the land would not be visible or intrusive. There had been no objections in relation to the landscape. He deemed that the request for a full planning application to be submitted should not be considered. He also stated that highways had found that there would be no impact on highway safety as it would reduce the farm traffic in transferring the slurry from elsewhere. There were mitigated measures in place to deal with gas emissions and water runoff. The lagoon was reasonable and necessary for the purpose of agriculture legislation. He requested that members support the recommendation.

The Principal Planning Officer stated that the approval process for the application was highlighted in the report. The GPDO gave permission for the provision for the storage of slurry and did not require full planning application. The GPDO set out permissions for different groups that included agriculture that was reasonably necessary. He stressed that the application for prior approval was to consider the siting of the development only.

The Environment Agency had different regulations and legislation for the storage of slurry that would require a separate application for technical sign off. Environmental Health would investigate and instil enforcement if smells generated from the lagoon constituted a statutory nuisance. He noted that highways had considered the safety aspects and had raised no issues. He advised that the prior approval application had relied on internal consultees to assess the recommendation.

Councillor M McKeon agreed with Cllr Richardson that the application would increase the number of car journeys with 300 vehicles to fill the lagoon which she considered to be excessive. She was not sure about the workings of a farm and was concerned that the pigs were in another county. She thought the structure was very large in relation to the landscape.

Councillor G Richardson spoke on behalf of himself and Councillor J Rowlandson, who could not attend, as local councillors. He had requested the application to come to Committee for the local community to voice their concerns without pre-empting his decision on the application. He did however have grave concerns about the size of the structure. He noted that the applicant had pigs not only in Yorkshire but sited all over County Durham and not just in one location. He was concerned about the volume of slurry that the lagoon would hold that was near to a caravan holiday park even though the owners had not objected. He declared that his wife had a connection to the owners of the caravan site and thought that to be the reason as to why they had not objected. He felt it would affect tourism. He stated that there was upcoming law from 2027 on the storage of slurry that the applicant would need to adhere to. He believed that the size of the lagoon would be visible and should require full planning permission. He **moved** to recommend that the application for prior approval for the provision of a lagoon on the proposed site should be refused.

Councillor M Stead **seconded** the recommendation to refuse the application for prior approval.

The Principal Planning Officer clarified that the main farm was south of the A66 and the application had been registered with Durham County Council. The number of trips to fill the lagoon would be regulated in relation to the spreading of the fields over time when the slurry was produced. The spreading of slurry would still take place whether the lagoon was there or not. He remarked that there was a need for the proposed size and legislation stated that it would need to be reasonably necessary for the development. The planning authority could not insist on a full planning application be submitted and if the application was refused the applicant had the right to appeal. The prior approval was either to be refused or approved. Upon appeal the inspector would just look at the siting of the lagoon.

Councillor M McKeon thought the construction seemed too big for where it was proposed to be sited close to a village. She was unsure where the appropriate location to site it would be. She thought that the volume of the slurry stored was also too big for spreading on specific fields. The design of the lagoon for the storage of slurry was based on 7000 pigs and found it strange that the application to keep pigs initially had been made with a different authority. She agreed with both Councillor G Richardson and Councillor M Stead that the application should be refused.

Councillor M Stead was sceptical on the size of the lagoon based on only 7000 pigs producing slurry to spread over the fields. He was concerned over the number lorries that would be used to bring slurry in if there was not enough to spread. He struggled that Highways had not flagged this up as a safety concern.

The Principal Planning Officer emphasised that members should decide on the application as slurry would be generated either way. There was a required need for the storage facility to fit in with the regulations associated with agriculture. Highways had not found any safety issues as the lagoon would reduce the number of trips required when spreading slurry.

J Robinson, Principal DM Engineer (Highways) reiterated that highways had assessed the application for the end use. He confirmed that there would be fewer trips during the operation that had less impact on the highway network. During construction of the lagoon the 300 tankers would not appear on the same day and would be managed as there was a residential area nearby. Highways had looked at the data on traffic accidents and collisions over a five year period on the stretch of road that turned off the A66 on to the C road and found that there was no pattern of accidents or personal injuries.

Councillor S Zair asked if there were any slurry pits of a similar size constructed in the County as members were concerned over the actual size of the lagoon.

The Principal Planning Officer replied that there were comparable sized slurry pits in existence within County Durham.

Councillor D Brown enquired if the application was refused if the applicant had the right to appeal.

The Principal Planning Officer responded that the applicant had the right to appeal similar to that of a planning application.

Councillor D Brown emphasised that the Committee would need to have substantive reason to refuse the application.

The Principal Planning Officer highlighted that a justifiable reason would be required to refuse the application on the siting of the lagoon only.

Councillor D Brown mentioned that slurry was required to be spread from the start of November until end of February and that everyone would have storage as an ongoing cost. He confirmed that slurry should have a cover which would be enforceable with legislation from 2027. The applicant did propose to install a floating cover. He noted that this new technology really worked and kept the rain out but during construction there would be a dip that would collate water on top of the slurry and there was no mention in the report of the water being pumped out over time.

Councillor G Richardson pointed out that the A66 was busy and it was an accident waiting to happen if more slow agricultural vehicles were introduced that tried to cross the road to the location of the field. He mentioned that history showed that an application had been submitted for the construction of a lagoon for the same area that had been refused.

Councillor N Jones asked for clarity on how big the tankers would be that would transport the slurry to fill the lagoon.

The Principal Planning Officer replied that the tankers would be smallish and would be pulled by agricultural vehicles that were used to spread the slurry.

Councillor V Andrews queried if the farmhouse was in North Yorkshire and if there was land near the farmhouse that would be appropriate for the lagoon instead of the proposed site.

The Principal Planning Officer confirmed that the farmhouse was a mile away in North Yorkshire and there was slurry storage on this site but spreading slurry from this location intensified vehicle movement. He noted that the application was to upgrade storage facilities and move them to a more central location that would decrease vehicle movement.

Councillor S Quinn had welcomed guidance from her farming colleagues on the matter and agreed with Councillor Brown that there was a requirement to have the proposed storage. She was pleased that further legislation was imminent for farming regarding covered storage.

Councillor J Atkinson advised that he did not know a great deal about slurry and tried to understand the application. He knew the applicant required the storage and did not feel that the Committee were able to reject it.

The Principal Planning Officer confirmed that planning permission had been granted for this type of construction and the applicant had the right of appeal if the application was refused. Legislation did not allow for the requirement of a full planning application to be submitted.

L Ackermann, Legal Officer (Planning and Highways) asked Councillor G Richardson what reasons he had for refusal.

Councillor G Richardson responded that his reasons were on the grounds that the siting of the lagoon would affect the visual amenities and create danger on the roads.

The Legal Officer (Planning and Highways) stated that highways had not reported any safety issues with the roads and queried if he was sure about this reason as it would not be sustainable if the decision was appealed.

Councillor G Richardson withdrew the highways reason even though he knew it was a fast road that would become more dangerous when more slow-moving vehicles were added.

The Principal DM Engineer (Highways) clarified that section 111 of the National Planning Policy Framework (NPPF) justified that highway could refuse a planning application if proved that the impact would make the highway unsafe. He confirmed that this would not be the case with this application as the traffic movement would be less than what was current.

Councillor G Richardson disagreed with the Highways Officer but gave another reason for refusal on the grounds that it would create smells and odours.

The Principal Planning Officer noted that members could refuse the application if they were concerned with local residents and the amenity of the site.

Councillor M Stead agreed with Councillor G Richardson that the application should be refused on the grounds of smell as there was an enterprise in the form of a holiday park in the area whose business would be affected.

The Legal Officer (Planning and Highways) suggested that residential amenities should be changed to local amenities to include both residential and businesses.

Councillor G Richardson agreed to include the wording local amenities as the smell would not only affect residents but the holiday park as well.

Upon a vote being taken to refuse the recommendation for prior approval for provision of a lagoon for the storage of slurry it was:

**Resolved**

That the application for prior approval be **REFUSED**.



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/23/01681/FPA
Full Application Description:	Erection of 22no. dwellings, together with formation of the site access, landscaping and associated works
Name of Applicant:	Mandale Homes
Address:	Land to the East of Holdforth Crescent, South Church Road, Bishop Auckland, DL14 6DU
Electoral Division:	Woodhouse Close
Case Officer:	Gemma Heron Senior Planning Officer 03000 263 944 <a href="mailto:gemma.heron@durham.gov.uk">gemma.heron@durham.gov.uk</a>

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site relates to an undeveloped parcel of land that measures approximately 1.16 hectares in area, located within the settlement of Bishop Auckland. The site is bound by South Church Road (A689) to the west; Weardale Railway Line to the north; the River Gaunless to the east and residential properties to the south. The site is accessed via South Church Road before falling away at a significant level, towards the River Gaunless. An approximate level change of up to 7m is evident from South Church Road to the most eastern part of the site.
2. In terms of planning constraints, the Grade II Listed Building (The Grand Hotel) is located to the west across South Church Road. A Public Right of Way (Footpath 37, Bishop Auckland) runs centrally through the site in a north-south direction, leading to a pedestrian crossing on the Weardale Railway line to the north of the site. The site lies partly within Flood Zones 2 and 3. The site also lies within a Coal Mining High Risk Area.

#### The Proposal

3. Full planning permission is sought for the erection of 22no. dwellings alongside the formation of a site access, landscaping and associated works. The development would comprise:
  - 14 x 2-bedroom bungalows
  - 8 x 3-bedroom bungalows
4. The dwellings would be laid out in two lines of development centred around an access road and a turning head leading from South Church Road. Each of the dwellings would be compliant with the Nationally Described Space Standards (NDSS) and would be provided on an open market basis, with no affordable housing proposed as part of the development.
5. In order to accommodate the significant level changes on the site, engineering operations are proposed to raise the land level of the eastern section of the site to match the level of South Church Road. This would include the erection of retaining walls and structures to the rear of residential gardens on the eastern boundary.
6. The wider site would incorporate an area of Public Open Space to the southern section of the site. It is proposed to divert the existing PROW to follow the footpath proposed around the new access and turning head.
7. The application is being reported to planning committee in accordance with the Council's Scheme of Delegation as it constitutes a housing development which exceeds 10 dwellings.

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## **PLANNING HISTORY**

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8. 3/2004/0600 – Proposed residential development comprising 9no. 4 bed detached split level houses and 47 self-contained flats to the South Church Road Frontage. Refused 17<sup>th</sup> September 2004.
9. 3/2013/0407 – Residential development (outline up to 28 dwellings. Approved 14<sup>th</sup> May 2015.

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## **PLANNING POLICY**

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### **National Policy**

10. A revised National Planning Policy Framework (NPPF) was published in September 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.
11. *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.

12. *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.
13. *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.
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 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.
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 12 Achieving Well-Designed Places* - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
18. *NPPF Part 14 Meeting the Challenge of Climate Change, Flooding and Coastal Change* - The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
19. *NPPF Part 15 Conserving and Enhancing the Natural Environment* - Conserving and enhancing the natural environment. The Planning System

should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from Page 73 pollution and land stability and remediating contaminated or other degraded land where appropriate.

20. *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:**

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; 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; natural environment; noise; public rights of way and local green space; 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 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.
23. *Policy 15 (Addressing Housing Need)* establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure mix of affordable housing, the requirements of developments to meet the needs of older people

and people with disabilities and the circumstances in which the specialist housing will be supported.

24. *Policy 19 (Type and Mix of Housing)* advises that on new housing developments the council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self build or custom build schemes.
25. *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.
26. *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.
27. *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.
28. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing site must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable it proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.

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.

29. *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.

30. *Policy 31 (Amenity and Pollution)* sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.
31. *Policy 32 (Despoiled, Degraded, Derelict, Contaminated and Unstable Land)* requires that where development involves such land, any necessary mitigation measures to make the site safe for local communities and the environment are undertaken prior to the construction or occupation of the proposed development and that all necessary assessments are undertaken by a suitably qualified person.
32. *Policy 35 (Water Management)* requires all development proposals to consider the effect of the proposed development on flood risk, both on-site and off-site, commensurate with the scale and impact of the development and taking into account the predicted impacts of climate change for the lifetime of the proposal. All new development must ensure there is no net increase in surface water runoff for the lifetime of the development. Amongst its advice, the policy advocates the use of SuDS and aims to protect the quality of water.
33. *Policy 36 (Water Infrastructure)* advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and 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.
34. *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
35. *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.

36. *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.
37. *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.
38. 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.
39. *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.
40. The Council's Residential Amenity Standards Supplementary Planning Document (SPD) 2020 provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
41. 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:

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

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## CONSULTATION AND PUBLICITY RESPONSES

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### Statutory Consultee Responses:

43. *Lead Local Flood Authority* – Object to the application. Advise that there is no treatment proposed for the carriageway surface water run-off and the hydraulic calculations should take into account all storms events up to and including 1 in 100 year event plus 45% climate change and 10% urban creep. The discharge rates should be no more than Greenfield run-off rate for the location.
44. *Coal Authority* – No objection subject to conditions.
45. *Highways Authority* – Advise that the amended site plan addresses most of the previous concerns in relation to parking, vehicle manoeuvrability and electric vehicle charging points to meets the requirements of the Parking and Accessibility SPD.
46. However, the plans do not demonstrate that the visibility at the proposed access would meet the 85th percentile speed along the A689. The submitted plans only show the minimum visibility splay required for the 30mph speed limit which is not acceptable. Historical speed survey records indicate that the 85<sup>th</sup> percentile speed is 32.9mph and therefore a visibility splay of 2.4m x 76m to be clearly demonstrated that it is achievable. It is likely this can be achieved by ensuring any vegetation is clear from the visibility splay in the northerly direction and by amending the boundary of the public open space in the southerly direction.
47. *Environment Agency* – Advise that there are discrepancies on the red line boundary drawings as there is a significant difference along the border of where Flood Zone 3 is situated and the submitted plans. The application proposes to significantly raise land at the eastern boundary. Land raising must not take place in the flood plain and the red line boundary must reflect this.
48. *Network Rail* – Object to the proposal raising concerns about the impact of the scheme upon operational railway safety, in particular reference to the adjacent railway level crossing. The development may increase the amount of people using the crossing, this is likely increase the amount of risk on the operational safety of the crossing. It is recommended that the public right of way is diverted along the A689 and the crossing closed at the developers expense. In the event of approval conditions relating to Construction Phase; Drainage; Lighting; Trespass Proof Fencing; Landscaping; and Noise Mitigation are recommended.

### Non-Statutory Responses:

49. *Spatial Policy* – Advise that the site lies within the built-up area of Bishop Auckland and has previously been assessed as part of the SHLAA process but at the time was unavailable. The site is an unallocated site within the County Durham Plan and Policy 6 of the CDP would apply. In this case, 10% of the homes (2 dwellings) would be required for affordable home ownership as the site is in a low value area.

50. *Viability Team* – Advise that the Financial Viability Appraisal (FVA) has been reviewed, contrary to the finding of the appraisal it is recommended the development would remain viable even in the event affordable housing, NHS and Open Space financial contributions are provided.
51. *Affordable Housing Team* – Advise that there is a significant need for affordable units in this area and the need for bungalows is the highest in the surrounding locality.
52. *Archaeology* - No objections.
53. *Ecology* – Advise that the application has not demonstrated that the development would not result in a net loss of biodiversity. With respect to the Preliminary Ecological Appraisal, it is noted that there is a moderate risk tree on site with respect to bats clarification is required on whether or not the tree is to be removed or retained.
54. *Landscape Section* – Comments provided by Council’s Design Review process as summarised under ‘Design and Conservation’.
55. *Education* – Advise that there will be sufficient space to accommodate the pupils generated by the development in primary and secondary schools and no further mitigation is required.
56. *Environmental Health Nuisance* – Advise that the information submitted is not sufficient to allow full consideration against the thresholds stated in the Technical Advice Notes (TANs). Noise from the road and rail network is likely to impact future receptors. The potential for noise from the rail network is acknowledged by the applicant in the Design and Access Statement in which they refer to a Noise Impact Assessment being submitted; however, no noise impact assessment has been submitted.
57. *Environmental Health Land Contamination* – Advise that the Phase 1 identifies the need for further site investigation. Therefore, a Phase 2 -4 Report is required which can be secured via planning conditions.
58. *Tree Officer* – Advise that the loss of trees is not considered to be significant. The design requires significant level changes with a retaining wall being constructed in proximity of retained trees outside of the application site. There is no reference to the impact on the RPA of the retained trees.
59. *Design and Conservation* – Comments provided by Council’s Design Review Team which scored that the proposal would gain 7 ‘Red’ Classifications; 3 ‘Amber’ Classifications and 1 ‘Green Classifications’. Concerns have been raised stating how the scheme does not integrate appropriately into the existing pedestrian and highway network; the scheme does not achieve acceptable pedestrian connections to existing services and facilities; it does not provide an acceptable housing mix; the scheme does not create a place with locally inspired or otherwise distinctive character; the scheme does not take advantage of existing topography and landscape features; parking provision is insufficient; the location of public space is questionable and private space is impacted by retaining walls.

60. *Air Quality* – Advise that the development will not have a significant impact upon air quality and there would no air quality concerns for the future occupants of the development.
61. *Open Space Neighbourhoods* – Advise that concerns are raised that the development would make the verge maintenance of the area unsafe due to South Church Road being busy with traffic alongside being on a near blind hill and corner.
62. *Public Right of Way Team* – Advise that the proposed development site as Footpath 37 running through the centre of it. The proposed diversion route has unnatural turns along the new estate road, these should be refined and where possible a natural route should be followed. The current site has several desire lines (lines walked which are not the definitive public right of way) the desire lines link South Church Road to the footpath. The development should provide provision for pedestrian access from South Church Road to the west of the site this will enable easier access for residents located on the west of the site to access the railway crossing and footpath 37.

### **External Consultees**

63. *NHS* – Require a financial contribution of £10,626 to be secured via a Section 106 agreement.
64. *Northumbrian Water Ltd* – No response received.
65. *Police Architectural Liaison Officer* – Offer no comments.

### **Public Responses:**

66. The application has been advertised by way of a site notice, press notice and individual notification letters sent to neighbouring properties.
67. Two letters of objection and 1 letter of representation has been received. The main concerns are summarised below:
  - Loss of trees and nature conservation as the site has a lot of trees alongside being full of wildlife.
  - Impact upon privacy of surrounding residential properties.
  - Construction of the site will cause noise, traffic generation and significant disruption.
  - Impact upon the view out of existing residential properties.
  - Drainage as the site has a lot of drainage infrastructure present.
  - The proposal may cease access to the railway pedestrian crossing which is well used.
  - Concerns with the access and highway safety.

*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/>*

### **Applicants Statement**



68. For the reasons set out within the Planning, Design, and Access Statement, the applicant considers that the detailed proposals will satisfy all relevant policies of the development plan and NPPF provisions, as well as supplementary guidance. This is on the basis the proposals have been informed by the constraints and opportunities of the site, and will:

- Represent a modest quantum of development, and be of an appropriate layout and density, bearing in mind the site constraints;
- Make a positive contribution towards the Council maintaining a 5YHLS;
- Not introduce a land use that has not been approved previously on the site;
- Use suitable materials, both in terms of the dwellings and hard landscaping, which can be secured by condition. The applicant originally proposed artificial stone, but is happy to propose a suitable brick if the Committee would prefer such;
- Deliver much needed bungalows, of two and three-bed sizes, with clear demand for such according to the latest Strategic Housing Market Assessment;
- Reflect the character of the settlement in an appropriate manner, with a linear form of development fronting onto South Church Road;
- Not create any unacceptable residential amenity issues for either new or existing residents, subject to implementing suitable noise mitigation measures that can be secured via condition. A revised site layout has also been prepared to ensure all gardens now meet the requires standards in terms of minimum 9m depth;
- Be served by a previously approved point of vehicular access. The revised site layout prepared now addresses previous junction radii comments, provides a suitable quantum of visitor parking, increases road widths and resident parking, and indicates electric vehicle charging points and bin and cycle storage facilities;
- Be located in a sustainable location, a short walk from the town centre, with a footpath to be provided along the site frontage on the eastern side of South Church Road;
- Allow for a Public Right of Way diversion within the layout;
- Deliver a significant and policy compliant area of public open space on-site, even excluding the land of the drainage tank. The above-referenced revised site layout now proposes this more boundary planting and railings to frame and enclose more securely;
- Not tangibly increase flood risk, on or off-site. The area of the site within Flood Zone 3 is very small, at around 38sq.m, with the proposed houses located substantially above this. Moreover, the applicant's Engineers have advised that such could be designed out through further revisions, if the Committee were minded to defer the application to achieve such;
- Not give rise to any unacceptable heritage impacts, subject to further archaeology work being secured by condition;
- The aforementioned revised site layout corrects the position of the railway crossing, which in our view should resolve the Network Rail concerns by reducing the extent of proposed PRow alongside the railway line; and
- If biodiversity net gain cannot be achieved on-site, an off-site contribution towards such can be secured by a S.106 Agreement.

69. Lastly, the applicant has also considered changing the scheme to propose split-level dwellings (as shown indicatively in the earlier consent) particularly

along the eastern half of the site. If the Committee were otherwise satisfied with the proposals and would look favourably on the development if split level dwellings were proposed, the applicant would be happy to defer to achieve such.

70. With regards to the viability response from the Council, we fundamentally disagree with this and consider the example of values chosen by the Council are not comparable. As a result, we remain of the firm view that the development is not viable with affordable housing contributions, which is not unexpected for a scheme of this scale in the lower value area based on the whole plan viability work. This scheme does however deliver an enhanced M4(2) specification (100% as opposed to 66%) and help to meet the need for bungalows within the authority area.
71. In view of the above, we respectfully encourage the Committee to support the application in its current form or defer if it is considered that with some of the proposed changes and/or more information the Committee could support the application.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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72. Having regard to the requirements of Section 38(6) of the Planning and Compulsory Purchase Act 2004 the relevant Development Plan policies, relevant guidance and all other material planning considerations, including representations received, it is considered that the main planning issues relate to the Principle of development, Locational Sustainability, Scale/Design/Landscaping and Visual Impact, Highway Safety, Residential Amenity, Infrastructure and open space provision, Affordable Accessible and Adaptable Housing, Ecology, Flooding/Drainage, Ground Conditions, Sustainability and other matters.

### Principle of Development

73. 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.
74. 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.
75. In considering the previous planning history, planning permission was granted in 2015 for outline planning permission for residential development of up to 28 dwellings (Reference: 3/2013/0407). This application was for outline consent only with all matters reserved and was assessed under the policies of the Wear

Valley District Local Plan. This permission has lapsed so does not provide a fallback position for the development of the site. Since the approval of this application, the local and national planning policy context has changed considerably, and the development is to be assessed under the up-to-date policies of the County Durham Plan. The previous application was also assessed in the tilted balance in the presumption in favour of sustainable development due to the age of relevant policies of the Wear Valley District Local Plan and the Councils Housing supply position at the time.

76. Turning to an assessment against relevant County Durham Plan (CDP) Policies. The application site is not allocated for housing within CDP Policy 4, the site is however within the built-up area of Bishop Auckland . Therefore, the application falls to be considered against CDP Policy 6, this policy sets out that the development of sites which are not allocated in the plan or a Neighbourhood Plan within a built-up area which accord with all relevant development plan policies, and which:
- a. *are compatible with, and not prejudicial to, any existing, allocated or permitted use of adjacent land;*
  - b. *do not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;*
  - c. *do 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. *are appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement;*
  - e. *would not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;*
  - f. *have 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. *do 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. *minimise vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;*
  - i. *where relevant, make as much use as possible of previously developed (brownfield) land; and*
  - j. *where appropriate, reflect priorities for urban regeneration.*
77. It is considered that criteria a), b), c), d), e) and f) will be the most relevant in this case, all of which are covered in more detail in the main body of this report.

78. The proposal would comprise a development of bungalows within a Sub Regional Centre, Bishop Auckland, and is considered to have access to a range of services, facilities and public transportation to make the site a suitable location for housing under CDP Policy 6 in principle, subject to detailed considerations of the criteria of CDP Policy 6 and material planning consideration as detailed within the following sections of the report.
79. In considering the principle of the development, the proposal would be a suitable location for housing under CPD Policy 6. The main issues therefore relate to whether the impacts of the development in terms of design, landscaping, highways, flood risk, developer contributions and other material planning considerations would be within acceptable parameters as detailed in the remainder of this Committee Report.

