



Area Planning Committee (Central and East)

Date Tuesday 12 November 2024
Time 9.30 am
Venue Council Chamber, County Hall, Durham

Business

Part A

1. Apologies for Absence
2. Substitute Members
3. Minutes of the meeting held on 8 October 2024 (Pages 3 - 32)
4. Declarations of Interest, if any
5. Applications to be determined by the Area Planning Committee (Central and East)
 - a) DM/20/02046/FPA - Grange Farm, Coxhoe, Durham, DH6 4HH (Pages 33 - 88)
Demolition of existing farm outbuildings and erection of 83 dwellings (Amended description 14/05/2024).
 - b) DM/24/01551/FPA - 37-38 Silver Street, Durham, DH1 3RD (Pages 89 - 116)
Conversion of lower ground floor and part of the ground floor from retail (E) to form 1no small HMO (C4).
 - c) DM/24/02200/FPA - 90 Gilesgate, Durham, DH1 1HY (Pages 117 - 130)
Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof.

- d) DM/24/02161/LB - 90 Gilesgate, Durham, DH1 1HY
(Pages 131 - 142)

Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof.

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

Helen Bradley
Director of Legal and Democratic Services

County Hall
Durham
4 November 2024

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

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

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

DURHAM COUNTY COUNCIL

AREA PLANNING COMMITTEE (CENTRAL AND EAST)

At a Meeting of **Area Planning Committee (Central and East)** held in the **Council Chamber, County Hall, Durham** on **Tuesday 8 October 2024** at **9.30 am**

Present:

Councillor D Freeman (Chair)

Members of the Committee:

Councillors D Oliver (Vice-Chair), A Bell, J Clark, S Deinali, J Elmer, C Kay, K Robson, K Shaw and A Surtees

Also Present:

Councillors C Fletcher, D Hall, E Mavin and L Mavin

1 Apologies for Absence

Apologies for absence were received from Councillors L Brown, I Cochrane, D McKenna and R Manchester.

2 Substitute Members

Councillor B Kellett substituted for Councillor D McKenna.

3 Minutes

The minutes of the meeting held on 10 September 2024 were confirmed as a correct record by the Committee and signed by the Chair.

4 Declarations of Interest

Councillor B Kellett noted, in respect of application DM/24/00692/OUT - Homer Hill Farm, while he had made a comment on the planning portal, he had no interest and had attended the site visit the previous day.

Councillor S Deinali entered the meeting at 9.34am

The Lawyer (Planning and Highways), Neil Carter asked if Councillor B Kellett, despite having made representations on the planning portal, was saying that he was approaching the application with an open mind. Councillor B Kellett confirmed that was the case, and that he would not be speaking on the matter as a Local Member.

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

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

The Chair noted that Item 5d on the agenda, application DM/24/00692/OUT - Homer Hill Farm, would be taken as the first item in order to better accommodate speakers.

d DM/24/00692/OUT - Homer Hill Farm, Pittington Road, Rainton Gate, Houghton-le-Spring, DH5 9RG

The Planning Officer, David Richards gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The Planning Officer advised that some Members of the Committee had previously visited the site and were familiar with the location and setting. The application was an outline application for the erection of 1no. rural workers dwelling (with all matters except access reserved) and was recommended for refusal, with reasons as set out in the report.

The Planning Officer noted that in respect of representation, Councillor D Hall supported the application, with Councillor B Kellett having responded in support of the Officers' position. He noted there was no objection from the Highways Section although stipulations were made, and advice provided from the Spatial Policy Team. He noted no objections from Landscape, Tree Officer and Ecology, subject to conditions, screening, noting green belt policy would apply and biodiversity net gain (BNG) would not apply as it was a self-build development. He explained that the Coal Authority had objected to the application, noting the application was in a Development High Risk Area and that the applicant would need to submit a Coal Mining Risk Assessment accordingly. The Planning Officer noted that there were no objections from members of the public.

The Planning Officer noted that the report offered a full assessment from Officers, however, in summary the application was recommended for refusal as the applicant had failed to demonstrate the need for a worker on-site, as there was already another worker living on-site, and therefore was contrary to Policy 12(a). He added that while the retail element was substantial, it was outside of any reason that could justify the application. He noted in respect of security, recent incidents had been dealt with by current workers on-site. He added that therefore the application had failed to comply with Policy 12(e) of the County Durham Plan (CDP). The Planning Officer noted that the application was inappropriate development in the green belt and would cause visual and spatial harm to the openness of the green belt, and as other considerations did not clearly outweigh the harm caused to the green belt, there were not the very special circumstances to justify the development, which conflicted with the aims of Part 13 of the NPPF and CDP Policy 20. He concluded by noting that as no Coal Mining Risk Assessment had been submitted, the application represented unacceptable risk from pollution or land instability, contrary to the National Planning Policy Framework (NPPF) Paragraph 180 and CDP Policy 32.

The Chair thanked the Planning Officer and asked Councillor D Hall, Local Member speaking in support of the application, to address the Committee.

Councillor D Hall noted that the applicants, Mr and Mrs Haswell were in their 80s and were quite frail and therefore had not been able to attend Committee due to the stress of the situation. He reiterated he was one of the Local Members for Sherburn Village and therefore the application was in his electoral division. He explained that Homer Hill Farm was a thriving business, with butchery and café, and a local supplier to such companies as Marks and Spencer. He noted that farmers lived on farms, and farms were by their nature in the countryside and regularly within the green belt. He noted the application was not very unusual and he had been disappointed that it had been felt it was required to be considered by Committee, rather than approved under delegated authority. He added that if one looked at the details, it was for a rural dwelling for a rural worker. He noted the family had been a farming family for over 100 years, surviving economic turbulence and the impact of inflation and cost of living pressures. He noted that the applicants' daughter's illness had meant she had to step back from the running of the café and farm shop. Councillor D Hall noted he, as a civil servant, would likely retire around the age of 65 - 67, however, farmers often worked much later in life, reiterating Mr Haswell was in his 80s. He noted the hard work of the applicants during COVID, keeping local people supplied with quality products, and emphasised the business employed over 30 people and was a very successful local business.

Councillor D Hall noted how difficult it was to run a farm, his family having previously ran a farm in Ireland prior to moving to England.

He explained that the application was for a family of farmers, and succession planning was very important for their business, and he felt that surely, they were helping the green belt, with planning policy supporting this type of use. He noted the importance of those children that stay to support succession within farming businesses, reiterating that Mr and Mrs Haswell had worked until their 80s and therefore it was unfair to punish them by not allowing for such succession upon their retirement.

Councillor D Hall noted there was a small farming community that was supported via our planning policies and emphasised that policy should not get in the way of farmers or farming, with there being scope within policy for those required to live on-site in relation to 24 hours, seven days a week activity. He noted that any suggestion that farmers should live in the village and not on the farm did not make sense and urged Members of the Committee to support the application.

The Chair thanked Councillor D Hall and asked H Wafer, Agent for the Applicant, to speak in support of the application.

H Wafer thanked the Chair and noted the application sought planning permission to enable the development of a rural workers dwelling in support of the established agricultural business at Homer Hill Farm. She noted some of the Members may be familiar with Homer Hill Farm, adding it was a successful family run business which had been operational for over 100 years and currently employed over 30 local people. She added the business was originally established as a traditional cattle farm with over 110 acres of land in County Durham. H Wafer explained that, due to the volatile agricultural market, the business had diversified over the years and now included a farm shop, café and butchery. She noted, however, the business did still maintain traditional agricultural operations, with a current stock of cows, sheep and so on. She explained the meat was used both in the farm shop and also supplied to other local businesses, and in addition had recently been supplied to Marks and Spencer, an increase in the farm's business.

H Wafer explained that Glan and Jean Haswell had played a pivotal role in establishing and running the business on site over the past 40 years, and they wished to see that continue. She noted that whilst they were still involved in the business, Glan and Jean were looking towards retirement, but could only do so if a member of staff could reside on-site, to ensure security of the business and welfare of the livestock. H Wafer noted that the Committee Report produced by the Planning Officer advised that they do not consider there to be a need for a worker to live on-site, advising that the suggested worker was more involved in the butchery and retail side of the business, and that security of the farm could be managed with appropriate technology such as CCTV.

She noted the Report also stated that it was reasonable for the Applicants' grandchildren to live with the Applicants', should they wish to continue operating the business effectively. H Wafer noted whilst the business was currently operating effectively and that was only possible with the Applicants still being actively involved and their grandchildren living with them. She noted, however, that was not practical nor was it sustainable. She explained that with regards to the use of CCTV for security purposes, many of the Committee would be aware that technology often could fail, or glitches could occur. She added that it was not comparable to living on-site, particularly when dealing with emergencies that could be detrimental. She noted that, unfortunately, such occurrences were not uncommon for rural businesses and must be dealt with quickly. H Wafer explained that daily activities on the farm included animal husbandry; welfare checks; calving and lambing; all of which typically occurred outside the of normal working hours and required an on-site presence. She noted that National Planning Guidance confirmed that in such instances there was an essential need to live on-site. She noted that likewise, rural workers' dwellings could be supported if there was confidence that the business was viable and if the dwelling was required for succession planning.

H Wafer explained that the business had been established and profitable for a significant period of time, seeing a year-on-year increase in customers and turnover. She noted, however, continued growth was only possible with an on-site presence. She reiterated that the application before Committee sought to develop a single rural workers' dwelling in the green belt. She noted Members has heard from Officers that they do not consider there to be an essential need for a worker to live on-site, however, should Members determine there was in fact a need, then very special circumstances exist which would enable the Committee to support the development in the green belt. H Wafer noted that the fundamental aim of green belt policy was to prevent urban sprawl by keeping land permanently open, adding that in this instance she would consider that the site was previously developed land due to its association with the farm house and surrounding built form. H Wafer explained that the NPPF advised that the development of new buildings in the green belt was inappropriate unless they met a number of exceptions, which includes the redevelopment of previously developed land. She noted that whilst the application was in outline, it was considered that a dwelling could be provided on site which was subservient to the adjacent buildings, infilling a small area of garden land and as such could be considered compliant with Paragraph 154(g) of the NPPF.

H Wafer noted that it was acknowledged that one of the reasons for refusal, as sited by the Planning Officer, was the lack of a Coal Mining Risk Assessment, however, if Members wished to recommend approval the applicant would be more than willing to accept a suitably worded condition or provide the assessment prior to a Decision Notice being issued.

H Wafer noted that therefore she would ask Members to support the application, the business and its employees. She concluded by adding that, if approved, the development would be invaluable and would ensure the business could be sustained and continue to thrive.

The Chair thanked H Wafer and asked Officers to address the points raised by the speakers.

The Principal Planning Officer, Jennifer Jennings noted Officers had looked at the application and supporting statements provided and that the work of the new resident would largely be commercial in nature, in connections with the café and farm shop. She added it was not clear that the resident would be hands-on with the agricultural side of the business, and while Officers had sought additional information in this regard, it had not been forthcoming, and therefore Officer had felt the application was not policy compliant. The Principal Planning Officer noted that in terms of any exception based on the land was previously developed was not supported by Officers, with agricultural land not being considered as previously developed. She added the application was not applied for on the basis of being garden land, however, if it had been it would still have impacted upon the openness of the green belt, as outlined within the Committee Report.

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

Councillor J Elmer noted there was already another dwelling on the site, other than the farmhouse, previously approved under CDP Policy 12. The Principal Planning Officer noted two dwellings on the site, prior to the recent businesses. Councillor J Elmer asked for clarification, noting reference on the site visit to the recently built house. The Principal Planning Officer noted that there was a farmhouse and a bungalow, both being longstanding developments.

Councillor D Oliver noted that the biggest impact of the application was on the countryside. He added that as the application was only in outline, he felt that the design at any reserved matters stage could achieve a design that could be acceptable in terms of maintaining views. The Principal Planning Officer noted that it was correct that the application was in outline, and design would be for any reserved matters stage, however, as the application was within the green belt there therefore needed to be very special circumstances demonstrated to allow such development. She added that Officers did not consider that there were such very special circumstances, in addition to there also being felt there would be impact upon the openness of the green belt.

Councillor A Bell noted the second property referred to on the site was a bungalow and asked if that property had a condition to state that it was only for use by a rural worker. The Principal Planning Officer noted the farmhouse was occupied by Mr and Mrs Haswell who ran the business with their granddaughter. She noted the bungalow was occupied by Mr and Mrs Haswell's daughter who was, as previously noted, ill. She added she did not know whether there was such a condition on the bungalow, however, they did work within the overall business.

Councillor A Bell noted the strict requirement to demonstrate a need to be on-site, recalling similar previous applications. He asked whether a temporary accommodation could be explored as a 'first step'. He noted the business was very successful and help support our local economy and provided a good number of jobs. He added that if the application only just fell short, he would hope to try and find a way to support the application. The Principal Planning Officer noted applications for temporary dwellings in rural settings were often associated with a new business and were to provide an opportunity to see if the business could be successful. She added that in this case, the business was established and there were two existing dwellings on-site and no information had been provided in terms of retirements or otherwise. The Principal Planning Officer noted that in relation to any temporary accommodation, the village of West Rainton was a 10–15-minute drive, should there need for persons to be at an address nearby. She reiterated that planning policy required demonstration that all options had been looked at, which was not felt to be the case in terms of this application.

Councillor D Oliver noted his view on planning decisions was a balance, and while he had not operated a farm himself, he would take on face value what the family had said in terms of the three generations living on-site. He noted that as he understood, the older generation were frailer and therefore there was a pressure on the business and there would be an impact if the family were scattered. He noted he was willing to accept the position stated by the family when balancing against any visual harm. He reiterated he felt that a design at the reserved matters stage would be able to suitable, and therefore he would be open to a motion for approval, though he would listen further to comments from the Committee.

The Chair asked for clarification as regards who currently lived on-site, to his understanding the Applicants lived in the farmhouse, and while the granddaughter helped with the shop, it did not operate 24 hours a day, 7 days a week. In addition, he noted there had been sufficient time for the Applicant or their Agent to provide the information Officers referred to in terms of assessments and additional evidence to support the application. He asked if the Coal Authority were not satisfied, and no assessment had been made could the application be approved.

The Principal Planning Officer noted that the application site was in a development high risk area, and the Coal Mining Risk Assessment was a very important document. She deferred to the Lawyer (Planning and Highways) as regards any potential approval of the application without the assessment having been completed. The Lawyer (Planning and Highways) noted there was a fundamental concern in terms of a lack of a Coal Mining Risk Assessment and added that it may be very difficult to condition, given the magnitude of the issue. He noted that if Members were minded to approve the application, he would suggest a deferral, in order to allow time for the Coal Mining Risk Assessment to be carried out, would be a preferable course. He noted that if the Committee were minded to approve the application, then there would need to be reasons given why the benefits of the application outweighed the harm to the green belt by inappropriateness, harm to the openness of the green belt, harm as described by Policy 12 of the CDP, and to explain as regards the very special circumstances that would mean the application was acceptable.

Councillor S Deinali moved deferral of the application, to allow for a Coal Mining Risk Assessment to be conducted, and to allow for further information to be submitted in relation to the role of the granddaughter in respect of the business. She added that she felt that if the Committee were to refuse the application now there would be potential that the business could not proceed, especially given the age of the applicants. The Chair noted there may be some merit to a deferral, however, there had been an amount of time already in which those issues could have been addressed.

Councillor J Clark moved that the application be refused as per the Officer's recommendation, adding that she understood the emotive input from the Local Member and Applicants' Agent, however, she could not support the application.

Councillor J Elmer noted he had attended the site visit, and he felt the decision was very tough in that each application for development in the green belt needed to be looked at carefully, so as not to make each subsequent application in the green belt easier and easier. He noted that in this instance, the farmhouse over two storeys already impacted upon the openness of the green belt, however, he had doubt in terms of any very special circumstances as the applicant had not provided sufficient evidence, especially with two buildings already on the site. He noted he would second the motion for refusal.

Councillor D Oliver understood the concerns raised by other Members, however, he felt there was potentially value in the application, therefore he would second the motion for deferral.

He noted there were no objections from members of the public, and there was an economic case for the application that the family may wish to make, in addition to the requisite Coal Mining Risk Assessment.

The Chair noted there was a motion for refusal and a motion for deferral, he would therefore put the motion for deferral first, moved by Councillor S Deinali, seconded by Councillor D Oliver, and upon a vote being taken the motion was **LOST**. The Chair noted the motion for refusal was moved by Councillor J Clark and seconded by Councillor J Elmer and upon a vote being taken it was:

RESOLVED:

That the application be **REFUSED** as per the reasons set out within the report.

a DM/24/02063/FPA - 58 Bradford Crescent, Gilesgate, Durham, DH1 1HL

The Planning Officer, Michelle Hurton gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use from dwellinghouse (Use Class C3) to a house in multiple occupation (HMO) (Use Class C4) including single storey rear extension, cycle parking and bin storage and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted that the application had previously been dismissed at Appeal, with the current application now having increased width of some rooms such they now met nationally described space standards (NDSS), the sole reason for dismissal at Appeal. She added this also included the required soundproofing. She noted there had been objections received from Belmont Parish Council, as well as from the three Local County Councillors, with issues including the increase in the number of HMOs without there being any clear need, as well as here being existing student provision, including for postgraduates at Ernst Place. The Planning Officer noted no objections from the Highways Section, with HMO Licensing noting no requirement for a licence, albeit provided information on required standards. She noted that HMO Data noted that including the application there would be 8.2 percent Class N exempt properties, rising to 9.2 percent if one unimplemented approval was taken into account, both being less than the 10 percent threshold within Policy.

She added that there had been no objections from Environmental Health, and two public objections had been received, citing concerns relating to residential amenity, highway safety and parking, impact upon the character of the area, that student HMOs did not contribute in terms of Council Tax and that the HMO data was not good and did not take into account the actual position on the ground.

The Planning Officer concluded by noting that the application was acceptable in principle as it was in line with Policy, and in also taking recent appeals decisions into account, the application was recommended for approval subject to the conditions set out within the report, noting that there was not requirement for BNG.

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

Parish Councillor P Conway thanked the Chair and Committee and noted there were several concerns that the Parish Council and local residents had in respect of the application. He noted that while not within the Belmont Parish area, it was within the area that would be covered by the developing Neighbourhood Plan for Gilesgate and Belmont, being led upon by the Parish Council. He noted that the Committee were well aware of the unrest within the city as regards the issue of HMOs, with many residents feeling there was scant regard for their concerns. He noted that the Committee Report made it appear as if the only issue with the application had been with the extension size, whereas the 56 objections to the initial application demonstrated the scale of opposition to the proposals. Parish Councillor P Conway added that there was the impact upon the character and appearance of the area, exacerbating the problems young families were experiencing in trying to get on the housing ladder. He noted there was a knock-on effect in terms of the numbers at the local school, impacting its viability.

Parish Councillor P Conway noted that the proposals were at variance with the environmental, social and economic aims of the NPPF, namely Parts 2, 5, 8 and 9. He explained that replacing a family home, occupied 52 weeks a year with a transient population, occupying for only 30 weeks per year was a detriment to the area. He noted that with no Council Tax being paid, in effect local residents were supplementing student landlords, and many residents felt the application was also contrary to CDP Policies 21, 29, 31 and 35, as per their objections to the original application. He noted that those residents' concerns were as material as Policy 16 and that Belmont Parish Council were informed by County Council Planners at one of its meetings that 'all CDP policies were relevant, not just Policy 16'.

Parish Councillor P Conway noted that planning was a matter of judgement and in considering Policies 21, 29, 31 and 35, as well as the NPPF, the Parish Council and residents were at variance with the Officer's report and those opinions should be taken on board. He added there was clear disagreement in terms of Policy 16 and the 10 percent threshold, noting many instances where properties were being used as an HMO without permission and hence the figures were incorrect. He noted specifically 78 Bradford Crescent being an HMO and asked whether Planners had visited the property to see if it was being used as an HMO.

Parish Councillor P Conway concluded by noting that the Parish Council and residents felt there was evidence of so-called 'sandwiching' of HMOs and that this was an issue that other Local Authorities were taking into account in their decision making, and therefore that, in addition to the other points raised in concern, should be taken into account and the application be refused.

The Chair thanked Parish Councillor P Conway and asked the three Local Members to speak in relation to the application.

Councillor E Mavin noted that three of the four applications on the agenda represented HMO applications within his electoral division. He added that the Committee were well aware of the impact such application had, undermining communities and preventing people from getting on to the property ladder. He noted the strength of feeling in terms of the number of objections from local residents to the initial application and reminded Members of the recent protests prior to Full Council and debate relating to HMOs. He concluded by noting it was felt the application was contrary to CDP Policies 16, 29 and 31 and therefore he would ask that the application be refused. Councillor L Mavin supported those comments and endorsed what the Parish Council and Local Residents had said in objection to the application.

Councillor C Fletcher noted she did not have much to add to the excellent comments from the Parish Council and Councillor E Mavin and L Mavin, other than to add she felt the application was contrary to Policy 16, if one were to look at the actual properties within 100 metres, such as those at Cunningham Place which were bungalows and therefore not ever likely to become an HMO. She added that there were 9 HMOs in the area, equating to around 13.9 percent, and reiterated that residents were increasingly feeling 'sandwiched' and saturated by HMOs. She noted Bradford Crescent was a lovely street, which unfortunately was silent during holiday time, as students were no present and there were fewer and fewer families with children as a result, reiterating prior points made as regards the local Primary School. She asked that application be refused being contrary to Policies 16, 21, 29 and 31 of the CDP.

The Chair thanked the Local Members and asked G Swarbrick, Agent for the Applicant, to speak in support of the application.

G Swarbrick noted that as the Committee had heard, the previous change of use application had been dismissed at Appeal, with the only reason being that of rooms that had not met NDSS on the ground floor, with that issue now having been addressed within the current application through reconfiguration of the ground floor to give a large living area, kitchen/dining room and garden area. He reiterated that the application fully addressed the sole reason for the dismissal at Appeal and noted that the percentage of HMOs in the area was less than the 10 percent threshold within Policy. He appreciated the concerns raised; however, it was felt there was an appropriate mix of properties in the areas and therefore was in line with Policy 16. He added that the application was in line with parking and highway safety requirements, with letting boards in the area meaning that many other properties would appear externally similar.

G Swarbrick noted that there was no impact upon residential amenity, the application being in line with Policies 6, 29 and 31 of the CDP. He reiterated that the sole reason for the previous HMO application being dismissed at Appeal had been addressed and therefore, given no reasonable reason for refusal, he would ask that Members endorse their Officer's recommendation for approval.

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

Councillor A Bell noted that, notwithstanding the objections as set out by the Local Members and Parish Council, the dismissal by the Planning Inspector of the previous application had only been on an issue that had now been overcome with the current application. He added therefore it was highly likely if the application was refused, it would be overturned at Appeal and therefore he would move that the application be approved, as per the Officer's report.

Councillor D Oliver seconded the motion for approval, adding he did understand the issues of over-proliferation of HMOs; however, Policy 16 had been specifically designed to protect against such over-proliferation. He noted that the application was compliant with Policy 16 and that given the views of the Inspector, he could see no other view.

The Chair noted that the issues raised with the 100 metres rule relating to HMOs would be something looked at within a future review of the CDP.

Councillor J Elmer noted it was very depressing that it could be concluded that there was no overall net harm from these types of application.

He noted the impact these types of application had on local communities, and the need for family homes in these areas. He noted it was extremely frustrating. He noted that our Planning Policies were informed by Government, and that they were pushing us into taking decisions that were not in the benefit of local communities. He added he felt only landlords were benefitting and there were many young people being pushed into lifelong debt.

The Chair noted that while Members may feel they would wish to refuse the application, the Committee had to work with the policies in place. He noted that while that was perhaps a depressing position, there would be further work as regards the CDP in due course.

Councillor D Oliver noted he felt there needed to be a balanced approach, and that Policy 16 did provide, if administered properly, the requisite protections.

The application was proposed for approval, as per the Officer's recommendation by Councillor A Bell, seconded by Councillor D Oliver and upon a vote being taken the motion was **LOST**.

The Chair noted therefore an updated or differing motion would need to be put.

Councillor C Kay noted he had come into the meeting with an open mind, and initially been minded to support the Officer's position following their presentation. He noted that he had listened to the Parish Council and Local Members, with their proposed reasons for refusal, however, he had not heard how they were specifically germane, and he would therefore like the Legal Officer to educate him on that in particular. He reiterated he had abstained in terms of the previous vote, and had meant no disrespect, however he felt it was a strange position the Committee was in, and he would struggle without some further information.

Councillor D Oliver noted he would echo his previous comments and while acknowledging the risks of the over-proliferation of HMOs, he believed that on balance the policy relating to a 10 percent threshold was reasonable in terms of the impacts. He noted the use of the word impact, rather than harm, and that anyone could live in this street, not all the properties were HMOs. He reiterated his previous comments in terms of the bounds of the Inspector's decision in relation to the previous application and noted that therefore it was a case of making a decision now, or for months of uncertainty to be followed by a likely cost to the Local Authority.

The Chair asked if Planning Officers and the Legal Officer could provide some further information that may help Members, reiterating that the only reason for dismissal of the previous application at Appeal had related to room sizes.

The Principal Planning Officer, Paul Hopper noted that within the Local Plan, Policy 16 was the main relevant policy in respect of HMOs. He noted the Parish Council had noted that other policies were relevant, such as Policy 31, when looking at aspects such as residential amenity, anti-social behaviour and noise. He noted that in considering those elements, Policy 16 had a 10 percent threshold, with anything below being considered acceptable and therefore the application was policy compliant. He noted there had been some discussion as to whether some other additional properties were being used as HMOs, however, Class N Council Tax exempt was the criteria used within Policy 16. The Principal Planning Officer noted the discussions in terms of the Inspector's decision relating to bedroom widths, and that Inspectors had considered Council Tax data as being robust. He added that while that may be an issue to be looked again during any review of the CDP, the application must be assessed against policies in place. He noted that in respect of the application, significant weight could be afforded in terms of appeal decisions on this property.

The Lawyer (Planning and Highways) noted he supported the comments from the Principal Planning Officer, and that the previous appeal at the property was a significant material planning consideration. He noted he had not heard any reasons from the Committee in terms of refusing the application and he was struggling to see any sustainable refusal reasons given the steer in terms of the decision from the Planning Inspector.

Councillor J Clark noted she took on board the comments from the Lawyer (Planning and Highways), however, she understood the comments from Councillor C Fletcher in terms of a 'mistake' in taking into account bungalows that could not realistically be converted to HMOs. She noted she felt for residents and had made note of the list of policies they had referred to, however, as the previous application had only failed on the size of bedrooms there was a need to think carefully.