#### Locational Sustainability of the Site

80. CDP Policy 6 Criteria f requires that developments on unallocated sites have 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. 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.
81. The NPPF sets out at Paragraph 105 that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. Paragraph 110 of the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken whilst Paragraph 112 of the NPPF amongst its advice seeks to facilitate access to high quality public transport.
82. In considering this the development against the above policy context, Bishop Auckland is identified as a Sub Regional Centre with a wide range of employment opportunities, retail provision and accessible services. 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 400m falls within the 'desirable' range. In this respect, there are four bus stops within 250 metres of the site which is well within the 400 metres desirable range which would comply with this standard. Also, there is existing highway and footpath links from the outside of the application site into the centre of Bishop Auckland where there are a wide range of facilities and services.
83. Overall, it is considered that the site has access to an array of services and facilities to serve the development proposed and that these are within a relatively easy reach of the site and can be accessed by public transport. Established bus services, walking and cycling routes would give future residents alternative options to the private motor car to access services and facilities.

84. In conclusion, the application site is within a sustainable location in accordance with Policies 6, 21 and 29 of the County Durham Plan, and the National Planning Policy Framework.

#### Scale/Design/Landscaping and Visual Impact

85. CDP Policy 6 criterion d) requires that development on unallocated sites is appropriate in terms of scale, design, layout and location to the character, function, form and setting of the settlement.
86. 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.
87. 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.
88. CDP Policy 40 seeks to avoid the loss of existing trees and hedgerows unless suitable replacement planting is provided.
89. 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.
90. The site comprises a grassed field area that has significant land level changes from the public highway to the River bordering the eastern boundary of the site. The site is not located within a conservation area and contains no designated heritage assets. However, it is within the setting of a Grade II Listed Building to the immediate west of the site across the A689. There are no other landscape designations on the land and none of the trees are protected by a Tree Preservation Order.
91. The application has been considered by the Council's Internal Design Review Team in accordance with CDP Policy 29 and the Building for Life SPD 2019. The scheme has received 7 'Red' classifications; 3 'Amber' classifications and 1 'Green' Classification. In relation to the red classifications, these were classified in regard to 'Connections'; 'Meeting Local Housing Requirements' 'Character'; 'Working with the site and its Context'; 'Streets for All'; 'Car Parking'; and 'Public and Private Spaces'.

92. Policy 29 of the CDP sets out: *'Schemes with one or more red will not be acceptable and will be refused planning permission unless there are significant overriding reasons.'*
93. To expand on the Design Review feedback, under 'Character', the proposed house types are standard, lacking in locally inspired or other distinctive character. The house types do not have any architectural features which are characteristic of their immediate surroundings in Bishop Auckland. In addition, the landscape character of the site would be impacted due to the significant levels changes proposed and the inclusion of a high retaining wall along the eastern boundary leading to a 'red' score for character.
94. Furthermore, under 'Working with the site and its context', the proposed layout does not take advantage of the topography or landscape character of the site. The development proposes extensive engineering operations to raise the land levels along the eastern boundary to create a site around the same level of South Church Road. This land levelling in some places extends to approximately 7 metres in height through the formation of a large retaining structure. The proposal presents a significant engineering operation to change the topography and landscape character of the site, rather than working with the existing land levels as other neighbour residential developments have done in the past. This has a negative impact on the site and its context which results in the proposal obtaining a 'red' score for working with the site and its context.
95. In respect of the Grade II Listed Building, Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 outlines that the Local Planning Authority will have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
96. In this regard, the proposal is within the setting of the Grade II Listed Grand Hotel which lies immediately adjacent the site to the west with the public highway intervening the application site and designated heritage asset. The site at present is a parcel of open land which falls away from the public highway utilising the natural landform of the flood plain of the River Gaunless to the east. At present, the site has a neutral impact upon the setting of the Listed Building. The introduction of housing onto this site would alter the setting of the Listed Building. However, the dwellings would be single storey and the Listed Buildings is already set within a residential context with South Church Road and the railway infrastructure forming part of the setting. It is considered that whilst the setting of the Listed Building would alter, its significance can still be understood and read within the site's context which would be acceptable and not result in harm.
97. In regard the diversion to the PROW Footpath 17, Question 1 of the Design Review and BfL SPD relates to 'Connections'. Also, Policy 26 of the CDP states: *'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.'*

98. In assessing the impact of the diversion, the PROW Team have been consulted on the application and they identify that the proposed diversion route has unnatural turns along the new estate road which should be refined and where possible, a natural route should be followed. The Team also comment that the site should provide provision for pedestrian access from South Church Road to the west of the site as this will enable easier access for residents located on the west of the site to access the railway crossing and Footpath 37. In considering the development against CDP Policy 26, based on the comments from the Design Review Panel and the PROW Team, the proposal would result in the deterioration in the quality and experience of Footpath 37 by diverting it to an unnatural route around the proposed access road. The diversion is not a direct, convenient or attractive route for pedestrians due to the unnatural nature of the route as well as the lack of connection with South Church Road. Therefore, the diversion of the PROW would fail to comply with CDP Policy 26.
99. Overall, as the proposal has received 7 'red' classifications under the Design Review Panel and CDP Policy 29 is clear that any proposals with one or more 'red' classifications should be refused planning permission. The development is considered to represent poor design with standard house types that do not reflect the locally distinctive character of Bishop Auckland, alongside an overengineered approach to the site levels to result in a scheme which does not relate to the site and its context. The development would also lead to an adverse impact on the existing PROW, the proposed replacement route would not be convenient or attractive route for pedestrians. Therefore, the proposal is considered contrary to the Building for Life SPD, Policies 26 and 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

#### Highway Safety/Access

100. 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.
101. The County Durham Parking and Accessibility SPD 2023 set out that a 2 bedroom or 3-bedroom dwelling will require a minimum of 2 in-curtilage parking spaces and 1 active charge point alongside 1 visitor/non-allocated parking space per 4 dwellings would be required.
102. 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.
103. Concerns have been raised by the public in regard to highway safety. Access to the site is proposed to be taken via South Church Road before turning towards the north to a turning head. The development would provide 2 in-curtilage parking space for each 2-bedroom bungalow and 2 in-curtilage parking spaces for each 3-bedroom bungalows.

104. The Highways Authority advised that the amended site plan does show adequate parking provision, as well as vehicle manoeuvrability and electric vehicle charging points to meet the requirements of the Parking and Accessibility SPD 2023.
105. However, the Highways Authority advise that the amended site plan does not demonstrate the required visibility splay at the site access. The submitted plans only show the minimum visibility splay for a 30mph highway, however, historical speed survey records indicate that the 85<sup>th</sup> percentile speed is 32.9mph and therefore, a visibility splay of 2.4m x 76m needs to be demonstrated. The amended site plan does not demonstrate the required visibility splay. Although, the Highways Authority outline that the required splay is likely to be achievable on the site by removing vegetation in the northerly direction and by amending the boundary of the Public Open Space in the southerly direction.
106. Therefore, whilst the required visibility splay has not been demonstrated by the plans submitted, it is likely this could be achieved with further amendments to the scheme which could be controlled by pre-commencement planning conditions. Overall, on balance, the inadequate visibility splay can be controlled via condition and will not form a reason for refusal of the application. The proposal complies with CDP Policy 21 in regard to highway safety and parking provision.
107. In addition, as above, the application has been assessed under the Council's Internal Design Review Team and received three red classifications relating to highways matters. One for 'Streets for All'; one for 'Car Parking' and one for 'Public and Private Spaces'. Concerns were raised that the highway design at the vehicular access cannot be achieved safely from an engineering perspective and there is insufficient resident and visitor parking spaces. Since the Design Review comments, an amended site plan has been submitted which, in consultation with the Highways Authority, shows acceptable parking provision on the site to address the 'red' from the Design Review Panel in regard to 'Car Parking'.
108. As identified above, the application site is located immediately adjacent to the Weardale Railway Line which is maintained by Network Rail. Network Rail have been consulted on the proposal and raise objections to the development identifying concerns on the operational railway safety. It is advised that the development may increase the usage and risk of a railway crossing along with the diversion to the existing PROW is likely increase the risk on the Level Crossing.
109. CDP Policy 21 under (e) sets out that developments in the vicinity of level crossings (both vehicular and pedestrian) will be expected to assess the potential increase in risk at each crossing affected and indicate the appropriate mitigation required to reduce or remove such risks.'
110. Whilst recognising the location of the existing crossing and public right of way which utilises the crossing, it is considered reasonable to assume that the development would materially increase the use of the crossing. As outlined in the response from Network Rail, this increase in usage may increase the risk at the crossing point. No consideration of the risks posed by the development,



along, has been undertaken by the applicant contrary to the requirements of CDP Policy 21.

111. Overall, no assessment of the potential increase in risk through the intensification of use of the adjacent pedestrian rail crossing has been submitted, contrary to Policy 21 of the CDP.

#### Residential Amenity

112. 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.
113. 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.
114. 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.
115. In considering the development against this policy context, each of the dwellings would have a private amenity space to their rear. However, one of the plots would have a substandard garden at approximately 7.5 metres in length. Although an amended plan has been submitted to increase garden depths, this does not align with the submitted engineering design of the site. Increasing garden depths would have the effect of altering the position and size of the proposed retaining wall. This policy deficiency in relation to private gardens need to be taken into consideration in the planning balance.
116. The Residential Amenity Standards SPD also sets out separation distances for new development to comply with. It states that 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 should be achieved. Where a main facing elevation containing a habitable room window 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.
117. In reviewing the to the site layout against these requirements, each of the dwellings would be single storey bungalows and therefore, there needs to be 18 metres between habitable room windows. The proposed site layout demonstrates that the dwellings would meet this level of separation to comply with this requirement of the Residential Amenity Standards SPD.
118. The site is directly to the south of the Weardale Railway Line as well as being adjacent South Church Road. These transport links are likely to provide significant noise impacts for future residents. No assessment of the impact of these site characteristics have been undertaken through a noise impact

assessment. Whilst in some instances a planning condition could require a noise impact assessment to be submitted prior to the commencement of the development, in this case, due to the site characteristics, especially the railway line to the immediate north, it is considered that further detail on the impact upon future residents is required prior to the determination of the proposal to assess the impact, which could result in changes to the site layout and the quantum of development achievable. Environmental Health Officers advise that an acoustic report carried out by a competent person to establish whether sound attenuation measures are required to protect future residents from the transferral of sound from rail traffic/ commercial noise should be carried out. As this information has not been submitted, there is insufficient detail within the application to assess the impacts of the railway and road traffic in terms of noise upon future occupants.

119. Overall, the proposals do not demonstrate that a good standard of amenity would be achieved for future residents which fails to accord with Policies 29 and 31 of the County Durham Plan, Parts 12 and 15 of the National Planning Policy Framework and the Residential Amenity Standards SPD.

#### Infrastructure and open space provision

120. CDP Policy 25 supports securing developer contributions where mitigation is necessary to make the development acceptable in planning terms including for social infrastructure such as education and health facilities.
121. CDP Policy 26 seeks to resist development proposals which would result in the loss of open space or harm to green infrastructure, 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 requirement. The Policy also outlines that new residential developments will be required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the Council will require financial contributions to be secured through planning obligations towards the provision of new open space, or the improvement of existing open space elsewhere in the locality.
122. Paragraphs 55-58 of the NPPF explain the circumstances when it is appropriate for planning obligations to be used to mitigate the impacts of the development. Paragraph 98 of the NPPF highlights that access to a network of high-quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities. Paragraph 130 requires amongst its advice that developments function well and optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space).
123. It is important to ensure that development proposals contribute to improvements in infrastructure capacity to mitigate for the additional demands that new development creates. By securing financial contributions through planning obligations, developers would help fund the physical, social and environmental infrastructure that is needed to make development acceptable and ensure that the development mitigates its impact upon existing infrastructure.

124. In relation to open space provision, the Council's Open Space Needs Assessment (OSNA) 2018 is considered the most up to date assessment of need. It identifies the five typologies (allotments; amenity/natural greenspace; parks, sports and recreation grounds; play space (children) and play space (youth), sets out requirements for public open space on a population pro rata basis and whether provision should be either within the site, or through a financial contribution towards offsite provision, in lieu taking into consideration factors such as the scale of the development, existing provision within suitable walking distances and the level of contribution sought.
125. In this respect, the proposal would need to make a financial contribution of £34,344 in relation to off-site open space and a minimum of 720sqm of on-site amenity/natural green space would be required. The proposed site plan shows on-site amenity space to the southern section of the application site which in size terms would meet this requirement.
126. The Council's Education Team have been consulted on the application and confirm there is no requirement in this instance for a financial contribution for education.
127. Paragraph 93 of the NPPF recognises the need for planning decisions to ensure an integrated approach when considering the location of new housing and to plan positively for the provision and use of community facilities and local services. Paragraphs 55-57 of the NPPF explain the circumstances when it is appropriate for planning obligations to be used to mitigate the impacts of the development. This provides policy justification, alongside CDP Policy 25 to seek mitigation in respect to essential services including GP provision where a deficit would result or be exacerbated by the proposal.
128. The NHS have been consulted as part of the application and confirm they would be seeking a financial contribution totalling £10,626 would be required to mitigate the developments impact in respect of G.P provision and increased capacity.
129. In terms of the financial contributions for the development, these would be £10,626 for the NHS and £34,344 for open space which would need to be secured via a Section 106 agreement. However, the applicant has submitted a Financial Viability Appraisal for the scheme outlining that the scheme would be unviable if the policy required financial contributions were secured via a Section 106 Agreement.
130. Paragraph 58 of the NPPF sets out that '*It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into use.*'
131. The Council's Viability Team have assessed the Financial Viability Appraisal and dispute the findings of the applicant's viability appraisal. It is advised that the development would remain viable despite the costs associated with the financial contributions for open space and the NHS being secured via a Section

106 agreement. Consequently, the proposal is contrary to Policies 25 and 26 of the County Durham Plan and Paragraphs 55-57 and 93 of the National Planning Policy Framework and would not mitigate its impact in this respect.

#### Affordable, Accessible and Adaptable Homes

132. CDP Policy 15 requires applications for 10no. or more units to provide a percentage of Affordable Housing provision which is accessible, adaptable and meets the needs of those residents unable to access the open housing market. The application site is located within a low value area where 10% of the approved units must be provided for affordable home ownership. Since the CDP was adopted, the Government's First Homes policy has come into force and requires a minimum of 25% of all affordable housing units secured through developer contributions to be First Homes. The 25% expected First Homes contribution for any affordable product can make up or contribute to the 10% of the overall number of homes expected to be an affordable home ownership product on major developments as set out in the NPPF.
133. The Council's Spatial Policy Team have been consulted on the application and advise that to address housing need, 10% of the dwellings provided would need to be affordable which on a scheme of 22no. units, equates to two affordable units.
134. As above, the applicant has submitted a Financial Viability Appraisal which concludes that the scheme would be unviable if they were to deliver 2no. affordable units as part of the scheme. However again as above, the Council's Viability Team consider that the scheme would remain viable despite the costs of affordable housing (and other contributions). It is therefore considered that there is no justification to waive the affordable housing requirements on the development and as such it is in conflict with CDP Policy 15 and Paragraph 58 of the NPPF. In addition, under the Design Review Process, Question 4; Meeting Local Housing Requirements, the scheme was also scored a 'red' due to their being no affordable housing provided on the scheme.
135. CDP Policy 15 also states that in order to meet the needs of older people and people with disabilities, on sites of 5 units or more, 66% of dwellings must be built to Building Regulations Requirement M4 (2) (accessible and adaptable dwellings) standard. Furthermore, on sites of 10 or more, a minimum of 10% of the total number of dwellings on the site should be of a design and type that would increase housing options of older people. These properties should be built to M4(2) standard and would contribute to meeting the 66% requirement set out above. They should be situated in the most appropriate location within the site for older people. Appropriate house types considered to meet this requirement include:
- Level access flats;
  - Level access bungalows; or
  - Housing products that can be shown to meet the specific needs of multi-generational family.
136. In this regard, the applicant has advised that all of the units would be built to M4(2) Standard of Building Regulations. The proposal would provide 22no. bungalows which would be in excess of the policy requirement for two units to

be suitable for older people. These are benefits of the scheme to be weighed in the planning balance.

137. Overall, the proposal would fail to comply with Policy 15 of the County Durham Plan as no affordable housing would be provided as part of the development and there is no viability argument for this as the scheme would be viable with a developer profit with this policy requirement.

## Ecology

138. Paragraph 180 d) of the NPPF 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 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.
139. A Preliminary Ecological Appraisal (PEA) and DEFRA Biodiversity Net gain Metric has been submitted to accompany the application. The PEA identifies that there is a moderate risk of a tree on site with respect to bats roosts and recommends that this tree is retained. The PEA also sets out that the development should lie outside of the 10m riparian buffer corridor. This is a strip of vegetation extending 10m back from the edge of the river bank.
140. The Council's Ecology Officer advises that the findings and general conclusions of the PEA are sound. However, it has been requested that confirmation is provided that the tree with bat roost potential is protected and that development lies outside out the 10m Riparian buffer. Based on the site layout, it would appear that the tree would be retained on the southern boundary of the site. In relation to the riparian buffer, the submitted amended plan demonstrates the required buffer to address this point.
141. In relation to the requirement for net biodiversity gain, it is advised that the submitted metric does not reflect the submitted site and landscaping plan resulting in a net loss of biodiversity of 8 units. This leads to insufficient information being submitted to show how the scheme will deliver a biodiversity net gain.
142. Whilst the applicant has confirmed they would be willing to enter into a legal agreement to provide an off-site contribution to achieve a net gain, the Council's emerging Contributions SPD sets out the Council's position where biodiversity net gain cannot be delivered on-site. In the first instance, the provision of compensation on land owned or controlled by the applicant where habitat enhancement, restoration or creation can be undertaken would need to be offered and agreed via a S106. Then if this is not possible, the developer would need to enter into an agreement with a delivery provider for off-site BNG. Then if it is demonstrated that this cannot be carried out, the applicant can provide the Council with an off-site financial contribution for the Council to deliver and maintain the required number of units. In considering this, no information has been submitted to demonstrate how the applicant will provide a net gain and securing a financial contribution should be the last resort.

143. Therefore, insufficient information has been submitted to demonstrate how the proposal would meet a biodiversity net gain, with the submitted information demonstrating a net loss of 8 biodiversity units on the site with no appropriate off-setting being provided. The proposal would fail to meet Policy 41 of the County Durham Plan and Part 15 of the NPPF.

#### Flooding/Drainage

144. 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 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 169 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.
145. 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. CDP Policy 6 criterion f states development should '*minimise vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding*'.
146. The Lead Local Flood Authority have reviewed the submitted drainage strategy for the development and advise comment that no treatment is proposed for the carriageway surface water run-off. Furthermore, the hydraulic calculations do not consider all storm events up to and including the 1 in 100-year event plus 45% climate change and 10% urban creep. Therefore, the submitted drainage strategy does not comply with the requirements of Policies 35 and 36 and Part 14 of the NPPF.
147. In addition, part of the site lies within Flood Zones 2 and 3 due to the proximity of the River Gaunless. The Environment Agency advise that there are discrepancies between the submitted plans. With some plans indicating that gardens would be located within the flood zones which would cause issues of flood risk for the future occupiers of these dwellings. In addition, the application proposes to significantly raise land along the eastern boundary which the Environment Agency object to, advising that land raising must not take place in the flood plan.
148. In reviewing the submitted information and comments from the Environment Agency, based on the proposed levels plans, which is considered the most accurate site layout submitted, residential properties and gardens are not located with the respective flood zones. However, the development does propose re-grading and land raise within the flood zone, which equates to a

38sqm surface area. Whilst amended plans could be submitted to remove this area, this would likely add the requirement for an additional retaining features. at this point no assessment has been made of the impacts of this encroachment into the flood zones and the impact on downstream flooding.

149. Overall, it is considered that the development would not adequately manage surface water on the site and does not demonstrate that the proposed development would not exacerbating flood risk elsewhere. The proposal therefore fails to comply with Policies 6, 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

#### Ground Conditions

150. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. Paragraph 183 of the NPPF requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
151. The application has been supported by a Phase 1 Risk Assessment. The Council's Contaminated Land Team have been consulted on the reports supplied and they confirm that a Phase 2-4 Report may be required for the development as the Phase 1 identifies the need for further site investigation. This can be secured via planning condition.
152. A section of the application site is located within the Coalfield High Risk Area and accordingly a Coal Mining Risk Assessment has been undertaken. The Coal Authority have been consulted and confirm that they have no objections subject to conditions.
153. CDP Policy 56 seeks to safeguard mineral resources. Significant areas of the County fall into such mineral safeguarding areas, including the application site and wider area. Although a non-mineral development is proposed, it is not considered that the current proposals would sterilise mineral resource taking into account the scale of the site and residential setting. No objections are raised in this regard and the proposal does not conflict with CDP Policy 56.
154. The proposal is considered to comply with Policies 32 and 56 of the County Durham Plan and Paragraph 183 of the National Planning Policy Framework.
155. 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.
156. In addition, CDP Policy 29 criterion o) requires all major residential development to achieve reductions in CO2 emissions of 10% below the Dwelling Emission Rate (DER) against the Target Emission Rate (TER) based on current Building Regulations.
157. 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.

158. An energy assessment has been provided to demonstrate compliance with CDP Policy 29. However, the Building Regulations have changed since the submission of this application and now require all new homes to produce 31% less CO<sub>2</sub> emissions than what was previously acceptable in the Part L regulations and there have been changes to Part F in respect of ventilation with new regulations in respect of overheating and electric vehicle charging. In light of the changes to Building Regulations, the development would now need to meet this new requirement and as this is covered under separate legislation there is no need for a condition to reflect this.
159. By virtue of the recent changes to Building Regulation requirement, the proposal is considered to exceed the requirements of Policy 29 of the County Durham Plan and accords with Part 2 of the National Planning Policy Framework.

## Other Matters

### *Broadband*

160. CDP Policy 27 relates to utilities, telecommunications and other broadband infrastructure and requires any residential and commercial development to be served by a high-speed broadband connection and where this is not appropriate, practical or economically viable, developers should provide appropriate infrastructure to enable future installation.
161. In considering this policy requirement, due the location of the development within Bishop Auckland, there would be existing high-speed broadband availability in the area to comply with CDP Policy 27. A condition is recommended requiring the precise broadband details to be submitted to comply with CDP Policy 27.

### *Air Quality*

162. In relation to Air Quality, CDP Policy 31 sets out: "Development which has the potential to lead to, or be affected by, unacceptable levels of air quality, inappropriate odours, noise and vibrations 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."
163. In assessing this, the application site is not located within a designated Air Quality Management Plan and the Council's Air Quality Team have been consulted on the application who have no objection to the development subject to a condition requiring the submission of a Construction Management Plan to include a Dust Management Plan. Therefore, the development is compliant with Policy 31 of the CDP in terms of air quality.



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## CONCLUSION

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164. 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.
165. The application site is within a sustainable location with access to local facilities, services and public transportation within Bishop Auckland in accordance with Policies 6, 21 and 29 of the County Durham Plan, and the National Planning Policy Framework. The development would boost the supply of accessible bungalows within the area, which weighs in favour of the development.
166. However, in terms of design, the proposal has received 7 'red' classifications under the Design Review Panel, Policy 29 of the CDP is clear that any proposals with one or more red should be refused planning permission. The development is considered to represent poor design with standard house types that do not reflect the locally distinctive character of Bishop Auckland alongside an overengineered approach to the site levels to result in a scheme which does not relate to the site and its context. Also, the PROW diversion is not direct, convenient or an attractive route for pedestrians due to its unnatural route. Also, the assessment of the garden lengths contributes to the overall poor design of the scheme. Therefore, the proposal would be contrary to the Building for Life SPD, Policies 26 and 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.
167. In terms of highway safety, the amended site plan does show adequate parking provision, as well as vehicle manoeuvrability and electric vehicle charging points to meet the requirements of the Parking and Accessibility SPD 2023. However, the Highways Authority advise that the amended site plan does not demonstrate the required visibility splay at the site access although it is likely this could be achieved with further amendments to the scheme which could be controlled by pre-commencement planning conditions. Overall, on balance, the inadequate visibility splay can be controlled via condition and will not form a reason for refusal of the application. The proposal complies with Policy 21 in regard to highway safety and parking provision.
168. No assessment of the risks associated with the likely increase of the pedestrian crossing on the Weardale Railway has been submitted. Therefore, the proposal fails to accord with Policy 21 of the County Durham Plan and Parking and Accessibility SPD 2023 and Part 9 of the National Planning Policy Framework.
169. In terms of the residential amenity, the proposals do not demonstrate a good standard of amenity for future residents in relation to potential noise impacts, contrary to Policies 29 and 31 of the County Durham Plan, Parts 12 and 15 of the National Planning Policy Framework.
170. In regard to affordable housing and developer contributions, whilst a Financial Viability Appraisal has been submitted, on review the development is

considered remain viable despite the required financial contributions to mitigate its impacts and the provision of affordable housing. Consequently, the proposal is contrary to Policies 15, 25 and 26 of the County Durham Plan and Paragraphs 55-57 and 93 of the National Planning Policy Framework.

171. In relation to ecology, insufficient information has been submitted to demonstrate how the proposal would meet a biodiversity net gain, with the submitted information demonstrating a net loss of 8 biodiversity units on the site with no appropriate off-setting being provided. The proposal would fail to meet Policy 41 of the County Durham Plan and Part 15 of the NPPF.
172. The development would not adequately manage surface water on the site and does not demonstrate that the proposed development would not exacerbating flood risk elsewhere. The proposal therefore fails to comply with Policies 6, 35 and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.
173. Overall, the benefits associated with of the development are not considered sufficient to outweigh the significant policy conflict, there are no material considerations which indicate otherwise and therefore the application is recommended for refusal.

#### Public Sector Equality Duty

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

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### **RECOMMENDATION**

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

1. The development is considered to represent poor design that adversely impacts on the character and appearance of the surrounding area when assessed against the County Durham Plan Building for Life Supplementary Planning Document and contrary to Policies 6 and 29 of the County Durham Plan and Part 12 of the National Planning Policy Framework.
2. Insufficient information has been submitted to demonstrate how the development would result in a biodiversity net gain. The proposal would therefore fail to accord with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework.
3. The development would not adequately manage surface water on the site and does not demonstrate that the proposed development would not exacerbate flood risk elsewhere. The proposal therefore fails to comply with Policies 6, 35

and 36 of the County Durham Plan and Part 14 of the National Planning Policy Framework.

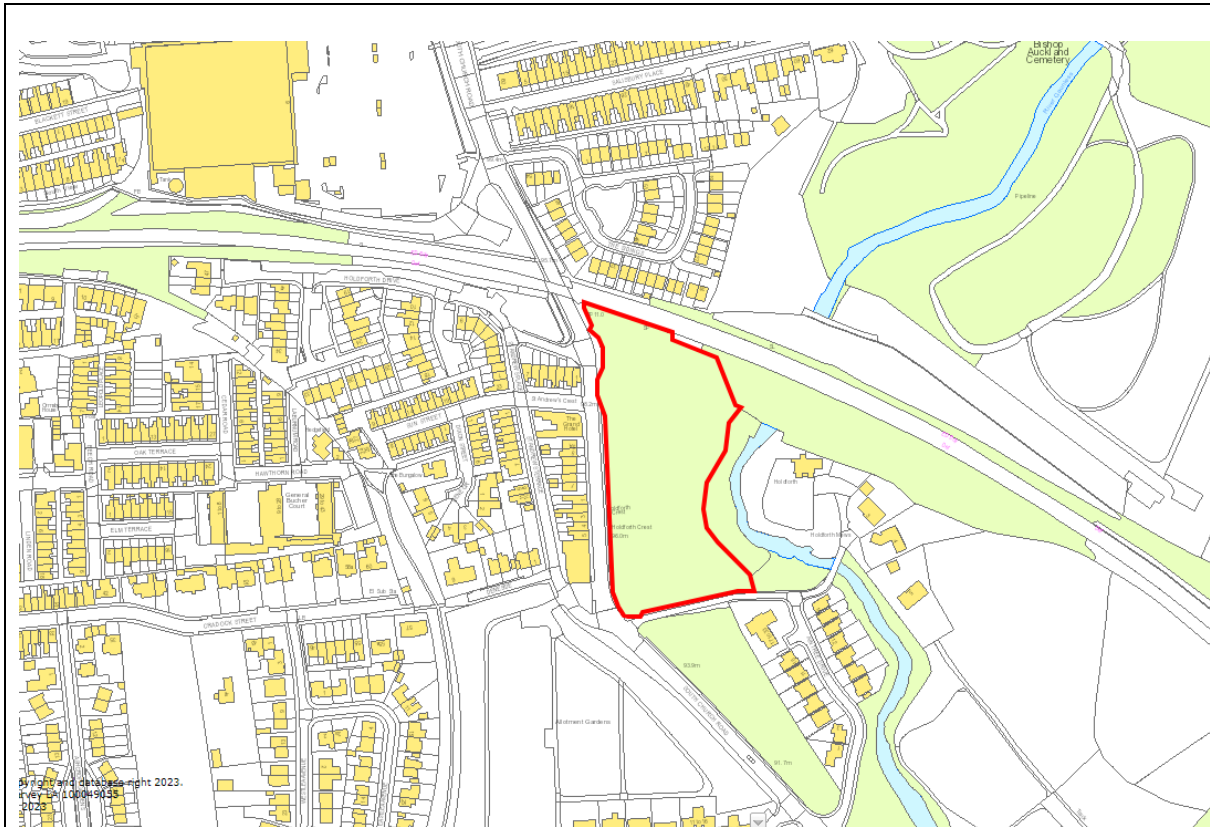
4. The development would not provide 10% on-site affordable housing and would not mitigate its impacts in relation to increased pressures on open space provision and the NHS capacity, while remaining viable. The proposal therefore fails to comply with Policies 15, 25 and 26 of the County Durham Plan and Paragraphs 55-57 and 93 of the National Planning Policy Framework.
5. No assessment of the risks associated with the likely increase of the pedestrian activity on the pedestrian crossing on the Weardale Railway as a result of the development has been submitted and the diversion of Footpath 37 would result in the deterioration in the quality and experience of the footpath by diverting it to an unnatural route. Therefore, the proposal fails to accord with Policy 21 and 26 of the County Durham Plan.
6. Insufficient information has been submitted to demonstrate the impacts of the railway line and road traffic upon the amenity of future occupiers in relation to noise. Therefore, the proposal does not demonstrate a good standard of amenity for future residents which fails to accord with Policies 29 and 31 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP)  
County Durham Strategic Housing Market Assessment 2019  
County Durham Plan Building for Life Supplementary Planning Document 2019  
Parking and Accessibility SPD 2023  
Residential Amenity Standards Supplementary Planning Document 2020  
Statutory consultation responses  
Internal consultation responses  
External consultation responses



<p><b>Planning Services</b></p>	<p>Erection of 22no. dwellings, together with formation of the site access, landscaping and associated works</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:</p>	<p>23<sup>rd</sup> November 2023</p>



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/22/00380/FPA
Full Application Description:	Erection of 1no. retail unit (Class E)
Name of Applicant:	Mr Jonathan Gardiner
Address:	Former Windy Nook Picnic Area, Wolsingham, DL13 3DJ
Electoral Division:	Weardale
Case Officer:	George Spurgeon (Senior Planning Officer) Tel: 03000 261 959 Email: george.spurgeon@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site is located beyond the western edge of the village of Wolsingham, in the west of the County. The site itself comprises a parcel of land that measures approximately 0.72ha in area and features unmanaged grassland with an area of hardstanding covered with moss. The site is designated as natural green space in the Council's Open Space Needs Assessment (OSNA) 2018 reflecting its former use as a picnic area, with a disused stone toilet block remaining in situ to its north western corner. Access to the site is taken from the A689 to the north.
2. The site is enclosed by mature trees to all sides, and forms a small part of the larger Wolsingham River Gravels Local Wildlife Site that comprises woodland extending to both the east and the west. The site lies within a designated Area of Higher Landscape Value and 200m to the west of Wolsingham Conservation Area. Agricultural fields lie beyond the A689, with a grouping of buildings which are in use for agricultural purposes, some of which have been converted to residential properties, to the north west at Westfield Farm. To the north east lies the West End Garage vehicle repair shop, with the River Wear to the south. Open countryside lies beyond to the north, south and west.

## The Proposal

3. The application seeks full planning permission for the erection of a two storey retail building to be occupied by the applicants' existing business. Gardiners Farm and Country Store is a rural based business that have been trading for over 240 years, providing a wide range of products including country clothing, workwear and footwear, agricultural hardware and accessories, animal feed, bedding and pet supplies, and gardening tools and compost. The business currently operates out of an existing building located 3.8km away at The Batts, Frosterley, but is no longer able to operate at full capacity. This is as a result of a change in the ownership of the land around the building previously used by the applicant for parking and servicing and no longer being available for use in connection with the Gardiners Store.
4. The proposed building measures 61.6m wide by 15.6m deep, amounting to a footprint of 984sqm, including a 23sqm porch to the southern elevation. The ground floor would comprise a large retail sales area, a storage area, office, changing rooms, and toilets, along with a café. In addition, an area of 200sqm is also proposed to provide external retail space, with 175sqm of additional retail space, including a small office and storage room, proposed to be provided to a first floor mezzanine. The floorspace proposed to be created can be broken down into approximately 1,196sqm of retail space and 140sqm associated with the ancillary cafe.
5. Vertical timber cladding with brickwork below is proposed to be utilised to construct the external walls, with a dual pitched metal sheeted roof above. Solar panels are proposed to be installed on the south facing roof slope. 48no. car parking spaces (including 4 accessible bays), plus 4no. motorbike bays and 8no. cycle storage spaces are proposed. The development would see the removal of 17no. individual trees and 2no. small groups.
6. The application is being reported to the South West Area Planning Committee in accordance with the Council's scheme of delegation as it represents major retail development with a proposed floor area in excess of 1000m<sup>2</sup>.

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## **PLANNING HISTORY**

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7. An extension to the picnic area and the erection of a toilet block was approved under application 3/1977/0770 on the 1<sup>st</sup> of February 1978.

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## **PLANNING POLICY**

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### **National Policy**

8. A revised National Planning Policy Framework (NPPF) was published in September 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 6 Building a Strong, Competitive Economy* - The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
12. *NPPF Part 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.
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 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 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:**

17. 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)

18. *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.
19. *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.
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 Parking and Accessibility Supplementary Planning Document 2023.
21. *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.



22. *Policy 27 (Utilities, Telecommunications and Other Broadcast Infrastructure)* requires all residential and commercial development to be served by a high-speed broadband connection, where this is not appropriate, practical or economically viable developers should provide appropriate infrastructure to enable future installation.
23. *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.
24. *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.
25. *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.
26. *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.
27. *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.
28. *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.

29. *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.
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 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.

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

#### **Neighbourhood Plan:**

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **Statutory Consultee Responses:**

33. *Wolsingham Parish Council* – Support the application advising it would allow an old Wolsingham business to return to the town, to bring an unused site back into use, and provide new employment opportunities.
34. *Highways Authority* – Advise that the applicant has satisfactorily demonstrated that the required visibility splays of 2.4m x 160m can be achieved in both directions and sufficient car parking would be provided. Consequently, no objections to the application are raised.

35. *Lead Local Flood Authority* – Consider the principle of the proposed surface water management system to be acceptable but request further details; these are recommended to be secured via a suitably worded condition.
36. *Environment Agency* – Raise no objections but offer advice regarding the potential need for an environmental permit. This could be added as an informative to the decision notice if the application is to be approved.

#### **Non-Statutory Responses:**

37. *Spatial Policy* – Consider the proposed development to be supported by sufficient information to pass the sequential and impact tests set out by CDP Policy 9 and Part 7 of the NPPF, indicating that the vitality and viability of nearby town centres would not be adversely affected.
38. *Landscape Section* – Advise that the visual impact of the proposed development could be adequately mitigated through additional planting and an extension of the earth mound to the north east corner of the site. Additional details regarding building materials and finishes, surface materials and enclosures, and soft landscaping specifications are requested to be secured by condition.
39. *Arboricultural Officer* – Note that the proposed development would require the removal of 17no. individual trees and 2no. small groups. The trees to be removed comprise primarily category C and U trees with a couple of smaller category B trees. Advise that the removals will not have a significant impact on the amenity of the area. Whilst there would be some minor encroachment of the root protection areas of a small number of trees on the south side of the site they consider that the trees in question can accommodate this without significant impact. Consequently, no objections are raised.
40. *Ecology* – Raise no objections subject to a legal agreement to secure the provision of biodiversity enhancements offsite on land under the applicant's ownership, along with a Biodiversity Creation, Management and Monitoring Plan.
41. *Public Rights of Way Section* – Advise that footpath PRoW no.92 lies outside of the site to the east and would not be affected by the proposed development.
42. *Environmental Health Nuisance* – Raise no objections subject to a condition to secure further details of lighting and to restrict the opening times of the premises.
43. *Environmental Health Air Quality* – Advise that an Air Quality Assessment is not required but recommend that details of a Dust Management Plan are secured via a condition.
44. *Environmental Health Contamination* – Advise a conditional approach in relation to land contamination to secure further testing and monitoring.
45. *Archaeology* – Raise no objections as the ground has already been disturbed.

### **External Consultee Responses:**

46. *Northumbrian Water* – Confirm they have no comments to make as no connections to the public sewerage network are proposed.
47. *Crime Prevention Durham Constabulary* – Provide security recommendations regarding the specification of windows, doors and external lighting, which could be added as an informative to the decision notice if the application is approved.

### **Public Responses:**

48. The application has been advertised by way of a site notice, press notice and individual notification letters sent to neighbouring properties.
49. One letter of support has been received considering the site to be an appropriate location for the proposed development.

### **Applicants Statement:**

50. None received prior to publication.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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51. 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, Open Space, Highway Safety, Design and Visual Impact, Residential Amenity, Flooding/Drainage, Ecology, Ground Conditions, Carbon Emissions, and Other Matters.

### Principle of Development

52. 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.
53. 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.

### Countryside Location

54. The application site occupies a position detached from the main built up area of Wolsingham and so is considered to be located within the open countryside. CDP Policy 10 seeks to direct development to built up areas but is permissible towards development in the countryside where allowed for by one or more listed exceptions or specific policies in the Plan. Of these, the most relevant to the application is exception b) which relates to the expansion of an existing business falling beyond the scope of a rural land based enterprise, where it can be clearly demonstrated that it is, or has the prospect of being, financially sound and will remain so.
55. Gardiners Farm and Country Store is the largest country store in the Weardale area, providing equipment needed for shooting, farming, equestrian, sports, and a wide range of country pursuits, with their portfolio ranging from small local projects to national work. The applicant advises that the business involves the selling of country clothing, workwear and footwear, agricultural hardware and accessories, animal feed, bedding and pet supplies, and gardening tools and compost to local farmers, gamekeepers and other businesses within Weardale, as well as local people and tourists. As such, whilst there is a connection with the countryside, the business is considered to fall beyond the scope of a rural land-based enterprise, which typically include agricultural, forestry, and equestrian uses.
56. The business currently operates from a site at The Batts, Frosterley, and the applicant has explained that they rely on land adjacent to the unit for parking and servicing which is owned separately and has recently changed hands, with the new owner being unwilling to continue the arrangement. The applicant has explained that this is having a detrimental impact on the ability of the business to operate and trade effectively, resulting in alternative sites to relocate the business being explored.
57. The existing site in Frosterley comprises a two storey building with an external retail space to the north, representing a total floor area of approximately 1,130sqm. This application seeks to erect a new two storey building with an increased floor area of 1,336sqm, also including an external retail area. Although no detailed financial information has been provided to demonstrate the profitability of the business, the submitted Planning Statement confirms that it has been operating from the site in Frosterley for 17 years, and from Wolsingham for many years prior to this. It is also noted that the existing store in Frosterley occupies a position within the open countryside to the eastern edge of the village. The application relates to an established business that has met an important local need for many years serving the Weardale community, including agricultural and other land based businesses, and employs seven local people. The support from Wolsingham Parish Council is also noted in this regard.
58. As the proposed development comprises the erection of a building in a different location to the one that currently exists it does not fully fall under the parameters of exception b), however given that the existing building is also located within a rural location, and the need to relocate the business as explained by the applicant, the proposed development is considered to broadly accord with the aims of CDP Policy 10. The proposed development would also accord with the

aims of NPPF Paragraph 84 which seeks to enable the sustainable growth and expansion of all types of business in rural areas and the retention and development of accessible local services and community facilities.

59. CDP Policy 10 p) goes on to state that new development in the countryside should not be solely reliant upon unsustainable modes of transport and that locations not well served by public transport must exploit any opportunities to make a location more sustainable, including improving the scope for access on foot, by cycle or by public transport. In addition, NPPF Paragraph 110 advises that appropriate opportunities to promote sustainable transport modes should be taken.
60. In this regard, there is no footpath to either side of the A689 and so access to the site will rely heavily on the private car. The applicant has given consideration to providing a formal link to PRow no.92, which lies outside of the site beyond its north east corner and provides a pedestrian link to the settlement. However, this has been discounted due to the topography of the site in this position and the tree removal required to facilitate the connection. Overall, it is accepted that there are no feasible opportunities to improve the sustainability of the site in this instance, with it noted that the existing Gardiners store occupies a position within the open countryside. Therefore, the proposed development is considered to accord with the aims of CDP Policy 10 p) and NPPF Paragraph 110.

#### Sequential Test and Town Centre Impact Assessment

61. The proposed development relates to the erection of a building to be used to sell a wide range of clothing, boots, hardware and other accessories, along with an ancillary café. As such, the proposed use represents a main town centre use in an out of town location and so CDP Policy 9 is also relevant. Policy 9 states that proposals for town centre uses not located within a defined centre are required to provide a sequential assessment.
62. This is in line with NPPF Paragraph 87 which advises that Local Planning Authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
63. NPPF Paragraph 88 goes on to advise that 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 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.
64. Planning Practice Guidance (PPG) further advises that it is up to the applicant to demonstrate compliance with the sequential test, which will need to be proportionate and appropriate for the given proposal. Criteria that should be taken into account includes whether the suitability of more central sites to accommodate the proposal has been considered; and whether there is scope

for flexibility in the format and/or scale of the proposal, in terms of 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. CDP Policy 9 states that where an application fails the sequential test it should be refused.

65. The application is supported by a sequential assessment contained with the submitted Planning Statement which has identified potential suitable available sites within 300m of the two closest local town centres of Wolsingham and Stanhope, which is considered to be appropriate. The Assessment sets out that the following requirements have been used to identify suitable sites:
- A single storey unit with a Gross Internal Area of at least 900m<sup>2</sup> that is capable of accommodating the requirements of the proposed country store, including the sale of large and bulky goods, including wholesale, of which it is not possible to disaggregate because customers often make purchases of large and small goods on the same visit;
  - Suitable and safe customer access points;
  - Customer parking within the vicinity;
  - Equalities Act Compliant level pedestrian access;
  - A site that is easily accessible by large vehicles, for deliveries and collection of large goods, and farm vehicles.
66. Case law sets out that the test is regarding whether an alternative site is suitable for the proposed development based on the requirements of the business, not whether the proposed development can be altered or reduced so that it can be made to fit an alternative site.
67. In this regard, both the Local Centres of Wolsingham and Stanhope lie within a Conservation Area, are relatively small in size compared to the Gross Internal Area sought, and feature a range of local shops. The Local Centre of Wolsingham comprises units clustered around the marketplace, with access for the larger vehicles required to service the proposed building being constrained by the road layout. Stanhope Local Centre comprises the two storey properties located to the north side of Front Street and the Market Place, with the A689 restricting access for larger vehicles and with limited accessible customer parking to the shop fronts. The size of the units within each Local Centre also fall below that which is required by applicants' business.
68. PPG advises that use of the sequential test should recognise that certain main town centre uses have particular market and locational requirements which mean that they may only be accommodated in specific locations. Robust justification will need to be provided where this is the case, and land ownership does not provide such a justification.
69. In this regard, it is noted that whilst Frosterley does not have a defined Local Centre the existing premises is also located in a removed location. This was dictated as a result of the size, associated car parking spaces and accommodation of larger delivery vehicles within close proximity to the building for easy transport of large goods. The applicant is looking to relocate the business to an alternative site due to the current site no longer benefitting from an associated parking and servicing area following a change in the landowner.

Therefore, it is accepted in this instance that there are no units within, or on the edge of, the Local Centres of Wolsingham or Stanhope that are suitable and available to accommodate the applicant's business. Accordingly, the sequential test is passed and the application accords with NPPF Paragraphs 87 and 88.

70. NPPF Paragraph 90 goes on to advise that when assessing applications for retail development outside town centres, which are not 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. In this regard, CDP Policy 9 states that proposals for comparison retail with a floor area in excess of 1,000m<sup>2</sup> proposed outside of a defined centre and that could impact on a Sub Regional, Large Town or District Centre, or any retail in excess of 400m<sup>2</sup>, that could impact upon Small Town or Local Centres, will be required to provide an impact assessment in accordance with the guidance within the NPPF and the PPG.
71. The proposed new building would accommodate approximately 1,196m<sup>2</sup> of retail space and 140m<sup>2</sup> of café floorspace and be sited on land outside but within 1km of Wolsingham Local Centre and 7.7km of that of Stanhope. The site lies 10.4km from the closest largest town centre (Crook), 17.7km away from the closest sub regional centre (Bishop Auckland), and 27.35km away from the closest district centre (Dragonville). The centres of Bishop Auckland and Dragonville are not considered to be impacted upon by the proposed development as the country store goods offered by the applicants' business do not directly compete with the offer provided by the retail units in these centres and the more urban surroundings for which they predominantly cater. The submitted Planning Statement includes an Impact Assessment relating to the Local Centres of Wolsingham, Stanhope, and Tow Law, and the larger town centre of Crook, which is considered to be appropriate.
72. NPPF Paragraph 90 advises that an Impact Assessment should include assessment of: a) the impact of the proposal on existing, committed and planned 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).
73. Paragraph 91 goes on to advise that where an application is likely to have significant adverse impact on one or more of the considerations in paragraph 90, it should be refused. Similarly, CDP Policy 9 states that where an application would have a significant adverse impact on investment or the vitality and viability of a town centre, it should be refused.
74. PPG advises 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. The test relates to retail and leisure developments (not all main town centre uses) which are not in accordance with up to date plan policies and which would be located outside existing town centres. It advises that important considerations include the: scale of proposals relative to town centres; the existing viability and vitality of town centres; cumulative effects of recent developments; whether local town centres are vulnerable; likely effects of development on any town centre strategy; impact



on any other planned investment. Impact should be assessed on a like-for-like basis in respect of that particular sector; it may not be appropriate to compare the impact of an out of centre DIY store with small scale town-centre stores as they would normally not compete directly.

75. The submitted Impact Assessment identified there to be no comparable businesses operating in any of the town centres of Wolsingham, Stanhope, Tow Law, or Crook. The Assessment concludes that due to the small scale of the retail centres within the catchment, the particular units occupying them, and the low vacancy levels and high demand for stores there, it is unlikely that the proposed development would have a significant impact on trading patterns, or the vitality and viability of the local centres concerned.
76. In this instance, it is acknowledged that the proposals would see the relocation of an existing business from an out of town centre site in Frosterley to a new building with have a slightly increased but comparable floor area. However, the proposed development is not considered to have a greater impact on nearby local centres than already exists. In addition, it is considered that the applicants' business helps to meet particular needs of the local Weardale community, with many of the goods provided not overlapping with those on offer by shops in nearby local centres, with this including large bulky goods not typically found in town centres. The closest comparable offer comes from Carrs Billington Country Store located on Montablo Road in Barnard Castle, 26.3km away from the application site, which similarly lies outside the defined town centre, in this instance on a protected employment site (Harmire Industrial Park). Therefore, it is not anticipated that the proposed development would directly compete with or draw trade away from existing town centres.
77. Overall, the proposed development is not considered to adversely impact upon the vitality or viability of surrounding town centres and accords with CDP Policy 9 and Part 9 of the NPPF.
78. Subject to a detailed analysis of the impacts of the development, including against the general design principles of CDP Policy 10, the erection of the proposed retail store is considered to be acceptable in principle.

#### Open Space

79. CDP Policy 26 states that 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.
80. NPPF Paragraph 92 advises that planning decisions should enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure. NPPF Paragraph 98 advises that access to a network of high quality open spaces and opportunities for sport and physical

activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change.