The Principal Planning Officer noted for clarity that the appeal was regarding non-determination, with the Inspector dismissing the appeal only on the issue of bedroom width, all other aspects being acceptable.

Councillor K Shaw noted that the Committee had refused previous HMO applications in terms of the impact on the mix and balance of communities. He noted that shortly, Durham County Council (DCC) would be in the position where it would need to build twice as many properties, including providing family homes, as a requirement from Government.

He noted the 'drip, drip' in terms of the loss of family homes to student HMOs and therefore based upon that need for family homes, he could not support the application.

The Chair noted that the previous motion for approval had been voted down, and therefore if a motion for refusal was to be put, it would need grounds that would be defensible at any appeal, with some of the reasons stated by Councillor K Shaw not being within our current planning policies. Councillor C Kay noted that he was disappointed and felt that was somewhat disingenuous with policies 19, 29 and 31 having been cited by the Parish Council and Local Members. He added, however, that after listening to the debate further and taking into account the information as regards the Inspector's decision with the only reason for dismissal of the previous application being addressed within the current application, he would be minded to support the Officer's recommendation.

Councillor K Shaw noted that in terms of evolving Government policy there was an additional need for family homes and therefore getting rid of them did not make sense.

Councillor A Bell noted, to move progress, he asked the Lawyer (Planning and Highways) to advise the Committee on their options. The Lawyer (Planning and Highways) noted there had been a lot of genuine debate on why Members felt they did not think the application was a good thing, however, there had been no sustainable planning reasons put forward in terms of refusal, indeed there had been no motion for refusal put forward. He added if Councillor C Kay was now proposing approval, that motion would require a seconder. Councillor D Oliver noted he would second the motion.

Upon a vote being taken it was:

RESOLVED:

That the application be **APPROVED**, subject to the conditions set out within the report.

Councillor J Elmer requested his abstention in respect of the vote be recorded in the minutes.

Councillor D Oliver left the meeting at 11.03am

b DM/24/01649/FPA - 2 Monks Crescent, Gilesgate, Durham, DH1 1HD

The Planning Officer, Michelle Penman gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes). Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use from dwellinghouse (Use Class C3) to small house in multiple occupation (HMO) (Use Class C4) including driveway widening, cycle parking and bin storage and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer noted that Belmont Parish Council had objected to the application, citing the over-proliferation of HMOs, impacts upon amenity, the transient nature of student tenants and lack of evidence of need for such HMOs. She continued, noting that Councillor C Fletcher had objected in principle, being the loss of a family home. She explained that the Highways Section had noted the application was in compliance with the Supplementary Planning Document (SPD) in terms of the parking and garage arrangements.

The Planning Officer noted HMO Data noted that there were 2.9 percent Council Tax exempt properties within 100 metres, increasing to 6.2 percent if considering unimplemented consents. She noted there had been no objections from the Arboricultural Officer, Ecology and Environmental Health, subject to the conditions set out within the report. The Planning Officer explained there had been two further letters of objection received since the publication of the agenda papers, noting 12 letters of objection, including from the City of Durham Trust. She added a summary was included within the report, with issues raised including: an existing high concentration of HMOs in the area; parking; impact on the character and appearance of the area; impact from noise on neighbours; impact on the environment, with HMOs and their gardens often being less well maintained; impact upon the community from the loss of a family home; loss of Council Tax revenue; and no evidence of need, especially given spaces being available in nearby purpose-built student accommodation (PBSAs).

The Planning Officer noted that the application for change of use was acceptable in principle, with the application being compliant with Policy 16 as there was less than 10 percent Council Tax exempt properties within 100 metres, being 6.2 percent including unimplemented consents. She noted that as the application was considered acceptable in terms of Policy 16, it was noted there was not an over-proliferation of HMOs and that there was not an adverse impact in terms cumulative impact upon residential amenity. She added it was felt there was sufficient amenity space internally and externally to meet the needs of potential occupiers.

She noted that the proposals were acceptable in respect of visual amenity and impact on the character of the area and reiterated the proposals were compliant with the Parking SPD in terms of parking, highway safety and cycle parking provision. The Planning Officer noted no other issues, adding that the application was exempt from BNG requirements, and therefore was recommended for approval, subject to the conditions set out within the report.

The Chair thanked the Planning Officer and asked Parish Councillor P Conway to address the Committee.

Parish Councillor P Conway thanked Members for again listening to the objections from the Parish Council and over 30 local residents. He reiterated that the views of local residents were material and needed to be taken into account. He noted the Parish Council felt there were sufficient grounds within Policies 21, 29, 31 and 35 to present a robust challenge to the application. He noted that we all found ourselves in a vexed position, and while well-meaning, Policy 16 was clearly no longer fit for purpose. He added that the application was also contrary to the NPPF's environmental, social and economic aims, again a material consideration.

Parish Councillor P Conway noted the proposals were to replace a family home with a HMO with a transient population, with no Council Tax revenue being generated by the property and with no contribution to the local community. He added that now clusters of HMOs were emerging, with Policy 16 referring to 'sustainable communities'. He noted one simply needed to view the comments on the Planning Portal to find numerous examples of the negative impacts of HMOs on our communities. He noted that one resident's comments had been to say that families had moved away, houses had been sold, divided into shoeboxes designed to cram in as many students as possible. He added the resident had also stated that they had felt that the application had not offered any benefits for local residents, the city or indeed students, with the only people benefiting being the landlords.

Parish Councillor P Conway noted that residents felt that the only conversation was around the 10 percent threshold and reiterated that there were numerous objections from residents in terms of HMOs, including this specific application. He added that the Parish Council would continue to represent the view of local people, however, those people were finding it difficult to keep faith, given there were other policies within the CDP and NPPF that could be used to refuse such applications. He asked that the Committee reject the application.

The Chair thanked P Conway and asked Local Members to speak in respect of the application.

Councillor C Fletcher noted that she would echo the comments from the Parish Council and echo the sentiments of residents. She explained she knew the area very well and that the issue of the application had been causing great concern to resident families in the area. She noted numbers 5 and 9 Monks Crescent were student HMOs, effectively sandwiching number 7, which was currently up for sale as the resident no longer felt it was a residential area. She explained that numbers 5 and 9 Monks Crescent had stood empty for a year, which had impacted upon the look and feel of the area. She noted, again similar to the previous application, as the property backed on to three bungalows, it would not actually be possible to reach the 10 percent threshold, given how unlikely it was that those bungalows would be converted to HMOs. She added if you considered the number of properties within the street itself, rather than a 100-metre radius, then it would be three properties from nine, representing 33 percent of properties. Councillor C Fletcher noted that 33 percent in this respect felt like contravention of Policy 16 and unfair to residents and students too, with 'shoebox' rooms. She noted the applications offended our local communities.

Councillor L Mavin noted she agreed 100 percent with the comments from the Parish Council and Councillor C Fletcher, adding the 100-metre radius considered within Policy 16 not working, especially in this case. She noted there were numerous local concerns and the application fell well short in terms of the NDSS. She noted that policy required at least one double sized bedroom to allow for reconversion back to a family home, and that there was a minimum requirement of 123 square metres, with the actual space available of 103.5 square metres being 19 percent less than standards. Councillor E Mavin added that he would urge the Committee to take note of the objections raised by the City of Durham Trust when considering Policy 29, being well designed, and the Parking SPD in terms of amenity standards to meet the existing and future residents' needs. He asked that Members refuse the application.

The Chair thanked the Local Members and asked A Gemmill, representing the City of Trust, to speak in relation to the application.

A Gemmill thanked the Chair and Committee and explained he, as one of its Trustees, was speaking on behalf of the City of Durham Trust. He noted that the application sought to turn a three-bedroomed family home, without extension, into a six-bedroomed HMO, the property requiring to be licensed and comply with the Council's "*Standards for Houses in Multiple Occupation*". He explained that the introduction to the standards, as set out on the projector screen for Members' information, pointed out that they had been formally adopted, and that they set out minimum requirements to ensure the health and welfare of occupants.

A Gemmill noted that Part 2 of the document set out minimum room sizes for bedrooms, kitchens, etc, but also stipulated the number of shower rooms and WCs to be provided, based on occupant numbers. He noted that for six occupants, two shower rooms or bathrooms must be provided, together with 2 WCs. He emphasised that a key requirement was that the WCs must be provided in rooms that were separate from the shower rooms. He noted thus four separate rooms were needed for this application, whereas the proposed plans provided only two, each housing a shower and a WC. He noted this represented a significant loss of amenity.

A Gemmill added that the standards did allow that the requirement to be waived, in exceptional circumstances, however, it was felt there was absolutely nothing exceptional to consider at this stage, since nothing had yet been implemented. He noted that the application was simply the case of a developer attempting to cram in as many bedrooms as possible in order to maximise rental profit. He explained that the City of Durham Trust believed that this lack of compliance alone provided grounds for refusal, but for two reasons Members were unaware of the issue.

A Gemmill explained that normally the Council's Environmental Health HMO Team was included in a list of consultees who are invited to comment on the acceptability, or otherwise, of an HMO application. He added that the HMO Team was expected to advise on the relevant requirements contained within the Standards and to draw the attention of the Case Officer to any deficiencies in the proposals. He noted that in this case however, the HMO team was not consulted. He notes the City of Durham Trust was concerned that the resulting lack of advice may have compromised evaluation of the application and hence the resulting recommendation for approval.

A Gemmill explained the second reason Members were unaware of the issue was that, despite the Committee Report acknowledging submission of the City of Durham Trust's letter, its objection was not included in the summary of public comments received or addressed in any of the evaluation relating to Policy 29. He noted that was partly why the Trust felt the need to speak at Committee, to ensure that Members were aware of their concerns.

A Gemmill referred to Paragraph 66 of the Committee Report and noted Members would see that it confirms the NDSS to be appropriate for assessing the suitability of internal space in the context of CDP Policy 29(e). He added that the City of Durham Trust had measured the overall internal area and found it to be 103.5 square metres. He explained that the most appropriate NDSS requirement was 123 square metres for a six-bedroom, seven-person dwelling, therefore the shortfall in overall area was some 15 percent, which could hardly be described as '*slightly below requirements*'. He noted another way to put it was that, as has been observed earlier, the property would need to be 19 percent larger to comply with standards.

A Gemmill noted that supported the City of Durham Trust's view that the proposals represented significant over-development of the property. He noted that finally, once again, Paragraph 67 of the Committee Report confirmed that the property must comply with DCC's HMO standards.

A Gemmill noted that it had been suggested that compliance with HMO standards was not a Planning matter per se, however, the wording of Policy 29 effectively conferred on the adopted HMO standards, a status equivalent to an SPD. He added that, as such, according to Policy 29, compliance with HMO standards must be considered as a Planning issue, particularly in terms of amenity. He noted that accordingly, he would ask Members to consider the points made by the City of Durham Trust as grounds for the refusal of the application.

The Chair thanked A Gemmill and asked G Swarbrick, Agent for the Applicant to speak in support of the application.

G Swarbrick noted the point raised in terms of the only beneficiary to such HMO applications were landlords, however, the NPPF noted that planning should look to meet housing needs, that of all people including students.

Councillor C Kay left the meeting at 11.26am

G Swarbrick noted that CDP Policy 16, together with other policies, were taken into account, however, the test within Policy 16 was the 10 percent threshold, considering Class N Council Tax exempt properties within a 100-metre radius of the property.

Councillor C Kay entered the meeting at 11.27am

G Swarbrick noted the neighbouring property had been approved and reminded Members of previous decisions of the Planning Inspectorate, noting that other than letting boards, the HMO properties were the same as any other property, and did not represent a detriment to residential amenity or the character of the area. He added there was sufficient parking provided, in line with the SPD. G Swarbrick noted that NDSS need not be applied rigidly, and that the Applicant had signed up to the Durham Student Landlords Scheme and provide a Management Plan for the property. He noted that accordingly, the proposals were in line with Policy and therefore, in also considering recent Appeal decisions, he would ask the Committee to approve the application as per their Officer's recommendation.

Councillor B Kellett left the meeting at 11.30am

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

Councillor J Elmer noted he felt the application was significantly different to the previous application, and noted he had listened as regards the 'sandwiching effect' as described by the Local Member, and the resident that had decided to sell up and move out, as well as the argument in relation to the bungalows backing on to the property, reducing the number of potential HMOs to be counted within the 100-metre radius. He noted successful HMO applications were creating local densities that were having an increasing impact upon our communities. He noted he felt that Policy 16 was less robust, and that the impact upon community cohesion needed to be taken into account. Councillor J Elmer noted that there were also concerns in terms of the calculations relating to NDSS, adding that if it did not comply then it was surely in breach of policy. He noted that a lack of WCs and bathrooms meant it did not seem that the property could be licensable and was not in line with Policy 29 in terms of being '*properly designed*'. Accordingly, Councillor J Elmer proposed the application be refused as it was contrary to Policies 29 and 31 of the CDP.

The Planning Officer noted the comments in relation to the clustering of HMOs and a 'sandwiching effect'. She explained that a recent Appeal decision in relation to 4 Monks Crescent had taken those factors into account, with the two properties opposite. She added that while some weight had been given, it had been concluded that as the percentage of HMOs within 100-metres was less than the 10 percent set out in Policy 16, the application did not represent an unacceptable impact or harm in terms of noise and disturbance. The Planning Officer noted that NDSS did not need to be applied rigidly, however they did represent a guide. She added that the bedrooms did meet the required space standards, with the overall living accommodation requirements being only slightly less than guidance. She noted that the proposals fell in between five-bed, six persons being 110-123 square metres, and six-bed, seven persons being over 123 square metres. She added it was felt more appropriate to look at the 110-123 square metre example, and therefore at 105 square metres, the area was only slightly less than the 110 square metres as set out. She noted that while there had been an omission in consultation with the HMO Licensing Team, the bedrooms met with NDSS, and the Applicant would have to go through the necessary process with that Team should the application be approved. She noted she had spoken with the HMO Licensing Team separately as regards the issue raised relating to WCs, and while they confirmed that the ordinary requirements were for two bathrooms and two WCs, they would not refuse a licence on that basis, namely separate WCs.

The Chair asked for confirmation that the HMO Licensing Team had stated they would not refuse a licence on the basis of not having separate WCs, the Planning Officer confirmed that was the case.

Councillor B Kellett entered the meeting at 11.37am

Councillor A Surtees noted that each application was looked at on its own merits, adding there would be impact on the strength of community cohesion and there were the issues raised in terms of rooms and sizes. She added she therefore would second Councillor J Elmer's motion for refusal.

Councillor A Bell noted he felt the points raised by Councillor J Elmer were valid, however, he felt the Planning Officer had explained as regards the issues raised. He noted that the 10 percent threshold was that set out in Policy, and it was the measure we applied, as well as what Inspectors expected and therefore would be happy to move approval of the application.

The Chair noted there had been a lot of reference to Policy 16 and the 100-metre radius rule and that perhaps the number of bungalows within the proximity had an impact and that the application should be treated differently, however, he felt that the Policy could not help Members in this case.

The Principal Planning Officer, Paul Hopper noted that in a previous case the Committee refused planning permission for an application where the percentage of Council Tax exempt properties within 100-metres was less than 10 percent, as the Committee considered the small, close-knit areas cul-de-sac street arrangement to be such that despite being compliant with policy 16 of the CDP, to grant planning permission would still unbalance the community and be detrimental to residential amenity. He added that while that appeal had been allowed, costs were not awarded against the Council. The Chair asked if that referred to number 4 Monks Crescent. The Planning Officer noted that the Inspector had taken into account comments and had afforded them minor weight, adding that the experience of one HMO was not the same as another HMO, and that the impacts were similar to that of a family home. She added that the Inspector had concluded that any 'tipping point' in terms of the balance of communities was the 10 percent as set out within Policy 16. She noted that in terms of limited evidence on the impact upon community cohesion, the Inspector had allowed the appeal.

The Chair asked as regards impact in terms of there being less than the 10 percent Council Tax exempt properties within 100-metres. The Principal Planning Officer noted that where below 10 percent, the Inspector had noted there was impact, however it was limited as the percentage of properties was under the 10 percent threshold.

Councillor K Shaw noted different opinions at Appeals and added that the 10 percent threshold should not be a straitjacket where such HMO applications were clustered in small areas and that the impact would validate refusal. The Principal Planning Officer reiterated that the 10 percent threshold was set out in policy and that if the application was compliant in that regard, there would be a need to understand what the reasons were that Members wished to refuse the application on.

Councillor K Shaw noted that he felt that the proposed HMO being next to bungalows was such that there was a valid reason in terms of impact.

Councillor J Clark noted the issues raised as regards the 10 percent threshold and that those would be considered when the CDP was up for review. She noted the information of the sizes of rooms and overall space, and it appeared that the issues were being dismissed by Officers whereas she felt those issues compounded problems with the application, with sizes not as they should be. The Principal Planning Officer noted that information had been provided on two guidance measures, and that HMO Licensing had their requirements, and Planners looked to apply NDSS. He reiterated that the bedroom sizes met NDSS, and there was only a marginal shortfall in terms of overall space, with Officers feeling the provision was adequate.

Councillor J Elmer noted he was still of the view that the 10 percent threshold was not fit for purpose, noting a number of situations similar to this application where a number of bungalows where further development, or use as HMO or family homes would not be possible. He felt there was sufficient argument in the case of this application to refuse and take the matter to appeal to push the Inspector. He added he took exception in terms of the comments from the Applicant's agent, adding there was evidence of oversupply in terms of the number of student bed-spaces and that the only benefit was to landlords. The Chair noted there was evidence in terms of the number of empty student bed-spaces and HMO properties. The Chair asked the Lawyer (Planning and Highways) for further advice.

The Lawyer (Planning and Highways) noted he had listened to the reasons that had been put forward for refusal from several Members. He explained he had extreme concern in relation to Councillor J Elmer looking to disregard Policy 16 as he felt it was 'not fit for purpose'. He emphasised that Policy 16 was part of the adopted CDP and while it may not be what some Members wanted it to be, it was the policy that was in place. He reiterated that he would urge caution in terms of any refusal in respect of need, with need not being a criterion within Policy 16. The Lawyer (Planning and Highways) noted Members had referred to their concerns in terms of amenity impact, and the implications of bungalows in the area and it may be that a reasonable refusal could be framed in terms of impact on the specific surroundings in this application.

Councillor A Surtees noted that when looking at the area via Google Street View, there appeared to be six bungalows opposite at Pilgrims Way and within Monks Crescent, noting an impact upon parking with potentially up to six vehicles. She added it was not known as regards any additional needs those occupying the bungalows may have, and reiterated she felt there would be impact upon community cohesion.

The Principal DM Engineer, David Battensby noted that the application was compliant with the Parking and Accessibility SPD, adding that work within the parking spaces was permitted development.

Councillor K Shaw noted that Policy 29 noted that applications should not affect community character, and therefore this application was in conflict with that.

Councillor J Elmer noted his concern in terms of ruling out Policy 16, adding the Policy was not only about the 10 percent threshold, but also referred to community cohesion. He noted he felt it was reasonable to say it was not the best methodology, and that a different approach could be taken to those previous appeals. The Lawyer (Planning and Highways) noted he had concern as regards any argument in terms of how the 10 percent threshold was calculated, and that any Inspector would look at a refusal on that basis as a case of the Committee not learning from previous appeal decisions. The Principal Planning Officer added that the decision on the other application at Monks Crescent had not included Policy 16 within that refusal, as it would have required articulation of reasons why it was contrary. He reiterated that refusal had cited conflict with Policies 29 and 31.

The Chair asked it was possible to frame any refusal in terms of Policy 29, taking into account the particular surrounding area, specifically the number of bungalows in the proximity, and that this would increase the impact of the lifestyle of students. The Lawyer (Planning and Highways) noted he would defer to Planning Officers as regards the strength of such an argument. The Principal Planning Officer noted the opinion of Officers was set out within the recommendation for approval contained within the report. He noted however, that if Members felt the proximity of the bungalows had an impact, then Officers would look to defend any decision made by Members at any subsequent Appeal.

Councillor S Deinali noted she suggested that the application was contrary to Policy 31, in terms of the impact upon community cohesion and amenity. Councillor C Kay noted he felt Members were 'dancing around the houses' and that, as stated by the Lawyer (Planning and Highways), Policy 16 set out the 10 percent threshold that was in place. He added he felt the Committee needed to move to a vote.

Councillor J Elmer noted he agreed with the suggestion made by Councillor S Deinali relating to Policy 31, in terms of the impact on residential amenity, community cohesion, and as impacted by the number of bungalows in the area. The Lawyer (Planning and Highways) asked as regards the specific impacts upon residential amenity, whether they related to noise, disturbance, increased anti-social behaviour etc.

Councillor J Elmer noted that was correct, including the impact on the elderly, who were more likely to be impacted from such disturbance and the transient nature of student populations, our elderly population needing good neighbours to help look out for them.

The Lawyer (Planning and Highways) noted he still had concerns in terms of an evidence base, with other similar HMOs in similar areas having been approved, and with an apparent assumption that student tenants would be badly behaved. Councillor J Elmer noted that it was the large density of young people in a small area, leading to likely greater impact in terms of noise and disturbance. Councillor A Surtees noted that there appeared to be around 14 bungalows in the area, and it was more likely that the residents were elderly than not.

Councillor C Kay noted that there had been substantial changes over the years in terms of the demographics of those living in bungalows, adding that in conversation with Registered Social Landlords (RSLs) in his area, while previously no one under 65 would have been eligible for a bungalow, many now were occupied by younger people and therefore once could not assume all bungalows were occupied by pensioners.

The Chair noted there had been a motion for refusal, proposed by Councillor J Elmer, seconded by Councillor A Surtees and upon a vote being taken it was:

RESOLVED:

That the application be **REFUSED** as:

1. The change of use of the property to a small house in multiple occupation (Use Class C4) within this locale would, given the presence of existing C4 HMO uses as well as several bungalow style properties within close proximity to the application property, unbalance the community and result in a detrimental impact upon community cohesion, adversely affecting the amenity of non-student residents, from increased noise and disturbance contrary to Policies 29 and 31 of the County Durham Plan.

Councillors A Bell and C Kay left the meeting at 12.06pm

c DM/24/02126/FPA - 3 Aspen Close, Gilesgate Moor, Durham, DH1 1EE

The Planning Officer, David Richards gave a detailed presentation on the report relating to the abovementioned planning application, a copy of which had been circulated (for copy see file of minutes).

Members noted that the written report was supplemented by a visual presentation which included photographs of the site. The application was for change of use from 3-bedroom residential dwelling (Use Class C3) to 4-bedroom small HMO (Use Class C4) with extension to driveway and provision of cycle storage and was recommended for approval, subject to the conditions as set out in the report.

The Planning Officer explained as regards the proposed extension to parking to provide an additional space and noted a typographical error on the title of a slide showing proposed layouts. He explained that there had been no objections from Environmental Health, subject to conditions, and that Highways had noted no objections, subject to the extra parking as mentioned. He added HMO Data had noted the percentage of Class N exempt properties, including the application property, within a 100-metre radius would be 5.4 percent, below the 10 percent threshold.

The Planning Officer noted objections from Belmont Parish Council, and seven letters of objections from residents, with a summary of concerns set out within the Committee Report, including: over-proliferation of HMOs; impact upon amenity; loss of family homes; transient nature of students tenants; no need demonstrated for additional student HMOs; highway safety and parking; impact upon biodiversity in terms of loss of garden space. The Planning Officer note that the application was in line with Policy 16 in terms of being below the 10 percent threshold, and Officers felt the application was also in accord with Policies 29 and 31 of the CDP and relevant parts of the NPPF and therefore the application was recommended for approval, subject to conditions as set out within the report.

The Chair thanked the Planning Officer and asked Parish Councillor P Conway to speak in respect of the application.

Parish Councillor P Conway noted Belmont Parish Council and local residents objected to the application, for many of the same reasons as listed for the previous two applications. He reiterated that residents' views were material and that while there were many comments on the Planning Portal, many people he had spoken to had noted they did not see the point in registering their objections as there felt there were no taken into account and that the only factor considered was the 10 percent threshold in relation to Policy 16. Parish Councillor P Conway noted that the Parish Council felt that there was more than simply Policy 16 to consider, with other CDP Policies and the NPPF. He noted that other policies had been used by the Committee to defend a refusal reason, and those options were open to the Committee. He explained that Aspen Close considered of only seven properties in a small cul-de-sac, noting that Policy 29 noted to only allow development in there were no unacceptable impacts, such as in terms of highway safety.

He added there were numerous examples of highway safety issues that had been uploaded to the Planning Portal within objections to the application.

Parish Councillor P Conway noted that in respect to Policy 16 and Article 4 Directions, at a meeting of the Belmont Parish Council, a DCC Officer had noted that Policy 16 was only one policy amongst others.

He added that reference had been made to decisions by Planning Inspectors, however, he was not sure if Inspectors fully appreciated the context of specific local configurations, or whether they had a chance to visit sites themselves. He felt that it would be beneficial for Inspectors to visit sites, and that Local Residents and Local Councillors could also attend to help inform on local matters.

Parish Councillor P Conway noted this was another case of clustering of HMOs and 'sandwiching' and another case where, as a small cul-de-sac, where the 100-metre radius was not a suitable measure. He noted that requests to look at Policy 16 had been resisted since 2016, and now in 2024 the Parish Council requested an immediate review of Policy 16, reiterating that this had been refused by DCC. He added that in the meantime more HMO applications were being submitted and Belmont Parish Council and residents continued to register their objections. He asked that the Committee refuse the application as it was contrary to several policies, and that the Committee instigate a review of Policy 16 with immediate effect and not wait for the review of the CDP.

The Chair thanked Parish Councillor P Conway and asked Local Members for their comments on the application.

Councillor C Fletcher noted all three Local Members were in objection to the application, reiterating that there were only seven properties in Aspen Close and that impacts upon a small cul-de-sac were magnified. She added that when she had recently visited a resident living at Aspen Close, she had been unable to park in the Close, instead she had to park at Hawthorn Crescent. She added that one of seven properties in the Close equated to 14 percent of properties. She added that behind Aspen Close there were a number of bungalows provided by the Durham Aged Mineworkers' Homes Association (DAMHA) to the rear of Aspen Close at Whitwell Court, adding all those residents were elderly.

Councillor C Fletcher noted the properties at Aspen Close were small, three-bed semi-detached properties, and the conversion to four-bed HMOs would result in 'shoeboxes' that only provided income for landlords and did not address local needs.

She reiterated that there were concerns in relation to parking, adding that the applicant had referred to the garage as parking, however, the garages on Aspen Close were too thin for most modern cars, and would likely only accommodate the smallest of electric vehicles and therefore would not meet the requirements of the Parking SPD.

Councillor C Fletcher noted that the residents of Aspen Close were frustrated that there would be disruption within their quiet street from students, however, noted there would be disruptions other than noise. She noted that the development was not justified and that the current resident of the property had wished to live there long-term and had been given a s21 Eviction Notice to make way for a student HMO. She reiterated the point made previously that there were unused bed-spaces at the PBSA at Ernst Place and that there was the new 140-bed PBSA at Regatta Place, on the site of the former Majestic Bingo Hall. Councillor C Fletcher concluded by asking the Committee to refuse the application being contrary to Policy 31 and the Parking SPD.

The Chair thanked Councillor C Fletcher and asked C Jary, local resident in objection, to speak in respect of the application.

C Jary noted the phrase 'a good team on paper, but sport is played on grass' and how that seemed to apply to CDP Policy 16. He noted that while the proposed development may only have a minimum impact upon the large number of the population outside of Aspen Close, there would be a large impact upon local residents. He noted 29 Hawthorn Crescent had recently been approved to be converted to an HMO and explained that there was only one more house, number 27 Hawthorn Crescent, before turning on to Aspen Close. He added that the first house in Aspen Close, number 2, was directly opposite number 3 Aspen Close, therefore there was not three houses between the two HMOs as recommended to stop "sandwiching" or clusters of HMOs being in close vicinity to each other. He noted that while under 10 percent as per the 100-metre radius calculation, one property from seven represented 14 percent of Aspen Close, thus demonstrating the policy was not fit for purpose.

C Jary explained that an HMO would generate additional traffic on Aspen Close and Hawthorn Crescent, noting many young children playing in the Close, and there already being issues in terms of parking. He noted the proposals included plans to rip out the garden and include two parking spots, and with the garage and existing space. He noted the impracticalities in terms of the use of the garage and movement of cars to allow for parking within the curtilage, likely leading to the Close being blocked if any cars needed to reverse, and to lead more vehicles parking on Hawthorn Crescent. He added the proposals would also result in the loss of on-street parking provision.

He reiterated that a lot of children played in the area and that the proposal would impact on them. He concluded by noting that the 10 percent threshold within Policy 16 had been put in place to protect residents and not landlords.

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

Councillor J Elmer asked the Highways Officer to comment on the safety and parking concerns raised, including as regards the width of the garage. The Principal DM Engineer explained the difficulties when considering such change of use applications. He noted for the existing C3 use, then two spaces would be considered acceptable, including a garage and a driveway. He added for the proposed 4-bed arrangements, then one additional parking space was required by the SPD and therefore the proposed provision of an additional space met the requirements.

Councillor K Robson noted that, once again, the Committee were in a situation where they were not happy, however, as there were no reasons to refuse the application, they would need to approve. He moved approval, as per the Officer's recommendation. The Chair noted the motion required a seconder. Councillor K Shaw noted he shared the sentiment of Councillor K Robson in that concerns could be raised, and Members may agree, however there were not grounds available for Members to refuse such applications.

Councillor J Elmer noted a point raised several times was the call to overhaul Policy 16, he noted he would agree with the call by Belmont Parish Council to review the Policy as soon as possible, perhaps via an SPD. The Chair noted that Members' frustrations in relation to policy, and noted he would raise the issue and he would encourage other Members to raise the matter themselves in addition. He added, however, that the Committee needed to make a decision on the application before them.

Councillor K Shaw clarified that he had not seconded the motion put by Councillor K Robson. The Lawyer (Planning and Highways) noted that a seconder was required, or a rival motion be moved and seconded. The Chair reiterated the Committee needed to make a decision on the application. Councillor A Surtees asked if the Chair could second a motion. The Chair noted he could, and the Lawyer (Planning and Highways) added that while not usual, there was no legal reason to preclude the Chair from doing so. The Chair noted he would second the motion for approval, and upon a vote being taken it was:

RESOLVED:

That the application be **APPROVED**, subject to the conditions set out within the report.

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COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION NO:	DM/20/02046/FPA
FULL APPLICATION DESCRIPTION:	Demolition of existing farm outbuildings and erection of 83 dwellings (Amended description 14/05/2024)
NAME OF APPLICANT:	Gleeson Regeneration Ltd
SITE ADDRESS:	Grange Farm, Coxhoe, Durham DH6 4HH
ELECTORAL DIVISION:	Coxhoe
CASE OFFICER:	Callum Harvey Senior Planning Officer Tel. 07393 469 380 Callum.Harvey@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSALS

The Site

1. The application site comprises vacant fields and vacant agricultural buildings, measuring 3 hectares (ha) in total area. The site is located to the north of Coxhoe Park and west of Coronation Terrace, at the northwestern edge of Coxhoe. To the north, east and southeast are residential dwellings, to the southwest is Coxhoe Park, and to the west is former railway line with agricultural fields beyond. The site is split by a Public Footpath which runs north-south through the centre of the site.
2. The site does not feature a notable gradient, and the fields either side of the Public Footpath within the site are private vacant fields.
3. The site is well screened from views to the west by the tree lined former railway line, and from views to the south at Coxhoe Park by another line of trees. Views from the north and east are screened by existing buildings.
4. Whilst the site is well contained by the tree lined former railway line to the west, the site is still considered to be outwith the built-up area of Coxhoe, and is therefore open countryside.
5. The site is not within nor adjacent to a designated Area of Higher Landscape Value. The nearest is over 500m to the east on the other side of Coxhoe. The nearest to the west surrounds the village of Hett and is approximately 2.3km from the site.

6. Due to the age of the application, received in 2020, it is not supported by an Agricultural Land Classification report, as those details were not required at the time. The application had submitted in 2020 that the fields and agricultural buildings within the site were vacant at the time, and officers note they remain vacant at present.
7. The western edge and southeastern corner of the site lie within the Coalfield Development High Risk Coal Area as identified by the Coal Authority, with the remainder of the site within the Low Risk Coal Area. The site also lies within the surface mined coal resource area as defined in the County Durham Plan. The site is not within a mineral safeguarding area.
8. There are no known mineshafts within the site, with the nearest being on Lansdowne Road approximately 240m to the south of the site.
9. There are no designated heritage assets within or adjacent to the site, with the nearest listed building or structure being the Grade II listed Coxhoe War Memorial on Coronation Terrace, approximately 250m to the south of the site. The nearest Conservation Area is Cornforth Conservation Area approximately 1.4km to the southwest of the site, beyond the A1(M).
10. The site falls within Flood Zone 1 as identified by the Environment Agency, which is the lowest risk area of fluvial (river) flooding.
11. Approximately a third of the site is at Low Risk of pluvial (surface water following rainfall) flooding, along with some small pockets in the northwestern and central areas of the site.
12. Three trees at the northern edge of the site, to the immediate east of the Public Footpath, are covered by a recently made Tree Preservation Order, reference: TPO/377/2024.
13. There are no ecological designations within the site, with the nearest being the Coxhoe Ponds which is Local Wildlife Site approximately 270m to the north of the site, and Quarrington Hill & Coxhoe Bank Plantation which is also a Local Wildlife Site approximately 500m to the east of the site.

The Proposal

14. The application seeks full planning permission for the demolition of existing farm buildings at the northern edge of the site, and for the erection of 83 dwellings, and associated landscaping and infrastructure. The proposal seeks consent for the following mix of dwellings:
 - 8 two-bedroom bungalows;
 - 13 two-bedroom houses;
 - 52 three-bedroom houses; and
 - 10 four-bedroom houses.
15. The application submits the following Affordable Housing provision, to be secured under a legal agreement:
 - 5 Discount Market Sale units
 - 3 First Homes
 - 4 Affordable Rent units

16. Private parking bays are proposed at each plot, with an additional 21 visitor parking bays distributed across the site. Each dwelling would benefit from an Electric Vehicle charging point. Garages would measure a minimum of 6m x 3m internally.
17. The proposal would benefit from a new vehicular access onto Coronation Terrace to the east, in the form of a T-junction. As part of those works the existing northbound bus stop on the western side of the highway would be relocated a few metres further north. The existing access arrangement to the rear of the terraced properties to the west of Coronation Terrace would also be amended so that the existing rear lane is accessed via the proposed T-junction onto Coronation Terrace. The existing access to the rear of these properties would be stopped up as part of the works.
18. The proposal seeks to create a Sustainable Urban Drainage System (SuDS) basin at the southwestern corner of the site. A pumping station is also proposed adjacent to the basin, and this would be offered to Northumbrian Water for adoption. No swales are proposed across the site. All driveways and private shared surfaces would feature permeable paving.
19. The development would be a mix of single storey and two storey dwellings, each with their own parking areas and private rear gardens. The dwellings would comprise predominantly brick elevations with some dwellings featuring render. Concrete roof tiles, white upvc windows and white doors are proposed. Boundary treatments would comprise 1.8m high vertical timber fencing.
20. Whilst the application indicates that the proposed residential dwellings would be of a sustainable design and would be constructed using sustainable methods, no details of renewable and low carbon energy generation, such as solar panels or air source heat pumps, are indicated.
21. The application seeks to demolish a number of existing redundant agricultural buildings in the northeast corner of the site.
22. The current application is being reported to the Central and East Area Planning Committee due to the proposal being for more than 9 dwellings. Due to proposal being for less than 200 dwellings, and due to the site being less than 4 hectares in area, it is not being reported to the County Planning Committee.

PLANNING HISTORY

23. There is no history of planning applications on this site.

PLANNING POLICY

NATIONAL POLICY

24. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
25. *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.

26. *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.
27. *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.
28. *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.
29. *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.
30. *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.
31. *NPPF Part 11 – Making Effective Use of Land.* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
32. *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.
33. *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.
34. *NPPF Part 15 – Conserving and enhancing the natural environment.* Planning policies and decisions should contribute to and enhance the natural and local environment.

35. *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:

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

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

LOCAL PLAN POLICY:

The County Durham Plan (October 2020)

37. *Policy 1 – Quantity of Development.* Outlines the levels of employment land and housing delivery considered to be required across the Plan period.
38. *Policy 6 – Development on Unallocated Sites.* States that development on sites not allocated in the County Durham Plan or in a 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 accords with all relevant Development Plan policies, and:
- a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;
 - b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of, the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities services unless it has been demonstrated that they are no longer viable;

- h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration.
39. *Policy 10 – Development in the Countryside.* States development in the countryside will not be permitted unless allowed for by specific policies in the Plan, by relevant policies within an adopted Neighbourhood Plan relating to the application site, or where the proposal relates to one or more of the following exceptions; economic development, infrastructure development or the development of existing buildings. New development in the countryside must accord with all other relevant development plan policies and with the General Design Principles set out in Policy 10.
40. *Policy 14 – Best and Most Versatile Agricultural Land and Soil Resources.* States that development of the best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits.
41. *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 and 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. The Policy states that on sites with 10 or more units, 10% of the homes provided should be for affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership). In line with the requirements in Table 8 of the Plan, any contribution above 10% should be provided as affordable housing for rent. The Policy goes on to state that where it can be evidenced by the applicant to the Council's satisfaction that this tenure mix would make the required affordable housing contribution unviable or that alternative affordable housing products are required to meet local needs, then proposals for an alternative tenure mix as proposed by the applicant will be considered.
42. *Policy 19 – Type and Mix of Housing.* States that on all new housing developments the Council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self build or custom build schemes.
43. *Policy 21 – Delivering Sustainable Transport.* States that all development shall deliver sustainable transport by (in part) ensuring that any vehicular traffic generated by new development, following the implementation of sustainable transport measures, can be safely accommodated on the local and strategic highway network and does not cause an unacceptable increase in congestions or air pollution and that severe congestion can be overcome by appropriate transport improvements.
44. *Policy 25 – Developer Contributions.* States that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations.
45. *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.

46. *Policy 29 – Sustainable Design.* Requires all development proposals to achieve well designed buildings and places having regard to advice within Supplementary Planning Documents (SPDs) 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).
47. *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.
48. *Policy 32 – Despoiled, Degraded, Derelict, Contaminated and Unstable Land.* States [in part] that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
49. *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.
50. *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.
51. *Policy 39 – Landscape.* States that proposals for new development will be permitted where they would not cause unacceptable harm to the character, quality or distinctiveness of the landscape, or to important features or views and that development affecting valued landscapes will only be permitted where it conserves, and where appropriate enhances, the special qualities of the landscape, unless the benefits of the development in that location clearly outweigh the harm.
52. *Policy 40 – Trees, Woodlands and Hedges.* States that proposals will be expected to retain existing trees where they can make a positive contribution to the locality or to the development, maintain adequate standoff distances between them and new land-uses, including root protection areas where necessary, to avoid future conflicts, and

integrate them fully into the design having regard to their future management requirements and growth potential.

53. *Policy 41 – Biodiversity and Geodiversity.* States that proposals for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
54. *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.
55. *Policy 44 – Historic Environment.* States that great weight will be given to the conservation of all designated assets and their settings (and non-designated heritage assets of archaeological interest that are demonstrably of equivalent significance to scheduled monuments)(164). Such assets should be conserved in a manner appropriate to their significance, irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance. This aligns with Chapter 16 of the NPPF.
56. *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:

57. The application site is within the designated Coxhoe Neighbourhood Plan area, however at the time of writing this report there is no draft Neighbourhood Plan to consider.

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)

CONSULTATION AND PUBLICITY RESPONSES

STATUTORY RESPONSES:

58. *Coxhoe Parish Council - Have objected to the application, as follows:*
59. *“Coxhoe Parish Council formally objects to this application on the inability of Durham County Council to 'require' the developer to make a S106 Primary Education Contribution to Coxhoe Primary School, which DCC acknowledges will be at capacity (full) in the academic year 25/26. Because of its own policy, and the developer's stated unwillingness to make a s106 primary education contribution unless it is 'required' to do so by DCC, Coxhoe Parish Council cannot support this application.*
60. *DCC's Policy states that a primary contribution will be required if there are insufficient primary places within 2 miles of a development. The front of this development is a 1.7 mile walk to Bowburn Primary School and 1.8 mile walk to Kelloe Primary School, but only 0.6 miles to Coxhoe Primary School, which is the village school and the one that most parents from the village will want to choose to send their children to.*
61. *This and other developments will leave the village school oversubscribed and leave the village where it was back in the year 2000, where new developments closer to the school will result in children from existing properties further from the school not being allocated places on the 'distance to school' criteria.*
62. *The strict application of the 2-mile criteria may be deemed acceptable in urban areas, but for young children from this development and their parents being expected to walk 1.7 miles to school between villages on fast, and at times unlit, busy country roads we believe is an unreasonable expectation. We believe that this will lead to even more children being driven to school, increasing CO2 emissions and exacerbating parking and existing traffic problems around Bowburn and Kelloe schools. The 2-mile policy is a DCC policy not a national standard.*
63. *Are DCC and the developers saying that it acceptable to require parents and children to have to walk or drive 1.7miles to school when their village school is only half a mile away? It seems to hinge on the word 'required' in the DCC Policy. It is also a direct contradiction of DCC's own policy to "to help pupils walk or cycle to school with their parents or carers when possible" by forcing them to attend a school not within a manageable walking distance.*
64. *In the DCC Education comment posted on the portal 28 September 2020 they stated the requirement for a £441,090 s106 contribution for 30 additional children to primary places at Coxhoe Primary School the original proposal. The school has not increased in size nor the demand reduced, but on the reduction of the proposed development to 83 properties, DCC Education Department in their updated comments posted on the portal 23 July 2024 no longer 'required' any contribution from the developers for the now 22 additional primary children as there were now places available at Bowburn and Kelloe, which are within 2 miles of the development, which there presumably also were in 2020? It is estimated that the s106 contribution for 22 additional children would be approximately £323,466.*
65. *It is noted the census data quoted is from 2021 and that the estimated number of pupils at these schools is woefully out of date and takes no account of recent major developments such as Integra 61 that expansions to those schools were built to accommodate. DCC and builders can't keep building and keep counting the same empty places as others?*
66. *Coxhoe Parish Council wrote to the developer 19th August and requested that they make a voluntary s106 contribution to Coxhoe Primary School. The developer replied to Coxhoe Parish Council 19th September rejecting that request stating that they: 'can only be bound by what Durham, as planning authority have requested from us. They*

in turn need to make sure that all planning obligations meet the tests that they are necessary to make the development acceptable in planning terms, therefore cannot request planning obligations above and over that test when they are not required. As such, we are unable to commit to providing planning obligations over and above those requested by the Local Planning Authority.'

67. *Coxhoe Parish Council have asked their County Councillors to ask DCC to 'request' a voluntary primary s106 contribution from the developer although according to their current policy DCC cannot 'require' it.*
68. *Coxhoe Primary School Governors have asked their MP Alan Strickland to 'request' a voluntary primary s106 contribution from the developer because according to current DCC policy DCC cannot 'require' it.*
69. *Coxhoe Parish Council have been advised by Miller Homes, who have also recently lodged a planning application for 100 additional homes, that they are expecting to make a £392,000 s106 Primary contribution to Coxhoe Primary School despite their site being within 100 meters of the school, because of the impact their development will have on the school and village. It is also noted that Barratt homes whose development is nearing completion, have already similarly made a £375,000 s106 contribution to additional places at Coxhoe Primary.*
70. *The Governors of Coxhoe Primary School have a design for an extension which could accommodate all of these additional primary school children from these developments costing approximately £1.2m which could be built in phases with the extra places rightly being fully funded by the developments creating the additional demand.*
71. *In 2020 this development appeared prepared to provide the s106 funding for the additional primary places created by their development, in addition to the secondary and NHS contributions required. Unless they are prepared to provide this voluntarily, if they cannot be 'required' to by DCC, Coxhoe Parish Council must oppose this development and request that DCC's Planning Committee also reject it.*
72. *We will also be obliged to make public the apparent inability of DCC to 'require' the developer to make the appropriate contribution for their impact on their village school and the developers unwillingness to do this unless obliged to and to seek public support for such a contribution from the development."*
73. *Highways – Have provided advice on the proposal's access arrangement, parking provision and layout, as well as on the capacity of the local road network and other matters relating to highway safety.*
74. *They note a Transport Assessment had previously been submitted to accompany the application in 2020. However, due to Covid, this had been done using old traffic counts and data which had been factored up. A new Transport Assessment using up-to-date count data has now been submitted in 2024 at the request of the Highways officer, which also includes an up-to-date speed survey to dictate the visibility for the proposed access.*
75. *The Highways officer notes the site would be served by a new access onto Coronation Terrace. Visibility has been provided in accordance with the 85th percentile speed as recorded in the new speed survey carried out by the applicant in May 2024. The proposed junction meets all the necessary technical highways standards.*
76. *They note that modelling of the A688/B6291 junction has been carried out, and this junction is shown to continue to operate within design capacity with this development*

traffic added to it. The site would generate circa 41 additional vehicular trips in the AM peak (11 In and 30 Out), and 42 in the PM peak (28 In and 14 Out). This low level of trips can be accommodated on the local road network without the need for mitigation.

77. They also note that the existing north bound bus stop on Coronation Terrace would require relocation slightly further north as a result of the proposed access for this development, and a new location for the bus stop has been agreed with the DCC Public Transport Team. The cost of relocation of the bus stop, and any works required to facilitate this, would be at the applicant's expense.
78. The proposed car parking has been amended following the adoption of the 2023 Parking and Accessibility SPD, and the parking is now in accordance with this document. The site layout would be subject to a separate Technical Approval process for the applicant to enter into a S38 agreement with the Local Highway Authority, and so could be subject to change; but as presented in this application on the latest layout, it is considered acceptable for the purposes of granting planning permission.
79. Stopping up of part of the existing back lane to the rear of Coronation Terrace is required to facilitate the development. This is subject to a separate legal process carried out by the Department for Transport National Casework Team.
80. The Highways officer highlights that NPPF Paragraph 115 states that "development should only be refused where the cumulative impact of a development are severe, or would be detrimental to road safety." They advise that it is not considered that this development would be detrimental to road safety, and that there is no issue with regard to cumulative impact. Therefore the application is considered acceptable in Highways terms subject to recommended conditions.
81. *Drainage & Coastal Protection (Lead Local Flood Authority)* – Advise that although flood risk mitigation is to an acceptable level, the proposal falls short on policy requirements relating to the integration of and a management train of SuDS features across the development. They advise that improvements or compliance with policy would require layout amendments, and likely a reduction in plot numbers.
82. Following subsequent discussions with the case officer, the Drainage officer maintains their concerns though does not recommend any conditions be imposed in the event Members grant planning permission, provided the submitted drainage documents and engineering drawings are secured as approved plans/documents.
83. *Northumbrian Water* – Advise that the submitted engineering details are acceptable, therefore they have no objection subject to those details being secured in the approved plans/documents condition.
84. *Coal Authority* – Note that the application site falls within the defined Development High Risk Area. Their records indicate that coal seams outcrop at or close to the surface of the site, which may have been worked in the past. Their records also indicate that shallow coal mine workings extend up to the eastern site boundary.
85. They note that the Geoenvironmental Appraisal report submitted with the application acknowledges pre-application comments which the Coal Authority made in respect of the need to consider the potential stability implications of recorded roadways within the main coal seam which may be close to the eastern site boundary. They therefore welcome the recommendation within the report that a programme of proof drilling and grouting should be carried out within the site in the area of the roadway/workings shown within main seam on the abandonment plan. The recommended stabilisation works should be designed by a competent person and the prior written permission of

the Coal Authority Permit and Licensing Team will be required before the undertaking of these remedial works.

86. They also note that the submitted report concludes that it is unlikely that unrecorded mine entries will be present on site, but cannot fully discount them. They therefore welcome the recommendation for a 'watching brief' during site preparatory and construction works in order to mitigate the risk posed by any such features. Should any previously unrecorded mine entry be encountered during development, appropriate treatment will be required in accordance with details permitted under a Coal Authority Permit.
87. They also note that the submitted report indicates that gas monitoring has been carried out at the site. The Coal Authority recommends that comments are sought from the Council's Environmental Health Team regarding the results of the monitoring exercise, and any resultant need for the incorporation of gas protection measures within the proposed development.
88. The Coal Authority concurs with the recommendations of the submitted Geoenvironmental Appraisal that coal mining legacy potentially poses a risk to the proposed development, and that remedial measures are required in order to ensure the safety and stability of the proposed development. Subject to those measures being secured by conditions, the Coal Authority does not object to this application.

INTERNAL CONSULTEE RESPONSES:

89. *Spatial Policy* – offer key policy observations in relation to the proposed development. They note that the site is not allocated for housing in the County Durham Plan, and that the site is within the open countryside, therefore Policies 6 and 10 of the CDP are applicable.
90. Advice is also given in relation to affordable housing provision, with an 83 dwelling scheme required to provide the following:
 - 15% of total dwellings, equating to 12 affordable units, (to be secured by legal agreement) comprising of:
 - 3 First Homes;
 - 5 homes for Affordable Home Ownership; and
 - 4 Affordable Rent.
91. The Spatial Policy officer notes that the submitted affordable housing provision accords with the above requirements.
92. The Spatial Policy officer notes that 10% of total dwellings are required to be homes suitable for older people, equating to 8 units. The proposed 8 single story bungalows accords with this requirement.
93. Advice is also provided in respect of Policy requirements in relation to National Described Space Standards (NDSS), M4(2) standards, design, transport and highways, green infrastructure, and developer contributions.
94. *Affordable Housing* – raise concerns with the proposed level of discount applied to the proposed Discount Market Sale units, as well as concerns with the proposed level of cap applied to the values of the proposed First Home units.
95. No concerns are raised in respect of the proposed tenure and distribution of affordable units across the development.

96. *DCC Sustainable Travel* – Have considered the updated Travel Plan, Revision 3 received October 2024. They advise that their previous concerns have been addressed with this amended document. No conditions are recommended.
97. *Access & Rights of Way* – Advise that Coxhoe Parish Footpath 5 runs through the site running north to south from Grange House to the southern boundary of the site. They note that the application appears to retain the footpath along its existing line. They advise that this is a very effective planning design to incorporate the footpath, and therefore they do not raise any objection. No conditions are recommended.
98. They also highlight that current and future landowners must be aware that any vegetation encroaching onto the public footpath from either side is the responsibility of the landowner(s).
99. *Education* – advise that, based on the methodology set out in the Council's adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 83 dwellings would produce 6 Nursery age pupils, 22 pupils of primary school age, 11 pupils of secondary age, 1 post-16 pupil, and 1 SEND pupil.
100. In relation to Primary School pupils, there would be sufficient space at the Primary Schools which are located within 2 miles of the site to accommodate the pupils generated by the development. The Education officer advises that between the four Primary Schools (Coxhoe, Bowburn, Kelloe and West Cornforth) which are all within a 2 miles radius of the site, the combined capacity is 1,044 pupils. When removing the 5% surplus to their capacity, it is reduced to 992 pupils. The Education officer then advises that the maximum pupils numbers on roll over the 10 year projection period is 789 pupils. Because the current proposal of 83 dwellings is anticipated to produce only 22 Primary School age pupils, it is considered there is sufficient capacity in local Primary Schools within a 2 mile radius of the site to accommodate the proposed development, in line with the Local Education Authority's standard guidance. Therefore, the Education officer advises that the Council would have no grounds to request a financial contribution to facilitate the provision of additional teaching accommodation for Primary Schools.
101. In relation to Secondary School pupils, the nearest Secondary School is Ferryhill School, which has capacity for 836 pupils. Based on the projected rolls of the schools, taking into account the likely implementation timeframe of the development, build rates and other committed development, the Education officer advises there would not be sufficient space to accommodate the pupils generated by the development, whilst maintaining a 5% surplus. In order to mitigate the impact of the development a contribution of £267,432 (12 pupils x £24,312) would be required to facilitate the provision of additional teaching accommodation at Ferryhill School.
102. In relation to SEND pupils, the Education officer advises there is a shortage of SEND places across the County. In order to mitigate the impact of the development on SEND provision, they advise a contribution of £83,980 (1 x £83,980) would be required.
103. The above education contributions can be secured by way of a Section 106 Agreement.
104. *Design and Conservation* – refer to the comments provided through the internal Design Review process. Due to the age of the application, and the number of amendments made, the proposal has been through the internal Design Review process on four occasions. The most recent Design Review re-score on 31st July 2024 concluded that the amended proposal received 0 'Red', 1 'Amber', and 11 'Green' scores.