81. The application site is designated as Accessible Natural Green Space (ANGS) in the Council's Open Space Needs Assessment 2018 (OSNA), having formerly been used as a picnic area.
82. The OSNA sets out the Accessible Natural Green Space Standards which are that dwellings should be served by at least one accessible 20ha site within 2km; one accessible 100ha site within 5km; and one accessible 500ha site within 10km of homes. The application site forms a small part of a larger parcel of ANGS which measures approximately 20ha. The proposed development would see approximately 0.72ha of this lost to facilitate the erection of the new building and associated parking areas. Given that the vast majority of the ANGS would be retained following the completion of the development with only a relatively small area lost, the proposed development is not considered to prejudice the enjoyment of the wider area of ANGS which would continue to be available for use by nearby residents. In addition, the site has not been used as a picnic area for several years and it is noted that no objections have been received relating to the loss of the site as ANGS.
83. The site lies within the West Durham Local Plan Monitoring Area in which the OSNA identified gaps in the provision of ANGS regarding the 20ha within 2km standard, however it acknowledges that many of these areas are served by an extensive rights of way network providing access to wider countryside and open moorland. In this instance, there is a complex of PRowS which provide access to the wider countryside, including the Weardale Way to the south which connects Stanhope to Witton-le-Wear via Wolsingham amongst other settlements.
84. Overall, the site is no longer in use as a picnic area and its loss as ANGS in the context of the wider parcel of ANGS that would remain and the access to the countryside via various PRowS would not deprive residents of valuable open space. The benefits of the proposed development in allowing an existing and well-established local business to continue to operate, employing local people and serving the needs of other businesses and residents in the Weardale area are considered to outweigh the loss of open space in this instance, according with CDP Policy 26 and Part 8 of the NPPF.

#### Highway Safety/Access

85. 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 at criterion q) does not permit development where it would be prejudicial to highway safety.
86. The NPPF sets out at Paragraph 110 that safe and suitable access should be achieved for all users. In addition, NPPF Paragraph 111 states that

development should only be refused on transport grounds where the residual cumulative impacts on development are severe.

87. The proposed junction access to the site from the A689 is to be built to adoptable standards, with a 6m wide 10m junction radii. The Highways Authority have confirmed that the submitted information sufficiently demonstrates that the required visibility splays of 2.4m x 160m can be achieved in both directions. The applicant has confirmed that any signage to the site would be set back over 2.5m from the adopted highway to ensure the maintenance of the visibility splay, with any future signage to be separately assessed under an application for advertisement consent.
88. The Council's Parking and Accessibility SPD 2023 requires retail stores with a floor area exceeding 1000sqm to be served by one car parking space per 25sqm. In this instance, the proposed floor area equates to a requirement to provide 50no. car parking spaces and 8.no cycle parking spaces. A total of 48no. car parking spaces are proposed (including 4 accessible bays), plus 4no. motorbike bays, along with 8no. cycle storage spaces, which is considered to be sufficient to serve the premises. A minimum distance of 6m is provided behind all parking bays which provides sufficient room for vehicles to adequately manoeuvre in and out when parking.
89. Overall, it is considered that the proposed development will not adversely affect highway safety, according with CDP Policies 10 and 21, and Part 9 of the NPPF.

#### Design and Visual Impact

90. CDP Policy 10 at part l) seeks to protect townscape qualities, including important vistas and the intrinsic character and beauty of the wider countryside, and at part o) seeks to avoid development that would impact adversely upon the setting, townscape qualities, or form of a settlement which cannot be adequately mitigated or compensated for.
91. 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.
92. CDP Policy 39 states development affecting Areas of Higher Landscape Value (AHLV) 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.
93. Parts 12 and 15 of the NPPF also seek to promote good design, while contributing to and enhancing 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. Specifically, NPPF Paragraph 130 states that planning decisions should aim to ensure developments function well and add to the overall quality of the area, are visually attractive as a result of good architecture, layout and appropriate and effective landscaping, are sympathetic to local character and the surrounding built environment and landscape setting, and establish or maintain a strong sense of place, using

streetscapes and buildings to create attractive and comfortable places to live, work and visit.

94. The site lies in an area identified in the County Durham Plan as an Area of Higher Landscape Value (AHLV) and is made up of Secondary woodland and wood pasture, although no trees within the site are covered by a Tree Preservation Order (TPO).
95. The proposed building would have a rectangular form with an eaves height of 5.9m and a ridge height of 8m. Materials are considered to consist of vertical timber cladding and brickwork with a metal sheeted roof. Overall, the building is considered to be of an appropriate scale and massing, with the design approach accepted in principle subject to a condition to secure further details of external building materials.
96. The building would be sited to the eastern portion of the site where it would be screened from users of the A689 to the north and PRoW no.92 to the north east by intervening trees. Landscape Officers have advised that whilst there are potential views from the complex of footpaths on higher ground to the south, views would be filtered and mitigated by intervening planting and distance.
97. Visual effects would be generated by the new built form through the clear stems of existing trees, the new site entrance and associated highway requirements, lighting, means of enclosure and signage. However, the Landscape Officer has advised that these effects could be adequately mitigated by enhancing the existing roadside planting with an appropriate understory mix to increase the effectiveness of screening and to extend the existing mounding to the north east corner of the site. Accordingly, a condition is recommended to secure details of a landscaping scheme to include details of additional roadside planting, hard and soft landscaping throughout the site, and the potential extension of the mound to the north east corner of the site. A condition is also recommended to secure details of means of enclosures.
98. The applicant has provided a lighting plan indicating the position of low level bollard lighting on timers along the access road and car parking area, 2.4m high wall mounted downward facing LED lighting on timers to the entrance to the building and servicing area, and four areas of 3.5m high security downward facing LED lighting around the building. No manufacturers details have been provided at this stage, but based on the information provided Environmental Health Officers have advised that the information submitted to date is acceptable, although they have recommended that manufacturers details be provided to demonstrate the lighting profile and that the lighting can be controlled and adjusted. Overall, it is considered that the proposals would not adversely affect the character and appearance of the surrounding landscape in terms of light pollution, however a condition is recommended to secure the details requested by Environmental Health prior to the first use of the building.
99. CDP Policy 40 states that proposals for new development will not be permitted that 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. 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.

100. The application is supported by an Arboricultural Impact Assessment (AIA), Method Statement (AMS) and Tree Protection Plan (TPP) which identify the presence of 357 trees on the application site. The proposed development would require the removal of 17no. individual trees and 2no. small groups (a total of 26no. trees). The trees to be removed comprise primarily category C and U trees with a couple of smaller category B trees. The removals will not have a significant impact on the amenity of the area. There is some minor encroachment of the root protection areas of a small number of trees on the south side of the site, however the trees in question are considered to be capable of accommodating this without significant impact. The trees to be retained will be adequately protected by fencing and ground protection measures, with the Council's Arborist considering the submitted AIA, AMS and TPP to be comprehensive and acceptable. A condition is recommended to secure adherence to the TPP and to secure details of a replacement tree planting scheme as part of the landscaping scheme to mitigate for the tree loss, in line with the requirements of CDP Policy 40.
101. Overall, and subject to these conditions, the proposed development is considered to be of an appropriate design for the area that would conserve the special qualities of the Area of Higher Landscape Value, according with CDP Policies 10, 29, 39 and 40, and Parts 12 and 15 of the NPPF.

#### Residential Amenity

102. 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.
103. 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.
104. In addition, criterion r) of Policy 10 is not permissible towards development that would impact adversely upon residential or general amenity.
105. The closest residential properties to the site are those at Westfield Farm to the north west which comprise a farmhouse and an attached converted agricultural building that lie approximately 80m away from the site entrance and 115m from the proposed building itself. The next closest dwellings lie over 200m to the east. Given this distance, the proposed development would not adversely affect the amenity of any neighbouring residents in terms of visual dominance, or loss of light or privacy.

106. The proposed development would generate noise from vehicle movements, including from larger vehicles delivering / collecting goods, and staff and customers arriving and leaving the site. Given the nature of the proposals comprising retail with an ancillary café and in the context of traffic travelling along the A689, a road with a national speed limit of 60mph, it is not anticipated that any noise generated would be such that it would adversely affect the amenity of surrounding residents, subject to a condition to restrict the opening times of the premises. It is noted that the existing premise is open 8am to 5pm on weekdays and 9am to 5pm on Saturdays, with the closest sensitive receptors lying a similar distance away to those near to the current application site. In relation to the newly proposed building, the applicant has requested similar but slightly expanded opening hours and has agreed to a condition requiring the premises to close at 6pm on weekdays, to open at 8:30am on Saturdays and to allow opening between 10am to 4pm on Sundays and Bank Holidays. This is considered appropriate given the countryside location of the site and accordingly a condition is recommended to secure adherence to these times.
107. As discussed in the section above, the applicant has provided a lighting plan indicating the position of external lighting which has been accepted in principle by Environmental Health Officers subject to a condition to secure manufacturers details, and to demonstrate the lighting profile and that the lighting can be controlled and adjusted. Subject to this condition, the proposals are not considered to adversely affect the amenity of nearby residents in terms of light pollution.
108. Given the scale of the proposed development, the construction phase is likely to be relatively brief and a condition is recommended to restrict construction working hours and to secure details of a Construction Management Plan to ensure the amenity of surrounding residents is safeguarded during the construction phase of the development.
109. Overall, subject to conditions, 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.

#### Drainage

110. 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.
111. 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.

112. The site is not located within a Flood Zone or an area identified as being at high risk of surface water flooding, although it is noted that the land approximately 40m away to the south is designated as being within Flood Zone 3 and the Lead Local Flood Authority (LLFA) have referenced the presence of Critical Flood Zones in the vicinity of Wolsingham.
113. The application is supported by a draft Drainage Strategy report, an outline Drainage Strategy drawing, and a Preliminary Permeable Paving Design. The Drainage Strategy report confirms that infiltration testing has been carried out with the results concluding that the site is suitable for infiltration. The associated drawing shows the parking and hard surfaced areas of the site to consist of permeable paving that would connect to an underground soakaway storage structure located to the south east corner of the site, with a silt trap to provide treatment. The first 5m of the access road is proposed to be impermeable to meet Highways requirements and so a channel drain is proposed to be installed along its northern edge, connecting to a smaller soakaway to the east.
114. The LLFA have confirmed that the principle of the proposed surface water management system is acceptable but request further details in the form of construction details of permeable paving and the soakaway, how the two elements would be connected, and verification of the existing soakaway pipe construction if to be utilised for infiltration. Accordingly, a condition is recommended to secure these details. To discharge the condition, the applicant would also be expected to provide details to confirm that there will be no onflow to the River Wear which lies approximately 85m to the south of the site.
115. The Drainage Strategy report identifies the closest sewer to be 175m to the north east under the A689 and so a connection to this would require significant works. Therefore, foul water is proposed to be discharged to a nearby treatment plant via pumping plant and drainage field located to the west of the site access. The principle of this approach is in line with the hierarchy of preference set out by CDP Policy 36. As non-mains drainage or proposed to be utilised to dispose of foul water the Environment Agency have been consulted and have confirmed they have no objections but advise that the applicant may need to apply for an Environmental Permit. An informative could be added to the decision notice to remind the applicant of their responsibilities in this regard.
116. Overall, the submitted details are considered to be sufficient to accord with CDP Policies 35 and 36 and Part 14 of the NPPF, with the proposal not considered to increase the risk of flooding on or off site.

## Ecology

117. 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 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.

118. The site forms a small part of the larger Wolsingham River Gravels Local Wildlife Site and the application is supported by a Preliminary Ecological Appraisal (PEA). The Appraisal identified the potential for bats foraging, commuting and roosting around the site, and potential for roosting within the toilet block and ash trees. Nesting birds (Blackbird and sparrows) were also found to be present in the toilet block. The River Wear was found to have otters present but no holts or commuting routes were noted on site, with there being no water bodies present on site.
119. A Habitat Survey for potential Protected Species was undertaken in May 2022, with further checking surveys and a bat activity survey undertaken in June 2023. The bat activity survey concluded that the former toilet block building has a low potential for supporting roosting bats and observed 5 bats foraging along the south of the site but no activity along the roadside.
120. A condition is recommended to secure adherence to the mitigation and enhancements measures recommended by the PEA. These include restricting the timing of clearance works to outside bird nesting season, to design all lighting on site to be downward facing and directed away from the southern woodland to prevent impact on foraging bats present within the woodland, to retain the former toilet block building, and to install bird and bat boxes to the new building. A plan has been submitted to show the position of 4 bat and 4 bird boxes to the south elevation of the building which the County Ecologist has indicated their satisfaction with. The Ecologist has also indicated their satisfaction with the submitted lighting plan.
121. The submitted Arboricultural Impact Assessment identified that all trees were assessed for bat roost potential and identified that 7no. trees have a low bat roost potential. Of these, 6 are proposed to be retained with Cherry tree T200 to be removed due to its poor condition. The County Ecologist has confirmed that this is acceptable and that no further surveys in this regard are required.
122. The application is supported by a Biodiversity Net Gain Statement and completed version of the Defra metric Biodiversity Impact Assessment Calculator. These identify that the proposed development would see the loss of 1.85 habitat units, resulting in an overall on-site net loss in biodiversity of -9.51%. This is primarily due to the loss of grassland which cannot be sufficiently offset through enhancement of the retained areas of grassland within the site.
123. As such, to deliver biodiversity net gains the applicant proposes to enhance part of a 3.5ha parcel of land in Stanhope which is in their ownership. The applicant has provided a plan showing the location of this parcel of land, which is considered to be capable of offsetting the onsite net losses. The County Ecologist has indicated their acceptance to secure a Habitat Creation, Management and Monitoring Plan prior to the commencement of development via a legal agreement in this instance.



124. Subject to a condition and a legal agreement, the proposed development is considered to accord with CDP Policies 41 and 43, and Part 15 of the NPPF.

#### Ground Conditions

125. CDP Policy 32 requires sites to be suitable for use taking into account contamination and unstable land issues. NPPF Paragraph 183 requires sites to be suitable for their proposed use taking account of ground conditions and any risks arising from land instability and contamination.
126. The application site does not lie within a Coalfield Development Risk Area. The Council's Contaminated Land Officer has advised that the site is located within close proximity of a historical landfill and so recommends a pre-commencement condition to secure the submission of a contaminated land scheme.
127. Subject to such a condition, the proposed development is considered to comply with CDP Policy 32 and NPPF Paragraph 183.

#### Carbon Emissions

128. Criterion c) of Policy 29 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.
129. Criterion d) of Policy 29 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.
130. In addition, CDP Policy 29 states that 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).
131. The application is supported by a BREEAM Assessment and a Sustainability Statement.
132. The BREEAM Pre-assessment and Strategy sets out a route to BREEAM certification for the project and provides an indication of scoring and opportunities for achieving BREEAM as 'Very Good' A scoring scenario has been outlined within the submitted report, which demonstrates that, if supported by relevant and appropriate documentary evidence, the proposed development would result in the 'Very Good' achievement. As it has been demonstrated that the scheme could achieve a 'Very Good' BREEAM rating provided that appropriate measures are taken, a condition is recommended to ensure these measures are undertaken and to secure a verification report to confirm compliance.

133. The Sustainability Statement proposes measures including the installation of photovoltaic panels on the south facing roof slope of the new building, air source heat pumps to cool retail and cafe areas, double glazing with low solar transmittance values for glazing on south-facing facades, and the use of energy efficient fabric and hot water heating system. The Statement concludes that adopting the proposed strategy would provide a total carbon reduction of 6.32 tonnes per annum (a 55.46% reduction) when compared against Part L2 of the Building Regulations. Accordingly, a condition is recommended to secure adherence to the design principles set out in this document. The applicant has also confirmed that no connection to the gas network is proposed.
134. Given the above, the proposal is considered to accord with the sustainability aims of CDP Policy 29 and Part 2 of the NPPF.

#### Other Matters

135. CDP Policy 27 requires all new residential development to be served by a high speed broadband connection. This will need to be directly accessed from the nearest exchange and threaded through resistant tubing to enable easy access to the cable for future repair, replacement and upgrading. Where it can be demonstrated that this is not appropriate, practical or economically viable, developers will be encouraged to provide appropriate infrastructure to enable future installation. No details of how the dwellings will be served by a high speed broadband connection have been submitted with the application, but it is considered appropriate to secure these details via a suitably worded condition.

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## **CONCLUSION**

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136. 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.
137. The application site occupies a position in the open countryside, physically detached from the settlement of Wolsingham which lies to the east. The proposed development relates to the relocation of an existing business, Gardiners Country Store, from an existing countryside position to the east of Frosterley. The applicant has explained that the relocation of the business is being explored due to issues around the ownership of the land used by for parking and servicing which is having a detrimental impact upon the business. The business is well established having operated from its current site for 17 years, and from Wolsingham for many years prior to this, and serves the Weardale community by offering a range of products including country clothing, workwear and footwear, agricultural hardware and accessories, animal feed, bedding and pet supplies, and gardening tools and compost. Overall, the proposed development is considered to broadly accord with CDP Policy 10 and NPPF Paragraph 84.

138. The application is supported by a Sequential Test and Impact Assessment, acknowledging that the proposed development relates to a main town centre use (retail) in an out of town location. Given the needs of the business, particularly in terms of the required Gross Internal Area and associated area for parking and servicing in connection to bulkier products offered by the store, it is accepted that there are no suitable and available site within the Local Centres of nearby Wolsingham or Stanhope. Given the nature of the offer, the business does not compete directly with existing shops within nearby town centres and it is noted that the proposals relate to the relocation of an existing business, with the impact upon nearby town centres not considered to be impacted to a greater extent that is currently the case. Therefore, the proposed development is not considered to adversely affect the vitality or viability of existing town centres, according with CDP Policy 9 and Part 7 of the NPPF.
139. Whilst the application site is designated as Accessible Natural Green Space by the Council's Open Space Needs Assessment owing to its former use as a picnic area, it has not been used as such for several years and currently has an overgrown and unkempt appearance. The site forms a small part of a much larger parcel of open space that would be retained after the development and so the proposals are not considered to prejudice residents enjoyment of open space or the surrounding countryside. The benefits of allowing an existing business to continue to operate are acknowledged and considered to outweigh the loss of open space, according with CDP Policy 26 and Part 8 of the NPPF.
140. The proposed development is considered to be served by a safe and suitable access along with sufficient car parking spaces, to be of an appropriate design, to not adversely affect the amenity of neighbouring residents or increase flood risk. The proposed development would be heated by photovoltaics and air source heat pumps, and would provide biodiversity net gains offsite that are to be secured via a legal agreement.
141. It is therefore considered that the application is acceptable and complies with Policies 9, 10, 21, 26, 27, 29, 31, 32, 35, 36, 39, 40, 41 and 43 of the County Durham Plan and Parts 2, 6, 8, 9, 12, 14 and 15 of the National Planning Policy Framework.

#### Public Sector Equality Duty

142. 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.
143. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## RECOMMENDATION

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That the application be **APPROVED** subject to a legal agreement to secure the long term management and maintenance, including a Habitat Creation Management and Monitoring Plan, of biodiversity land offsite.

And subject to the following conditions:

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

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

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

Site Location Plan RA-2021-022 E1  
Site Plan as Proposed RA-2021-022 P2C  
Proposed Plans and Elevations RA-2021-022 P1B  
Outline Drainage Strategy R1208-200A  
Permeable Surfacing Plan R1208-215

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

3. No development other than ground clearance or remediation works shall commence until a land contamination scheme has been submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall be compliant with the YALPAG guidance and include a Phase 1 preliminary risk assessment (desk top study).

If the Phase 1 assessment identifies that further investigation is required a Phase 2 site investigation shall be carried out, which shall include a sampling and analysis plan. If the Phase 2 identifies any unacceptable risks, a Phase 3 remediation strategy shall be produced and where necessary include gas protection measures and method of verification.

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

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

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

5. No development other than ground clearance or remediation works shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
  - 1.A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  - 2.Details of methods and means of noise reduction/suppression.
  - 3.Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
  - 4.Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
  - 5.Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
  - 6.Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
  - 7.Routing agreements for construction traffic.
  - 8.Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
  - 9.Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
  - 10.Management measures for the control of pest species as a result of or construction works.
  - 11.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.*

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

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

7. No development above damp proof course 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.

*Reason: In the interests of the character and appearance of the surrounding Area of Higher Landscape Value area in accordance of Policies 29 and 39 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

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

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

9. No development other than ground clearance or remediation works 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.

A replacement tree planting scheme.

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

Details of planting procedures or specification.

The extension of the earth mound to the north east corner of the site.  
Finished topsoil levels and depths.  
Seeded or turf areas, habitat creation areas and details etc.  
The establishment maintenance regime, including watering, rabbit protection, tree stakes, guards etc.

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

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

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

10. 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.*

11. Prior to the first use of the building hereby approved, full engineering details of the access road shall be submitted to and approved in writing by the Local Planning Authority. The access road shall be completed in accordance with the approved details prior to the first use of the building.

*Reason: To ensure the development is served by a safe and suitable access in the interest of highway safety, according with Policy 10 and 21 of the County Durham Plan and Part 9 of the National Planning Policy Framework.*

12. The development shall be undertaken in accordance with the actions contained within Section 5 of the BREEAM Pre-Assessment and Strategy by Sustain 3D dated 05.10.2022. Prior to the first beneficial use of the development a verification report compiled by a suitably competent person demonstrating that the development has achieved a minimum of a 'Very Good' BREEAM rating shall be submitted to and approved in writing by the Local Planning Authority.

In the event that such a rating is replaced by a comparable measure of sustainability for building design, the equivalent level of measure shall be applicable.

*Reason: To ensure the development complies with the requirements of Policy 29 of the County Durham Plan.*

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

*Reason: In the interests of the character and appearance of the surrounding area in accordance of Policies 29 and 39 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.*

14. Prior to the first use of the building, details of a covered cycle storage area capable of accommodating a minimum of 8 bicycles at one time, and a covered motorcycle storage area capable of accommodating a minimum of 4 motorcycles at one time, shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the storage areas shall be installed and made available for use prior to the first use of the premises.

*Reason: To allow the cycle spaces to be used in inclement weather and to accord with the Council's Parking and Accessibility Standards 2023.*

15. The electric vehicle charging points shown on Proposed Site Plan RA-2021-022 P2A shall be installed and made available for use prior to the first use of the building.

*Reason: To accord with the Council's Parking and Accessibility Standards 2023.*

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

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

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

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



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

17. In undertaking the development that is hereby approved:

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

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

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

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

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

18. The Class E a) retail floor space hereby permitted shall not exceed 1196sqm, and the ancillary café shall not exceed a floor area of 140sqm, as shown on drawing Proposed Plans and Elevations RA-2021-022 P1B.

The retail floor space hereby approved shall be used for the sale of country clothing, workwear and footwear, agricultural hardware and accessories, animal feed, bedding, pet supplies, gardening tools and compost, locally sourced products and ancillary items thereto, and shall not be used for any other purpose including those set out in Class E of Schedule of the Town and Country Planning (Use Classes) Order 1987 or any other Order revoking, amending or re-enacting that Order with or without modification. The building shall not be subdivided into smaller units.

*Reason: To enable the Local Planning Authority to maintain control over the range of goods sold from within the development, and to ensure that the proposal does not detract from the vitality and viability of nearby town centres in accordance with Policy 9 of the County Durham Plan and Part 7 of the National Planning Policy Framework.*

19. The premises shall not be open to customers outside the hours of 8am to 6pm Monday to Friday, 8:30am to 5pm on Saturdays, and 10am to 4pm on Sundays and Bank Holidays.

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

20. Prior to the first use of the building, details of all external lighting to be installed shall first 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 and include a manufacturers specification to demonstrate the lighting profile and that the lighting can be controlled and adjusted. Thereafter, the external lighting shall be erected and maintained in accordance with the approved details.

*Reason: In order to minimise light spillage and glare, in accordance with Policy 31 and 43 of the County Durham Plan and Local Plan and Part 15 of the National Planning Policy Framework.*

21. The development shall be undertaken in strict accordance with the submitted Preliminary Ecological Appraisal Revision 2 undertaken by All About Trees dated July 2023. This shall include but not be limited to the installation of 4 bat and 4 bird boxes to the south elevation of the proposed building as shown on As Proposed plan RA-2021-022 P1B prior to the first use of the building.