105. The 1 'Amber' score relates to a lack of sufficient integrated drainage across the site, as advised in separate comments from the Drainage and Coast Protection officer. However, as discussed later in this report, it was agreed that the issues in this respect did not amount to a 'Red' score.
106. *Archaeology* – Advise that the information in the submitted Written Scheme of Investigation which was outstanding in 2022 has now been agreed. Therefore no objection is raised and no conditions are recommended.
107. *Landscape* – Note that the latest layout was the subject of a recent internal Design Review rescore. Recent comments made by Landscape officers during that review are applicable.
108. Aside from those comments, the Landscape officer also advises that the proposed landscape plans are technically comprehensive and diverse. There would be some street trees within the internal layout of the housing area, confined to private curtilages and not in road verges. The proposals would retain the existing hedges where possible, which should be properly managed. Tree planting and species rich habitats are appropriately proposed within the hedgerows and open spaces on the site. They also advise that the proposed specification and planting notes are technically optimal.
109. No conditions are recommended by the Landscape officer.
110. *Arboricultural (Trees)* – In updated comments October 2024 they have advise that, following an on-site assessment, three trees at the northern edge of the site, to the immediate east of the Public Footpath, are protected by a Tree Preservation Order (TPO). These trees are identified as T01, T02 and T03 in the submitted Arboricultural Impact Assessment, and are located to the immediate west of proposed Plots 71 and 72.
111. The reasoning for the TPO be made is that the trees T01, T02 and T03 are a prominent landscape feature with high amenity value, and that the proposed development could threaten them.
112. They also advise that there is a 4th tree just south of T03, though it is not to be included in the TPO as it is leaning and suppressed by the neighbouring T03, therefore it could be removed leaving the three better trees.
113. They also advise that the layout and positioning of Plots 71 and 72 is not compatible or sustainable with the trees to be protected, as they are large trees on the south side of the proposed dwellings and will inevitably generate some conflict with homeowners, (e.g. i.e. general nuisance factor, shade, apprehension about safety, pressure to prune or remove them). The trees officer therefore recommends that the proposal omits at least 1 of these adjacent proposed dwellings, and amends the layout accordingly to accommodate these trees. The application has not given this due consideration, therefore the tree officer would not support the proposed layout at the time of their on-site assessment being carried out.
114. *Ecology* – Have advised that the issues raised in previous comments have now been addressed, and an appropriate update of the ecological survey work has been provided.
115. The Ecology officer notes that trees with the potential to support roosting bats are retained outside of private residential gardens, and will be subject to a Tree Preservation Order which will ensure that they are retained during the works.

116. A condition requiring a low level lighting scheme will be required to maintain dark corridors for commuting bats.
117. A condition for a plan showing the location of proposed bat and bird boxes (inc types of box) is required.
118. They also note that the applicant intends to purchase biodiversity units to ensure delivery of 'a' Biodiversity Net Gain in accordance with Policy 41 of the CDP, this is an acceptable approach. A pre-commencement condition will be required to ensure that the biodiversity units are allocated on the Natural England Register for this development prior to commencement.
119. *Environmental Health and Consumer Protection (Air Quality)* – No objection. No conditions are recommended.
120. *Environmental Health and Consumer Protection (Contaminated Land)* – No objection subject to recommended conditions.
121. *Environmental Health and Consumer Protection (Nuisance Action)* – No objection subject to the Construction Management Plan (Revision D), Noise Assessment report (July 2021) and Noise Note (August 2024) forming part of the approved plans/documents.

EXTERNAL CONSULTEE RESPONSES:

122. *NHS* – raise no objection subject to a financial contribution of £40,089 toward increasing GP surgery capacity. The sum can be secured by a Section 106 Agreement.
123. *Police Architecture Liaison* – raise no objection. Advice provided on design and layout of the development.

PUBLIC RESPONSES:

124. The application has been advertised in the local press (the Northern Echo), by site notice, and through neighbour notification letters sent to 68 individual properties as part of the planning procedures. 2 rounds of public consultation have been carried out; the first in October 2020 and the second in July 2024.
125. 4 objections have been received, with 2 further neutral representations which still raise concerns.

Objection

126. 4 representations object to the proposal, including one objection from Coxhoe Primary School. These representations raise the following concerns:
 - Urban sprawl / encroachment into the open countryside
 - Ecological impact including impact on protected species
 - Loss of light impact on neighbouring properties
 - Surface water flooding
 - Loss of green space
 - Impact on public footpath which runs through the site
 - Impact on character of the site, and amenity of the wider area
 - Increase in carbon emissions and subsequent impact on the environment

- Increase in traffic and subsequent impact on the environment
- Capacity of the local road network
- Pedestrian and cycle safety
- Impact on existing public car parking spaces in the local area, and subsequent negative impact on local amenities
- Lack of financial contribution being sought toward increasing capacity of Coxhoe Primary School

Neutral

127. 2 further neutral representations have been received which neither support nor object to the application, however they still raise the following concerns:

- Capacity of the local road network
- Safety of the proposed access arrangement
- Proposed relocation of the bus stop on Coronation Terrace leads to highway safety concerns

ELECTED MEMBERS:

128. Councillor Anderson of the Coxhoe Ward has objected to this application, as follows:

129. *"I would like to request that a voluntary s106 contribution to be added to our Section 106 agreement with the developer Gleasons, [approximately £375,000] I am aware our policy states it cannot be required.*

130. *This is in support of Coxhoe Primary School, who are wanting to extend the school as full capacity may well be reached in academic year 2025/26, and by the sheer nature of these housing developments increasing the need for school places, this money would go towards this building work to be completed and enable all of the children from the village to attend their village school.*

131. *I have today visited the school and seen first-hand how much this extension is required, as being taught in corridors and on a mezzanine level, is not conducive to the education requirements of these pupils.*

132. *The Head Teacher and her staff do an amazing job and are very forward looking in their vision for the school. At this moment in time, they feel they are at a standstill."*

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

APPLICANT'S STATEMENT:

133. The site provides a sustainable development opportunity and would contribute to the provision of a mix of housing size, types and affordability in Coxhoe, particularly promoting family housing and appropriate dwellings which allow people to stay in their local community. The proposals aim to deliver quality new homes to local people in addition to providing much needed new housing in this location. Gleeson have an ethos of providing high quality, low cost homes, predominantly targeting first time buyers and those looking to advance onto the property ladder. Therefore, we are conscious of affordability for a couple who are on the national living wage when setting all open market values, ensuring that a couple can afford to purchase a property on all of our developments.

134. This planning application has considered all relevant planning policy matters in respect of the proposal bringing forward residential development. At a national, regional and local planning policy level, there remains a priority for development in urban areas to which this site would accord, as well as addressing the housing shortage faced at all levels. The site is fully compliant with the adopted County Durham Local Plan, as well as satisfying all the components of the CDLP Policy 6. The development will also fully comply with Local Policy and contribute towards meeting the needs of the county's existing and future residents by providing 100% space standard dwellings, 66% M4(2) compliant dwellings and meeting the needs of older people and people with disabilities by providing bungalows. In addition, 15% (12no.) of units on the site will also be designated as affordable homes, secured through a S106 Agreement, in the form of Affordable Rent, Discount Market Sale and First Homes ensuring affordability across all levels.
135. Additionally, the site will integrate well into the locality through design proposals and density accords with National Planning Policy. The Applicants have undertaken considerable dialogue with architects, local residents, consultants and relevant officers at the Council to ensure that the scheme not only delivers high quality design, but also responds to the aspirations of the local community. The scheme has been sensitively designed to ensure it is well related to the existing settlement of Coxhoe, with sizeable landscape buffers to screen the development and create a strong settlement edge as well as ample, usable open space on site. Indeed, the proposals have been amended through the formal planning submission process, to take into account of the comments made and ensure the visions of the development remained in line with Planning Officers.
136. The site lies on the edge of a residential area in close proximity to services and facilities including access to sustainable travel options such as bus services and footpath links. There is ready access to local amenities, schools and employment sites, making the development socially sustainable.
137. Development of the site will bring a number of direct social and economic benefits directly to Coxhoe and the surrounding area, including:
- A selection of 83no. high quality new homes including 8no. bungalows and 12no. affordable units;
 - A health contribution of £40,089 towards GP surgery capacity at Bowburn Medical Centre and Claypath & University Health Centre;
 - Education contributions of £267,432 towards Secondary and £83,980 towards SEND;
 - Provision of 1,834 sqm of open space on site, as well as a contribution of £137,437.80 towards improving the quality of the existing facilities and open space within the area.
138. The value of the community is crucial to Gleeson and this is demonstrated through the Community Matters Programme. Gleeson understand the importance of involving the community before and during the construction of a development and leaving a legacy once the works are complete. Community engagement is a crucial part of the development process, and Gleeson will work closely with the local schools to make an impact in a positive way by promoting strong community ties and inspiring the future generations. We want to inspire the younger generation with our presence in the area and be part of the learning of local school children. In addition, through the Community Matters Programme, Gleeson are committed to provide 'Local Jobs for Local People' and offer priority of employment to those living within 2 miles of each site, ensuring that the benefit of jobs and spend go directly to the local community.

PLANNING CONSIDERATIONS AND ASSESSMENT

139. 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, addressing housing needs, residential amenity, layout and design, trees and hedgerows, highway safety, ecology, surface water and foul drainage, heritage and archaeology, contaminated land and coal mining risk, planning contributions, agricultural land and soil resources, safeguarding mineral resources, travel plan, public rights of way, energy efficiency, broadband, and public sector equality duty.

Principle of Development

140. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. The County Durham Plan (CDP) is the statutory development plan and the starting point for determining applications as set out in the Planning Act and reinforced at Paragraph 12 of the NPPF. The CDP was adopted in October 2020 and provides the policy framework for the County up until 2035.

141. 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.

142. In light of the recent adoption of the CDP 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.

Housing Land Supply

143. Policy 1 of the County Durham Plan (CDP) states that in order to meet the needs and aspirations of present and future residents of County Durham, and to deliver a thriving economy, the following levels of development are proposed up to 2035:
- a. 300 hectares of strategic and general employment land for office, industrial and warehousing purposes; and
 - b. a net minimum of 24,852 new homes of mixed type, size and tenure over the period 2016 to 2035 (1,308 new homes per year).
144. The County Council can currently demonstrate a 5.47 year housing land supply, which clearly exceeds the County's 4 year housing land supply requirement due to the County Durham Plan not being more than five years old, in accordance with Paragraph 226 of the NPPF. Whilst officers note that demonstrating sufficient housing land supply is a minimum requirement and not a ceiling, the ability to clearly demonstrate sufficient housing land supply is of substantial weight in the decision making process and is an important material consideration in the event that a conflict with the County Durham Plan is identified.

Windfall Site

145. Paragraph 4.16 of the County Durham Plan (CDP) states that the housing need for County Durham is 1,308 dwellings per annum, and when applied over the Plan period equates to 24,852 dwellings needed from 2016 - 2035.
146. In order to meet the housing need of the County, the CDP has allocated a number of sites for housing development under CDP Policy 4. As highlighted earlier in this report, the site subject to this application is not one of those allocated for residential development in the CDP.
147. The site is immediately adjacent to the built form of Coxhoe, therefore Policy 6 of the CDP applies. Policy 6 states that development on sites not allocated in the County Durham Plan or in a 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 accords with all relevant Development Plan policies, and conforms with criteria (a) to (j) of the Policy.
148. Officers note that in order for criteria a) to j) to be applicable, the site first needs to be considered well-related to the settlement. Paragraph 4.110 of the CDP explains that when assessing whether a site is well-related to a settlement, the physical and visual relationship of the site to the existing built-up area of the settlement will be a key consideration. Paragraph 4.111 goes on to state that the Council wants to ensure that new development does not detract from the existing form and character of settlements and will not be harmful to their surroundings. In determining whether a site is appropriate for new development, the relationship with adjacent buildings and the surrounding area will be taken into account along with the current use of the site and compatibility of the proposal with neighbouring uses.
149. Officers are mindful that the site forms two open fields, separated by a public footpath, which lie beyond the existing built form of the settlement. However, officers are also mindful that the site is bound to the north, east and southeast by existing housing, to the southwest by Coxhoe Park, and to the west by a well-established tree belt alongside the former railway line. It is therefore considered that this site is very well contained in a visual sense, and that the proposed development would not lead to encroachment into the open countryside to the west of the settlement. The site is considered very well related to the settlement in a visual sense.

150. In terms of physical relationship to the settlement, the public footpath which runs through the site provides excellent pedestrian and cycle connections to the open space facilities at Coxhoe Park to the southwest, whilst the proposed access arrangement would provide sufficient pedestrian and cycle connections to the range of amenities and services along Coronation Terrace. The site is also in short walking distance of existing bus stops along Coronation Terrace which are well served by frequent services to Durham City. It is considered that the site is well related to the settlement in a physical sense.
151. The proposed site is well-related to the settlement. Officers have also considered the proposal against the relevant criteria under Policy 6, which are set out earlier in the Planning Policy section of this report:
152. Criteria a), c), d), e), f) and h) relate to specific material planning considerations of the proposed development and will be addressed in relevant sections of the report below.
153. Regarding Policy 6 b), the proposal does not contribute to coalescence with neighbouring settlements, and would not result in ribbon development or inappropriate back land development. The proposal therefore accords with Policy 6 b).
154. Regarding Policy 6 g), the proposal would not result in the loss of valued facilities or services, therefore the proposal accords with Policy 6 g).
155. Regarding Policy 6 i), the proposal would not include the re-use of Previously Developed Land, therefore the proposal does not gain support from Policy 6 i).
156. Regarding Policy 6 j), the proposal does not reflect priorities for urban regeneration, therefore the proposal does not gain support from Policy 6 j).
157. For the reasons set out above, the proposal does not conflict with the above elements of Policy 6 of the CDP, and is therefore subject to further assessment of the relevant material considerations below.

Open Countryside

158. The site is considered by officers to be beyond the built-up area of Coxhoe and is therefore in the open countryside, as described in the definition of a built-up area in the Glossary of the CDP. Policy 10 of the CDP therefore applies, which states that development in the countryside will not be permitted unless allowed for by specific policies in the CDP, by relevant policies within an adopted neighbourhood plan relating to the application site, or where the proposal relates to one or more of a number of exceptions stated in the Policy. The proposal does not meet any of those exceptions, and there is not a Neighbourhood Plan, therefore in order to accord with Policy 10, the proposal must accord with a relevant Policy in the CDP – in this instance the only relevant Policy is Policy 6 of the CDP.
159. As explained above, the proposal accords with Policy 6 of the CDP. Policy 10 then states that new development in the countryside must accord with all other relevant development plan policies, and by virtue of their siting, scale, design and operation must accord with criteria i) to r) of the Policy.
160. Regarding 10 i), p), q) and r), these matters relate to specific material planning considerations of the proposed development and will be addressed in relevant sections of the report below.

161. Regarding Policy 10 m), the proposal would not result in the merging or coalescence of neighbouring settlements. The proposal therefore accords with Policy 10 m).
162. Regarding Policy 10 n), the proposal would not contribute to ribbon development. The proposal therefore accords with Policy 10 n).
163. Regarding Policy 10 o), due to the well-established tree belt along the western edge of the site, the proposal would not adversely impact the setting, townscape qualities, important vistas, or form of the settlement. The proposal therefore accords with Policy 10 o).
164. Policy 10 then requires the proposal to accord with criteria s), relating to climate change considerations such as flooding and energy efficiency measures. These matters will be addressed in relevant sections of the report below.
165. Policy 10 then also requires the proposal to accord with criteria t), relating to the re-use of previously developed land. The site is not previously developed land, therefore criteria t) is not applicable.
166. For the reasons set out above, the proposal does not conflict with the above elements of Policy 10 of the CDP, and is therefore subject to further assessment of the relevant material considerations below.

Locational Sustainability

167. Turning next to sustainability, Policy 21 of the CDP provides clarity on what the CDP requires in respect of sustainability, with Policy 21 considering more than just public transport connections. Policies 6 f) and 10 p) build upon these areas and cover public transport connection considerations.
168. Policy 21 of the CDP requires the delivery of sustainable transport by facilitating investment in safe sustainable modes of transport, 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. The Policy requires all development to have regard to the policies set out in the County Durham's Strategic Cycling and Walking Delivery Plan and, where possible, contribute to the development of a safe strategic cycling and walking network and in particular the routes set out in Local Cycling and Walking Infrastructure Plans. It also requires development to have regard to the Parking and Accessibility Supplementary Planning Document. Policy 22 of the CDP supports modal shift and sustainable transport improvements.
169. Policy 21 first requires the transport implications of development to be addressed as part of any planning application, where relevant this could include through Transport Assessments, Transport Statements and Travel Plans. This is discussed in the highway safety section of this report.
170. Turning first to criteria a) and b) of Policy 21, it is noted that these criteria prioritise pedestrian connectivity ahead of cycling and bus transport. Officers are mindful of the CIHT's Planning for Walking (2015) guidance which states under Section 6.4:
“Building Sustainable Transport into New Developments (DfT, 2008) gives the following advice on pedestrian catchment areas: Traditional compact town layouts: Walking neighbourhoods are typically characterised as having a range of facilities within 10 minutes’ walking distance (around 800 metres). However, the propensity to walk or cycle is not only influenced by distance but also the quality of the experience; people may be willing to walk or cycle further where

their surroundings are more attractive, safe and stimulating. Developers should consider the safety of the routes (adequacy of surveillance, sight lines and appropriate lighting) as well as landscaping factors (indigenous planting, habitat creation) in their design. The power of a destination determines how far people will walk to get to it. For bus stops in residential areas, 400 metres has traditionally been regarded as a cut-off point and in town centres, 200 metres (DOENI, 2000). People will walk up to 800 metres to get to a railway station, which reflects the greater perceived quality or importance of rail services.”

171. Officers are also mindful of more recent guidance by Active Travel England in their Standing Advice Note: Active Travel and Sustainable Development (June 2024). The document states that:

“The government’s ambition is for England to be a great walking and cycling nation, supporting a shift in the way people across England think about undertaking short journeys within towns and cities. The aim is for walking, wheeling (trips made by wheelchair and mobility scooters) and cycling to be seen as the most convenient, desirable and affordable way to travel.” In respect of pedestrian access to local amenities, the document states: *“A mix of local amenities should be located within an 800m walking and wheeling distance (using well-designed routes) of all residential properties or staff entrances for workplace facilities. Trip lengths to key amenities should be derived from isochrone maps using an appropriate point within the application site, rather than straight-line distances from site boundaries or main access points. Footpaths/ways to local amenities should conform to the National Design Guide standards of being safe, direct, convenient and accessible for people of all abilities, which includes but is not limited to routes that:*

- have a minimum width of 2m, with limited pinch points no less than 1.5m;*
- are step-free;*
- have a smooth, even surface;*
- have seating at regular intervals;*
- are uncluttered;*
- have good natural surveillance and clear lines of sight;*
- have street lighting;*
- have wayfinding; and*
- have crossing points suitable for the speed and traffic flow of the road(s).”*

172. In relation to cycling accessibility, the document states that:

“Off-site cycling infrastructure to a range of local amenities, and town centres, railway stations, employment areas and the National Cycle Network as appropriate, should be coherent, direct, safe, comfortable and attractive in line with the five core design principles and geometric requirements in LTN 1/20. The development should not be reliant on shared use routes in full or intermittently, which conflicts with the government’s clear position in paragraph 1.6.1 (2) of LTN 1/20 that cycles must be treated as vehicles and not as pedestrians. Where on-road provision would be utilised, there should be sufficient protection from motor traffic in accordance with the suitability and segregation standards in LTN 1/20.” In relation to access to public transport, the document states: *“Most buildings within the application site should be within 400m of a high-frequency bus stop or 800m of a rail/light station or tram stop, with appropriate facilities. Local bus stops should have good natural surveillance and provide seating, lighting, shelter, real-time passenger information and raised bus boards or specialist kerbs. Local rail stations should provide cycle parking, including spaces for non-standard cycles footpaths/ways to public transport nodes should conform to the design standards.”*

173. The centre of the site is approx. 250m actual walking distance from the nearest bus stops located on Coronation Terrace. Subject to the footpaths within the proposed site being adequately lit and surfaced, the entire route to the bus stops would be adequately lit and surfaced. The route would also benefit from natural surveillance. The actual walking distance is within the 400m standard established by the CIHT guidance and Active Travel England (ATE) guidance referenced above.
174. Turning next to the routes which serve the subject stops on Carr Street, the X12, 56, 58 and 59 all operate from these stops. Between these routes, the stops benefit from at least one service per hour seven days a week, with as many as five services per hour Monday to Friday. These services provide frequent, direct connections onto Durham City, as well as other notably large settlements such as Middlesbrough and Darlington.
175. Due to the short distance to the nearest bus stops in accordance with the relevant CIHT and ATE guidance, and due to the frequent, direct connections onto Durham City and other notably large settlements, it is considered that the development would benefit from attractive, convenient and desirable public transport connections.
176. Notwithstanding the public transport connections to this site, officers also note that Policy 21 a) requires proposed development to deliver, accommodate and facilitate investment in safe sustainable modes of transporting in the following order of priority:
- those with mobility issues or disabilities,
 - walking,
 - cycling;
 - then bus and rail transport.
177. Turning now to those higher priority modes of transport, an 800m 'preferable' standard for pedestrian connections to the nearest facilities and amenities is established by the CIHT guidance and ATE guidance referenced above. Officers note the shortest actual walking routes to the nearest facilities and amenities from the centre of the residential part of the site are:
- The Recreational Centre at Coxhoe Park, approx. 250m actual walking distance to the southwest;
 - Coxhoe Medical Practice, approx. 400m actual walking distance to the southeast via Coxhoe Park and Lansdowne Road;
 - The Ginger Dog, a public house approx. 600m actual walking distance to the southeast on Coronation Terrace;
 - Coxhoe Village Hall, approx. 600m actual walking distance to the southeast on Coronation Terrace;
 - Co-op Food Store, approx. 650m actual walking distance to the southeast via Coronation Terrace and Petterson Dale;
 - Catholic Church of Saints Joseph, Patrick and Cuthbert, approx. 700m actual walking distance to the southeast on Coronation Terrace;
 - Coxhoe Primary School, approx. 800m actual walking distance to the south via Coxhoe Park, Linden Grove, Meadow Close and Cornforth Lane.
178. The above list shows that the site is within 800m actual walking distance of a range of services and amenities, using lit routes which benefit from natural surveillance. It is

considered sufficient services and amenities are within a convenient walking distance, increasing their attractiveness to occupiers of the development.

179. The above connections can also be used by cyclists.
180. Due to the attractive, convenient and desirable pedestrian, cycling and public transport connections as described above, there is clear opportunity to use these modes of transport in place of the private car, therefore occupiers of the development would not be dependant on their private cars to meet their day-to-day needs. Consequently, the location of the proposed development is well related to the settlement, and is a sustainable location.
181. This methodology aligns with the approach agreed by the Planning Inspector in an appeal decision at Land North of George Pit Lane on the edge of Great Lumley¹, where an appeal for 148 dwellings was dismissed.
182. As a result of the above assessment of the application site, the proposal accords with criteria a) and b) of Policy 21 of the CDP; as well as with Policies 6 f) and 10 p).
183. Regarding criteria 21 c), as mentioned earlier in this report, the application is supported by an updated Transport Assessment. The Highways officer has no concerns with the proposed access arrangement onto Coronation Terrace, whilst the vehicle trips which would be generated by this development is considered low and can be accommodated on the local road network without the need for mitigation. They advise that the proposal would not be detrimental to road safety, and that there is no issue with regard to cumulative impact on the road network, therefore the application is considered acceptable in Highways terms subject to recommended conditions. Consequently, the proposal accords with Policy 21 c).
184. Regarding criteria 21 d), it is considered that the proposed connections to Coronation Terrace and Coxhoe Park would not harm the natural, built or historic environment, therefore the proposal accords with criteria 21 d).
185. Regarding criteria 21 e), the site is not in close proximity to a railway level crossing, therefore 21 e) is not applicable.

Summary of the Principle of Development

186. The application site is within the open countryside, and is not allocated for housing in the County Durham Plan. However, it is in a sustainable location, and is very well contained in a visual sense ensuring the proposed development would not lead to encroachment into the open countryside to the west of the settlement. The site is therefore well related to the settlement of Coxhoe in both a visual and a physical sense and is considered an acceptable windfall site for housing.
187. As discussed in the above assessment, the proposal does not conflict with relevant criteria of Policies 6, 10 or 21 of the CDP as assessed above. The principle of the proposed development is therefore supported by officers.
188. The overall acceptability of the proposal is still dependant on a number of other matters as discussed below.

Addressing Housing Need

¹ George Pit Lane Appeal Decision, May 2024 – DCC Reference DM/22/00584/FPA – PINS Reference: APP/X1355/W/23/3334214.
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Type and Mix of Housing

189. Paragraph 5.187 of the CDP recognises that the County has an imbalanced housing stock in relation to type and mix. CDP Policy 19 therefore states that, on all new housing developments, the Council will seek to secure an appropriate mix of dwelling types and sizes, taking account of existing imbalances in the housing stock, site characteristics, viability, economic and market considerations and the opportunity to facilitate self-build or custom-build schemes. Paragraph 60 of the NPPF states that 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. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.
190. The proposal seeks consent for the following mix of dwellings:
- 8 two-bedroom bungalows;
 - 13 two-bedroom houses;
 - 52 three-bedroom houses; and
 - 10 four-bedroom houses.
191. Officers have considered the proposed mix of dwellings, and consider it acceptable. It should be noted that this initial assessment is 'tenure blind'; officers' assessment of whether the type, mix and tenure of the proposed affordable units is acceptable is set out later in this report.

Meeting the Needs of Older People and People with Disabilities

192. CDP Policy 15 also aims to meet the needs of older people and people with disabilities, achieving this in two ways.
193. The first part is that 66% of the units on schemes of 5 units or more need to be accessible and adaptable to meet the needs of older people and people with disabilities. This is achieved by adhering to Building Regulations Requirement M4(2) (accessible and adaptable dwellings) standard.
194. The proposed plans state that 75% of the proposed dwellings would be built to M4(2) standard. This provision is therefore acceptable. Notwithstanding the submitted details the Spatial Policy officer advises that a compliance condition be used to secure at least 66% of dwellings be constructed to Building Regulations Requirement M4(2) (accessible and adaptable dwellings) standard.
195. The second part of CDP Policy 15 requires a minimum of 10% of the total number of dwellings on the site to be of a design and type that increases the housing options of older people. This means it has to be built as a suitable product from the outset, so that it is available at the point of first occupation (i.e. now/immediately) to meet the needs of older people. These properties should also be built to M4(2) standard and would contribute to meeting the 66% requirement set out above. They should be situated in the most appropriate location within the site for older people. Appropriate house types considered to meet this requirement include:
- level access flats;
 - level access bungalows; or
 - housing products that can be shown to meet the specific needs of a multi-generational family.