*Reason: In the interests of conserving protected species and their habitats in accordance with Policy 43 of the County Durham Plan and Part 15 of the National Planning Policy Framework.*

22. The development shall take place in accordance with the principles set out in the Sustainability Statement by Sustain 3D dated 30th October 2022, including the installation of photovoltaic panels and air source heat pumps to heat the building.

*Reason: To comply with requirements to minimise greenhouse gas emissions in line with details set out in Policy 29c) of the County Durham Plan and Part 2 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP)  
County Durham Plan Settlement Study 2018

Residential Amenity Standards Supplementary Planning Document 2023  
Statutory consultation responses  
Internal consultation responses  
External consultation responses



<p><b>Planning Services</b></p>	<p>Erection of 1no. retail unit (Class E)</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: 7<sup>th</sup> November 2023</p>	



## Planning Services

# COMMITTEE REPORT

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### APPLICATION DETAILS

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Application No:	DM/23/02367/FPA
Full Application Description:	Change of use from industrial unit (B Class) to specialist pet food supplies (Retail) (Class E) (Retrospective)
Name of Applicant:	Mr Jason Blyth
Address:	Unit 40, Enterprise City, Green Lane, Spennymoor Industrial Estate, Spennymoor, DL16 6JF
Electoral Division:	Tudhoe
Case Officer:	Mark Sandford ( Planning Officer) Tel: 03000 261 156 Email: mark.sandford@durham.gov.uk

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### DESCRIPTION OF THE SITE AND PROPOSAL

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#### The Site

1. The application site relates to an existing industrial unit situated within Enterprise City, which is part of the wider Green Lane Industrial Estate area, north of the former Black and Decker site to the east of Spennymoor.
2. Enterprise City is formed from a mix of units of varying sizes and use, but primarily those which fall within 'Class B' of the Town and Country Planning (Use Classes) Order 1987, as amended. The whole site is covered by an Employment Land designation and therefore Policy 2 (Employment Land) of the County Durham Plan (CDP) applies which supports Class B uses in such locations, unless exemptions apply.
3. Unit 40 is one of the smaller units on the site, measuring approx. 90sqm in floorspace split between the ground and first floors, and is surrounded by other industrial units which are used for a variety of commercial and industrial purposes. The business use is primarily contained within the ground floor which

includes several commercial style fridge/freezers and various retail shelving and displays. The first floor contains some domestic style fridge/freezers and appears to be used for informal storage. The site is accessed from Meadowfield Avenue that runs alongside Enterprise City and continues through the industrial estate. The unauthorised retail use of the unit is current and has been on going since February 2023.

## The Proposal

4. The application seeks retrospective planning permission for the change of use of the unit from B1/B2/B8 use to retail, which fall within Class E of the Town and Country Planning (Use Classes) Order 1987, as amended, on land allocated for employment uses by CDP Policy 2. The business supplies specialist pet food supplies directly to consumers and not to other retailers and this is an important consideration when determining the nature of the use and into which use class it falls. The application proposes retaining the current opening hours of between 9:00 until 19:00, Monday to Friday, 09:00 to 15:00 Saturday and 09:00 to 14:00 Sunday/Bank Holiday.
5. The application is reported to the Planning Committee at the request of County Councillor Billy McAloon who considers the nature of the use to be such that it could not be readily accommodated within a standard retail/town centre location due to potential nuisance from associated odour, and that as such the application should be considered by the Planning Committee.

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## **RELEVANT PLANNING HISTORY**

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6. Full application DM/23/01026/FPA for change of use from industrial unit to retail shop was withdrawn at applicant request on the 23<sup>rd</sup> June 2023.

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## **PLANNING POLICY**

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### **National Planning Policy Framework (NPPF):**

The following elements are considered relevant to this proposal:

7. NPPF Part 2 Achieving Sustainable Development - The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
8. NPPF Part 4 Decision-Making - Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental

conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

9. NPPF Part 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.
10. 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.
11. NPPF Part 9 Promoting sustainable transport - Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
12. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
13. NNPPF Part 15 Conserving and enhancing the natural environment - . The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, geological conservation interests, recognising the wider benefits of ecosystems, minimising the impacts on biodiversity, preventing both new and existing development from contributing to or being put at unacceptable risk from pollution and land stability and remediating contaminated or other degraded land where appropriate.

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

## **Local Plan Policy:**

### **County Durham Plan**

14. *Policy 02 (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.
15. *Policy 09 (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

16. *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
17. *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.
18. Provision for signage, adverts, street furniture and public art to be appropriate and sympathetic to users and local setting and not detrimental to visual amenity or public highway safety.
19. *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.

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

#### **Neighbourhood Plan:**

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **Statutory Consultee Responses:**

21. *Spennymoor Town Council* – No response received.



22. *Highways Authority* – (From withdrawn application DM/23/01026/FPA) - no objection

**Internal Responses:**

23. *Spatial Policy* – Advise that the proposed use would accord with Policy 2, provided a significant majority of the business is in bulk sales focused on trade or business to business customers.
24. Following subsequent information provided during the course of the application – the business does not operate in a mainly business to business/wholesale function, rather selling directly to customers and in essence similar to a pet store, and would therefore be considered to be a main town centre use, as per Annex 2: Glossary of the NPPF. In light of this the proposal is in conflict with Policy 9 and no sequential assessment has been made. The latest town centre survey (Summer 2023) identified 27 units within the defined town centre where a retail outlet of this nature could be located. Given the conflict with Policy 9, the proposal would not meet the criteria of Policy 2, and as the information has been provided showing the unit has not been vacant for a significant period of time it would also not comply with criteria a of Policy 2.
25. *Environmental Health (Nuisance)* – (From withdrawn application DM/23/01026/FPA) – Development falls outside the scope of TANS and no concerns or comments are raised.
26. *Environmental Health (Contamination)* – (From withdrawn application DM/23/01026/FPA) – No contaminated land condition required. Standard informative should be added.

**External Responses:**

27. *Business Durham* – No response received.

**Public Responses:**

28. The application has been advertised by way of a site notice and individual notification letters sent to neighbouring properties.
29. No comments/objections have been received save from Cllr McAloon.
30. Cllr McAloon highlighted that the unit has been empty for much of the last 5 years and the business owner has full support of the landowner to continue to trade from Enterprise City. It is the Cllr's opinion that the business would not be suited to a Town Centre location due to the distinctive odours the premises produces. The Cllr went on to say that the facility has operated successfully since it arrived and has had to purchase additional refrigeration units to keep up with demand, as well as there being an opportunity to expand in the current unit. The unit permits customers to collect their bulk supplies directly from the shutters access doors on the front of the building.

### **Applicants Statement:**

31. Our business has operated for months without causing any problems, providing a specialist service to hundreds of dog owners and breeders across County Durham. Many dog owners believe that feeding their dogs with raw food is better for them and can assist with managing the increasing prevalence of allergies and intolerances.
32. Deciding to feed raw food is not easy and we provide comprehensive support to customers, including the ability to bring their dogs into the unit, have them weighed and receive specialist advice. We also sell natural treats -although we would admit that they can be very pungent and not everyone likes the distinctive aroma that goes with them.
33. Services like ours are few and far between, which means our customers don't just buy food for a few days -they buy for a month or more and store in their freezer. If you have several dogs, that's a lot of food. Its both heavy and needs to be kept frozen. Most of our customers bulk buy and we frequently assist customers who come up to our loading bay and we help them put boxes of heavy and frozen food into their boots. Breeders usually come in their vans.
34. It is regrettable that officers can't understand the nature of the business and think we are a normal shop, free to locate on the High Street. We simply aren't. The bulk purchase of food, the need to keep it frozen and the pungent aroma of dried treats all combine to require us to be located on an industrial estate or other remote location such as a converted barn or suchlike. We wouldn't want to locate next door to a butcher or greengrocer in the Town.
35. Over the last 5 years Unit 40 has been empty for more time than it has been occupied and its always been a hard to let unit. On the estate there are already a number of businesses that support those with dogs and we think we compliment those businesses and other operations. It seems bizarre to us that you bring your dog to the estate for care, but not buy food for it here. If our permission is refused, dog owners will be disappointed, but we won't be looking for a site on the High Street - its completely the wrong location for us and our unit goes back to being empty and unproductive for both the Council and the landlord.
36. We hope that Councilors don't let their policies be applied in a bizarre manner that defies both common sense and economic reality. I would invite members to consider two simple questions. What harm would be caused by approving this application and who would benefit from it being refused? I hope members are able to make the right decision.

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## **PLANNING CONSIDERATION AND ASSESSMENT**

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37. 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, Amenity, Highway Safety and Other Matters.

## Principle of Development

38. 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.
39. 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.
40. NPPF Paragraph 86 requires planning policies and decisions to support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre.
41. CDP Policy 2 states that undeveloped land and plots at the employment sites listed in Table 3 are allocated for B1 (Business), B2 (General Industrial) and B8 (Storage and Distribution) uses unless specifically stated. The application site comprises of a 90sqm unit within the Enterprise City site, part of the wider Green Lane Industrial Estate, which is included as an employment land allocation in Table 3 within Policy 2.
42. The application seeks retrospective planning permission for the change of use of the unit from Classes B1/B2/B8 to a retail use falling within Class E. CDP Policy 2 seeks to protect certain sites throughout the County for employment generating uses and businesses. CDP Policy 2 states that development for non-employment uses on employment allocations (as identified in Table 3) will not be permitted 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 2 years for the development of an allocated site below 10ha; or b) the proposed use would not compromise the main use of the site for employment uses and would comply

with CDP Policy 9 (Retail Hierarchy and Town Centre Development) where main town centre uses are proposed.

43. A statement was provided within the Planning Statement from the freehold owners/managers of the site, LCP Management Ltd (Ian Briggs), with regard to the rental history of Unit 40. Information was provided that the unit has been difficult to rent in the past, and this resulted in it being unoccupied between 2016 and 2020. In November 2020 it was successfully leased and remained with that tenant until February 2022, at which point the applicant began their occupation. As the unit has been occupied for the last 3 years, it does not meet the exemption given in criteria a) of CDP Policy 2.
44. In relation to criteria b) of CDP Policy 2 this is linked to the requirement of CDP Policy 9 which seeks to protect and enhance retail centres in the County by ensuring town centre uses, as identified by the NPPF, are contained within town centre locations. Spennymoor is identified within CDP Policy 9 as a Large Town Centre. The site is located approximately 1.85km from the Spennymoor Town Centre and as such is not within, or well related to a defined centre.
45. Where a town centre use is not contained within the defined centre CDP Policy 9 requires that a sequential assessment be undertaken in support of the application to demonstrate that there are no appropriate units/premises that could be occupied for that use within the town centre. It is noted that no sequential test has been submitted as part of this application.
46. The latest town centre survey undertaken in Summer 2023 identified 27 vacant and available units within the town centre, including Festival Walk, Cheapside and High Street that could accommodate the use proposed to be retained at Enterprise City. Locating a business of this type within a town centre would increase diversity and enhance its attractiveness as a commercial and retail destination. Given that no sequential test has been submitted, and there are readily identifiable vacant units available in the nearest designated centre, the proposal does not comply with CDP Policy 9, and as consequence also fails to meet the exemption provided in b) of CDP Policy 2.
47. Notwithstanding the above, the applicant has sought to demonstrate that the nature of the use is such that it produces odours which mean that it is unsuitable for a normal retail/town centre location given this would impact on adjacent uses and visitors to the centre.
48. As the use of the unit has already commenced, the impact of the use in this regard can more easily assessed. It is noteworthy that the majority of the produce sold is in cold storage, either refrigerators or freezers, which naturally suppresses odours, and much of it contained in sealed airtight packaging, (to prevent soilage), which further minimises the escape of odour. Some other items are however stored on open retail shelving and have lesser, or no packaging.
49. The case officer visited the premises on three occasions, including a visit to the inside of the shop. During all visits the shop entrance was closed and appears

to be operated by an automatic closing device, a method common with many retail outlets.

50. No odour was detectable outside of the premises during these visits, either on the nearby footpath, or immediately outside of the unit's entrance. Whilst there was an odour within the shop, it was not especially offensive or pungent and typical of a regular pet shop.
51. In addition, the applicant has advised that a town centre location would not be suitable given the nature of the use in that it requires specialist equipment in order to function which only this unit/type of premises offers, although no specifics details have been provided in this regard.
52. The only observable equipment within the unit during the officer's visit were commercial style fridge/freezers and a standard till area. There appears no obvious reason why this equipment could not be accommodated within a more traditional town centre unit and were not of an industrial style or scale.
53. The application has indicated that the use represents a 'wholesale' operation and selling 'bulk' goods. Whilst a wholesaler could be potentially considered a B8 use, and as such would be compliant with the aims and objectives of CDP Policy 2, no evidence has been presented that the business operates in such a way, i.e. supplying to other retailers in bulk, or engaged in business to business transactions, where the product is sold to other providers in substantial amounts, for subsequent sale to customers. The information supplied within the application and the sales information available publicly, suggests that the business supplies direct to the end consumers, and whilst some customers may choose to buy comparatively large amounts, this is not considered to amount to a wholesale use and falls within Class E.
54. In summary, the application site is located within a protected employment area as defined by CDP Policy 2 of the CDP which only supports new development within these areas falling within Class B of the Town and Country Planning (Use Classes) Order 1987, as amended. As the use proposed to be retained falls within Class E (which includes retail) criteria a) and b) of CDP Policy 2 are also relevant. The unit has not been vacant and unsuccessfully marketed for the 2 years contrary to criteria a) of CDP Policy 2. In addition, the development does not comply with the requirements of CDP Policy 9 in that it is a town centre use located outside of a town centre location, with no evidence presented as to why it would not be feasible for the business to occupy a unit within the defined town centre. Therefore, it is considered that the development has no support or exemption from the requirements of CDP Policy 2 and consequently, the principle of development is unacceptable.

#### Highway Safety and Sustainability

55. CDP Policy 21 requires all development 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. 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.

56. NPPF Paragraph 105 advises that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. NPPF Paragraph 110 states that appropriate opportunities to promote sustainable transport modes should be taken, whilst Paragraph 112 amongst its advice seeks to facilitate access to high quality public transport.
57. Enterprise City is an out of town employment site where the majority of persons located there are attending a place of work, as opposed to a retail location where the majority of people are there as customers, as such there are limited public transport options. However, there are two bus stops within short walking distance of the site which provide a single, but regular service to Spennymoor town centre and the wider area (7 Sapphire).
58. A 50+/- space public car park is provided near the entrance of Enterprise City, which is a short walk from the application site.
59. The Highway Authority has offered no objection, and given the above, it is considered that the development complies with CDP Policy 21 in that it would not result in any unacceptable highway safety impact.

#### Compatibility with Nearby Uses

60. 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.
61. 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. Specifically, NPPF Paragraph 174 e) advises that planning decisions should prevent new development from being put at unacceptable risk from, or being adversely affected by, unacceptable levels of noise pollution.
62. NPPF Paragraph 187 also advises that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities. Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

63. The nature of the business is not considered to be noise generating and whilst customers may attend the premises with their pets, and this may produce some level of noise, it is considered that the industrial/commercial location is such that it could be satisfactorily accommodated. In addition, it is not considered that the presence of industrial processing and the potential noise associated with this, is likely to have an adverse impact upon the retail use. In addition, it is noted that the Council's Environmental Health Section raised no objection to the former application and there has been no alterations to the current use since then, and as there have been no objections to the development from any of the surrounding units, it is considered the business is not harmful to amenity and is in compliance with CDP Policy 31.

#### Other Matters

64. The business has installed signage to the front of the unit in the form of a fairly small, diamond shaped fascia sign with the business name (JKB Raws) with dogs paw print emblem in gold and black. This requires separate consent for the display of advertisements and as such is currently unauthorised. It has not been considered appropriate to seek its removal until the use of the unit has been determined to be acceptable or not.

#### Public Sector Equality Duty

65. 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.
66. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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## **CONCLUSION**

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67. 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.
68. For the reasons detailed in this report it is considered that the retention of the proposed use is unacceptable in principle in that it would conflict with Policies 2 and 9 of the County Durham Plan and Parts 6 and 7 of the National Planning Policy Framework.

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## **RECOMMENDATION**

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

69. The development would compromise the main use of the site for employment uses without robust, documented evidence of the property having been actively and unsuccessfully marketed for a range of potential employment uses over a continuous period of 2 years having been provided. Therefore, the proposal is contrary to Policy 2 of the County Durham Plan.
70. The developments use is considered to be a town centre use located outside of a designated centre and no sequential assessment has been provided which demonstrates that the use could not be accommodated in a town centre premises. As such, the proposal is contrary to Policy 9 and therefore Policy 2 also, of the County Durham Plan.

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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

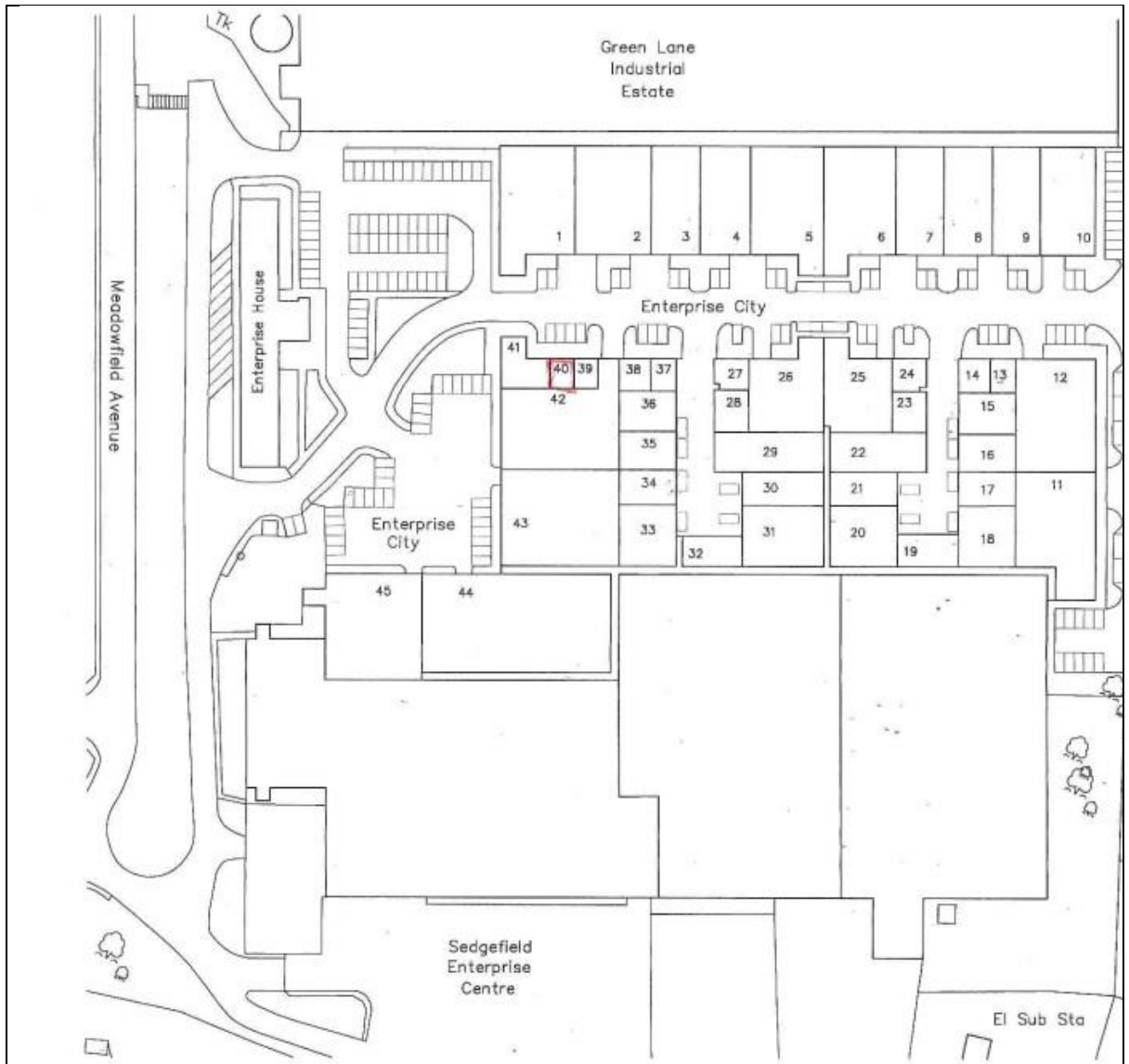
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## **BACKGROUND PAPERS**

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Submitted Application Forms, Plans and supporting documents  
National Planning Policy Framework  
The County Durham Plan (CDP) 2020  
County Durham Town Survey 2023  
County Durham Parking and Accessibility Standards 2023  
Statutory consultation responses  
Internal consultation responses





<p><b>Planning Services</b></p>	<p>Change of use from industrial unit (B Class) to specialist pet food supplies (Retail) (Class E) (Retrospective)</p>	
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	<p><b>Date: 27<sup>th</sup> of October 2023</b></p>	

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# COMMITTEE REPORT

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## APPLICATION DETAILS

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<b>APPLICATION NO:</b>	<b>DM/23/01885/FPA</b>
<b>FULL APPLICATION DESCRIPTION:</b>	<b>Demolition of the existing Woodhouse Close Leisure Complex and Library and erection of a replacement Leisure and Community Centre and associated car parking and landscaping (amended description)</b>
<b>NAME OF APPLICANT:</b>	<b>Durham County Council</b>
<b>ADDRESS:</b>	<b>Woodhouse Close Leisure Complex, Woodhouse Lane, Bishop Auckland, DL14 6JX</b>
<b>ELECTORAL DIVISION:</b>	<b>Woodland Close</b>
<b>CASE OFFICER:</b>	<b>Jack Burnett, Senior Planning Officer 03000 263 960 <a href="mailto:jack.burnett@durham.gov.uk">jack.burnett@durham.gov.uk</a></b>

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## DESCRIPTION OF THE SITE AND PROPOSALS

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### Site

1. The 1.25 hectare (ha) application site is located approximately 900 metres to the south of Bishop Auckland town centre and comprises the existing Woodhouse Close Leisure Complex, the Woodhouse Close library and open land located to the east of it currently used as informal open space. There is an electricity substation located south of the existing Leisure Centre. Access to the site is from Woodhouse Lane to the north with an internal road and associated car parking servicing the centre.
2. The site is surrounded by residential properties on Woodhouse Lane to the north and Watling/Cockton Hill Road to the east, St Mary's Roman Catholic Church to the west, the Auckland Medical Group (and associated Ambulance Station), The School of Podiatry and Bishop Auckland Police Station to the south. More widely, the site is located approximately 9 miles to the southwest of Durham City centre. The A1 lies approximately 642m to the east and South Church Enterprise Park further beyond.
3. The site is not within or adjacent to any landscape designation. An Area of Higher Landscape Value (AHLV) as defined in the County Durham Plan is located 1km to the north east with another 1km to the north west.
4. There are a number of designated heritage assets in the vicinity of the site. The site has a very tight boundary and a large structure of inappropriate design could have a detrimental impact on the setting of St Mary's RC Church but there are a number of options to consider to reduce the impact. There are no designated heritage assets within in the proposed site but there are a number in the immediate vicinity. The Cockton Hill, Bishop Auckland Conservation Area follows Cockton Hill Road immediately opposite the north eastern part of the site. The closest listed building is the Grade II Listed Henknowle Manor Public House 245m to the east and 765m to the east is the Grade I Listed East Deanery. There are others beyond 650m from the site.

645m to the north is the Grade II Listed Bishop Auckland Methodist Church and the Grade II listed Walls, Piers and Gates to Bishop Auckland Methodist Church. 745m to the north is the Grade II Listed Green Tree Public House. 1.7km to the north east is the Grade II\* Listed Auckland Park. St Mary's RC Church is located immediately adjacent to the western boundary of the site and is considered to be a non-designated heritage asset.

5. There are no ecological designations within or immediately adjacent to the proposed site. The closest Site of Special Scientific Interest (SSSI) is 4.5km to the north west at Witton le Wear. The site lies within an identified SSSI Impact Risk Zone relating to the SSSI present in the wider area. There are no Local Wildlife Sites within 1km of the site. The closest being Escomb Pastures LWS 1.1 km to the north west, Brack's Wood LWS 1.2 km to the north east, Eldon Lane Heath LWS 1.9km to the south east and 'Fylands', River Gaunless LWS 1.4km to the south. Etherley Dene and Escomb Pastures Ancient Woodland are over 1km to the north west. Over 1km to the north east are Bracks Wood and Dells Wood Ancient Woodland some of which include Tree Preservation Orders (TPOs).
6. There are no recorded public rights of way within or within the vicinity of the site, nor are there claims for new paths in the vicinity of the site. The closest being Footpath No. 43 (Bishop Auckland Parish) 260m to the north east.
7. The site lies within an area of Groundwater Vulnerability as defined by the Environment Agency. There are no watercourses within or adjacent to the site. The site is in Flood Zone 1. The closest watercourse is the River Gaunless some 460m to the east at the closest point. The site lies within a Coalfield Development Low Risk Area and within the mineral safeguarding area for coal as defined in the County Durham Plan.