196. The proposal includes 8 single storey bungalows, which equates to 10% of the proposed 83 dwelling scheme. The received plans also state that all of the bungalows would be built to M4(2) standard. The location of the bungalows across the site is acceptable.
197. For the above reasons, the proposal is acceptable leading to no conflict with Policy 19 of the CDP or with Part 5 of the NPPF in this respect.

Affordable Housing Provision

198. Policy 15 of the CDP establishes the requirements for developments to provide on-site affordable housing, the circumstances when off-site affordable housing would be acceptable, the tenure and 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. The Policy states that on sites with 10 or more units, 10% of the homes provided should be for affordable home ownership (starter homes, discount market sale housing and other affordable routes to home ownership). In line with the requirements in Table 8 of the Policy, any contribution above 10% should be provided as affordable housing for rent. The Policy goes on to state that where it can be evidenced by the applicant to the Council's satisfaction that this tenure mix would make the required affordable housing contribution unviable or that alternative affordable housing products are required to meet local needs, then proposals for an alternative tenure mix as proposed by the applicant will be considered.
199. The application submits the following Affordable Housing provision, to be secured under a legal agreement:
- 5 Discount Market Sale units;
 - 3 First Homes; and
 - 4 Affordable Rent units.
200. The site is within the 'medium' viability area as identified in the County Durham Plan. Major-scale residential developments in this area are required to provide at least 15% of dwellings as affordable housing. The provision of 12 affordable units equates to 15% of dwellings on the site is therefore considered acceptable.
201. The distribution of the affordable units across the development is also acceptable.
202. Turning next to the type, mix and tenure of the affordable units to be secured via a legal agreement, no concerns are raised with the proposed number of each tenure of affordable dwelling, however the Affordable Housing officer does raise concerns with the level of discount applied to the proposed Discount Market Sale units, and the level of discount applied to the cap applied to the values of the proposed First Home units. These details would need to be agreed prior to the completion of a legal agreement, should Members be minded to approve this application.
203. Subject to details being agreed in respect of the level of discount applied to the proposed Discount Market Sale units, and the cap applied to the values of the proposed First Home units, it is considered that the proposed affordable housing provision is acceptable, and will help address identified local need. The proposal would therefore not conflict with Policies 15 and 19 of the CDP or with Part 5 of the NPPF.

Residential amenity

204. Paragraph 180 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 191 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 192 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 193 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).

205. CDP Policies 29 and 31 outline that developments should provide high standards of amenity and privacy, minimise the impact of development upon the occupants of existing adjacent and nearby properties, and not lead to unacceptable levels of pollution. The Policies are informed by Parts 12 and 15 of the NPPF, which require that a good standard of amenity for existing and future users be ensured, whilst seeking to prevent both new and existing development from contributing to, or being put at unacceptable risk from, unacceptable levels of pollution including noise pollution.

Construction Period

206. The application is supported by a Construction Management Plan, Revision D received August 2024 (the CMP).
207. The Environmental Health (Air Quality and Nuisance) officers have been consulted and they have no concerns with the submitted document. No further details are required, and no conditions are recommended.
208. Following the advice of the specialist officers as summarised above, subject to the CMP being listed as an approved document to ensure the development complied with the mitigation measures set out therein, the proposal would preserve the amenity of neighbouring residents during the construction period. The Noise Assessment and Odour Assessment would also be listed as approved documents to ensure the mitigation measures therein can be enforced by officers, in the interest of the amenity of neighbouring residents.

Separation Distances

209. The Council's Residential Amenity Standards Supplementary Planning Document (RAS SPD) provides detailed guidance on the assessment of separation distances between proposed dwellings and between existing and proposed dwellings. Paragraph 3.1 of the document states that "*all new development, including new dwellings, will have some bearing on neighbouring properties and it is important to ensure that the impact does not result in a significant loss of privacy, outlook or light for occupiers of new dwellings and existing dwellings. The design and layout of new development should ensure that reasonable privacy and light is provided for surrounding residents and occupiers, particularly in relation to residential use and enjoyment of dwellings and private gardens. Spacing between the windows of buildings/dwellings should achieve suitable distances for privacy and light, whilst also preventing cramped and congested layouts.*" Paragraph 3.2 then states that "*in order*

to achieve these objectives, in residential housing developments (including extensions or residential outbuildings), the following minimum distances will usually be required to protect the privacy, outlook and residential amenity of habitable room windows:

- A minimum distance of 21.0m between habitable room windows, where either dwelling exceeds single storey, and a minimum of 18.0m between habitable room windows and both dwellings are single storey.
- Where a main facing elevation containing a habitable room 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.

Habitable room windows that are adjacent to each other across a public highway may not be required to meet these standards, for example, where doing so would not be in keeping with the established building line and character of the immediate vicinity and where this is considered desirable. The above standards will be used as a guide for non-residential buildings facing onto dwellings.”

210. The RAS SPD provides further guidance in relation to changes in levels, stating: *“changes in levels and the storey heights of buildings will either exaggerate or diminish overlooking, loss of light, shadowing and overbearing impacts. To compensate for these changes the separation / privacy distances cited above should be increased by 3m for every additional storey height (including rooms within the roof space which contain windows) above two storeys. Where there is a significant change in levels, the minimum separation/privacy distance will increase by 1m for every full 1m that the floor level of the development would be above the affected floor level of the neighbouring property.”*
211. Paragraph 3.5 of the RAS SPD then states that: *“it is not intended to apply the above separation/privacy distances rigidly, and there may be instances where these distances can be relaxed; for example, where the impacts on privacy can be reduced. This may occasionally be achieved, using obscure glazing, boundary treatments, restricted openings and directional windows. There may also be scope to relax distances between public facing elevations within housing schemes to allow for a variation in layout where this will add interest and help create a sense of place. Such a relaxation will normally only be allowed if it can be demonstrated that future residents will still enjoy a satisfactory level of privacy, amenity and outlook.”* Paragraph 3.6 then states that *“distances may also be relaxed having regard to the character of an area. Shorter distances than those stated above could be considered in those urban areas typified by higher densities. It will however be important to ensure that the amenity of existing residents is not significantly impacted upon. Similarly, greater distances may be required in some suburban and rural areas where the predominant character of the area exhibits greater separation distances. Distances may vary where this is necessary to protect the historic interest and setting of designated and non-designated heritage assets such as listed and locally listed buildings and conservation areas.”*
212. In relation to the amenity of existing neighbouring residents, Paragraph 3.7 of the RAS SPD advises that *“where new development forms an interface with existing housing, any relaxation in standards will only be permitted where it is clearly demonstrable that the privacy of existing residents will not be significantly compromised. Prospective residents can decide whether or not to move into a new house unlike existing residents who have already invested in their homes. It is therefore important to ensure that the amenity that existing residents can reasonably expect to enjoy is not significantly compromised.”*
213. Officers have carefully considered the proposed separation distances in line with the above guidance, and it is considered that they are acceptable. The proposal does not

conflict with Policies 6 d), 29 e) and 31 of the CDP, or with the Residential Amenity Standards SPD or with Paragraph 135 f) of the NPPF in this respect.

Private Amenity Spaces

214. Consideration has also been given to the size of the proposed gardens across the site, which provide private amenity space for occupiers of the development, in line with then Council's RAS SPD which expects rear garden depths to be 9m in length, subject to site and plot specific considerations.
215. Officers note that Plots 2, 17, 80 and 81 are short of the 9m length standard, as well as the plots along the southern boundary when factoring the hedgerow which is to be retained. However, when also considering the width of these plots, on balance these plots have an acceptable amount of private amenity space. The proposal therefore does not conflict with Policies 6 d), 29 e) and 31 of the CDP or with Paragraph 135 f) of the NPPF in this respect.

Layout and Design

216. CDP Policy 6 d) requires new development well related to existing settlements to be appropriate in terms of scale, design and layout in relation to the existing settlement. Policy 29 builds upon this requirement and specifically requires new development to provide a high quality of design. A Building for Life Supplementary Planning Document (2019) (BfL SPD) has been adopted by the Council, and this is a key document used in the assessment of Major scale housing developments. The document is referred to in Policy 29 of the County Durham Plan. In recognition of national planning advice and to achieve high quality housing developments, the Council has adopted an internal Design Review process to assess schemes against the Building for Life 12 (BfL 12) Standards. The BfL SPD formalises the review process and establishes the guidelines and standards for its operation and is linked to the Sustainable Design Policy (Policy 29) in the County Durham Plan. The scoring is based on a traffic light system with the aim of the proposed new development to secure as many "Greens" as possible, minimise the number of "Ambers" and avoid "Reds". The more "Greens" achieved the better the development will be, "Ambers" are usually concerns that can be raised to "Green" with revisions, whereas a "Red" gives a warning that a particular aspect needs strong reconsideration.
217. CDP Policy 29 states that schemes with one or more Red scores will not be acceptable and will be refused planning permission unless there are significant overriding reasons.
218. The site is located to the north of Coxhoe Park and west of Coronation Terrace, at the northwestern edge of Coxhoe. To the north, east and southeast are residential dwellings, to the southwest is Coxhoe Park, and to the west is former railway line with agricultural fields beyond. The site is split by a Public Footpath which runs north-south through the centre of the site. The site is well screened from views to the west by the tree lined former railway line, and from views to the south at Coxhoe Park by another line of trees. Views from the north and east are screened by existing buildings. The site is also well contained by the tree lined former railway line to the west, ensuring the proposal would not encroach into the open countryside beyond.
219. The development would be a mix of single storey and two storey dwellings, each with their own parking areas and private rear gardens. The dwellings would comprise predominantly brick elevations with some dwellings featuring render. Concrete roof tiles, white upvc windows and white doors are proposed. Boundary treatments would comprise 1.8m high vertical timber fencing.

220. The proposal seeks to create a Sustainable Urban Drainage System (SuDS) basin at the southwestern corner of the site. A pumping station is also proposed adjacent to the basin, and this would be offered to Northumbrian Water for adoption. No swales are proposed across the site. All driveways and private shared surfaces would feature permeable paving.
221. Due to the age of the application, and the number of amendments made, the proposal has been through the internal Design Review process on four occasions. The most recent Design Review re-score on 31st July 2024 concluded that the amended proposal received 0 'Red', 1 'Amber', and 11 'Green' scores.
222. The 1 'Amber' score related to Question 11: Public and private spaces, as the Drainage officer had raised concerns with the lack of integrated SuDS across the development. During discussions between officers it was agreed that in this particular instance these concerns did not amount to a 'Red' score for Design Review purposes, and it was agreed that the Drainage officer would provide comments on the matter separately from the Design Review process. Drainage matters are discussed in more detail later in this report, however for the purposes of the layout and design of the development, it is considered that the lack of swales across the development is not unacceptable in this particular instance, therefore the proposal has scored 'Amber' in respect of Question 11.
223. It is noted that the proposal has scored 11 'Greens' following a number of revisions to the scheme since its submission, which demonstrates that the applicant has worked proactively with officers in addressing the concerns which were previously raised.
224. Some concerns remain in relation to the layout of parking for Plots 69 – 73, the lack of street trees beyond residential curtilages, the lack of integrated drainage across the site, and the location of the electric substation adjacent to the access to the site. These concerns do present issues with the layout and design of the development. Officers are however mindful that the proposal is constrained by the shape of the site and by the public right of way cutting through the centre of the site, and that the developer has managed to address more pressing concerns in relation car parking provision, highway layout and garden depths. Therefore, the proposal has scored 11 Greens as part of the Design Review process. On balance it is considered that the proposal would not lead to conflict with Policy 29 of the CDP or with Part 12 of the NPPF.
225. Further to the above, due to the site being well related to the settlement and well enclosed from views to the west by the tree lined former railway line along the western boundary, the proposal is considered appropriate in terms of design and layout to the character, form and setting of the settlement of Coxhoe, therefore the proposal does not conflict with Policies 6, 10 and 39 of the County Durham Plan or with Part 12 of the NPPF in this respect.

Trees and Hedgerows

226. In respect of trees, 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 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. Where applications are made to carry out works to trees in Conservation Areas or that are covered by a Tree Preservation Order, they will be determined in accordance with the council's Tree Management Policy Document (or any subsequent revisions).

227. In respect of hedgerows, CDP Policy 40 goes on to state that 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 be expected to retain existing hedgerows where appropriate and integrate them fully into the design having regard to their management requirements. Where any hedges are lost, suitable replacement planting or restoration of existing hedges, will be required within the site or the locality, including appropriate provision for maintenance and management.
228. Paragraph 136 of the NPPF states that trees make an important contribution to the character and quality of urban environments and can also help mitigate and adapt to climate change.
229. Following an on-site assessment in October 2024, the Trees officer has advised that three large trees at the northern edge of the site, to the immediate east of the Public Footpath, should be protected by a Tree Preservation Order (TPO). This TPO has now been 'made' and is an important material consideration when assessing this application. The trees officer had therefore recommended that the layout of the development be amended, including the removal of an adjacent proposed dwelling.
230. Officers have subsequently considered the Root Protection Areas (RPAs) of the three trees as identified in the submitted Arboricultural Impact Assessment (AIA), alongside the height and size of the tree crowns relative to the location and proximity of proposed Plots 71 and 72. It is noted that the trees would be outside of residential curtilages and would be public open space, to be managed by a private management company, as shown on the submitted Adoptions Plan drawing. Officers also note that the location of proposed buildings would not encroach upon the RPAs of the trees to be protected. The trees are to the front of these plots, therefore there would not be scope for residential outbuildings to be constructed within the RPAs under permitted development rights, and planning permission would be required for such a proposal. It is therefore considered that the location of Plots 71 and 72 would not have an adverse impact on the RPAs of the protected trees.
231. Officers did however maintain concerns with the height and scale of the crowns of the trees, and subsequent loss of light impact on proposed Plots 71 and 72 to the northeast. The applicant has agreed to relocate the two dwellings within these plots further east, away from these trees. Whilst there would still be some loss of light to part of the front curtilages of these plots, on balance this acceptable and would not lead to pressure to prune or fell the trees. Whilst there would still be some loss of light to the front elevation of Plot 72 during late afternoon and evening hours, particularly in winter months, on balance this is acceptable and would not lead to pressure to prune or fell the trees. The amount of curtilage to the north and east of this plot is a key consideration, as are the proposed openings on northern, southern and eastern elevations which would not be affected by the tree crowns and would still receive sufficient natural light. It is also noted that Plot 72 would be a market dwelling and not a secured Affordable Unit, therefore prospective occupiers of this plot would be mindful of the adjacent trees prior to purchasing.

232. For the above reasons, following the changes secured to the location of the dwellings within Plots 71 and 72, the proposal would not lead to an unacceptable loss of light to these plots, ensuring the amenity of occupiers of the dwellings whilst ensuring the trees would not be under increased pressure to be felled or pruned.
233. The removal of trees elsewhere within the site is not unacceptable.
234. A condition is recommended to secure details of tree protection measures for these three trees throughout the construction period, following their protected status under the TPO. Tree protection measures for the remaining retained trees and hedgerows are to be secured through the AIA which would form an approved document under Condition 2.
235. Subject to the recommended condition the proposal would not lead to an unacceptable loss of trees within the site, therefore the proposal would not conflict with Policies 10 and 40 of the County Durham Plan, or with the National Planning Policy Framework.

Highway Safety

236. Paragraph 114 of the NPPF states that when assessing proposals, it should be ensured appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location. It should also be ensured that safe and suitable access to the site can be achieved for all users; that the design of streets, parking areas, other transport elements and the content of associated standards reflect current national guidance, including the National Design Guide and the National Model Design Code; and that any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
237. Paragraph 115 of the NPPF then states that development should only be refused on transport grounds where the residual cumulative impacts on development are severe. Policies 6 e) and 21 of the County Durham Plan outlines that development should not be prejudicial to highway safety or have a severe cumulative impact on network capacity. Policy 21 also expects developments to deliver well designed pedestrian routes and sufficient cycle and car parking provision.
238. The proposal would benefit from a new vehicular access onto Coronation Terrace to the east, in the form of a T-junction. As part of those works the existing northbound bus stop on the western side of the highway would be relocated a few metres further north. The existing access arrangement to the rear of the terraced properties to the west of Coronation Terrace would also be amended so that the rear lane is accessed via the new T-junction onto Coronation Terrace. The existing access to the rear of these properties would be stopped up as part of the works.
239. Private parking bays are proposed at each plot, with an additional 21 visitor parking bays distributed across the site. Each dwelling would benefit from an Electric Vehicle charging point. Garages would measure a minimum of 6m x 3m internally.
240. A Transport Assessment had previously been submitted to accompany this application in 2020. However, due to Covid, that assessment had been done using old traffic counts and data which had been factored up. A new Transport Assessment using up-to-date count data has now been submitted at the request of the Highways officer, which also includes an up-to-date speed survey to dictate the visibility for the proposed access.

241. The Highways officer has provided advice on the proposal's access arrangement, parking provision, layout, on the capacity of the local road network, and on other matters relating to highway safety. Their comments are set out earlier in this report, and they find the application acceptable in all these respects, subject to recommended conditions.
242. The Highways officer has recommended a condition securing submission and approval of a Construction Management Plan (CMP). Officers note that this document has already been received, and provides the details which would have been required by the Highways officer's condition. The Environmental Health officer also has no concerns with the details within the CMP. Therefore it is considered that the already received CMP is acceptable, and it is listed as an approved document under Condition 2 to ensure it can be enforced by officers. Therefore the additional condition recommended by the Highways officer is not required.
243. The Highways officer has also recommended a condition securing submission and approval of a Final Travel Plan. An amended Travel Plan has been submitted October 2024, and the Travel Plan officer has consider this document acceptable. The amended document is listed as an approved document under Condition 2 to ensure it can be enforced by officers. Therefore the additional condition recommended by the Highways officer is not required.
244. The Highways officer has also recommended conditions securing submission and approval of refuse storage, EV charging point and cycle parking details. These have since been submitted and considered acceptable, and a condition is recommended ensuring these details are implemented prior to the occupation of each dwelling.
245. The application seeks to relocate the existing bus stop on Coronation Terrace where the proposed access to the development is located. The bus stop is proposed to be moved further north along Coronation Terrace, as indicated on the received plans. The Highways officer has no objection to this in principle, and has advised that the relocation is subject to technical approval under the Highways Act. For the purpose of this planning application, officers consider it appropriate to secure the relocation of the bus stop in accordance with the Highways team's requirements via a planning condition. It is noted that the bus stop would need to be relocated prior to the access to the site being implemented for the construction period. It is also noted that the works are off-site, on land outside the control of the applicant. Therefore the completion of those works is recommended to be secured as a Grampian condition; to ensure they are completed and the relocated bus stop made operational prior to the development commencing.
246. The Highways officer highlights that NPPF Paragraph 115 states that "development should only be refused where the cumulative impact of a development are severe, or would be detrimental to road safety." They advise that it is not considered that this development would be detrimental to road safety, and that there is no issue with regard to cumulative impact, and so the application is considered acceptable in Highways terms subject to recommended conditions. The proposal does not conflict with Policies 6 e), 10 q) or 21 c) of the CDP or with the NPPF.

Ecology

247. Part 15 of the NPPF seeks to ensure that developments protect and mitigate harm to biodiversity interests, and where possible, improve them.
248. Paragraph 186 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. The Policy also considers protected species and their habitats. Policy 6 c)_links further into these requirements.

249. CDP Policy 26 states that development proposals should incorporate appropriate Green Infrastructure (GI) that is integrated into the wider network, which maintains and improves biodiversity. The Policy later states that the Council expects the delivery of new green space to make a contribution towards achieving the net gains in biodiversity and coherent ecological networks as required by the National Planning Policy Framework (NPPF).
250. 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 which is transposed by the Conservation of Habitats and Species Regulations 2017 (as amended). The Regulations prohibit 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 would require a licence 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.
251. There are no ecological designations within the site, with the nearest being the Coxhoe Ponds which is Local Wildlife Site approximately 270m to the north of the site, and Quarrington Hill & Coxhoe Bank Plantation which is also a Local Wildlife Site approximately 500m to the east of the site.
252. The Ecology Officer has been consulted and following receipt of further information they have no objection. In respect of protected species, conditions are recommended to ensure there would be no adverse impact. As there is no requirement for a licence, there is no need to apply the derogation tests.
253. This application was received prior to the statutory requirement for 10% Biodiversity Net Gain (BNG) being introduced on 12th February 2024, therefore only 'a' BNG is required in accordance with Policy 41 of the CDP. In order to achieve a 1% BNG, the application requires a total of 11.12 habitat units and 1.59 hedgerow units to be acquired offsite, either via a Registered Offsite Gain Provider, or through purchasing Statutory credits. The Ecology officer has no objection to this approach subject to a recommended condition to ensure that that the biodiversity units are allocated on the Natural England Register for this development prior to commencement. A Habitat Management and Maintenance Plan (HMMP) for the BNG measures is also required, and this can be secured through a legal agreement. The Ecology officer has required the submission of a document which identifies the off-site location for BNG provision,

as well as stating that the land owner of is aware of the scope of the required BNG provision measures.

254. Subject to recommended conditions and a legal agreement there would be no adverse impact on protected species, whilst 'a' BNG would be secured. The proposal accords with Policies 6 c), 10 l), 41 and 43 of the CDP, and with Part 15 of the NPPF.

Surface Water and Foul Drainage

255. 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 180 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.
256. Paragraph 173 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.
257. CDP Policies 35 and 36 relate to flood water management and infrastructure, of which Policy 6 h) is also consistent. CDP Policy 35 requires agreement of flood risk and use of sustainable drainage systems with all development proposals required 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. It is not reasonable for development proposals to mitigate separate existing issues. Policy 35 also states that for major developments such as the current proposal, the management of water must be an intrinsic part of the overall development.
258. Policy 36 addresses the disposal of foul water in the consideration of development proposals, and the hierarchy of drainage options that must be considered and discounted for 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 test are passed, informed by a site-specific flood risk assessment.
259. The site falls within Flood Zone 1 as identified by the Environment Agency, which is the lowest risk area of fluvial (river) flooding. There are some small pockets of land across the site which are at Medium Risk and some at Low Risk of pluvial (surface water following rainfall) flooding, located to at the western and central areas of the site.
260. The proposal seeks to create a Sustainable Urban Drainage System (SuDS) basin at the southwestern corner of the site. The proposed layout does not include any swales across the development.

261. The Drainage Officer has been consulted and they note that the proposed flood risk mitigation is acceptable.
262. However, they have maintained concerns with the lack of sufficient integrated drainage across the development. Officers are mindful that this is a requirement of Policy 35 d) of the CDP. The proposal therefore conflicts with this Policy.
263. In response to this identified conflict, the applicant has submitted a letter which responds to officers' concerns. Whilst some of the points raised in the letter are not considered justification for the lack of integrated drainage across the development, some points are valid and have been given consideration. Officers note the site is constrained due to its small size and its shape, and features underground services. A key consideration in this particular instance is the public footpath which runs north-south through the centre of the site, which forms a barrier to delivering a site-wide integrated drainage system.
264. The proposal lacks sufficient integrated drainage across the development, conflicting with Policy 35 d) of the CDP. However, given the above site-specific considerations, and given that the application has demonstrated that there would not be an increased risk of surface water flooding within the site or elsewhere, the degree of harm is reduced. This harm will be considered in the balancing act later in this report.
265. Given that the application has demonstrated that there would not be an increased risk of surface water flooding within the site or elsewhere, the Drainage officer has been asked to provide recommended conditions. The Drainage officer has subsequently advised that provided the received drainage documents and technical information are listed in the approved plans and documents condition, no further conditions are required.
266. Northumbrian Water have also been consulted in relation to foul drainage and the capacity of the local sewer system. They advise that the submitted engineering details are acceptable, therefore they have no objection subject to those details being secured in the approved plans/documents condition.
267. The proposal would not lead to an increased surface water flood risk either within the site or elsewhere, therefore the proposal would not conflict with Policies 6 h), 10 s), or 35 c) e) f) and h) of the CDP, or with the NPPF.
268. The proposal does not benefit from water management features which are an intrinsic part of the overall development, leading to conflict with Policy 35 d).
269. The proposed foul drainage solution is considered acceptable in accordance with Policy 36 of the CDP.

Heritage and Archaeology

270. 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.

271. 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. Policy 6 c) is of relevance also in this regard.
272. There are no designated heritage assets within or adjacent to the site, with the nearest listed building or structure being the Grade II listed Coxhoe War Memorial on Coronation Terrace, approximately 250m to the south of the site. The nearest Conservation Area is Cornforth Conservation approximately 1.4km to the southwest of the site, beyond the A1(M).
273. It is considered that the proposed development would not have an adverse impact on above-ground heritage assets, therefore there would be no conflict with CDP Policies 10 or 44 or with Part 15 of the NPPF in this respect.
274. In respect of Archaeology, Paragraph 200 of the NPPF states that where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, Local Planning Authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
275. Footnote 68 of the NPPF states that non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to policies for designated heritage assets. Therefore Paragraphs 200, 206 and 207 the NPPF are applicable, which require any harm to or loss of such assets to require clear and convincing justification. This is reflected in Policy 44 of the CDP.
276. The Archaeology officer has been consulted and they advise that the information in the submitted Written Scheme of Investigation which was outstanding in 2022 has now been agreed. Therefore no objection is raised and no conditions are recommended.
277. It is considered that the proposal would cause no harm to heritage assets or archaeological remains, therefore there would be no conflict with CDP Policies 6, 10 or 44, or with Part 16 of the NPPF, or with the Listed Building Act, in this respect.

Contaminated Land and Coal Mining Risk

278. Part 15 of the NPPF (Paragraphs 124, 180, 189 and 190) 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 states that development will not be permitted unless the developer can demonstrate that the site is suitable for the proposed use, and that the proposal does not result in unacceptable risks which would adversely impact on the environment, human health and the amenity of local communities.
279. The western edge and southeastern corner of the site lie within the Coalfield Development High Risk Coal Area as identified by the Coal Authority, with the

remainder of the site within the Low Risk Coal Area. The site also lies within the surface mined coal resource area as defined in the County Durham Plan. The site is not within a mineral safeguarding area.