## The Proposal

8. The application has been submitted for the demolition of the existing leisure centre and library and the erection of a new building bringing both community spaces together. The proposal also includes landscaping and parking.
9. The new centre would comprise the following:
  - 2 x Swimming pools (25m, 6 lane main lap pool and 20m, 4 lane secondary pool) with pool seating, store and mechanical plant.
  - 3 x Fitness studios
  - Wellness studio
  - Studio storage
  - Sauna/Stream Room
  - Wet and dry changing villages
  - Library
  - Café & kitchen
  - Soft play area
  - Public WC facilities
  - Reception area
  - Offices
10. The proposed new 2 storey building would have a footprint of 4,809.0sqm and would be located within the eastern part of the 1.25ha application site on the plots of both the existing leisure centre and library. It would be built to modern standard to ensure the needs of all prospective service users would be met. Access to the new building would be taken into the north-western corner of the leisure centre adjacent to a proposed bus drop off area. The proposed café, entrance space, reception, and main stairs would

be located adjacent to the main entrance. Lifts are also provided opposite the reception area.

11. The building entrance area proposed would be double height. An area for soft play is proposed in the front of the building with the replacement library facility also located on the ground floor. In the eastern section of the ground floor the main pool, learner pool (with viewing area) and associated wet changing facilities would be located. To the rear of the changing rooms a sauna and steam facility would be provided. A plant room is proposed to the rear of the building in the south eastern corner.
12. The proposed first-floor layout includes the main stair landing, positioned next to the entrance of the fitness suite. Adjacent to the elevators, there would be changing facilities, and opposite them, two studios are proposed, each equipped with associated storage. On the upper floor, plans include an office space and a wellness facility situated along the western edge, and additional library space proposed near the landing area. Anticipated foot traffic suggests that most pedestrians would access the site from the north, entering at the north-west corner of the new facility. This entrance would open up to well-landscaped areas, creating a secure path for pedestrians and cyclists. To enhance safety, a new pedestrian crossing would be installed on Woodhouse Lane.
13. The north-west corner of the building would feature an entrance and an external cafe area, designed as a public gathering space. This area would help guide users entering the site to the location of the leisure centre entrance. To further encourage sustainable transportation, cycle parking is proposed to be conveniently located to the north of the building, in close proximity to the entrance, and would benefit from passive surveillance from the building.
14. It is proposed that the leisure centre would be open Monday to Thursday 07:00 to 21:45 hours, Friday 07:00 to 21:00 hours and Saturday and Sunday 07:00 to 17:00 hours. The opening hours for the library, would vary with Mondays being 09:30 to 19:00 hours, Thursdays 09:30 to 17:00 hours and Saturdays 09:30 to 12:30 hours. The library would be closed on Tuesday, Wednesday, Friday, and Sunday. The library hours would be subject to review with the possibility of greater opening hours given the co-location with the leisure centre.
15. Vehicular access to the site would utilise the existing access to the leisure centre off Woodhouse Lane. In addition, there would be access to a service yard to the rear to the new building off Watling Road. The proposed car park would incorporate the existing leisure centre car park and additional car parking would be created on the site of the leisure centre site following demolition. The existing leisure centre car park would remain in use during the construction period, with the additional spaces being provided as part of a later phase of the development following demolition of the existing leisure centre. A total of 89 vehicular parking spaces are proposed comprising 61 standard bays, 23 providing electric vehicle charging, 5 accessible bays. A coach parking layby accommodating 2 coaches would be provided and be located close to the pedestrian entrance.
16. An enclosed, secure cycle store with double tier racks would be provided outside the building entrance to the north which would accommodate 60 cycles. There would be supporting facilities including lockers for each cycle parking space, showers, changing rooms and a drying area.
17. The proposals involve four phases with completion in 2025. In Phase 1, the existing library building would be demolished, and a stormwater sewer would be relocated to align with the back of the footpath. Phase 2 would be the construction of the new

building while ensuring that the existing leisure centre would remain open and access to the existing substation would be maintained and would not be affected by the development. Phase 3 would see the demolition of the old leisure centre, and finally, in Phase 4, the project would be completed with the construction of a new car parking area and landscaping.

18. This application is being reported to Committee because it involves major development of more than 1 ha.

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## **PLANNING HISTORY**

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19. The leisure centre and library are over 50 years old. Since that time Planning Permission No. 3/2008/0158 was granted for replacement signage in 2008. In 2015 Permission No. DM/15/01094/FPA was granted for the formation of vehicular access to serve combined sewer overflow. DM/17/03953/AD was approved in 2008 for advertisement consent for the erection and display of non illuminated panel signs attached to the building, window vinyl's and post mounted parking sign.

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## **PLANNING POLICY**

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### **NATIONAL POLICY**

20. A revised National Planning Policy Framework (NPPF) was published in September 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.
21. In accordance with Paragraph 219 of the National Planning Policy Framework, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with the Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given). The relevance of this issue is discussed, where appropriate, in the assessment section of the report. The following elements of the NPPF are considered relevant to this proposal.
22. *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.
23. *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.
24. *NPPF Part 7 – Ensuring the Vitality of Town Centres* - Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.

25. *NPPF Part 8 – Promoting Healthy and Safe Communities* – The planning system can play an important role in facilitating social interaction and creating healthy, inclusive and safe communities. 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 community facilities and services should be adopted.
26. *NPPF Part 9 – Promoting Sustainable Transport* – Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion.
27. *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.
28. *NPPF Part 15 – Conserving and Enhancing the Natural Environment* – The Planning System should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes, site of biodiversity or 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.
29. *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.
30. *NPPF Part 17 - Facilitating the sustainable use of minerals* – It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.

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

31. The Government has consolidated a number of planning practice guidance notes, circulars and other guidance documents into a single Planning Practice Guidance suite. This document provides planning guidance on a wide range of matters. Of particular relevance to this application is the practice guidance with regards to: air quality; climate change; determining a planning application; flood risk and coastal change; healthy and safe communities; historic environment; light pollution; natural environment; noise; renewable and low carbon energy; travel plans, transport assessments and statements; use of planning conditions; water supply, wastewater and water quality.

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

## LOCAL PLAN POLICY:

The County Durham Plan (October 2020)

32. *Policy 6 – Development of 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 the character of 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; encourages the use of previously developed land and reflects priorities for urban regeneration.
33. *Policy 9 – Retail Hierarchy and Town Centre Development* – Implements national policy and strives to protect and enhance the following hierarchy of Sub Regional, Large Town, Small Town, District and Local retail centres in the county. Bishop Auckland is identified as a sub-regional centre within the County. The Plan will look to support new town centre development across all of the county’s centres that will improve choice and bring about regeneration and environmental improvements. The policy also requires proposals for main town centre uses not within a defined centre to provide a sequential assessment. This reflects advice within the NPPF, paragraphs 87 and 88. For leisure development, the policy adopts the national default threshold of 2,500 sqm for impact assessments.
34. *Policy 21 – Delivering Sustainable Transport* – Requires planning applications to address the transport implications of the proposed development. All development shall 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.
35. *Policy 26 – Green Infrastructure* – States that development will be expected to maintain and protect, and where appropriate improve, the County’s green infrastructure network. Advice is provided on the circumstances in which existing green infrastructure may be lost to development, the requirements of new provision within development proposals and advice in regard to public rights of way.
36. *Policy 27 – Utilities, Telecommunications and Other Broadcast Infrastructure* – supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site then existing sites must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable the proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest.
37. *Policy 29 – Sustainable Design*. Requires all development proposals to achieve well designed buildings and places having regard to SPD advice and sets out detailed criteria which sets out that where relevant development is required to meet including; making a positive contribution to an areas character and identity; provide adaptable buildings; minimise greenhouse gas emissions and use of non-renewable resources;



providing high standards of amenity and privacy; contributing to healthy neighbourhoods; providing suitable landscape proposals; provide convenient access for all users; adhere to the Nationally Described Space Standards (subject to transition period).

38. *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 the development can be effectively integrated 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 to an acceptable level.
39. *Policy 33 – Renewable and Low Carbon Energy* – States that renewable and low carbon energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associated developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
40. *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.
41. *Policy 36 – Water Infrastructure* – Advocates a hierarchy of drainage options for the disposal of foul water. Applications involving the use of non-mains methods of drainage will not be permitted in areas where public sewerage exists. New sewage and waste water infrastructure will be approved unless the adverse impacts outweigh the benefits of the infrastructure. Proposals seeking to mitigate flooding in appropriate locations will be permitted though flood defence infrastructure will only be permitted where it is demonstrated as being the most sustainable response to the flood threat.
42. *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 landscape and visual impacts occur. Development affecting Areas of Higher landscape Value will only be permitted where it conserves and enhances the special qualities of the landscape, unless the benefits of the development clearly outweigh its impacts. Development proposals should have regard to the County Durham Landscape Character Assessment and County Durham Landscape Strategy and contribute, where possible, to the conservation or enhancement of the local landscape.
43. *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. Where trees are lost, suitable replacement planting, including appropriate provision for maintenance and management, will be required within the site or the locality.

44. *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 well as biodiversity net gains. Proposals are expected to protect geological features and have regard to Geodiversity Action Plans and the Durham Geodiversity Audit and where appropriate promote public access, appreciation and interpretation of geodiversity. Development proposals which are likely to result in the loss or deterioration of irreplaceable habitat(s) will not be permitted unless there are wholly exceptional reasons and a suitable compensation strategy exists.
45. *Policy 43 – Protected Species and Nationally and Locally Protected Sites* – States that development proposals that would adversely impact upon nationally protected sites will only be permitted where the benefits clearly outweigh the impacts whilst 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.
46. *Policy 44 – Historic Environment* – Requires development proposals to contribute positively to the built and historic environment. Development should seek opportunities to enhance and where appropriate better reveal the significance and understanding of heritage assets.
47. *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.

#### **NEIGHBOURHOOD PLAN:**

48. There is no Neighbourhood Plan for this area.

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

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## **CONSULTATION AND PUBLICITY RESPONSES**

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#### **STATUTORY RESPONSES:**

49. *Bishop Auckland Town Council* – is in support of this application as it falls in line with National Planning Policy Framework NPPF Part 6 Building a Strong, Competitive Economy, and would help to support NPPF Part 7 Ensuring the vitality of town centres.

Specific queries are raised in relation to the prospective build times and what is being done to reduce the impact on service users.

50. *Highway Authority* – Offer no objections from a highways perspective. Officers provides technical advice and recommends a number of conditions relating to: the implementation of car parking before occupation, the implementation of cycle parking before occupation, the completion of highways works before occupancy and submission/approval of a Construction Management Plan pre-commencement.
51. *Drainage & Coastal Protection (Lead Local Flood Authority)* – raise no objection subject to the imposition of an appropriate condition requiring a detailed surface water drainage design to be submitted to and approved by the Council.

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

52. *Spatial Policy* – has raised no objections to the proposals. Officers consider the proposals would not require the undertaking of a sequential assessment in accordance with Policy 9 of the County Durham Plan given the historic use of the site for leisure. Officers advise that it will be a matter for the case officer in conjunction with advice from specialist services to determine if the proposal is compliant with relevant County Durham Plan policies in relation to transport, sustainability, design, amenity, trees and landscape etc. Officers also noted that the redevelopment of the site would comprise a productive re-use of a brownfield site and that the site is located on a main public transport route to the town centre. It is also an established location for the leisure centre, so existing patrons would not be displaced to another site.
53. *Environmental Health and Consumer Protection (Nuisance)* – raise no objection subject to the imposition of conditions to control working hours for construction and demolition, submission and approval of a Construction Management Plan, adherence to noise limits identified within the submitted noise report and details relating to lighting and details of fume extraction systems proposed. Overall, Officers are satisfied, based on the information submitted with the application and with the addition of the aforementioned conditions the development would be unlikely to cause a statutory nuisance.
54. *Environmental Health and Consumer Protection (Air Quality)* – it is considered that the development will not have a significant impact upon air quality. However, it was noted that ensuring a suitable dust management plan, which includes the measures detailed within the submitted air quality impact assessment, are incorporated within a CEMP and secured by condition, a suggested condition is provided within the Nuisance Action Team consultation response.
55. *Environmental Health and Consumer Protection (Contaminated Land)* – has raised no objections. Officers have confirmed that they are satisfied with the findings and conclusions drawn in submitted reports. Given that a ground gas risk assessment is still required, a phase 2/3 remediation strategy should be provided including site investigation and remediation strategy. Therefore, conditions are recommended for phase 2/3 remediation works and an informative relating to if unforeseen contamination is encountered.
56. *Ecology* – raise no objection. Officers consider the ecological reporting and BNG calculations supporting the application are sound and note that a bat roost was located in the library building to be demolished. Officers advise that the metric submitted with the application does not meet trading rules, but given the scale of the development, the baseline habitats on site and the delivery of a clear Biodiversity Net Gain (BNG), do not believe that is this a significant issue. A net gain of biodiversity has been

achieved in line with the NPPF and Local Plan. Officers advise that that an informative be added to any grant of planning permission advising that a Natural England bat licence should be in place prior to any works directly or indirectly affecting the bat roost are undertaken. Officers also advise that a planning condition requiring a Biodiversity Management and Monitoring Plan is submitted and agreed.

57. *Landscape* – raise no objection. Officers state that the landscape strategy provided is well considered, there are no objections raised. They subsequently advised that full details of hard and soft landscape plans, including elements like street furniture, lighting locations, finishing materials, and construction specifics, must be submitted before any consent is granted. Soft landscaping plans should include a detailed planting plan, specifying soil depths, plant species, numbers, densities, locations, and construction techniques. Existing or proposed utility services that may affect tree planting should be indicated on the plan. Furthermore, a soft landscape management plan, encompassing long-term design objectives, responsibilities, and maintenance schedules for landscape areas, is required. This maintenance plan should cover the initial 5-year establishment period and extend for 20 years, regardless of any phased development.
58. *Landscape (Trees)* – raise no objection subject to imposition of an appropriate landscaping condition. Officers state the proposed development would have a significant impact on existing tree cover as it would require removing the majority of trees on the site, many of which have high amenity value and are prominent within the immediate local area. this therefore potentially conflicts with Policy 40. It is therefore recommended that should the proposed development be approved it includes a high-quality new landscaping scheme to provide substantial replacement tree planting on the site.
59. *Design and Conservation* – raise no objection. Officers advise that the proposed development site lies within the setting of Cockton Hill conservation area, Henknowle Manor Public House (Grade II) and St Mary's RC Church, a non-designated heritage asset with architectural significance, social significance, and prominence in the street scene. It is noted that a heritage section has been included within the planning statement. Officers advise that the applicant has identified harm however this is questionable and would certainly be of the lowest order. Should the case officer consider it necessary to weigh any harm in the public benefit, the Design and Conservation Team would suggest that the proposals provide great improvement in design quality and landscaping in the streetscene and the setting of the conservation area, providing a much improved leisure facility building.
60. Officers also consider that the proposed development positively addresses the immediate site context in both plan and built form. The detailed design and approach to material palette is informed by a detailed analysis of local vernacular and important buildings within Bishop Auckland. The building is animated and the entrance is highly legible from both the vehicular and pedestrian points of access. A condition to confirm the final materials to be used is recommended.
61. *Travel Plans* – raise no objection. Officers advise that a Travel Plan is required to be submitted and included as a condition.

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

62. *Police Architectural Liaison Officer* – has provided comments based on the principles of 'Crime Prevention through Environmental Design' intended to help create a safe and crime free development. Following the receipt of additional information from the applicant to address these comments the Police Architectural Liaison Officer advises

that they are content with the response and recommends that Secured by Design is achieved on the proposed development.

#### **PUBLIC RESPONSES:**

63. Prior to submission of the application the applicant consulted with the local residents and other key stakeholders, with material being made available both at public exhibitions and online. The majority of responses were positive and supportive of the proposals with the majority of respondents agreeing that the leisure centre needs upgrading. A Statement of Community Involvement outlining this was submitted with the application.
64. The application has been advertised in the local press (the Northern Echo), by site notice and through neighbour notification letters as part of the planning procedures. Notification letters were sent to 279 individual properties in the vicinity of the site.
65. 1 letter of support has been received from a local resident. The resident stated that fully supported the development, expressing a desire for the development to start as soon as possible.

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

<https://publicaccess.durham.gov.uk/online-applications/search.do?action=simple&searchType=Application>

#### **APPLICANTS STATEMENT:**

66. The proposed development seeks approval for the demolition of the existing Woodhouse Close Leisure Complex, including existing library, and the erection of a replacement Leisure and Community Centre and associated car parking and landscaping. The new building will provide a range of sport and community facilities, including swimming pools, gym, studios, community café, soft play, wellness hub and dedicated Library space. The new facility aims to be a place where you can be active physically and mentally, somewhere which provides opportunities to learn and develop, and a site to improve health, wellbeing and social interaction. The current facilities will remain open until the new centre is operational to ensure continuity of service.
67. The current leisure centre is more than 50 years old and plant infrastructure is far beyond its anticipated lifespan. In particular, the main pool plant and small pool plant are in poor condition, require significant works to address issues and will struggle to meet modern standards. The condition beyond the reception area is also relatively poor, and significant redecoration and modernisation would be necessary to meet current customer standards and expectations.
68. The Leisure Transformation Programme has a clear strategic direction to support economic recovery from the Covid-19 pandemic, as well as providing a platform to develop health, social and community capital and a major opportunity to contribute to the council's commitment to environmental sustainability and a low carbon future. This aligns to Sports England's Uniting the Movement vision, with the wider programme aims helping to address the 'five big issues' that have the greatest potential for preventing and tackling inequalities in sport and physical activity.
69. The new facility at Woodhouse Close, Bishop Auckland will significantly contribute to the overall programme aims. The age and condition of the existing building is prohibitive to encouraging broader reaching physical activity engagement and cannot support the delivery of a sustainable low carbon future. Bringing together

complimentary services like the leisure and library provision will be beneficial for the local community, support local economic prosperity and assist in meeting broader community health, social and wellbeing aspirations.

70. The proposals will help achieve the key targets of the County Durham Plan (adopted 2020) to support communities and meet the needs of all people, by promoting social inclusion, providing or maintaining social, cultural, sport and recreation facilities, and improving personal health and well-being.
71. The Proposed Development has been designed to address the sustainability requirements as set out in the County Durham Plan. The building will be assessed against the BREEAM 2018 and other BREEAM assessment fully fitted criteria to achieve a BREEAM Very Good rating. A BREEAM pre-assessment meeting with the design team concluded that 62.73% of the credits could be targeted which exceeds the 55% threshold to achieve a BREEAM Very Good rating.
72. Overall, the Proposed Development is considered to be acceptable when assessed against local and national planning policy and therefore, the application should be approved without delay.

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## **PLANNING CONSIDERATIONS AND ASSESSMENT**

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73. 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 development, recreational amenity, residential amenity, access and traffic, layout and design, locational sustainability of the site, renewable energy, contamination and coal mining risk, flooding and drainage, landscape and trees, ecology, cultural heritage, other matters and public sector equality duty.

### The Principle of the Development

74. 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 relevant to this proposal and are 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.
75. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means:
  - c) approving development proposals that accord with an up-to-date development plan without delay; or
  - d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date, granting permission unless:

- i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed; or,
  - ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.
76. The Council has an up-to-date development plan. Paragraph 11 of the NPPF establishes a presumption in favour of sustainable development. For decision taking this means approving development proposals that accord with an up-to-date development plan without delay (Paragraph 11 c). Accordingly, Paragraph 11(d) of the NPPF is not engaged.
77. The proposal is for the construction of a new consolidated leisure centre and library building to replace the two separate existing buildings with associated landscaping, access and parking. The existing leisure centre is over 50 years old, and the facilities are in poor condition requiring significant works to meet modern standards. The proposed development would maintain and improve the existing leisure facility for the local community to accommodate for existing residential growth and future projected growth in the area and is part of the Council's Leisure Transformation Programme.
78. Paragraph 92 of the NPPF emphasises the importance of planning policies and decisions should aim to achieve healthy, inclusive and safe places plan positively for the provision and use of shared spaces, community facilities to enhance the sustainability of communities and residential environments. In essence, the redevelopment of these existing community uses on this site will maintain and improve wider community benefits and can be viewed in terms of the requirements of CDP Policy 6, along with other policy requirements of the CDP.
79. CDP Policy 6 states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well-related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:
- a) is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
  - b) does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
  - c) does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
  - d) is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
  - e) will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
  - f) has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;

- g) does not result in the loss of a settlement's or neighbourhood's valued facilities services unless it has been demonstrated that they are no longer viable; or
  - 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.
80. The application site is not allocated for leisure use within the CDP but benefits from an established use as a community site for both a leisure centre and a library. The site is located in a built-up area and therefore the acceptance criteria associated with CDP Policy 6 are engaged. Many of the criteria associated with CDP Policy 6 are considered in more detail elsewhere in this report. However, having regard to criterion a), the application site is currently occupied by the existing leisure centre and library, and it is considered that leisure and community uses are established and prevailing land use. The use of the land has therefore been demonstrated to be compatible with the existing adjacent land uses, subject to the new location of specific facilities such as landscaping, parking and access and lighting.
81. With regard to criterion b) the site is predominantly previously developed land with intermittent public open space which is located within the built up area of Bishop Auckland, with a clear boundary that is already surrounded by other, existing development. Development at the site would therefore not lead to ribbon development or coalescence with other settlements as the extent of development is contained within the built up area of Bishop Auckland.
82. With respect to criterion c) the application site includes informal public open space with minor recreational value and while this space may be inaccessible for a period of the development, it would ultimately be re-provided and not result in any net loss. The inclusion of formalised public open space within the site would ultimately improve the recreational value and the proposed planting and landscape features would add ecological value. Continuing the use of the site for leisure and community use would maintain the character in the locality.
83. With respect to criterion d) the scheme presents an opportunity to provide a cohesive redevelopment of the leisure facilities, replacing aged buildings with high quality, contemporary replacements. The development would provide a consolidated, modern centre with the proposed building having a rectangular plan form. The building would be largely single storey with two storey elements on the west. While the final details of materials would be confirmed by condition, the general proposed palette for the building includes Traditional Brickwork (Ibstock, Birtley, Waterstruck Brick), Rainscreen cladding, perforated rainscreen cladding and other feature materials at the entrance and in the form of feature brickwork within the cladding.
84. Criteria e) and f) relate to transport and access. The site is located within a primarily residential area and with existing bus stops in the vicinity. The nearest bus stop is located 200m to the west of the current site entrance on Woodhouse Lane. There is also a bus stop located on Cockton Hill Road to the east which would increase the number of available bus routes to serve the site. The site would continue to have immediate pedestrian access from Woodhouse Lane. In addition, there would be adequate parking provision for staff and buses and would not have an adverse impact on the highway network.



85. The proposed development would comprise the re-provision and regeneration of a facility which has begun to fall into disrepair. The development, through the provision of new, high quality community space, would maintain and improve the community value of the existing leisure facility for a longer period of time. Therefore, with respect to criterion g) the development would be a direct improvement over existing leisure facilities at the site which would extend the vitality and value of the community facilities and would therefore gain positive weight in accordance with criterion g).
86. The development would provide modern high quality leisure facilities for the local community, as well as energy efficient buildings with carefully considered drainage and green energy systems on previously developed land currently occupied by community facilities in accordance with criteria h), i) and j).
87. CDP Policy 6 also requires developments to accord with all other relevant development plan policies. CDP Policy 9 requires proposals for main town centre uses not within a defined centre to provide a sequential assessment. This reflects advice within Paragraphs 87 and 88 of the NPPF. For leisure development, the Policy adopts the national default threshold of 2,500 sqm for impact assessments.
88. The proposed development would comprise a Town Centre Use as defined within the NPPF, both through its Leisure Use and through the inclusion of a café and gym facilities. In applying the requirement of CDP Policy 9, the location of the site and the fact that the existing leisure centre is operating from there is another significant consideration. Whilst the site is situated outside of Bishop Auckland's town centre boundary, it is co-located with other complimentary uses including the library. Since a leisure centre is a main town centre use it would ordinarily trigger the need for a sequential assessment. However, as the site currently has the leisure centre located there, it was not considered necessary for the applicant to undertake a sequential assessment to justify development of a new leisure centre on this out of centre site.
89. The town centre first approach as set out in Part 7 of the NPPF, which is also reflected in CDP Policy 9, states that main town centre uses should be located primarily in town centres, then in edge of centre locations, and that out of centre sites should only be considered if no other suitable sites are available. However, in this case, the redevelopment of an existing site for the same use, which improves the quality of the existing provision, is considered to be acceptable in principle. It would be unreasonable to expect the leisure centre to relocate to the town centre rather than redevelop the existing site with a like-for-like modern facility replacing the aging building.
90. In summary it is considered that the development of the application site would accord with CDP Policy 6 as it is considered well-related to the settlement, would not significantly affect the landscape character and lies within acceptable distances to local community facilities, services and sustainable transport links. The reasoning behind this judgement is set out in the consideration of the scheme against the relevant criterion of the Policy in later sections of this report.
91. It is also considered that the proposals are also supported by CDP Policy 9 through the provision of a higher quality community facility versus the existing on the site.

#### Recreational Amenity

92. Part 8 of the NPPF seeks to promote healthy communities. Paragraph 99 of the NPPF states that existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless an assessment has been undertaken showing the facility to be surplus to requirements; the loss resulting from the proposed

development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

93. CDP Policy 26 states that 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.
94. As stated above prior to submission of the application the applicant consulted with the local residents and other key stakeholders with the majority of respondents agreeing that the leisure centre needs upgrading. A Statement of Community Involvement has been submitted with the application.
95. There are a number of benefits to the proposed development as set out in this report, and it is well recognised that sport has the power to contribute positively to vital social outcomes and health priorities.
96. The proposed development would result in the demolition of the existing leisure centre and loss of informal open space but the positive redevelopment of the site. This would be for the provision of the new leisure centre and community building which would provide enhanced community facilities compared to those existing facilities to the benefit of local residents. Subject to the site being developed in accordance with the proposed site plan and submission of detailed hard and soft landscaping plans it is considered that the proposal would not conflict with CDP Policy 26 and Part 8 of the NPPF.

#### Residential Amenity

97. Paragraph 174 of the NPPF states that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of air or noise pollution. Development should, wherever possible, help to improve local environmental conditions such as air quality and water quality. Paragraph 185 of the NPPF states that planning decisions should ensure that new development is appropriate for its location taking into account the likely 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 186 of the NPPF advises that planning decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. Paragraph 187 of the NPPF advises that planning decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs).
98. CDP Policy 31 sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that can be integrated effectively with any existing business and community facilities.

Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for locating of sensitive land uses near to potentially polluting development. Similarly, potentially polluting development will not be permitted near sensitive uses unless the effects can be mitigated.

99. The site is surrounded by residential properties on all sides. The nearest residential properties are located opposite on Woodhouse Lane approximately 30m to the north and Watling Road approximately 30m to the to the east. The proposed new carpark would be located on the western part of the site opposite St Mary's Roman Catholic Church.

#### Noise

100. A Noise Survey Report has been submitted in support of the application. The report presents the results of a noise survey undertaken at the site and sets plant noise limits for the proposed air source heat pump at the new Bishop Auckland Leisure Centre during the operation phase of development. The assessment recommends that plant noise limits should be implemented and that resulting noise arising from the use of the air source heat pumps has been assessed and would indicate a low impact is likely subject to the implementation of the noise limits.
101. As such the development is in alignment with the NPPF and Noise Policy Statement for England aims and includes all the sensitive areas surrounding the site within the investigation, including the properties on Woodhouse Lane. With regard to construction noise, given that at this stage in the development, building services plant specifications are unavailable, rated noise limits are proposed for the cumulative impact of future plant noise at the nearest noise-sensitive receptors.
102. Environmental Health and Consumer Protection (Nuisance Action) Officers note that the submitted report concentrates upon Air Source Heat Pumps, and no other potential sources of noise associated with the operation of the facility. Officers therefore recommend a condition which sets noise levels emitted from all fixed plant and machinery on the site.
103. Environmental Health and Consumer Protection (Nuisance Action) Officers advise that a condition should be applied restricting the time of works. Officers advise that 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. Officers also advise that 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.
104. Environmental Health and Consumer Protection (Nuisance Action) also recommend submission of an appropriate Construction Management Plan, which should consider the potential environmental impacts (noise, vibration, dust, & light) that the development may have upon any nearby sensitive receptors and shall detail mitigation proposed.
105. In addition, planning conditions would require the submission and approval of a Demolition Management Plan which, amongst other matters, control the hours of demolition.

## Lighting

106. No details in relation to external lighting have been submitted with the application. Given the likelihood of the proposed development requiring external lighting as part of the construction and demolition phases as well as during operation of the completed development, details can be required through condition.
107. Environmental Health and Consumer Protection (Nuisance Action) Officers raise no objection to the proposals subject to the imposition of a relevant condition controlling final lighting impacts.

## Air Quality/Dust

108. An Air Quality Assessment has been submitted in support of the application. The assessment provides a baseline analysis, details of assessment methodology, legislation and policy and consideration of the potential impacts. The assessment identifies that the proposals have the potential to cause air quality impacts at sensitive locations during the construction phase. These may include fugitive dust emissions and road traffic exhaust emissions from construction vehicles travelling to and from the site during operations.
109. During the construction phase of the development there is the potential for air quality impacts as a result of fugitive dust emissions from the site as a result of demolition, earthworks, construction and trackout activities. This has been assessed in accordance with the IAQM methodology. It is advised that, assuming good practice dust control measures are implemented, impacts would be minimised throughout construction. During the operational phase of the development there is the potential for air quality impacts as a result of traffic exhaust emissions associated with vehicles travelling to and from the site. These were assessed against the relevant screening criteria. This has been assessed against the screening criteria provided within relevant IAQM guidance. Due to the low number of anticipated vehicle trips associated with the proposals, road traffic impacts were not predicted to be significant. As such, mitigation to reduce potential effects is not considered necessary.
110. Environmental Health and Consumer Protection (Air Quality) Officers have considered the proposals and raise no objections to the conclusions drawn in respect of potential nuisance or air pollution. However, they also state that the construction phase has the potential, without adequate mitigation measures being incorporated into that phase, could have a significant impact upon sensitive receptors. As such, the aforementioned condition relating to the approval of a Construction Management Plan contains a requirement for a Dust Management Plan to ensure no unreasonable impacts would result.

## Odour

111. A café with kitchen is proposed. Environmental Health and Consumer Protection (Nuisance Action) Officers recommend a condition requiring full details of any proposed fume extraction system to be submitted to and approved by the Council.

## Summary

112. There would be some disturbance to residential properties during construction and demolition operations, but these can be mitigated through appropriate conditions and implementation of a Construction Management Plan. This disturbance would be time limited and necessary to provide new community facilities.

113. Environmental Health and Consumer Protection (Nuisance Action and Air Quality) Officers raise no objection subject to appropriately worded conditions. In addition, they are satisfied, based on the information submitted with the application and with the addition of the aforementioned conditions the development would be unlikely to cause a statutory nuisance.
114. Residents living around the centre will currently experience some disturbance from the existing facilities and associated users, but this is to be expected and residents will be accustomed to this. Overall, it is considered that the proposed development would not create an unacceptable impact on health, living or working conditions or the natural environment in notable excess from the existing. The proposals would not result in unacceptable noise, air quality or light pollution and, subject to the imposition of the conditions recommended above, it is considered that the proposals would provide an acceptable standard of residential amenity in accordance with CDP Policies 29 and 31 and Part 15 of the NPPF.

#### Access and Traffic

115. Paragraph 110 of the NPPF states 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. CDP Policy 21 states that the transport implications of development must be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans.
116. The proposed development would continue to utilise the existing vehicular access from Woodhouse Lane. The entry point comprises an already established vehicle access and circulation within the Site. A new pedestrian access to the site would be also provided from Woodhouse Lane. The provision of the extended car parking area aims to ensure that the appropriate amount of car parking space is provided for future visitors, service users and employees. The car parking would provide 130 no. car parking spaces, including 18 passive and 9 active electric car charging. The coach layby has been subject to swept path analysis which demonstrates the coach can access and egress the site in a forward gear.
117. During demolition and construction, the access off Woodhouse Lane to the east of St Mary's Roman Catholic Church for pedestrian and general access would be retained. The new car parking would be completed within Phase 4 of the construction phase alongside the new landscaping.
118. A Transport Statement (TS) has been submitted in support of the application, providing a full and robust assessment of the transportation impacts of the development proposal. Details are provided of the proposed development, site access and parking, coach parking, delivery and service arrangements. The TS has considered the trip generation of the proposed facility and concluded that, given there is an existing leisure centre facility on the site, when considering the trip generation of the existing facility against the proposed, the net increase in trips is minimal, and so the impact on the local highway network would be negligible.
119. The Highway Authority has considered the application having regard to the internal road arrangement for the new site, alongside vehicular and cycle parking provision and electric vehicle charging spaces. Servicing arrangements and the proposed uses have also been assessed. No objection is raised by the Highway Authority in relation to the internal layout, with the Highway Authority commenting that the proposal is acceptable as per the existing arrangement for the existing leisure centre.

120. Subject to works to the adopted highway being carried out, via an agreement under Section 184 or 278 of the Highways Act 1980, and subject to appropriate conditions, the Highway Authority raise no objection to the proposals. Section 184 or 278 works would be formation of new vehicular accesses, and the closure and reinstatement as footpath of existing accesses. Officers identify that planning conditions would be required to ensure the laying out of the proposed highways works, provision EV charging points, provision of car parking and cycle parking are implemented prior to first occupation of the development. In addition, an informative requiring the Stopping up of existing Highway under Section 247 of the Town and Country Planning Act 1990 would be required, relating to stopping up an area of adopted footpath within the development site.
121. It is considered that the proposals have been appropriately assessed through the TS and it has been concluded that the development would not result in harm to the safety of the local or strategic highway network, and would have a negligible impact on traffic movements on the road network. Subject to the conditions set out above the development would not conflict with CDP Policy 21 and Part 9 of the NPPF.

### Layout and Design

122. 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. Parts 12 and 15 of the NPPF also seek to promote good design, while protecting and enhancing local environments. Paragraph 130 of the NPPF also states that planning decisions should aim to ensure developments function well and add to the overall quality of the area and establish a strong sense of place, using streetscapes and buildings to create attractive and comfortable places to live, work and visit.
123. The proposed building would have maximum dimensions of 11.8m in height, 61m in length and 56.7m depth. The height of the proposed new building is the same as the existing leisure centre building present and would be positioned a sufficient distance from the nearest residential dwellings (approximately 30m from opposite properties at Watling Road and Woodhouse Lane). The building would have a lower total height of 7.8m at its point closest to adjoining properties on Watling Road, reducing the visual impact of the development further. This distance is proposed to ensure that the privacy of the residential properties is retained, and daylight/sunlight impact is reduced to the minimum and at the same time allows the construction of the proposed development whilst some of the current facilities remain operational. The building incorporates design elements from the local vernacular of Bishop Auckland and has dynamic, modern facades which front adjacent public open spaces.
124. Given the site is currently used for leisure and community purposes, impacts on landscape character would be based on any visual effects within the site and surrounding residential properties. There are existing trees on site on the southern site edge and near to the existing library which are prominent and provide a degree of amenity value within the immediate vicinity of the site. The trees on the southern boundary would be retained and the trees sited near the existing library would be lost to facilitate the erection of the new building.
125. Durham Constabulary Police Architectural Liaison Officer initially made a number of comments and recommendations based on the principles of 'Crime Prevention through Environmental Design' and intended to help create a safe and crime free development. The comments related to: defining parking areas with floor markings and signage;; applying the BPA Safer Parking 'Park Mark' Scheme; providing well-lit external areas

with column or wall-mounted luminaires; using STS 201/202 or equivalent for external doorsets; incorporating laminate glass or STS 204 security rating for ground floor windows; implementing a monitored intruder alarm system; ensuring lockable and security-rated internal doorsets; using electronic access control systems where appropriate; and establishing full site security during the construction phase to prevent theft of equipment and tools. Additionally, secure cycle parking with galvanized steel construction and Sold Secure Bronze or LPS 1175 standards is recommended, focusing on natural surveillance and safety.

126. Design and Conservation Officers raise no objections advising that the proposed development positively addresses the immediate site context in both plan and built form. The detailed design and approach to material palette is informed by a detailed analysis of local vernacular and important buildings within Bishop Auckland. The building is animated and the entrance is highly legible from both the vehicular and pedestrian points of access. Pursuant to the above, while the material palette was generally found to be acceptable, the implementation of a condition requiring details and sample for consideration was recommended.
127. With regard to CDP Policy 29 it is considered that the development would positively contribute to the character and townscape of the area and would create a modern building capable of providing and accommodating up to date leisure and community needs.
128. Subject to the imposition of a condition requiring details of materials and finishes it is considered that the development would accord with CDP Policy 29 and Part 12 of the NPPF in respect of good design.

#### Locational Sustainability of the Site

129. CDP Policy 6 Criterion f requires that developments on unallocated sites have 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. 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. Specifically, the NPPF sets out at Paragraph 105 that significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. At Paragraph 110 the NPPF states that appropriate opportunities to promote sustainable transport modes should be taken whilst Paragraph 112 amongst its advice seeks to facilitate access to high quality public transport.
130. The proposed development would be located on a site currently occupied by a leisure centre and library building and is surrounded by residential properties in a residential area. The site is currently easily accessed off pedestrian accesses along Woodhouse Lane. These accesses would effectively be consolidated into a single formalised access to the new, singular building and would continue to form pedestrian access into the building. The existing vehicular access into the western car park would be retained and the internal car park expanded to serve the identified car parking need of prospective users.

131. In addition, the site is well served by bus stops along Woodhouse Lane to the west and Cockton Hill Road to the north. These bus stops provide consistent services to adjoining villages and Durham city.
132. An Interim Travel Plan has been submitted with the application outlining the management and development of any final Travel Plan, including targets, monitoring, and the role of the Travel Plan Coordinator. It also describes how a proposed development would be accessed by different modes of transport, assesses its accessibility by sustainable travel methods, and details sustainable travel initiatives and key actions to achieve the plan's objectives. The Council's Sustainable Travel Team raise no objection to the application but have recommended that a condition be included alongside any approval which requires the submission and approval of a final travel plan.
133. In conclusion, subject to the inclusion of a travel plan via condition, the development would promote accessibility by a range of methods in accordance with CDP Policies 6 criterion f, 21 and 29 and Part 8 Paragraphs 98 and 103 and Part 9 Paragraphs 108 and 110 of the NPPF.

#### Renewable Energy

134. CDP Policy 33 states that renewable and low carbon energy development in appropriate locations will be supported. In determining planning applications for such projects significant weight will be given to the achievement of wider social, environmental and economic benefits. Proposals should include details of associated developments including access roads, transmission lines, pylons and other ancillary buildings. Where relevant, planning applications will also need to include a satisfactory scheme to restore the site to a quality of at least its original condition once operations have ceased. Where necessary, this will be secured by bond, legal agreement or condition.
135. The applicant has submitted a Sustainability Assessment which has assessed the development against the Building Research Establishment Environmental Assessment Method (BREEAM) 2018 "other BREEAM" assessment fully fitted criteria. The Assessment has demonstrated that the building would achieve a 'very good' BREEAM rating. The scheme includes air source heat pumps to generate heating and hot water and includes charging points for prospective users utilising electric vehicles.
136. CDP Policy 33 requires 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). The submitted documents demonstrate that the proposed scheme is able to achieve a 'very good' BREEAM rating and therefore the proposal would accord with CDP Policy 33 and Part 14 of the NPPF.

#### Contamination and coal mining risk

137. Part 15 of the NPPF (Paragraphs 120, 174, 183 and 184) requires the planning system to consider remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land where appropriate. Noting that where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner. CDP Policy 32 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.



138. A Preliminary Phase 1 Investigation (Desk Study) was carried out and subsequent Site Investigations (Phase 2) were undertaken to inform the proposals. The phase 1 report undertook initial analysis and concluded by recommending Site Investigations be undertaken, and detailing the methods of monitoring and analysis which would be appropriate. The phase 2 report was subsequently undertaken on this basis and concluded that the site's contamination levels are unlikely to pose a risk to current and future users due to its proposed commercial use. The report subsequently states that if odorous, brightly coloured, or suspected contaminated areas are encountered during work, operations should stop until investigation results determine if remediation is needed. Controlled waters are not at risk. For utilities, elevated phenol and pH levels mean avoiding PVC and copper pipes, opting for clean trenches for all services. Subsurface concrete should meet DS-1 ACEC (Class AC-1) standards.
139. The site lies within a Coalfield Development Low Risk Area. A Coal Mining Risk Assessment is therefore not required.
140. Environmental Health and Consumer Protection (Contaminated Land) Officers have considered the information submitted and raise no objections in respect of land contamination. Officers advised that given that ground gas protection measures are required, a phase 3 remediation strategy should be provided including ground gas protection measures proposed. Officers therefore recommend conditions to require investigation of potential areas of ground contamination.
141. It is considered that the proposed development would be suitable for the proposed use and would not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities and it is considered that the proposals with appropriate mitigation would provide an acceptable standard of residential amenity in accordance with CDP Policies 32 and Part 15 of the NPPF.

#### Flooding and Drainage

142. Part 14 of the NPPF directs Local Planning Authorities to guard against flooding and the damage it causes. Protection of the water environment is a material planning consideration and development proposals, including waste development, should ensure that new development does not harm the water environment. Paragraph 174 of the NPPF advises that planning decisions should contribute to and enhance the natural and local environment by preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of water pollution. Development should, wherever possible, help to improve local environmental conditions such as water quality.
143. Paragraph 167 of the NPPF states that when determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment. Development should only be allowed in areas at risk of flooding where, in the light of this assessment it can be demonstrated that it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate, and any residual risk can be safely managed.
144. 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. National advice within the NPPF and PPG with regard to

flood risk advises that a sequential approach to the location of development should be taken with the objective of steering new development to Flood Zone 1 (areas with the lowest probability of river or sea flooding). When determining planning applications, local planning authorities should ensure flood risk is not increased elsewhere and only consider development appropriate in areas at risk of flooding where a sequential test and some instances exception tests are passed, informed by a site-specific Flood Risk Assessment (FRA).

145. The site is entirely located within Flood Zone 1 and within an area of Groundwater Vulnerability as defined by the Environment Agency. There are no watercourses within or adjacent to the site. The closest watercourse is River Gaunless approximately 505m to the east.
146. A FRA and Drainage Philosophy have been submitted in support of the application. The FRA identifies that the whole of the site is in an area classified as being at 'Low' risk of flooding from all forms. The Drainage Philosophy Report document details how the surface water and foul water will be discharged from site. The document concludes that, it is deemed necessary to discharge the surface water to an existing sewer, as the previously mentioned discharge methods were not feasible.
147. The proposed surface water drainage plan aims to restrict discharge rates close to greenfield levels. The greenfield runoff calculation in suggests a rate of 3.3 l/s, with a minimum discharge rate of 3.5 l/s due to orifice diameter considerations. The final rate would be determined with Northumbrian Water through design development. The plan includes drainage philosophy, attenuation features, and swales within the site. A Microdrainage calculation indicates the need for approximately 675m<sup>3</sup> of attenuation. Permeable paving in the private car park will treat surface water flows, and the system would adhere to Building Regulations Part H, ensuring separation from foul water. Additionally, the proposal involves diverting a Northumbrian Water surface water sewer to connect to the proposed system at a restricted rate of 3.5 l/s.
148. The Lead Local Flood Authority has no objection to the proposal subject to a condition requiring precise details of the surface water management scheme. A condition pursuant to this has been included within the recommendation.
149. It is therefore considered that, subject to a suitable condition, the proposed development would not lead to increased flood risk, both on and off site, and through the use of SUDs would ensure there is no net increase in surface water runoff for the lifetime of the development. It is therefore considered that the proposals would not conflict with CDP Policies 35 and 36 and Part 14 of the NPPF.

#### Landscape and Trees

150. Paragraph 174 of the NPPF states that decisions should contribute to and enhance the natural and local environment by protecting and enhancing valued landscapes in a manner commensurate with their statutory status or identified quality in the development plan.
151. CDP Policy 39 states that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views. Proposals will be expected to incorporate appropriate measures to mitigate adverse landscape and visual effects. Development affecting Areas of Higher Landscape Value (AHLV) 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.

152. CDP Policy 40 states that proposals for new development will not be permitted that 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 not be permitted that would result in the loss of hedges of high landscape, heritage, amenity or biodiversity value unless the benefits of the proposal clearly outweigh the harm. Proposals for new development will not be permitted that would result in the loss of, or damage to, woodland unless the benefits of the proposal clearly outweigh the impact and suitable replacement woodland planting, either within or beyond the site boundary, can be undertaken.
153. The site is not within any landscape designation. At its closest point the AHLV is located approximately 920m to the north west of the site. The proposed development would not impact upon the AHLV.
154. Indicative landscaping details, Tree Survey, Arboricultural Impact Assessment (AIA), Arboricultural Method Statement (AMS) and Tree Protection Plan have been submitted in support of the application.
155. A landscaping strategy has been provided to show indicative hard and soft landscaping within the site, including pathways and planting. Landscaping would predominantly be trees and greenspace located around the site with some designated soft social spaces. Planting would be used to ease way finding through the public spaces on the site and highlight accesses and egresses, particularly towards the periphery of the site.
156. Landscape Officers have considered the proposals and raised no objections. Conditions are recommended to confirm full details of hard and soft landscape proposals. Hard landscape details should include all enclosing elements, street furniture and street lighting locations. As stated above, details of external finishing materials should include finished levels, and all construction details confirming materials, colours, finishes and fixings.
157. Existing vegetation would be retained where possible although the proposed development would require the removal of 18 trees and the removal of hedgerow to allow facilitate the siting of the new centre. The loss of trees and hedgerows would be compensated for through the proposed landscaping scheme and appropriate protection measures put in place for the protection of retained vegetation.
158. Tree Officers consider that the trees on the site would provide amenity value and are prominent within the immediate local area and that, without appropriate mitigation or replacement, development would potentially conflict with CDP Policy 40.
159. Landscape and Tree Officers both advise that subject to the imposition and agreement to an appropriate condition they have no objection to the proposal. The proposed condition requires the preservation of existing trees, hedges, and shrubs with specified protective measures, a comprehensive soft landscaping plan with precise details on plant species, numbers, layouts, and planting techniques. This plan should also account for topsoil levels, temporary soil storage as per DEFRA guidelines, and a clear timeline for implementation. Furthermore, the establishment maintenance regime should cover watering, weeding, mulching, and tree stake management for a five-year period to ensure the vitality of the greenery. The condition extends to enclosing elements, street furniture, and street lighting placements, as well as specifying materials, colours, finishes, and fixings for external finishing. Lastly, it requires a

detailed strategy for the perpetual management, maintenance, and accessibility of all open spaces.

160. A further condition requiring the protection set out in the Tree Protection Plan to be implemented prior to construction work to avoid any potential damage would be imposed should planning permission be granted.
161. The proposed development would result in the loss of some trees, but this would be mitigated through replacement planting across the site along with the opportunity to enhancements to the site as part of the development of the site. Details of this replacement planting would be agreed through condition. In addition, there would be appropriate protection of retained trees throughout the construction process. It is therefore considered that the proposal would not conflict with CDP Policies 39 and 40 and Part 15 of the NPPF.