280. The Coal Authority have been consulted and their detailed comments are set out in full earlier in this report. To summarise, they have concurred with the recommendations of the submitted Geoenvironmental Appraisal that coal mining legacy potentially poses a risk to the proposed development, and that remedial measures are required in order to ensure the safety and stability of the proposed development. Subject to those measures being secured by conditions, the Coal Authority do not object to this application.
281. The Environmental Health and Consumer Protection (Contaminated Land) officer has been consulted and they advise that they are satisfied with the conclusions drawn in the investigative reports and the proposed remedial measures. A Phase 4 Verification Report is required upon completion of the remedial works, which is recommended to be secured by condition. They therefore have no objection to the proposed works.
282. Subject to the conditions outlined above, the proposal would not result in ground stability or land contamination risks which would adversely impact on the environment, on human health, or on the amenity of local communities. The proposal does not conflict with Policies 6, 10 or 32 of the CDP or with Part 15 of the NPPF in this respect.

Planning Contributions

283. CDP Policy 25 states that new development will be approved where any mitigation necessary to make the development acceptable in planning terms is secured through appropriate planning conditions or planning obligations. Such mitigation will relate to the provision, and/or improvement, of physical, social and environmental infrastructure taking into account the nature of the proposal and identified local or strategic needs. Policy 25 goes on to state that developers will be required to enter into Planning Obligations which are directly related to the development and fairly and reasonably related in scale and kind to the development, in order to secure the mitigation that is necessary for a development to be acceptable in planning terms. Policy 25 reflects Paragraphs 55 and 57 of the NPPF.
284. CDP Policy 25 requires planning applications which do not propose policy compliant levels of affordable housing and/or obligations necessary to mitigate the impact of development will need to be supported by a robust viability assessment. Any viability assessment accompanying a planning application should refer back to the assessment that informed the Plan and provide evidence of what has changed since then. No such assessment has been submitted as part of this application.
285. The Council has recently published a Development Viability, Affordable Housing and Financial Contributions Supplementary Planning Document (SPD), dated April 2024. This document supports Policy 25 of the CDP and provides guidance on how the required contributions are calculated.
286. Under the provisions of Section 106 of the Town and Country Planning Act 1990 (as amended) the applicant is proposing a planning obligation should planning permission be granted covering a number of matters as set out below.

Affordable Housing

287. If planning permission were to be granted, a Section 106 agreement would be required to secure the following provision in accordance with CDP Policy 15:

- 5 Discount Market Sale units;
- 3 First Homes; and
- 4 Affordable Rent units

Education

288. Based on the methodology set out in the Council's adopted Securing Developer Contributions towards Education Provision in County Durham, the proposed development of 83 dwellings would produce 6 Nursery age pupils, 22 pupils of primary school age, 11 pupils of secondary age, 1 post-16 pupil, and 1 SEND pupil.
289. In relation to Primary School pupils, there would be sufficient space at the Primary Schools which are located within 2 miles of the site to accommodate the pupils generated by the development. The Education officer advises that between the four Primary Schools (Coxhoe, Bowburn, Kelloe and West Cornforth) which are all within a 2 miles radius of the site, the combined capacity is 1,044 pupils. When removing the 5% surplus to their capacity, it is reduced to 992 pupils. The Education officer then advises that the maximum pupils numbers on roll over the 10 year projection period is 789 pupils. Because the current proposal of 83 dwellings is anticipated to produce only 22 Primary School age pupils, it is considered there is sufficient capacity in local Primary Schools within the established Local Education Authority (LEA) guidance set 2 mile radius of the site to accommodate the proposed development. Therefore, the Education officer advises that the Council would have no grounds to request a financial contribution to facilitate the provision of additional teaching accommodation for Primary Schools.
290. Officers have received objections from Coxhoe Primary School, from Coxhoe Parish Council, and from Councillor Anderson, who all raise concerns with the lack of a requested financial contribution toward extending the capacity of Coxhoe Primary School. Whilst officers note that Coxhoe Primary is the closest to the proposed site, due to the adopted methodology used to calculate primary school contributions, as detailed above, officers are unable to require the developer to enter into a contribution through the Planning process, as there is sufficient capacity across all four of the identified local primary schools within the LEA set 2 mile radius of the site.
291. In her comments, Councillor Anderson has requested that the developer agrees to pay a voluntary financial contribution, of a sum of £375,000, to Coxhoe Primary School. Officers are mindful of Paragraph 57 of the NPPF, which states that Planning obligations must only be sought where they meet all of the following tests:
- a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
292. Following the Education officer's detailed advice on capacity of other local primary schools, the contribution which has been requested by Councillor Anderson is not considered necessary to make the development acceptable in planning terms. The amount which is being sought cannot be clearly justified to mitigate the impacts of these proposals, and cannot be considered fairly and reasonably related in scale and kind to the development. Therefore, the request for a contribution does not meet all of the tests under Paragraph 57 of the NPPF, meaning officers cannot reasonably secure the sum from the developer through the planning process in order to offset material impacts from the development.
293. In relation to Secondary School pupils, the nearest Secondary School is Ferryhill School, which has capacity for 836 pupils. Based on the projected rolls of the schools, taking into account the likely implementation timeframe of the development, build rates

and other committed development, the Education officer advises there would not be sufficient space to accommodate the pupils generated by the development, whilst maintaining a 5% surplus. In order to mitigate the impact of the development a contribution of £267,432 (12 pupils x £24,312) would be required to facilitate the provision of additional Secondary School teaching accommodation.

294. In relation to SEND pupils, the Education officer advises there is a shortage of SEND places across the County. In order to mitigate the impact of the development on SEND provision, they advise a contribution of £83,980 (1 x £83,980) would be required.
295. The above education contributions, , can be secured by way of a Section 106 Agreement.

Healthcare

296. The NHS has been consulted and advise that a contribution of £40,089 is required toward increasing local GP surgery capacity to accommodate the development. The sum can be secured by a Section 106 Agreement.

Public Open Space Provision

297. CDP Policy 26 requires proposals for new residential development 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). The OSNA sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site-specific basis.
298. Using the OSNA's methodology, it is noted that a scheme of 83 dwellings would lead to 183 persons, at 2.2 persons per household. At 1000 persons per hectare of open space, the following open space would normally be expected on-site for a 83 dwelling scheme:
- Amenity/ Natural Green Space: 2,739 sq.m.
 - Non-equipped Play Space for Children: 91 sq.m.
299. An Open Space Needs Statement has been submitted as part of the Planning Statement, and an accompanying site plan have been submitted highlighting all open spaces across the site which are not residential curtilage.
300. Turning first to Amenity / Natural Green Space, officers note that only 1,834 sq.m. is provided within the site. However, given that the site is immediately adjacent to Coxhoe Park to the south of the site, and given that access to Coxhoe Park can be easily sought via the public footpath which runs through the centre of the site, officers have in this particular instance accepted an off-site contribution toward the on-site shortfall. Therefore, a sum of £6,787.50 is sought toward off-site provision. The 50% discount has been applied as the site is within 480m of existing provision at Coxhoe Park.
301. Turning next to Play Space for Children, officers note that none of this open space is to be provided within the site. However, given the proximity and accessibility to Coxhoe Park, officers have agreed to seek a financial contribution in this instance. £7,760.50 is sought toward off-site provision. The 50% discount has been applied as the site is within 600m of existing provision at Coxhoe Park.
302. In respect of off-site provision, the following would normally be expected via off-site contributions for an 83 dwelling development, unless the 50% discount applies:
- Allotments: £49,302.

- Parks and Recreation: £184,060.80.
- Play Space (Youth): £12,416.

303. In respect of allotments, it is noted that the allotments to the north of the site, located on The Willows, are within 480 actual walking distance of the edge of the site. This area is within the walking distance standard set out in Table 12 of the OSNA, therefore the 50% discount applies, and only £24,651 would be sought as an off-site contribution.
304. In respect of Parks and Recreation, it is noted that the nearest area of Parks and Recreation as defined in the OSNA is in Coxhoe Park, surrounding an existing play area. This area is within the 600m walking distance standard set out in Table 12 of the OSNA, therefore the 50% discount applies, and only £92,030.40 would be sought as an off-site contribution.
305. In respect of Play Space (Youth), it is noted that the nearest play space suitable for youths is located in Coxhoe Park. This area is within the 720m walking distance standard set out in Table 12 of the OSNA, therefore the 50% discount applies, and only £6,208.40 would be sought as an off-site contribution.
306. In respect of off-site contributions toward open space provision, a total of £137,437.40 is sought to be secured by a Section 106 Agreement in the event Members were minded to grant planning permission.

Summary of Planning Contributions

307. Financial contributions are sought toward Secondary School and SEND provision. As explained in the above assessment, officers are unable to secure a financial contribution toward Primary School provision.
308. Whilst the proposal would not provide sufficient on-site open space for an 83 dwelling scheme, in this particular instance officers have accepted off-site contributions toward the shortfall of on-site provision.
309. A financial contribution is also sought toward healthcare provision.
310. The proposed affordable housing would also need to be secured in perpetuity.
311. The required BNG provision measures would be secured using an off-site location.
312. These matters can be secured through a Section 106 Agreement should Members be minded to grant permission. If the applicant were to not enter into this agreement, the proposal would conflict with Policies 25 and 26 of the CDP.
313. With regard to the CIL Regulation tests, it is considered that the obligations being sought are necessary to make the development acceptable in planning terms; are directly related to the development; and are fairly and reasonably related in scale and kind to the development. Therefore, the obligations being sought accord with these tests.
314. Subject to the completion of a legal agreement the proposal would not conflict with CDP Policies 25 and 26, or with Paragraphs 55 and 57 of the NPPF.

Other Matters

Agricultural Land and Soil Resource

315. CDP Policy 14 states that all development proposals relating to previously undeveloped land must demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice. A condition can be used to secure details of soil management during the construction works.
316. In respect of agricultural land, the site is Grade 3 as defined in Natural England's Agricultural Land Classification for the Northeast region. This is a high-level study for the region.
317. Grade 3A is classed as Best and Most Versatile Land as defined by the NPPF. Grade 3B does not fall in this definition. Policy 15 of the CDP states that "*Development of the best and most versatile agricultural land will be permitted where it is demonstrated that the benefits of the development outweigh the harm, taking into account economic and other benefits.*" Paragraph 180 of the NPPF states that decisions "*should contribute to and enhance the natural and local environment by... recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land.*"
318. Due to the age of the application, received in 2020, it is not supported by an Agricultural Land Classification report, as those details were not required at the time. The application had submitted in 2020 that the fields and agricultural buildings within the site were vacant at the time, and officers note they remain vacant at present.
319. Officers are mindful that Grade 3A is classed as Best and Most Versatile Land. Given that the application has not demonstrated that the site is wholly Grade 3B land, officers are required to assess the application on the basis that the site is Grade 3A land on a worst-case scenario basis. The harm that would result from loss of Grade 3A land weighs against the proposal in the planning balance, which is considered latter in this report.

Safeguarding Mineral Resources

320. The site is not within a mineral safeguarding area as defined in the CDP. Therefore Policy 56 of the CDP is not applicable.

Travel Plan

321. The Sustainable Travel officer has been consulted and, following receipt of an amended Travel Plan in October 2024, they raise no concerns with the document or with the proposal. No conditions are recommended, however officers do recommend that the Travel Plan does form part of the approved plans/documents list should Members be minded to grant permission.
322. The measures and monitoring programme set out in the Travel Plan are considered acceptable in accordance with CDP Policies 10, 21 and 29 and with Paragraph 117 of the NPPF.

Public Rights of Way

323. Part 8 of the NPPF seeks to promote healthy communities with a key reference being towards the protection and enhancement of public rights of way and access. CDP Policy 26 states that development will be expected to maintain or improve the permeability of the built environment and access to the countryside for pedestrians,

cyclists and horse riders. Proposals that would result in the loss of, or deterioration in the quality of, existing Public Rights of Way (PROWs) will not be permitted unless equivalent alternative provision of a suitable standard is made. The Policy goes on to state that where diversions are required, new routes should be direct, convenient and attractive, and must not have a detrimental impact on environmental or heritage assets.

324. Coxhoe Parish Footpath 5 runs north-south through the centre of the site, leading into Coxhoe Park to the south.
325. The Access & Rights of Way officer notes that the application appears to retain the footpath along its existing line. They advise that this is a very effective planning design to incorporate the footpath, and therefore they do not raise any objection. No conditions are recommended.
326. They also highlight that current and future landowners must be aware that any vegetation encroaching onto the public footpath from either side is the responsibility of the landowner(s).
327. The proposed works would not have an adverse impact on the registered public right of way network, and would not conflict with CDP Policies 10 and 26 or with Part 8 of the NPPF in respect of registered public rights of way.

Energy Efficiency

328. CDP Policy 29 requires proposals to minimise greenhouse gas emissions, by seeking to achieve zero carbon buildings and providing renewable and low carbon energy generation, and include connections to an existing or approved district energy scheme where viable opportunities exist. Where connection to the gas network is not viable, development should utilise renewable and low carbon technologies as the main heating source. The Policy goes on to require proposals 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.
329. CDP Policy 29 also refers specifically to reducing CO₂ emissions for new buildings based upon building regulations requirements at the time the County Durham Plan was adopted in 2020, however Part L of the Building Regulations has since been revised in 2021, and the levels now required exceed that of Policy 29 of the CDP. The applicant will be required to accord with those Building Regulations which would be enforced outside the Planning process. These Building Regulations require a further 31% reduction in carbon emissions over previous 2013 Building Regulations.
330. Electric Vehicle charging points are proposed at each dwelling and this is considered acceptable. Officers note that EV charging point provision is already required under Part S of Building Regulations following an update in 2021. A condition is recommended ensuring the EV charging points are installed and made available for use prior to the occupation of each dwelling.
331. No roof mounted solar panels or air source heat pumps are proposed. The proposal includes a number of energy efficiency measures relating to heating, water, lighting, materials and construction method, in response to Building Regulation requirements as mentioned above. Combined with the proposed EV charging point provision and cycle parking provision at each dwelling, it is considered that roof mounted solar

panels and air source heat pumps are not required for the proposal to comply with Policy 29 of the CDP.

332. For the above reasons, the proposal would be an energy efficient form of development which would not conflict with Policies 10 and 29 of the CDP, or with Parts 9, 12 and 14 of the NPPF in this respect.

Broadband

333. 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.
334. Paragraph 118 of the NPPF states that advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).
335. In considering this policy requirement, due the location of the development adjacent to the settlement of Coxhoe, there would be existing high-speed broadband availability in the area to comply with CDP Policy 27. Details of broadband provision could be secured by condition in accordance with CDP Policy 27 and Paragraph 118 of the NPPF.

Public Sector Equality Duty

336. 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.
337. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified. Accordingly, no changes to the proposal were required to make it acceptable in this regard.

CONCLUSION

338. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
339. As discussed in the above assessment, whilst the site is not allocated for housing in the County Durham Plan, it is considered a sustainable location for development, whilst it is also visually well contained ensuring there would not be encroachment into

the adjacent open countryside to the west. Therefore the site is well related to the settlement of Coxhoe, and is an acceptable site in principle for the development of housing.

340. There are, however, a number of concerns with the proposal as currently presented. 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. As there are conflicts with policy, this planning balance exercise will need to be undertaken.
341. Turning first to the harm identified:
342. The lack of street trees beyond residential curtilages, the layout of the parking bays for Plots 69 – 73, and the location of the electric substation adjacent to the access to the site, have an adverse impact on the character and appearance of the proposed development. Officers are however mindful that the proposal is constrained by the shape of the site and by the public footpath which runs through the centre of the site, and that the developer has managed to address more pressing concerns in relation to the number of car parking bays, ensuring an acceptable highway layout to reduce vehicle speeds, and ensuring sufficient garden depths for the benefit of amenity of occupiers of the development. The degree of harm is therefore reduced to limited.
343. The proposal does not benefit from water management features which are an intrinsic part of the overall development. However the applicant has demonstrated that the development would not lead to an increased surface water flood risk within the site or elsewhere. Officers are also mindful that the proposal is constrained by the shape of the site and by the public footpath which runs through the centre of the site, and that the developer has managed to address more pressing concerns in relation to the number of car parking bays, ensuring an acceptable highway layout to reduce vehicle speeds, and ensuring sufficient garden depths for the benefit of amenity of occupiers of the development. The degree of harm is therefore reduced to limited.
344. The site is Grade 3 agricultural land, and the application has not demonstrated that the proposal would not lead to the loss of Grade 3A agricultural land. However, officers are mindful that the site only measures 3 hectares in area, whilst it is also split into two smaller parcels of land due to the public footpath which runs north-south through the centre. The degree of harm is therefore reduced to limited.
345. Turning next to the submitted benefits of the development:
346. Officers are mindful that the development would provide 83 dwellings, however given the Council's housing land supply position as set out earlier in this report, the benefits of providing additional housing are given only limited weight.
347. The provision of 8 affordable units is a benefit of the proposal given the County's need for more affordable homes. However, given that the proposal meets and does not exceed Policy requirements, the benefits of providing only 8 affordable homes are given only limited weight. Officers are mindful that when concluding that the County Durham Plan was sound, the examining Inspector recognised that the County's affordable housing need would not likely be addressed during the Plan period, however he remained comfortable with this issue.
348. Officers recognise the economic benefits during the construction and occupation of the development, though due to the scale of the development at only 83 dwellings, the

scale of the benefits is not considered notable, and is therefore only afforded limited weight.

349. The application if supported would be required to secure financial contributions toward increasing GP surgery and school accommodation, as well as provide public open space, however these are already Policy requirements to off-set the relevant impacts of this development. Therefore these benefits are afforded only limited weight.
350. The site is considered a sustainable location for development, whilst it is also visually well contained ensuring there would not be encroachment into the adjacent open countryside to the west. The site is well related to the settlement of Coxhoe and is considered an acceptable 'windfall site' for housing development. The principle of developing the site therefore accords with the County Durham Plan.
351. Whilst officers wish to highlight their concerns with the proposal as currently presented, it is considered that the harm which has been identified is outweighed by the benefits of the development, alongside the favourable location of the development. Therefore, on balance, the application is not considered to be unacceptable.
352. Officers are also mindful of the concerns raised by Councillor Anderson and by Coxhoe Primary School due to a lack of a financial contribution toward providing additional teaching accommodation at Coxhoe Primary School. As explained in the above report, due to the existing capacity at three other primary schools within a 2 mile radius of the site as per Local Education Authority's guidance, officers are unable to require the applicant to enter into a financial contribution in this respect.

RECOMMENDATION

353. That the application is **APPROVED** subject to the following conditions and completion of an agreement under Section 106 of the Town and Country Planning Act 1991 (as amended) to secure:
 - £137,437.80 towards improving off-site open space;
 - £267,432 contribution toward increasing Secondary School capacity;
 - £83,980 contribution toward increasing capacity at SEND schools across the County;
 - £40,089 contribution toward NHS increasing GP surgery capacity;
 - 15% of Affordable housing on site comprising 5 Discount Market Sale units, 3 First Homes; and 4 Affordable Rent units;
 - Entering into a Section 39 agreement to secure a Biodiversity Management and Monitoring Plan as well as long term management, maintenance and monitoring.

Time Limit

- 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.

Plans

- 2) The development hereby approved shall be carried out in accordance with the

following approved plans and documents:

Location Plan – Dwg No. 2313.01.01
Planning Layout – Dwg No. 2313.04.01 Rev F
Boundary Treatment Plan – Dwg No. 2313.06.01 Rev E
Adoption Plan – Dwg No. 2313.09.02 Rev D
Affordable Housing Plan – Dwg No. 2313.09.01 Rev C
Permeable Block Paving Detail – Dwg No. NSD715 Rev -
Vehicle Turning Plan (plots 69-73) – Dwg No. 2313.09.03 Rev A
Shed Details – Dwg No. 0282 Rev –
E.V Charging Point Installation Details – Dwg No. NSD251 Rev B
Amenity Open Space Plan - Dwg No. 2313.09.04 Rev C

Detailed Landscape Plans

Sheet 1 – Dwg No. 5076/1 Rev -
Sheet 2 – Dwg No. 5076/2 Rev -
Sheet 3 – Dwg No. 5076/3 Rev -
Composite Plan – Dwg No. 5076/4 Rev –

Garage Drawings

3 x 6m Single Garage drawing – Dwg No. SD1700 Rev E
3 x 6m Double Garage drawing – Dwg No. SD1701 Rev E
Sales Garage drawing – Dwg No. SD704 Rev E

Boundary Treatment Drawings

1800mm Timber Fence drawing – Dwg No. SD100 Rev F
1800mm Brick Screen Wall – Dwg No. SD110 Rev B
450mm Kick Rail Fence – Dwg No. NSD122 Rev -

Housetype Elevation Drawings

250 housetype – Dwg No. 21-250-U-0001 Rev C03
252 housetype – Dwg No. 21-252-U-0001 Rev C05
254 housetype – Dwg No. 21-254-U-0001 Rev C03
350 housetype – Dwg No. 21-350-U-0001 Rev C05
351 housetype – Dwg No. 21-351-U-0001 Rev C04
354 housetype – Dwg No. 21-354-U-0001 Rev C05
355 housetype – Dwg No. 21-355-U-0001 Rev C07
359 housetype – Dwg No. 21-358/9-U-0001 Rev C03
360 housetype – Dwg No. 21-360-U-0001 Rev C04
450 housetype – Dwg No. 21-450-U-0001 Rev C03
451 housetype – Dwg No. 21-451-U-0001 Rev C02
454 housetype – Dwg No. 21-454-U-0001 Rev C07

Ecology Reports

Preliminary Ecological Assessment – Ref: BIOC20-011 V2 – 09/11/2020
Tree Report – Ref: BIOC20-011 V1.1 – 02/09/2020
Ecological Impact Assessment Report – Ref: BIOC23-280 V1.0 – 19/08/2024
Biodiversity Net Gain Report – Ref: BIOC23-280 V1.2 – 21/08/2024
Biodiversity Net Gain Metric – Ref: BIOC23-280

Technical Reports

Phase 1 & 2 Ground Investigation Report – Ref: C6709A – November 2019
Remediation Strategy – Ref: C6709B – December 2020
Air Quality Assessment – Ref: 410.03044.00178 – August 2020
Noise Report – Ref: NJD21-0073-001R – Final – July 2021
Noise Report – letter addendum – Ref: NJD21-0073-001L – 22nd August 2024

WSI & trenching plan approved version – 13/10/2020
Archaeology Geophysical Survey Report – Ref: AD355 – August 2020
Archaeology Trenching Evaluation Report – Ref: AD360 – November 2020
Transport Assessment – Ref: 20-225-004.02 – June 2024
Highways Technical Note – Ref: 20-225-002.02 – 13/01/2021
Highways Technical Note – Ref: 20-225-002.03 – 07/05/2021
Travel Plan – Reference 20-225-005.03 – 16/10/2024

Other Reports

Affordable Housing Statement – Ref: 15/07/2024 – Rev C
M4(2) Assessment – Ref: May 2024 – Rev B
Construction Management Plan – Ref: 16.08.24 – Rev D

Engineering

Proposed Engineering Plan – Dwg No. D001 Rev 12
Proposed Drainage Plan – Sheet 1 of 2 – Dwg No. D200 Rev 7
Proposed Drainage Plan – Sheet 2 of 2 – Dwg No. D201 Rev 7
Flood Routing Plan – Dwg No. D203 Rev 11
Typical Basin Details – Dwg No. D204 Rev 10
Drainage Areas Plan – Dwg No. D205 Rev 7
SuDS Identification Plan – Dwg No. D501 Rev 9
SuDS Maintenance Plan – Dwg No. D803 Rev 5
FW Pumping Station Technical Document – Ref: Issue A04 – 18/02/2022
FRA & Drainage Strategy – Ref: AE/FRADS/19193 Version 6 – 08/07/24
SuDS Maintenance Schedule – Ref: 19193/AE/SUDS Version 5 – 08/07/24
MDX calcs for the SW drainage

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 10 and 29 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework.

Highways

3) No development shall commence until full engineering details of the relocation of the existing northbound bus stop on Coronation Terrace, and of the proposed access onto Coronation Terrace, have been submitted to and agreed in writing by the Local Planning Authority. These works shall then be completed, and the relocated bus stop made operational, prior to the construction of any internal roads or the construction of the first dwelling.

Reason: To ensure the existing bus stop has been relocated and made available for public use during the construction and occupation of the development, and to ensure safe access into the site is achieved throughout the construction period, in the interests of highway safety and ensuring the public's continued access to this sustainable mode of transport, in accordance with Policies 6 e), 10 q), and 21 a) and c) of the County Durham Plan, and with Part 9 of the National Planning Policy Framework. Required to be a pre-commencement condition for the reasons stated above.

4) Prior to the occupation of the first dwelling, full engineering, drainage, street lighting and constructional details of the streets proposed for adoption by the Local Highway Authority shall be submitted to and approved in writing by the Local Planning Authority.

Thereafter, the development shall be constructed in accordance with the approved details.

Reason: In the interest of highway safety, in accordance with Policy 21 of the County Durham Plan and the National Planning Policy Framework

5) No dwelling shall be occupied until the refuse storage provision for that dwelling, as indicated on the approved plans, has been implemented.

Thereafter, the refuse storage provision shall be retained in accordance with the approved details and shall be made available for the parking of cycles at all times.

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

6) No dwelling shall be occupied until the cycle parking provision for that dwelling, as indicated on the approved plans, has been made available for use.

Thereafter, the cycle parking shall be retained in accordance with the approved details and shall be made available for the parking of cycles at all times.

Reason: In the interests of highway safety and sustainable development, in accordance with Policies 21 and 29 of the County Durham Plan and the National Planning Policy Framework

7) No dwelling shall be occupied until the Electric Vehicle Charging Point provision for that dwelling, as indicated on the approved plans, has been installed and made available for use.

Thereafter, the charging points shall then be retained for use at all times.

Reason: In the interest of sustainable development, in accordance with Policies 21 and 29 of the County Durham Plan and the National Planning Policy Framework

8) No dwelling shall be occupied until the car parking area indicated on the approved plans for that dwelling, has been hard surfaced, sealed and marked out as parking bays.

Thereafter, the car parking area shall be retained in accordance with the approved plans and shall not be used for any purpose other than the parking of vehicles associated with the dwelling.

Reason: In the interest of highway safety, in accordance with Policy 21 of the County Durham Plan and the National Planning Policy Framework

Coal Authority

9) No development shall commence (excluding the demolition of existing structures) until remediation works to address land instability arising from recorded shallow coal mining legacy have been implemented on site in full.

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

Reason: To ensure that the site is made safe and stable for the proposed development, in accordance with in accordance with Policy 32 of the County Durham Plan, and with the National Planning Policy Framework. Required to be a pre-commencement condition to

ensure any required remedial measures are implemented before works commence, in the interest of the safety and stability of the development.

10) Prior to the occupation of the first dwelling, a signed statement or declaration prepared by a suitably competent person confirming that the site has been made safe and stable for the approved development shall be submitted to the Local Planning Authority for approval in writing, in consultation with the Coal Authority. This document shall confirm the completion of the remedial works necessary to address the risks posed by past coal mining activity.