## Ecology

162. Paragraph 180 of the NPPF sets out the Government's commitment to halt the overall decline in biodiversity by minimising impacts and providing net gains where possible and stating that development should be refused if significant harm to biodiversity cannot be avoided, mitigated or, as a last resort, compensated for. CDP Policy 41 reflects this guidance by stating that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for. CDP Policy 43 states that 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.
163. The presence of protected species is a material consideration in planning decisions as they are a protected species under the Wildlife and Countryside Act 1981 and the European Union Habitats Directive and the Conservation of Habitats and Species Regulations 2017 (as amended). The Habitats Directive prohibits the deterioration, destruction or disturbance of breeding sites or resting places of protected species. Natural England has the statutory responsibility under the regulations to deal with any licence applications but there is also a duty on planning authorities when deciding whether to grant planning permission for a development which could harm a European Protected Species to apply three tests contained in the Regulations in order to determine whether a licence is likely to be granted. These state that the activity must be for imperative reasons of overriding public interest or for public health and safety, there must be no satisfactory alternative, and that the favourable conservation status of the species must be maintained. Brexit does not change the Council's responsibilities under the law.
164. There are no relevant ecological designations within or immediately adjacent to the proposed site. Some 950m to the north west is Escomb Pastures Local Wildlife Site (LWS). 1km to the north east is Brack's Wood LWS and Ancient Woodland.
165. An Ecological Appraisal and Biodiversity Net Gain Assessment have been submitted in support of the application.
166. The Appraisal provides an analysis of baseline conditions for the site and an assessment of habitats and species on the site. The site comprises a mixture of different habitats including buildings, hard standing, grasslands and lines of trees. Habitats on site are considered to be of up to local value. There is potential for the national priority species hedgehog, to be present within the site on occasion. The site

provides opportunities for a small range of foraging and nesting birds within scrub, trees and grasslands and is considered to be of up to local ornithological value, supporting a relatively typical range of species. The assessment found a singular bat roost within the existing leisure centre. The assessment recommends a set of measures to address potential impacts on wildlife, including avoidance, mitigation, and compensation strategies. These measures include avoiding or limiting external lighting to protect bats, ensuring means of escape for mammals in open excavations, and safeguarding retained trees. Hand removal and supervision by an ecologist are advised for features around bat roosts, with precautionary methods for other structures. Nesting bird season should be respected, with checks by ecologists. Additionally, landscape planting should feature berry and fruit-bearing species, species-rich coarse grassland, and native scrub. The plan also entails installing bird boxes and bat roosting features and adhering to a Construction Environmental Management Plan during works.

167. The report also recommends that demolition works should not proceed without a Natural England licence. This recommendation is reflected in the advice of the Council's Ecology Officers.
168. The Biodiversity Net Gain Assessment is supported by a DEFRA's Biodiversity Metric 4.0. The metric advises that the baseline site provides 1.66 habitat units and 0.14 hedgerow units. Post development, and taking into account the habitat creation set out in the paragraphs above, the site would provide 2.06 habitat units and 1.27 hedgerow units equating to a net gain of 0.4 units or 23.9% for habitat and 1.16 units or 831.4% for hedgerow. It was noted by the Council's Ecology Officers that, while the submitted metric does not meet trading rules, given the scale of the development, the baseline habitats on site and the delivery of a clear BNG, this was not believed to be a significant issue in this case.
169. In respect of the three derogation tests contained in the Regulations, the demolition would be critical for the delivery of the proposed leisure and community centre development as the land is required for the provision of the new main centre building and therefore, completion of the approved development as a whole. The development is therefore of overriding public interest and would protect public health and safety.
170. Leaving the existing library building would not provide sufficient space within the wider site for the proposals and no alternative sites have been identified. There is therefore no satisfactory and suitable alternative to the demolition of the existing library building. Finally, the loss of the single bat day roost is unlikely to adversely affect the favourable conservation status of the species. The Council's Ecology Officers have raised no issues in relation to bats and considers that there would be no impediment to a Licence being granted. Accordingly, it is concluded that the derogation tests would likely be satisfied. Replacement roost provision is likely to be required as part of the Licence. Night bat roosting features would be incorporated into the proposed structures, the exact specification would be agreed with Natural England as part of the Licence. The Council's Ecology Officers consider that the bat survey work is sound, but that demolition should not proceed until a Licence is in place.
171. The Council's Ecology Officers have no objection to the current application for construction of the consolidated leisure centre and library, including the demolition of the existing buildings. They advise a Biodiversity Management and Monitoring Plan (BMMP) that covers a 30 year period from the date the habitats were created is needed. Monitoring should be undertaken in years 2, 5, 10, 15, 20 and 30 and the results supplied to the Council after each monitoring visit. The BMMP should include any proposed ecological enhancements. A condition is regarded as a suitable mechanism in this case as the Council is the Applicant.

172. The proposed development would provide biodiversity enhancement to the site and, whilst there may be temporary displacement of a roosting bat during the demolition and construction process, the net increase in biodiversity value through landscaping would adequately mitigate any residual harm. It is considered that the proposed development with suitable mitigation would not adversely impact upon any nationally or locally protected sites or protected species. It is therefore considered that the proposals would not conflict with CDP Policies 41 and 43 and Part 15 of the NPPF in respect of avoiding and mitigating harm to biodiversity.

## Cultural Heritage

173. In assessing the proposed development regard must be had to the statutory duty imposed on the Local Planning Authority under the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of preserving or enhancing the character and appearance of a conservation area. In addition, the Planning (Listed Buildings and Conservation Areas) Act 1990 also imposes a statutory duty that, when considering whether to grant planning permission for a development which affects a listed building or its setting, the decision maker shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. If harm is found this gives rise to a strong (but rebuttable) statutory presumption against the grant of planning permission. Any such harm must be given considerable importance and weight by the decision-maker.
174. Part 16 of the NPPF requires clear and convincing justification if development proposals would lead to any harm to, or loss of, the significance of a designated heritage asset. CDP Policy 44 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.
175. There are no designated heritage assets within the proposed site. Although the site is not within a Conservation Area, the Cockton Hill Conservation Area is located opposite the application site to the north. There are no designated heritage assets within the proposed site. The closest listed building is located to the east, this being the Grade II Henknowle Manor Public House approximately 337m to the east. The site is also located in close proximity to St Mary's RC Church, a non-designated heritage asset with architectural significance, social significance, and prominence in the streetscene.
176. A Planning and Heritage Statement has been submitted which includes a Heritage Assessment. The Assessment considers the impact of the proposed development upon the setting of nearby heritage assets. The Heritage Assessment states that the proposed building would be located further east than the existing building which would reduce impact on the non-designated asset, St Mary's Church. Whilst it would be more prominent in views from the south end of the Cockton Hill Conservation Area it would be read as part of the existing built environment and the landscaping to the site boundaries will help to soften the appearance of the building in views. Furthermore, the Heritage Assessment states that the proposals would provide a high-quality new building which has been sensitively designed to sit comfortably within the setting. The document concludes that the impact of the proposed development on the identified heritage assets would be negligible and it is not necessary for the harm to be weighed against public benefit.
177. Design and Conservation Officers have reviewed the impact of the proposal on the heritage designations. Design and Conservation Officers have noted that the applicant

has identified harm, but have stated that this is questionable, and any harm would be of the lowest order. Design and Conservation Officers subsequently state that the proposals provide great improvement in design quality and landscaping in the streetscene and the setting of the conservation area, providing a much-improved leisure facility building. The detailed design and approach to material palette is informed by a detailed analysis of local vernacular and important buildings within Bishop Auckland. The building is animated and the entrance is highly legible from both the vehicular and pedestrian points of access.

178. The impact of the proposed development has been assessed by the applicant and Officers to be negligible. Paragraph 202 of the NPPF requires less than substantial harm to heritage assets to be weighed up against the public benefits of a proposal. In terms of public benefits, the proposals provide great improvement in design quality and landscaping in the streetscene and the setting of the conservation area, providing a much improved leisure facility building. Furthermore, the proposals offer many positive benefits to the built environment including replacing aged buildings with a modern purpose-built community facility. On this basis, and conscious of the wider community benefits of the provision of a higher quality, modern leisure and community facility than currently exists, and benefits to health and wellbeing it is clear that even in the instance there was any impact on assets, this would ultimately be offset by the clear public benefit in this instance.
179. As discussed above, there are public benefits that would arise as a result of the proposed development, and these are considered to be sufficient to outweigh the identified less than substantial heritage harm. It is considered that, subject to conditions, the proposal would not conflict with CDP Policy 44, Part 16 and paragraph 202 of the NPPF and the Listed Building Act.

#### Other matters

180. Bishop Auckland Town Council queries the impact of proposals on service users. The phasing proposed as part of this development but would allow for a continuous leisure offer for local residents, as the proposed centre will be fully constructed prior to the eventual demolition of the existing centre. Although the library would be demolished, temporary library provision would be provided during the works.
181. CDP Policy 27 addresses with utilities, telecommunications and other broadcast infrastructure and supports such proposals provided that it can be demonstrated that there will be no significant adverse impacts or that the benefits outweigh the negative effects; it is located at an existing site, where it is technically and operationally feasible and does not result in visual clutter. If at a new site, then existing sites must be explored and demonstrated as not feasible. Equipment must be sympathetically designed and camouflaged and must not result in visual clutter; and where applicable the proposal must not cause significant or irreparable interference with other electrical equipment, air traffic services or other instrumentation in the national interest. It is the applicant's responsibility as the bill payer to procure the broadband solution from their chosen ISP (Internet Service Provider) but the infrastructure would be installed to allow the installation. The development would not conflict with CDP Policy 27 and Part 8 of the NPPF.
182. The site lies within the mineral safeguarding area for coal as defined in the County Durham Plan. CDP Policy 56 advises 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 or which will sterilise an identified 'relic' natural building and roofing stone quarry as shown on Map C of the policies map document unless certain criteria apply. This includes criteria a) that states it can be demonstrated

that the mineral in the location concerned is no longer of any current or potential value as it does not represent an economically viable and therefore exploitable resource. In relation to the safeguarded mineral, information submitted with the planning application indicates that the Brockwell seam lies at depth (137 metres below ground level) and as such it is considered that the safeguarded coal is no longer of any current or potential value as it does not represent an economically viable and therefore exploitable resource. It is therefore considered that the proposed development would not conflict with CDP Policy 56 and Part 17 of the NPPF.

#### Public Sector Equality Duty

183. 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. The building would be accessible and built to modern standard to ensure the needs of all prospective service users would be met.
184. In this instance, Officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

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### **CONCLUSION**

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185. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
186. The proposed development would provide a modern, efficient leisure and community services on a site currently accommodating such uses in need of repair. Dated facilities would be replaced resulting in a significant enhancement to the sporting and leisure offer in Bishop Auckland offering health and wellbeing benefits. Overall, the proposed development would provide a significant benefit to the community, be sustainable and well designed, and in keeping with and complementary to its surroundings.
187. Consideration has been given to the principle of the development and the impact of the proposals in terms of recreational amenity, residential amenity, access and traffic, layout and design, locational sustainability of the site, renewable energy, contamination and coal mining risk, flooding and drainage, landscape and trees, ecology, cultural heritage, other matters. The development has been assessed against relevant development plan policies and material considerations and, subject to conditions where appropriate, the impacts are considered to be acceptable.
188. The proposed development has generated little public interest, with one letter of support having been received.
189. The proposed development is considered to accord with the relevant policies of the County Durham Plan and relevant sections of the NPPF.

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### **RECOMMENDATION**

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190. That the application is **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 Local Planning Authority shall be given at least seven days prior written notification of the date of commencement of the development.

*Reason: To ensure the development is carried out in accordance with the approved documents.*

3. The development hereby approved shall be carried out in strict accordance with the following plans:

- Site Location Plan 21010 - GT3 - 00 - 00 - DR - A - 08-9001 – Rev P1
- Proposed Site Plan N1075-ONE-ZZ-XX-DR-L-0001 P07
- Proposed South and West Elevation 21010 - GT3 - 00 - ZZ - DR - A - 08-0005 - Rev P2
- Proposed North and East Elevation 21010 - GT3 - 00 - ZZ - DR - A - 08-0004 - Rev P2
- Site Sections 21010 - GT3 - 00 - XX - DR - A - 08-0001 - Rev P2
- Roof Plan 21010 - GT3 - 00 - 02 - DR - A - 08-2000 - Rev P2
- Level 01 Plan 21010 - GT3 - 00 - 01 - DR - A - 08-1000 - Rev P2
- Level 00 Plan 21010 - GT3 - 00 - 00 - DR - A - 08-0000 - Rev P2
- Biodiversity Net Gain Assessment
- Design and Access Statement
- Drainage Philosophy Report
- Ecological Appraisal
- Planning and Heritage Statement
- Transport Statement
- Noise Survey Report
- Air Quality Assessment
- Arboricultural Impact Assessment, Arboricultural Method Statement and Tree Protection Plan

*Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 9, 21, 26, 27, 29, 31, 33, 35, 36, 39, 40, 41, 43, 44, 56 of the County Durham Plan and Parts 2, 6, 7, 8, 9, 14, 15, 16 and 17 of the National Planning Policy Framework.*

4. No demolition shall commence until a Demolition Management Plan has been submitted to and approved in writing by the Local Planning Authority for the demolition of the library and leisure centre. The Demolition Management Plan shall include as a minimum but not necessarily be restricted to the following:

1. A Dust Action Plan including measures to control the emission of dust and dirt during construction.
2. Details of methods and means of noise reduction/suppression.
3. Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
4. Designation, layout and design of construction access and egress points.
5. Details for the provision of directional signage (on and off site).

6. Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
7. Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
8. Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.
9. Routing agreements for demolition traffic.
10. Details of the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate.
11. Waste audit and scheme for waste minimisation and recycling/disposing of waste resulting from demolition and construction works.
12. Management measures for the control of pest species as a result of demolition and/or construction works.
13. 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 same Construction and Open Sites" during the planning and implementation of site activities and operations. The approved Demolition Management Plan shall also be adhered to throughout the demolition 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.*

5. No construction work shall commence until a Construction Management Plan has been submitted to and approved in writing by the Local Planning Authority. The Construction Management Plan shall include as a minimum but not necessarily be restricted to the following:
  - 1.A Dust Action Plan including measures to control the emission of dust and dirt during construction.
  - 2.Details of methods and means of noise reduction/suppression.
  - 3.Where construction involves penetrative piling, details of methods for piling of foundations including measures to suppress any associated noise and vibration.
  - 4.Details of measures to prevent mud and other such material migrating onto the highway from all vehicles entering and leaving the site.
  - 5.Designation, layout and design of construction access and egress points.
  - 6.Details for the provision of directional signage (on and off site).
  - 7.Details of contractors' compounds, materials storage and other storage arrangements, including cranes and plant, equipment and related temporary infrastructure.
  - 8.Details of provision for all site operatives for the loading and unloading of plant, machinery and materials.
  - 9.Details of provision for all site operatives, including visitors and construction vehicles for parking and turning within the site during the construction period.

10. Routing agreements for construction traffic.

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

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

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

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

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

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

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

6. 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 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: In the interests of residential amenity and highway safety in accordance with the County Durham Plan Policy 31 and Part 15 of the National Planning Policy Framework.*

7. The rating level of noise emitted from fixed plant/machinery on the site shall not exceed 53dB LAeq (1 hour) between 07.00-23.00 and 37dB LAeq (15 mins) between 23.00-07.00. The measurement and assessment shall be made according to BS 4142: 2014+A1: 2019.

On written request by the planning authority the operator shall, within 28 days, produce a report to demonstrate adherence with the above rating level.

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

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

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

9. Prior to the commencement of development, a detailed landscaping scheme for soft and hard landscaping must be provided to include specifications for all new tree planting and establishment maintenance in accordance with British Standard 8545:2014 Trees - From nursery to independence in the landscape - recommendations.

This scheme must include the following:

- Trees, hedges and shrubs scheduled for retention, including method of protection.
- Details of soft landscaping including all plant species, sizes, layout, densities, numbers, stock size and type.
- Details of planting methods and specification for all soft and hard landscaping, including construction methods where applicable, eg tree pits in hard landscaped areas.
- Finished topsoil levels and depths.
- Details of temporary topsoil and subsoil storage provision in accord with DEFRA Code of Practice for the sustainable use of soils on construction sites 2009
- The timeframe for implementation of the landscaping scheme.
- Details of the establishment maintenance regime including all watering, weeding, mulching, tree stake management and replacement for any trees and other plants that fail to flourish within the first 5 years.
- Details of all enclosing elements, street furniture and street lighting locations.
- Details of external finishing material including finished levels and all construction details confirming materials, colours, finishes and fixings.
- Full details of the management, maintenance and accessibility of all areas of open space in perpetuity.

*Reason: In the interests of the visual amenity of the area and to comply with County Durham Plan Policies 6, 29, 39, 40 and 41 and Parts 12 and 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that suitable replacement planting is agreed prior to removal of trees.*

10. No construction work shall take place, nor any site cabins, materials or machinery be brought on site until all trees and hedges, indicated on the approved Arboricultural Impact Assessment Arboricultural Method Statement Tree Protection Plan as to be retained, are protected by the erection of fencing, placed as indicated on the plan and comprising a vertical and horizontal framework of scaffolding, well braced to resist impacts, and supporting temporary welded mesh fencing panels or similar approved in accordance with BS.5837:2010.

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

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

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

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

11. 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.*

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

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

13. 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 Part 15 of the National Planning Policy Framework.*

14. Prior to commencement of the development a Biodiversity Management and Monitoring Plan (BMMP) covering a 30-year period from the date the habitats were created shall be submitted to the Local Planning Authority for approval in writing. Monitoring should be undertaken in years 2, 5, 10, 15, 20 and 30 and the results supplied to the Council after each monitoring visit. The BMMP should include any proposed ecological enhancements.

*Reason: In order to deliver Biodiversity Net Gain in accordance County Durham Plan Policy 41 and Part 15 of the National Planning Policy Framework. Required to be a pre-commencement condition as the Biodiversity Management and Monitoring Plan must be devised prior to the development being implemented.*

15. No development above damp-proof course shall be commenced 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.*

16. Details of the external lighting shall be submitted to and approved in writing by the Local planning authority prior to the development hereby permitted being brought into use. The detail provided must be sufficient to demonstrate adherence to the ILP guidance notes for the reduction of intrusive light. The external lighting shall be erected and maintained in accordance with the approved details to minimise light spillage and glare outside the designated area.

*Reason: To ensure precise lighting proposals having regards to residential amenity and biodiversity having regards to Policies 6, 29, 31 and 41 of the County Durham Plan and Parts 12 and 15 of the NPPF.*

17. Prior to first occupation of the development hereby approved, a scheme indicating the layout of the carpark, in addition to a timetable of works shall be submitted to and agreed in writing by the Local Planning Authority. The proposed carpark shall then be laid out and ready for use in accordance with the agreed timetable and shall be retained for use in perpetuity thereafter.

*Reason: In the interests of residential amenity and highway safety in accordance with the County Durham Plan Policy 21 and Part 15 of the National Planning Policy Framework.*

18. Prior to first occupation of the development hereby approved, a scheme indicating the locations of the 9no. active and 18no. passive electric car charging points across the site shall be submitted to and agreed in writing by the Local Planning Authority, with charging points installed to an agreed timetable. The charging points shall be retained for use in perpetuity thereafter and maintained.

*Reason: In order to encourage sustainable means of travel in accordance with County Durham Plan Policy 21 and Part 9 of the NPPF.*

19. Prior to first occupation of the development hereby approved, a scheme indicating the locations of all cycle parking points across the site shall be submitted to and agreed in writing by the Local Planning Authority, with the cycle parking points installed to an agreed timetable. The cycle parking points shall be retained for use in perpetuity thereafter and maintained.

*Reason: In order to encourage sustainable means of travel in accordance with County Durham Plan Policy 21 and Part 9 of the NPPF.*

20. The development hereby approved shall be carried out in full accordance with the recommendations set out in the submitted Ecological Appraisal June 2023 V2 by OS Ecology.

*Reason: In the interests of biodiversity in accordance County Durham Plan Policies 41 and 43 and Part 15 of the National Planning Policy Framework.*

21. Prior to installation full details of any fume extraction system, to include a risk assessment, design schematic, details of any odour abatement measures, details of noise levels and any other documents considered necessary to demonstrate accordance with the current EMAQ/DEFRA guidance on the control of odour and noise from commercial kitchen exhaust systems and DW172: specification for kitchen ventilation systems shall have been submitted to and approved in writing by the Local planning authority. The approved scheme shall be installed prior to the granting of planning consent and shall be operated at all times when cooking is being carried out on the premises.

*Reason: In order to protect amenity in accordance County Durham Plan Policies 29 and 31 and Part 15 of the National Planning Policy Framework.*

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## **STATEMENT OF PROACTIVE ENGAGEMENT**

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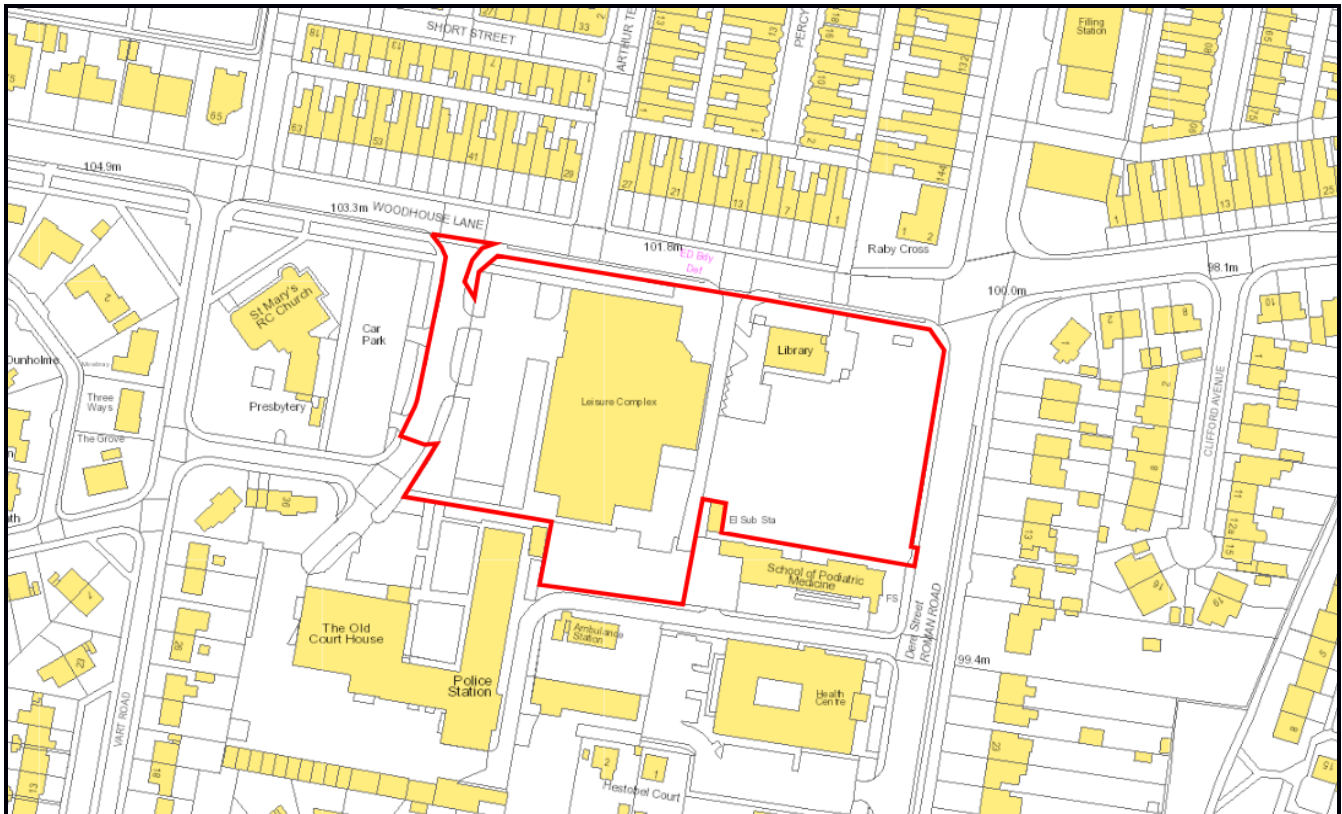
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

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## **BACKGROUND PAPERS**

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- Submitted application form, plans supporting documents and subsequent information provided by the applicant.
- The National Planning Policy Framework (2023)
- National Planning Practice Guidance notes
- County Durham Plan
- Statutory, internal and public consultation response



**Planning Services**

**DM/23/01885/FPA**

Demolition of the existing Woodhouse Close Leisure Complex and Library and erection of a replacement Leisure and Community Centre and associated car parking and landscaping (amended description) –  
 Woodhouse Close Leisure Complex,  
 Woodhouse Lane, Bishop Auckland, DL14 6JX

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**Comments**

**Date** November 2023

**Scale** Not to Scale