Reason: To ensure that the site is made safe and stable for the proposed development, in accordance with Policy 32 of the County Durham Plan, and with the National Planning Policy Framework.

Contaminated Land

11) The hereby approved contaminated land remediation works (Phases 1 - 3) shall be carried out in accordance with the hereby approved Remediation Strategy – Ref: C6709B – dated December 2020.

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

12) Prior to the occupation of the first dwelling, a Phase 4 Contaminated Land 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 Policies 32 of the County Durham Plan and Part 15 of the National Planning Policy Framework.

Substation

13) Prior to the construction of the substation hereby approved, full details of its design, appearance and scale shall be submitted to and agreed in writing by the Local Planning Authority. Once agreed, the substation shall be constructed in accordance with the details approved.

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

Working Hours

14) 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 0730 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 without express permission from the Local Authority.

Banksmen will be employed to escort deliveries and manage traffic when reversing onto the public highway or other activity which may impact on road safety. All off-loading of plant, equipment and materials will be carried out on site and vehicles would turn around before leaving.

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.

Ecology

15) Prior to works commencing, details confirming that the biodiversity units are allocated on the Natural England Register shall be submitted to and approved in writing by the Local Planning Authority.

Reason: To ensure a Biodiversity Net Gain will be achieved, in accordance with Policy 41 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure that acceptable off-site measures are secured before any habitat within the site is lost.

16) Prior to works commencing, details of a low-level lighting scheme to maintain dark corridors for commuting bats shall be submitted to and approved in writing by the Local Planning Authority. The scheme shall include details for during the construction period, and following the occupation of the development.

The works shall then be carried out in accordance with the approved details.

Reason: In the interest of conserving protected species, in accordance with Policies 10, 41 and 43 of the County Durham Plan, and with Part 15 of the National Planning Policy Framework. Required to be pre-commencement to ensure measures can be implemented and secured throughout the construction period.

17) Prior to the first dwelling being constructed beyond damp proof course level, details of the location of integrated bat and bird boxes, along with details of the type of box, shall be submitted to and approved in writing by the Local Planning Authority. The boxes shall be integrated into the external walls of at least 10% of the proposed dwellings, in accordance with the mitigation measures recommended in the hereby approved Ecological Impact Assessment V1.0 (August 2024) by Biodiverse Consulting.

Reason: In the interest of conserving protected species, in accordance with Policies 10, 41 and 43 of the County Durham Plan, and with Part 15 of the National Planning Policy Framework.

Landscape Planting, Trees and Hedgerows

18) Prior to the first occupation of the development hereby approved a scheme for the ongoing maintenance of the areas of public open space and structural landscaping within the development shall be submitted to and approved in writing by the Local Planning Authority. In the event of proposals to maintain the public open space by means other than through transfer to the Local Authority then the scheme shall provide for details of an agreed maintenance schedule in perpetuity.

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.

19) 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, in accordance with Policy 29 of the County Durham Plan and with the National Planning Policy Framework.

20) Prior to works commencing, Tree Protection Measures in respect of Trees T01, T02 and T03 shall be submitted to and approved in writing by the Local Planning Authority.

The approved tree protection measures shall then be implemented prior to works commencing, and retained throughout the construction period. No materials, equipment or vehicles shall be stored within the approved protective fencing.

Reason: In the interests of the visual amenity of the area in accordance with Policies 6, 10, 26, 29 and 40 of the County Durham Plan and Parts 12 and 15 of the National Planning Policy Framework. Required to be a pre-commencement condition to ensure retained trees are not harmed during the works.

Broadband

21) Prior to the construction of the first dwelling, details of the means of broadband connection to the site shall be submitted to and agreed in writing by the Local Planning Authority. Thereafter, the development shall be carried out in accordance with the agreed details.

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

Soil Management

22) No development shall commence until a soil resource management strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall clearly describe the proposed use of all soils on site and demonstrate that soil resources will be managed and conserved in a viable condition and used sustainably in line with accepted best practice. The strategy should detail soil handling, storage and replacement methods to be used appropriate to the grade of soil and intended after-use. The strategy shall also include details of the proposed soil depths upon replacement and plant and machinery to be used as well as, where appropriate, steps to prevent the spread of any soil-borne plant or animal diseases. If soils are to be removed from site, then details of quantities and a programme for removal shall be submitted. Thereafter, development shall take place in accordance with the approved details.

Reason: In the interests of the protection of soil resources and to comply with Policy 14 of the County Durham Plan and Part 15 of the National Planning Policy Framework. Required to be a pre-commencement condition to ensure soils present on the site are protected throughout the works.

Retention of Garages and Drives

23) Before the dwelling(s) hereby approved are occupied those with garage(s) and hardstanding(s)/drive(s) shall be constructed and made available for use, thereafter they shall be used and maintained in such a manner as to ensure their availability at all times for the parking of private motor vehicles.

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

Housing Technical Standards

24) Prior to the construction above damp proof course level of any of the dwellings hereby approved in a phase, a report setting out how at least 66% of the total number of units approved for each phase or part thereof will conform to Buildings Regulations M4(2) standard shall be submitted to and approved in writing by the Local Planning Authority. The development shall thereafter be implemented in accordance with the approved details.

Reason: In order to address housing need requirements in accordance with Policy 15 of the County Durham Plan.

25) Prior to the occupation of any dwelling constructed to Buildings Regulations M4(2) standard as approved under Condition 24, a verification report compiled by a suitably competent person demonstrating that the dwelling has been constructed to achieve Buildings Regulations M4(2) standard shall be submitted to and approved in writing by the Local Planning Authority.

Reason: In order to address housing need requirements in accordance with Policy 15 of the County Durham Plan.

Drainage

26) No development including ground clearance or remediation works shall commence until a build programme and timetable for the construction of the critical surface water infrastructure has been submitted to and approved in writing by the Local Planning Authority. The programme must include, amongst other matters, details of the outfall structure, control devices, attenuation/storage, temporary control measures during the construction phase and measures to control silt levels entering the watercourse. The order of works to be undertaken must be identified and timescale for delivery.

The development thereafter shall be completed in accordance with the details and timetable agreed.

Reason: To ensure that critical surface water infrastructure is in place to adequately deal with and dispose of surface water prior to the construction of the development, in accordance with Policy 35 of the County Durham Plan and Parts 14 and 15 of the National Planning Policy Framework. Required to be a pre-commencement condition to ensure that water infrastructure is in place at an early stage of the development to adequately manage surface water.

STATEMENT OF PROACTIVE ENGAGEMENT

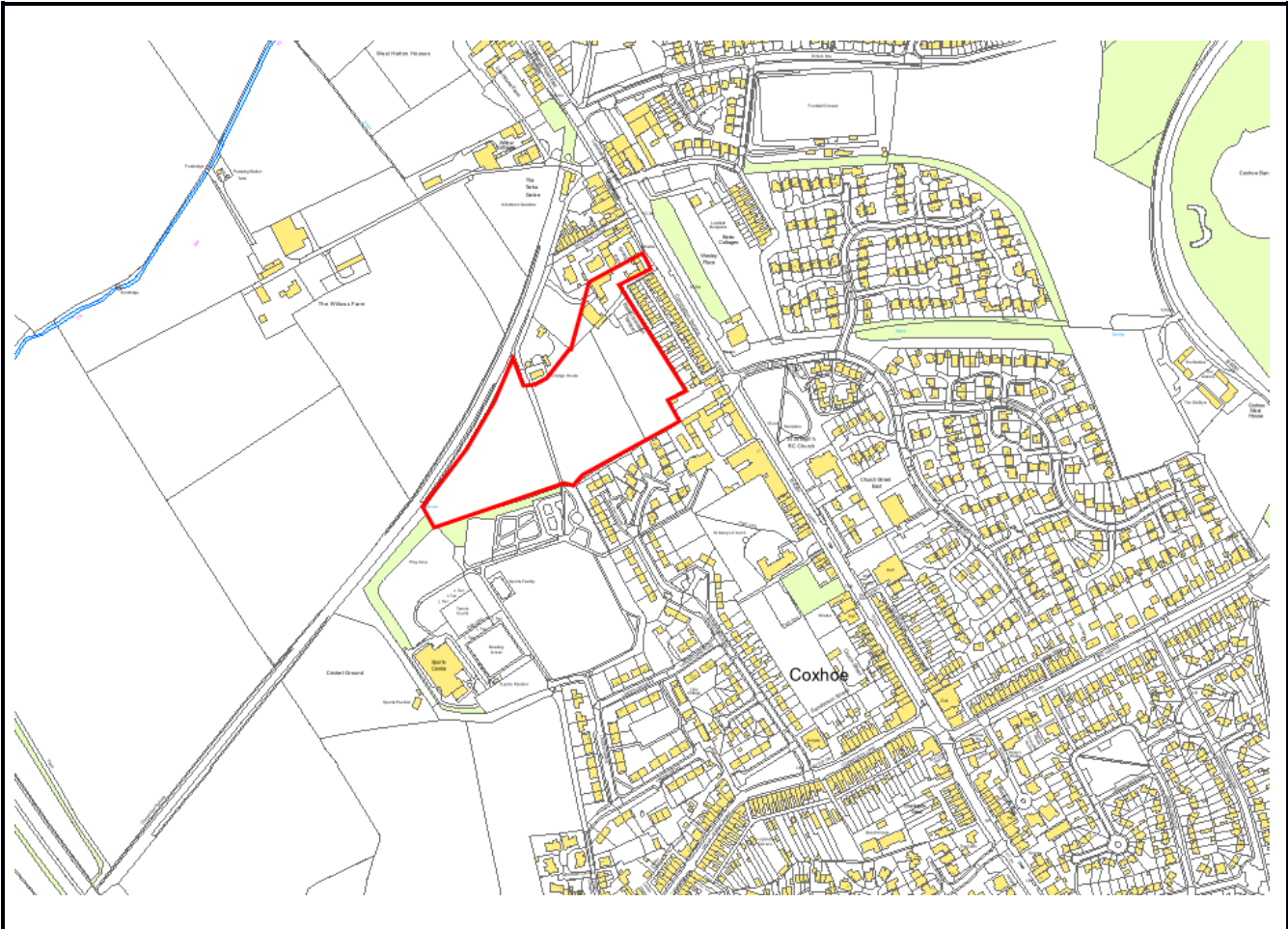
In accordance with Article 35(2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Local Planning Authority has, without prejudice to a fair and objective assessment of the proposals, issues raised and representations received, sought to work with the applicant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

In this instance however, officers have identified fundamental concerns with the proposed development of this particular site, and have therefore sought to determine the application accordingly. Officers had also provided clear written pre-application advice to the applicant advising that the principle of the development was not supported in this location.

Officers are mindful of Paragraph 38 of the NPPF, however as discussed in the above report, it is considered the proposal would not improve the social or environmental conditions of the area, and would not lead to a sustainable form of development.

BACKGROUND PAPERS

- Submitted application form, plans, supporting documents and subsequent information provided by the applicant
- Statutory, internal and public consultation responses
- The National Planning Policy Framework
- National Planning Practice Guidance Notes
- County Durham Plan (2020)
 - Development Viability, Affordable Housing and Financial Contributions SPD (April 2024)
 - Residential Amenity Standards SPD (2023)
 - Parking and Accessibility SPD (2023)
 - Durham County Council Open Space Needs Assessment (2018)
 - County Durham Settlement Study (June 2018)
- Active Travel England Standing Advice Note: Active Travel and Sustainable Development (June 2024)
- CIRIA The SuDS Manual (2015)
- CIHT Better Planning, Better Transport, Better Places (August 2019)
- Great Lumley Appeal Decision, DCC reference: DM/22/00584/FPA; PINS reference: APP/X1355/W/23/3334214



Planning Services

DM/20/02046/FPA

Demolition of existing farm outbuildings and erection of 83 dwellings (Amended description 14/05/2024)

Grange Farm, Coxhoe, Durham DH6 4HH

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Comments

Date November 2024

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

Application No:	DM/24/01551/FPA
Full Application Description:	Conversion of lower ground floor and part of the ground floor from retail (E) to form 1 no small HMO (C4)
Name of Applicant:	XTRAVAGANT LIMITED
Address:	37-38 Silver Street Durham DH1 3RD
Electoral Division:	Elvet and Gilesgate
Case Officer:	Michelle Hurton (Planning Officer) Tel: 03000 261398 Email: michelle.hurton@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

The Site

1. The application site is a three storey building located on the north side of Silver Street situated within the Durham City Conservation Area (CA) and the setting of the World Heritage Site (WHS).
2. The lower ground and ground floor of the building is currently in retail use (Class E) with the upper floors being used as student accommodation (Class C4) which was previously granted planning permission.

The Proposal

3. The application seeks full planning permission for the change of use from the existing lower ground and part ground floor (Use Class E) into a small house in multiple occupation (Use Class C4). Cycle storage and bin storage provision are also proposed. The site would be accessed via the existing access at ground floor level from Silver Street.

4. The application is being reported to Central and East Planning Committee at the request of the City of Durham Parish Council on the grounds of unacceptable amenity for occupiers, inappropriate bin storage and escape window in accordance with the Council's Scheme of Delegation as it constitutes a request from a Parish Council for the application to be determined by the Planning Committee.

RELEVANT PLANNING HISTORY

5. The following planning applications are relevant to the current application:

DM/21/02271/FPA - Conversion of upper floors to form 1no. 4-bedroom dwelling (C4 HMO) and change of use to part ground floor to form separate entrance at 37 to 38 Silver Street approved 08th September 2021

DM/21/04085/FPA - Conversion of upper floors to form 1no. 5-bedroom dwelling (C4 HMO) and change of use to part ground floor to form a separate residential entrance (description amended) at 37 to 38 Silver Street approved 11th March 2022

PLANNING POLICY

National Policy

6. The following elements of the National Planning Policy Framework (NPPF) are considered relevant to this proposal:
7. *NPPF Part 2 (Achieving Sustainable Development)* The purpose of the planning system is to contribute to the achievement of sustainable development and therefore at the heart of the NPPF is a presumption in favour of sustainable development. It defines the role of planning in achieving sustainable development under three overarching objectives - economic, social and environmental, which are interdependent and need to be pursued in mutually supportive ways. The application of the presumption in favour of sustainable development for plan-making and decision-taking is outlined.
8. *NPPF Part 4 (Decision-making)* Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.
9. *NPPF Part 5 (Delivering a Sufficient Supply of Homes)* To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are

addressed and that land with permission is developed without unnecessary delay.

10. *NPPF Part 6 (Building a Strong, Competitive Economy)* The Government is committed to securing economic growth in order to create jobs and prosperity, building on the country's inherent strengths, and to meeting the twin challenges of global competition and a low carbon future.
11. *NPPF Part 7 (Ensuring the Vitality of Town Centres)* Planning policies should be positive, promote competitive town centre environments and set out policies for the management and growth of centres over the plan period.
12. *NPPF Part 8 (Promoting Healthy and Safe Communities)* The planning system can play an important role in facilitating social interaction and creating healthy, inclusive communities. Developments should be safe and accessible; Local Planning Authorities should plan positively for the provision and use of shared space and community facilities. An integrated approach to considering the location of housing, economic uses and services should be adopted.
13. *NPPF Part 9 (Promoting Sustainable Transport)* Encouragement should be given to solutions which support reductions in greenhouse gas emissions and reduce congestion. Developments that generate significant movement should be located where the need to travel will be minimised and the use of sustainable transport modes maximised.
14. *NPPF Part 11 (Making Effective Use of Land)* Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or 'brownfield' land.
15. *NPPF Part 12 (Achieving Well-Designed Places)* The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
16. *NPPF Part 14 (Meeting the Challenge of Climate Change, Flooding and Coastal Change)* The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.
17. *NPPF Part 15 (Conserving and Enhancing the Natural Environment)* 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.

18. *NPPF Part 16 (Conserving and Enhancing the Historic Environment)* Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations.

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

National Planning Practice Guidance:

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

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

Local Plan Policy:

The County Durham Plan (CDP)

20. *Policy 6 (Development on Unallocated Sites)* states the development on sites not allocated in the Plan or Neighbourhood Plan, but which are either within the built-up area or outside the built up area but well related to a settlement will be permitted provided it: is compatible with use on adjacent land; does not result in coalescence with neighbouring settlements; does not result in loss of land of recreational, ecological, or heritage value; is appropriate in scale, design etc to character of the settlement; it is not prejudicial to highway safety; provides access to sustainable modes of transport; retains the settlement's valued facilities; considers climate change implications; makes use of previously developed land and reflects priorities for urban regeneration.
21. *Policy 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
22. *Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation)* seeks to provides a means to consider student accommodation and proposals for houses in multiple occupation in ensure they create inclusive places in line with the objective of creating mixed and balanced communities.

23. *Policy 21 (Delivering Sustainable Transport)* requires all development to deliver sustainable transport by: delivering, accommodating and facilitating investment in sustainable modes of transport; providing appropriate, well designed, permeable and direct routes for all modes of transport; ensuring that any vehicular traffic generated by new development can be safely accommodated; creating new or improvements to existing routes and assessing potential increase in risk resulting from new development in vicinity of level crossings. Development should have regard to Parking and Accessibility Supplementary Planning Document.
24. *Policy 22 (Durham City Sustainable Transport)* seeks to reduce the dominance of car traffic, address air quality and improve the historic environment within the Durham City area.
25. *Policy 25 (Developer Contributions)* advises that any mitigation necessary to make the development acceptable in planning terms will be secured through appropriate planning conditions or planning obligations. Planning conditions will be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Planning obligations must be directly related to the development and fairly and reasonably related in scale and kind to the development.
26. *Policy 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.
27. *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.
28. *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.
29. *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.

30. *Policy 41 (Biodiversity and Geodiversity)* states that proposal for new development will not be permitted if significant harm to biodiversity or geodiversity resulting from the development cannot be avoided, or appropriately mitigated, or as a last resort, compensated for.
31. *Policy 44 (Historic Environment)* seeks to ensure that developments should contribute positively to the built and historic environment and seek opportunities to enhance and, where appropriate, better reveal the significance and understanding of heritage assets. The policy advises on when harm or total loss of the significance of heritage assets can be accepted and the circumstances/levels of public benefit which must apply in those instances.
32. *Policy 45 (Durham Castle and Cathedral World Heritage Site)* seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal value (OUV) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.

Supplementary Planning Documents

33. Residential Amenity Standards SPD (2023) – Provides guidance on the space/amenity standards that would normally be expected where new dwellings are proposed.
34. Parking and Accessibility SPD (2023) – Provides guidance on parking requirements and standards.
35. Development Viability, Affordable Housing and Financial Contributions SPD (2024) – Provides guidance on how CDP Policy 25 and other relevant policies requiring planning obligations for affordable housing or other infrastructure will be interpreted and applied.

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

Neighbourhood Plan:

36. The application site is located within the City of Durham Neighbourhood Plan area.
37. *Policy S1 (Sustainable Development Requirements of all Development and Re-development Sites Including all New Building, Renovations and Extensions)* sets out the economic, social and environmental criteria that development

proposals will be required to meet to: Promote economic well-being, to Conserve, preserve and enhance the neighbourhood, to increase resilience to climate change, and secure equity and benefit to the local community.

38. *Policy H1 (Protection and Enhancement of the World Heritage Site)* requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views and create new views and vistas.
39. *Policy H2 (The Conservation Areas)* expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.
40. *Policy E3 (Retail Development)* states that development will be supported where it contributes to the lively and vibrant City Centre and enhance the character and attractiveness of the City Centre. It further states that development that provides residential accommodation in upper floors of commercial properties will be supported so long as they do not have a negative impact on retail, commercial and tourism activities and the general amenity of neighbouring properties and residential amenity including noise impact.
41. *Policy D4 (Building Housing to the Highest Standards)* states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions.
42. *Policy T1 (Sustainable Transport Accessibility and Design)* seeks to ensure that development proposals will be required to demonstrate best practice in respect of sustainable transport accessibility, impact and design.
43. *Policy T3 (Residential Storage for Cycles and Mobility Aids)* requires residential development including change of use to seek to provide storage facilities for cycles and, where appropriate mobility aids. Cycle parking should meet DCC

standards and should be adaptable for other types of storage with access to electricity. Where there is communal storage and a travel plan this should be managed appropriately in terms of removal and capacity needs. Design and location of storage should accord with the style and context of the development.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

44. *Highways Authority* raises no objection noting that the property is within a highly sustainable location.
45. *City of Durham Parish Council* notes that whilst the scheme would accord with Policy 9 and some criteria within Policy 16 of the CDP, concern is raised regarding internal space of bedrooms 2 and 3 as they consider it is not clear if the size includes the en-suite and corridor, the rooms will not provide adequate living conditions for future residents, would not receive adequate levels of daylight, or a safe means of escape and the bin storage is not shown on plans.
46. They further state that the area is covered by an Article 4 Direction restricting rights to control minor developments therefore the loss of the timber windows for uPVC would not preserve or enhance the conservation area.

Internal Consultee Responses:

47. *HMO Data* – confirms that within 100m radius of, and including 37 Silver Street, 67.8% of properties are Class N exempt student properties as defined by Council Tax records.

There are no properties which have unimplemented consents for the change of use to HMO within 100 metre radius and no applications pending determination.

48. *HMO Licensing* have confirmed that the property will not need to be licensed following completion of the works and advise how to comply with the relevant fire safety, amenity and space standards.
49. *Environmental Health Nuisance Action* have raised no objections subject to conditions relating to sound amelioration measures described within Section 6 of the noise assessment being implemented prior to the occupation of the use to achieve enhanced insulation options.

Public Responses:

50. The application has been advertised by site notice, press notice and individual notification letters sent to neighbouring properties. One letter has been received from The City of Durham Trust who consider a HMO in this location acceptable in principle according with policy 9 and 16 in this regard. Their objections relate to the scheme not according with NDSS as they do not meet room standards for double bedrooms, size of the escape window.

Elected Members

51. No comments have been received from local Councillors.

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:

52. The Proposed Development involves the renovation and conversion of the lower ground floor at 37-38 Silver Street, Durham, from retail use (Class E) to residential use (Class C3), resulting in the creation of a high-quality, 3-bedroom, 4-person apartment. This proposal aligns with local development needs and planning policies, while making effective use of previously underutilised space.
53. Key Considerations:
54. *Highly Sustainable Location:* The site is situated in a highly sustainable, central location, benefiting from exceptional access to local amenities, services, and public transport networks. Its proximity to essential facilities further underscores its suitability for residential use, contributing to the reduction of car dependence and promoting sustainable urban living.
55. *Minimal and Sympathetic External Alterations:* The proposed external changes are minimal and carefully designed to respect the heritage significance of the area. Located within a historically sensitive part of Durham, the development will preserve the architectural integrity and character of the surrounding built environment, while subtly enhancing the building's functional performance.
56. *Optimisation of Existing Space:* The lower ground floor currently serves no active purpose and remains an underutilised space. The Proposed Development seeks to revitalise this basement area, bringing it back into beneficial use and contributing a valuable residential unit to the local housing stock. This aligns with objectives of optimising land use within the city centre.
57. *Compliance with Planning Policies:* The proposal adheres to both local and national planning policies, particularly those encouraging the adaptive reuse of existing buildings in urban centres. By converting vacant commercial space to residential use, the development supports sustainable growth, addressing housing needs without contributing to unnecessary land consumption or urban sprawl.
58. This proposal offers significant benefits, including the enhancement of the urban environment, an increase in housing provision, and the efficient reuse of underutilised space. The Proposed Development represents a well-considered and policy-compliant project with negligible impact on the surrounding area. In light of these factors, we respectfully request that the application be approved.

PLANNING CONSIDERATION AND ASSESSMENT

59. 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.
60. 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, along with advice set out in the Planning Practice Guidance notes. Other material considerations include representations received.
61. In this context, it is considered that the main planning issues in this instance relate to the Principle of Development, Highway Safety, Impact on Character and Appearance of the Conservation Area, Residential Amenity, Other Matters, and Public Sector Equality Duty.

Principle of Development

62. Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material planning consideration. 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.
63. 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 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.
64. Policy 6 (Development on Unallocated Sites) of the CDP states that the development of sites which are not allocated in the Plan or in a Neighbourhood Plan which are either (i) within the built-up area; or (ii) outside the built-up area (except where a settlement boundary has been defined in a neighbourhood plan) but well related to a settlement, will be permitted provided the proposal accords with all relevant development plan policies and:
 - a. is compatible with, and is not prejudicial to, any existing, allocated or permitted use of adjacent land;

- b. does not contribute to coalescence with neighbouring settlements, would not result in ribbon development, or inappropriate backland development;
 - c. does not result in the loss of open land that has recreational, ecological or heritage value, or contributes to the character of the locality which cannot be adequately mitigated or compensated for;
 - d. is appropriate in terms of scale, design, layout, and location to the character, function, form and setting of the settlement;
 - e. will not be prejudicial to highway safety or have a severe residual cumulative impact on network capacity;
 - f. has good access by sustainable modes of transport to relevant services and facilities and reflects the size of the settlement and the level of service provision within that settlement;
 - g. does not result in the loss of a settlement's or neighbourhood's valued facilities or services unless it has been demonstrated that they are no longer viable;
 - h. minimises vulnerability and provides resilience to impacts arising from climate change, including but not limited to, flooding;
 - i. where relevant, makes as much use as possible of previously developed (brownfield) land; and
 - j. where appropriate, it reflects priorities for urban regeneration.
65. The site is within the built up area of Durham City and can therefore draw in principle support from Policy 6 of the CDP, subject to satisfaction of the detailed criteria. In relation to criteria a) and b), it is considered that the conversion of part of the ground floor of the building into a small HMO in this location would be compatible with adjoining residential and commercial uses and would not be prejudicial to any existing or permitted adjacent uses, subject to the impact on residential amenity, which will be considered in more detail elsewhere in this report. The site is located within the built-up area of Durham City within the Durham City Conservation Area and therefore would not lead to the coalescence of settlements and there are no concerns with the development resulting in inappropriate ribbon development, nor that it would be considered inappropriate backland development, as the site has an independent highway access (criterion b).
66. The development would not result in a loss of open land that has any recreational, ecological or heritage value (criterion c) and the site is noted as being within a sustainable location, being located within the centre of Durham City where there is a wide range of facilities and access to sustainable modes of transport (criterion f). The site would not result in the loss of a settlement's or neighbourhood's valued facility or service (criterion g) given that the proposal relates to the loss of only part of the ground floor retail unit with the front element of the unit being retained, and therefore the development makes best use of previously developed land (criterion i). The requirements of criteria d, e, h of Policy 6 of the CDP are considered elsewhere within this report. It is not considered that criterion j is appropriate in relation to this proposal.
67. The development to change the use of part of the ground floor retail unit into a small HMO (C4) sited in a sustainable location would therefore be considered

to comply with Policy 6 and the principle of development can draw some support from Policy 6 in this regard.

68. In addition to Policy 6, Policy 9 (Retail hierarchy and Town Centre Development) of the County Durham Plan (CDP) is also relevant given the site location which defines a hierarchy of centres in the County, with Durham City identified as a Sub Regional Centre. This policy and the CDP looks to support new town centre development across all of the county's centres that will improve choice and bring about regeneration and environmental improvements. Policy 9 also states that "Within the Primary Shopping Areas, as shown on the policies map, A1 (retail) uses will be supported and other uses will be permitted where they preserve the vitality and viability of the Primary Shopping Areas."
69. Policy 9 of the CDP is consistent with the guidance within Paragraph 90 of the NPPF which requires a need for planning policies to define a network and hierarchy of town centres and promote their long-term vitality and viability - by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters. This paragraph also recognises that residential development often plays an important role in ensuring the vitality of centres and encourages residential development on appropriate sites. Policy E3 (Retail Development) of the DCNP states that development proposals that provide residential accommodation in upper floors of commercial properties will be supported, as long as they do not have a negative impact on retail, commercial and tourism activities and the general amenity of neighbouring properties and residential amenity including noise impact. Whilst this application relates to the lower ground floor and part of the ground floor, the active frontage of the retail unit will be retained and majority of the ground floor available for retail use. The application would see 102m² of retail floorspace retained on the ground floor, as well as the retention of the associated facilities on the lower ground floor and so is considered to accord with this policy.
70. As the proposal involves the conversion the lower ground floor into a C4 HMO, along with part of the ground floor, it should also be assessed under part 3 of Policy 16 of the County Durham Plan (Houses in Multiple Occupation). The policy states that in order to promote, create and preserve inclusive, mixed and balanced communities and to protect residential amenity, applications for new build Houses in Multiple Occupation (both Use Class C4 and sui generis), extensions that result in specified or potential additional bedspaces and changes of use from any use to a House in Multiple Occupation in Class C4 or a sui generis use (more than six people sharing) will not be permitted if:
- a. including the proposed development, more than 10% of the total number of residential units within 100 metres of the application site are exempt from council tax charges (Class N Student Exemption);
 - b. there are existing unimplemented permissions for Houses in Multiple Occupation within 100 metres of the application site, which in

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

In all cases applications for new build Houses in Multiple Occupation, change of use to Houses in Multiple Occupation or a proposal to extend an existing House in Multiple Occupation to accommodate additional bed space(s) will only be permitted where:

- d. the quantity of cycle and car parking provided has regard to the council's adopted Parking and Accessibility Supplementary Planning Document (SPD);
- e. they provide acceptable arrangements for bin storage and other shared facilities and consider other amenity issues;
- f. the design of the building or any extension would be appropriate in terms of the property itself and the character of the area; and
- g. the applicant has shown that the security of the building and its occupants has been considered, along with that of neighbouring local residents.

New build Houses in Multiple Occupation, extensions that result in specified or potential additional bedspaces or a change of use to a House in Multiple Occupation would not be resisted in the following circumstance:

- h. where an area already has a concentration in excess of 90% of council tax exempt properties (Class N), that this is having an unreasonable impact on current occupiers and that the conversion of remaining C3 dwellings will not cause further detrimental harm to the residential amenity of surrounding occupants; or
 - i. where an existing high proportion of residential properties within the 100 metres are exempt from council tax charges (Class N), on the basis that commercial uses are predominant within the 100 metre area.
71. This is in line with Paragraph 96 of the NPPF which also seeks to achieve healthy, inclusive and safe places which promote social interaction and community cohesion, with Paragraph 135 seeking to ensure that development will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development, and create places that are safe, inclusive and accessible and which promote health and wellbeing, with a high standard of amenity for existing and future users.
 72. Paragraph 5.155 of the supporting text of Policy 16 states that the Council's approach is to seek to maintain and create sustainable inclusive and mixed communities in Durham City and that residents have expressed concerns that concentrations of student accommodation in HMOs amongst the general

housing stock can negatively impact upon residential amenity and change the overall character of an area.

73. The most recent up to date Council Tax information identifies that if planning permission was granted for the change of use of part of the ground floor retail unit into a small HMO within 100 metre radius of, and including 37 – 38 Silver Street, 67.8% of properties would be class N exempt as defined by Council Tax records. There are no unimplemented consents or pending planning applications within the 100m radius.
74. This equates to more than two in three residential properties being occupied by students which is a significant proportion and clearly in excess of the 10% figure set out in Policy 16. However, as noted above there are certain circumstances where a higher than 10% would be acceptable.
75. In this instance, the proportion of Council Tax exempt properties is above 10% and below 90% and as such the development fails criteria (a) of Part 3 of CDP Policy 16 and also fails to meet the exception in (h). However, it is noted that the site is located within the defined town centre of Durham City and Silver Street so this is an area in which commercial uses are predominant in the relevant 100m area. Furthermore, a high proportion of existing residential properties within 100m radius are Council Tax exempt. Therefore, it is considered that the proposal meets the exception in (i) of Part 3 of Policy 16 and as such can be supported.
76. Comments have been received from the City of Durham Parish Council and the City of Durham Trust who consider the proposal acceptable in principle due to its location being within a predominantly commercial area.
77. Taking account of the above it is considered that the principle of development is acceptable, and the proposal would accord with the requirements of Policy 16 of the CDP and Paragraph 63 of the NPPF in this regard.

Developer Contributions

78. 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.
79. The Local Planning Authority has recently adopted the Development Viability, Affordable Housing and Financial Contributions SPD (VHCSPD) which sets out the Council's approach to determining and securing developer contributions for new development (such as housing) across the county.

Open Space

80. Policy 26 (Green Infrastructure) states that proposals for new residential development are required to make provision for open space to meet the needs of future residents having regard to the standards of open space provision set out in the Open Space Needs Assessment (OSNA). Where it is determined that on-site provision is not appropriate, the council will require financial contributions secured through planning obligations towards the provision of new open space or the improvement of existing open space elsewhere in the locality. The OSNA sets out the most up to date position in respect to open space provision across the county and provides a formula for calculating requirements on a site-specific basis.
81. This scheme falls into the 1st category of Table 19 of the OSNA which confirms that a financial contribution should be sought for all typologies of open space.
82. The Spatial Policy officer notes that a scheme of 1 unit would usually generate at least 2.2 people (1 x 2.2) based on 2021 census data of 2.2 persons per household. However, as this development is for a 3-bed HMO, and given their lifestyles differ from that of a family dwelling, with each occupant living independent lives, the contribution levy is generated by the number of occupants rather than the usual 2.2 per dwelling which is based on the average household size in County Durham. Given this, the contribution would be a multiplier of 3. Therefore, the financial contribution required would be: $3 \times \text{£}790.50 = \text{£}2371.50$.
83. This new approach of seeking s106s for GI contributions on schemes of 9 units or less is now in force following the Council adopting the VHCSPD. The above financial contribution is required to be secured via a S106 legal agreement should approval be granted which has been agreed by the applicant and is required to be paid prior to occupation of the proposed HMO.

Impact upon Residential Amenity

84. Paragraph 135 of the NPPF requires planning decisions to create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
85. Policy 31 (Amenity and Pollution) of the CDP displays broad accordance with the aims of NPPF Paragraph 135 in this regard and sets out that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment and that they can be integrated effectively with any existing business and community facilities. Development will not be permitted where inappropriate odours, noise, vibration and other sources of pollution cannot be suitably mitigated against, as well as where light pollution is not suitably minimised. Permission will not be granted for sensitive land uses near to potentially polluting development. Similarly, potentially

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

86. In addition, Policy 29 (e) of the CDP requires development to provide high standards of amenity and privacy and minimise the impact of development upon the occupants of existing adjacent and nearby properties. Policy D4 (Building Housing to the Highest Standards) states all new housing, extensions and other alterations to existing housing should be of high-quality design relating to the character and appearance of the local area, aesthetic qualities, external and internal form and layout, functionality, adaptability, resilience and improvement of energy efficiency and the reduction of carbon dioxide emissions.
87. In this instance the application site is a three storey building located within a predominantly commercial area and is framed to the north, east, south and west by commercial properties, some with residential accommodation within the upper floors.
88. The development would fall within the thresholds associated with Council's Technical Advice Notes (TANS) relating to noise. The Environmental Health officer has commented noting that the information submitted was not sufficient to allow full consideration against the thresholds stated in the TANS (Noise TANS) as the information submitted to support the application related to noise and noise mitigation measures for the conversion of the upper floors in 2021, and therefore did not provide consideration for the conversion of the lower ground floor.
89. The proposed development will see the introduction of noise sensitive receptors below a retail unit Class E Use, there will be airborne sound and impact sound transmitting to the lower ground floor which is likely to impact upon occupants; additionally the area to the rear of the lower ground is surrounded by lively commercial premises, with outdoor entertainment areas, the use of which could be impacted upon by way of the introduction of residents in such close proximity. The entertainment venues can see people enjoying the outdoor areas into the late evening.
90. Given this the EHO requested a scheme of sound proofing measures be submitted for consideration. The aim of the scheme shall be to ensure that the noise insulation of walls, floors, windows, between the separate and adjoining properties be sufficient to prevent excessive ingress & egress of noise.
91. The applicants submitted an environmental noise assessment. The EHO notes that the Noise Assessment demonstrates that mitigation measures will be required to provide adequate acoustic mitigation for any future residential occupants in relation to protection against the ingress of external noise.
92. As such, a condition is recommended to be attached should planning permission be granted requiring sound amelioration measures described within Section 6 of the noise assessment are fully implemented to achieve the Enhanced Insulation Options detailed within Table 6.1 of the noise assessment

prior to the beneficial occupation of the development and permanently retained thereafter.

93. The Sound Insulation Measures report demonstrates that any future residential occupants should have adequate protection from noise transfer from the commercial operations above and those to the rear of the residential use and that no further mitigation is required between the two separate uses.
94. Notwithstanding the above, it is considered that the applicant will need to provide an effective plan as to how the property would be managed, taking into consideration issues around anti-social behaviour, issues that may arise at the property and how this would be remedied should any occur, and information relating to the tenancy arrangements for occupants. A condition can therefore be imposed requesting a management plan be submitted and agreed in writing by the Local Planning Authority prior to the beneficial use of the small HMO and to be adhered when the property is occupied.
95. In terms of providing safe and secure accommodation in accordance with Policy 16 Part 3 criterion g of the CDP, the accommodation can only be accessed via the existing access which was considered under the previous planning permission for the conversion of the upper floors and was considered acceptable, as there is no change to this access, there is no reason to dispute this.
96. The footprint of the building would remain as existing, with the only external changes relating to the replacement of existing windows or insertion of new windows, given the location of the windows being at lower ground floor level, there would be no impacts upon adjacent properties in terms of overlooking or loss of privacy as these changes would only be seen from within the rear yard area.
97. In light of the above, the development is not considered to have any unacceptable amenity impacts in terms of overbearing, overshadowing or loss of privacy and as a result will be in accordance with CDP Policy 31 and the RASSPD.
98. The property includes adequate space to accommodate sufficient bin storage facilities as shown on the proposed plans which will be located within the area of the ground floor of the retail unit. Part of the ground floor was converted into bin storage and cycle storage provision for the previously approved application to change the use of the upper floors into a small HMO. This proposal seeks to slightly increase this area to accommodate further bin and cycle storage and therefore accords with criterion e) of Part 3 to CDP Policy 16. In addition, it is noted that the rear of the property consists of a steep embankment, sloping towards Back Silver Street, which is densely populated with shrubs and mature trees. While access steps to Back Silver Street are present, the combination of the slope and thick vegetation renders the wider area of little practical use providing limited external space for use by occupiers of the proposed HMO as well as existing HMOs located within the upper floors, however, given the sustainable location of the site, being in very close proximity

to public rights of way, walkways and areas of open space within Durham City Centre, the lack of any in curtilage provision is not considered unacceptable.

99. In relation to internal space, the Nationally Described Space Standards (NDSS) is a government introduced nationally prescribed internal space standard which sets out detailed guidance on the minimum standard for all new homes and was created with the aim of improving space standards within new residential development across all tenures. Evidence compiled during formulation of the County Durham Plan identified that many new homes in the county were being built below NDSS and that this was having an impact on the quality of life of residents. As a result, the Council determined that it was necessary to introduce the NDSS in County Durham, with the aim of improving the quality of new build developments coming forward.
100. It is noted that the current application relates to a change of use to the lower ground floor and part of the ground floor of the existing retail unit which would result in a net increase in residential units. NDSS is a relevant measurement against which to assess the suitability of internal space provided within all residential development in the context of Policy 29(e) of the CDP which requires new development to provide high standards of amenity and privacy.
101. This proposed scheme incorporates 3no bedrooms, which all meet the minimum NDSS requirements. The City of Durham Trust and the City of Durham Parish Council have raised concerns over the amenity provided for future occupants due to the room layout and the room sizes for two of the bedrooms not meeting sizes required for a double room. The City of Durham Trust mentions that the NDSS states, dwellings with two or more bedspaces as reflected within the standards should have at least one double (or twin) bedroom where one bedroom (or twin) is at least 2.75m wide and every other double (or twin) bedroom is at least 2.55m wide therefore resulting in bedroom 1 being too small to be a double bedroom. The City of Durham Parish Council have concerns over the size of bedrooms 2 and 3 as they consider it not clarified whether the measurements being 10.9sqm for bedroom 2 and 10.6sqm for bedroom 3 includes the en-suites and corridors, and that the rooms would be largely taken up with furniture creating limited living space.
102. The proposal is for a small HMO in use class C4 not for a new C3 residential dwelling and whilst the standards are used to assess amenity under policy 29e of the CDP, they are not used rigidly. Each of the bedrooms will be occupied by one tenant, therefore applying requirement for at least one of the bedrooms to meet the minimum space standard for a double room is not considered appropriate. Furthermore, it is recommended that a condition be attached to limit the number of occupants to no more than 3 should approval be granted. Therefore, subject to each of the bedrooms meeting a single bedroom size standard, this is considered acceptable for HMO developments. Bedroom 2 and 3 measure 8.6sqm not taking into consideration the corridor and En-suites and have a width of 2.8m, therefore each of the bedrooms are considered appropriate sizes to accommodate one tenant in each room.

103. With regard to the total overall internal space provided across the dwelling as a whole it is noted that the NDSS does not provide guidance specifically relating to 3 bedspace, 3 person dwellings. However, it does include standards in relation to 3 bedspace 4 person dwellings and it is noted that this requires an overall area of no less than 84sq metres. As already noted, whilst the rigid application of NDSS is not considered appropriate for the reasons outlined above the proposed change of use would provide adequate internal space delivering approximately 100sq metres at lower ground floor level, not taking into consideration the additional floorspace at ground floor level to accommodate the bin and cycle storage provision.
104. In light of the above, the proposal is considered to comply with Policy 29(e) of the CDP in that it provides a suitable amount of internal space and whilst there is a limited amount of external amenity space, given the sustainable location it is considered to meet the needs of future occupiers and deliver a suitable quality of development in relation to Policy 29(e) and Policy 16.3 of the CDP and Paragraph 135 of the NPPF.

Parking and Highway Safety

105. Policy 16.3 of the CDP requires new HMOs to provide adequate parking and access and Policy 21 states that new development should ensure that any vehicular traffic generated can be safely accommodated on the local and strategic highway network. This displays broad accord with Paragraph 114 of the NPPF which requires new development to provide safe and suitable access to the site.
106. The Highway Authority offers no objection to the application noting the site is located in a sustainable location, therefore raise no objections over road safety.
107. Policy 16d states that in all cases changes of use to HMOs will only be permitted where: sufficient bike and car parking is provided in line with the adopted Parking and Accessibility Guidelines. In addition, Policy T3 of the Durham City Neighbourhood Plan also requires cycle parking to be provided at the rates required by the County Durham Parking and Accessibility Standards, with the space and access, if possible, being adaptable for storing other mobility aids, such as powered wheelchairs, mobility scooters, children's buggies and prams.
108. Provision is made for cycle storage behind the internal stairs to the front of the property at ground floor level. Parking provision is not provided, however, given the sustainable location being within the City Centre and walking distance to services.
109. The City of Durham Parish Council have raised concerns over bins being left out on Silver Street and this development would only increase the current issues. The applicant has confirmed that the bins would be collected from the front by a private contractor which is the same arrangement for the upper floors and other sites within the area, this was considered to be appropriate for the conversion of the upper floors and is still considered appropriate.

110. The cycle storage provision proposed, should be secured through the inclusion of a planning condition to ensure the provision of the cycle storage is available prior to the first occupation of the C4 use and is retained whilst the property is in use as a small HMO.
111. In light of the above, it is considered that the development would accord with the aims of Policies 16.3 and 21 of the County Durham Plan, Policy T3 of the Durham City Neighbourhood Plan and Paragraph 114 of the NPPF.

Impact upon the Character and Appearance of the Area

112. Paragraph 131 of the NPPF advises that the creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve, and that good design is a key aspect of sustainable development, creating better places in which to live and work. Policy 29 of the CDP requires development to contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities. Paragraph 4.115 of Policy 6 states "In the case of conversions, proposals should not significantly increase the size or impact of the original building where this would have an adverse effect on the character of the surrounding area or the amenity of neighbouring occupiers."
113. 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.
114. Policy 45 (Durham Castle and Cathedral World Heritage Site) seeks to ensure that developments within the world heritage site sustain and enhance the significance of the designated asset, are based on an understanding of, and will protect and enhance the outstanding universal values (OUVs) of the site in relation to the immediate and wider setting and important views into, and out of the site. Any harm to the OUVs will not be permitted other than in wholly exceptional circumstances.
115. In turn Policy H1 (Protection and Enhancement of the World Heritage Site) of the DCNP requires development within the Durham Cathedral and Castle World Heritage Site to sustain, conserve and enhance its outstanding universal value and support the current adopted management plan. Development within the WHS must take account of the historical and present uses of the site, propose high quality design, use appropriate materials and seek balance in respect of scale, density, massing, form, layout, landscaping and open spaces. Development proposals within Our Neighbourhood will need to sustain, conserve, and enhance the setting of the WHS where appropriate, by carrying out an assessment on how the development will affect the setting, including views to and from the WHS, protect important views and take opportunities to open up lost views and create new views and vistas.

116. Policy H2 (The Conservation Areas) of the DCNP expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires an LPA, in the exercise of its functions to pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
117. Objections to the proposed development have been raised regarding the loss of the timber windows being replaced with uPVC due to the location of the site being within the Durham City Conservation Area and given the area is covered by an Article 4 Direction which removes permitted development rights for minor development such as replacement of windows.
118. The Article 4 Direction does not cover commercial properties and only relates to dwellinghouses within the conservation area and therefore is not a material planning consideration. Notwithstanding this, the Design and Conservation officer raises no objection noting that No 37-38 Silver Street is unlisted, does not meet the criteria to be considered a non-designated heritage asset but occupies an important position within the medieval street frontage near to its junction point with the Market Place, the historic commercial core of Durham City Conservation Area, and an integral part of the inner urban setting to Durham Castle and Cathedral World Heritage Site (WHS). However, it remains that the building does not make a particularly positive contribution to any of the heritage assets identified, forming part of a mid-20th century redevelopment (Nos 35-40) of limited architectural and aesthetic quality.
119. Within the rear elevation four new uPVC windows are proposed, two of which would be replacements of existing timber windows. While ordinarily timber would be expected, in this case the windows are within a modern rear basement elevation of low quality. The proposed alterations are restricted to the rear that is not so visually prominent in surrounding townscape and river corridor views and as such the use of UPVC can be supported in this context. The basement elevation is not obvious in views for example from Milburngate Road Bridge, Framwellgate Bridge, from lower riverside level along Lambton Walk, or from the public promenade at Riverwalk. The application confirms that the existing windows to the upper floors of the rear elevation are of uPVC and therefore the proposed basement windows would match the existing material and would be "in keeping" in this regard. As the building is modern, there would be no loss of any historic timber windows.
120. In terms of the resulting impact within the conservation area, setting of Durham WHS, and the setting of surrounding designated heritage assets, this would be

considered visually imperceptible and neutral thereby sustaining/conserving significance, character, and appearance, fulfilling requirements of Part 16 of the NPPF, Policies 44 and 45 of the CDP, and Policies H1 and H2 of the DCNP as well as Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990

121. It is therefore considered that the proposed development would fit with the character and appearance of the area, would not have a detrimental impact on the appearance of the wider streetscene and the significance of the conservation area will be preserved. There would also be an associated beneficial impact of the proposed development by the reuse of the building.

122. Taking the above into consideration, it is considered that the proposed development would accord with Policies 6, 29, 44 and 45 of the CDP, Parts 12 and 16 of the NPPF, Policies H1 and H2 of the DCNP and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

Biodiversity Net Gain

123. NPPF Paragraph 186 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.

124. CDP Policy 41 (Biodiversity and Geodiversity) does not permit significant harm to biodiversity that cannot be avoided, or appropriately mitigated, or, as a last resort, compensated for and proposals for new development will be expected to minimise impacts on, and providing net gains for, biodiversity.

125. The application was submitted after the 12th of February 2024, the date on which the requirements of the Environment Act 2021, as inserted into Schedule 7A of the Town and Country Planning Act 1990, came into force. However, it is noted that there are a number of exemptions which if applicable, can remove a development from the legal requirement to deliver a minimum of 10% net biodiversity gain through the development. The Environment Act 2021 includes exemptions for development which does not impact on any onsite priority habitat or where there is an impact this must be less than 25 square metres of onsite habitat.

126. As the proposal relates to the change of use of part of the building which does not increase its footprint, the scheme would not impact any habitat and therefore BNG is not a requirement.

127. Taking the above into account, the development would be considered to accord with the aims of Part 15 of the NPPF, Policy 41 of the CDP and Schedule 7A of the Town and Country Planning Act 1990.

Other Matters

128. Concerns have been raised in relation to the scheme not having an acceptable size of window for a means of emergency escape and that it does not meet licensing requirements. These fall outside the remit of planning legislation, furthermore, the HMO Licensing officer has confirmed that the proposal does not need to be licenced. The size of the window would need to meet Building Regulations requirements, should the size need to be increased the applicants would need to bring any proposed amendments back to the Local Planning Authority for further consideration.

CONCLUSION

129. Section 38(6) of the Planning and Compulsory Purchase Act 2004 sets out that planning applications be determined in accordance with the development plan unless material considerations indicate otherwise. The NPPF is a material consideration in planning decisions.
130. In this instance, it is concluded that the principle of development is acceptable in planning terms and would accord with the aims of Policies 6, 9 and 16 of the CDP subject to appropriate planning conditions described within the report and listed below.
131. When assessed against other policies of the County Durham Plan relevant to the application, it is considered that the scheme would not result in an unacceptable impact upon the amenity of existing or future residents, would preserve the character and appearance of the Conservation Area and setting of the World Heritage Site and would not impact upon highway safety. Furthermore, the proposed development would not result in the loss of any ecological habitats and therefore does not require BNG.
132. The proposed scheme is therefore considered to be in accordance with Policies 6, 9, 16, 21, 25, 26, 27, 29, 31, 41, 44 and 45 of the County Durham Plan, the Parking and Accessibility, Residential Amenity and Developer Financial Contributions SPD's, Parts 2, 4, 5, 7, 8, 9, 11, 12, 14, 15 and 16 of the NPPF, Policies S1, D4, E3, H1, H2, T1 and T3 of the Durham City Neighbourhood Plan, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 and Schedule 7A of the Town and Country Planning Act 1990.
133. While objections to the application are acknowledged, for the reasons discussed within this report they are not considered sufficient to sustain refusal of the application. Considering the above, the application is reported to the Committee with a recommendation to approve the application, subject to conditions and a S106 obligation for an open space financial contribution.

Public Sector Equality Duty

134. 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.
135. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That the application be **APPROVED** subject to the completion of a Section 106 obligation to secure the payment of £2371.50 for the provision or improvement of off-site open space and 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 accordance with the following plans:

Proposed Plans and Elevations drawing number 1010 Rev P03 received 14th August 2024

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Policies 6, 9, 16, 21, 25, 26, 27, 29, 31, 41, 44 and 45 of the County Durham Plan and Parts 2, 4, 5, 7, 8, 9, 11, 12, 14, 15 and 16 of the National Planning Policy Framework.

3. The cycle storage provision as shown on the Proposed Plans and Elevations (Drg no. 1010 Rev P03), received by the LPA on 14.08.2024, shall be available for use prior to the first use of the property as a small HMO (Use Class C4) and shall thereafter be retained and shall not be used for any other purpose whilst the property is occupied as a small HMO.

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

4. The bin storage provision shown on the Proposed Plans and Elevations (Drg no. 1010 Rev P03), received by the LPA on 14.08.2024, shall be available for use prior to the first occupation of the dwelling (Use Class C4) hereby approved and shall be retained in perpetuity.

Reason: In the interest of residential amenity and in accordance with Policies 6 and 16 of the County Durham Plan.

5. Notwithstanding the provisions of the Town and Country Planning (Use Classes) Order 1987, the development hereby approved shall not be occupied by more than 3 unrelated individuals.

Reason: In the interest of residential amenity and in accordance with Policy 29e of the County Durham Plan and Part 12 of the National Planning Policy Framework.

6. Prior to first occupation of the property for the use hereby approved, the sound amelioration measures described within Section 6 of the submitted noise assessment prepared by LA Environmental Consultants reference LAE 1303.1 received 11 September 2024 must be installed to achieve the Enhanced Insulation Options detailed within Table 6.1 of the noise assessment and shall be permanently retained thereafter.

Reason: To protect residential amenity in accordance with Policy 31 of the County Durham Plan and Part 12 of the National Planning Policy Framework.

7. Notwithstanding the details submitted within the application the development shall not be occupied until a detailed strategy of precise management methods, approaches and techniques for the operation of the site has been submitted to and agreed in writing by the Local Planning Authority. The strategy shall include measures of CCTV coverage, 24-hour security or warden presence, student warden schemes or other management operations.

Thereafter the development shall be implemented in accordance with the agreed details, with adherence to the agreed management scheme during all periods of occupation.

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

8. 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.

BACKGROUND PAPERS

Submitted Application Forms, Plans and supporting documents.

Town and Country Planning Act 1990

National Planning Policy Framework

National Planning Practice Guidance Notes

County Durham Plan (2020)

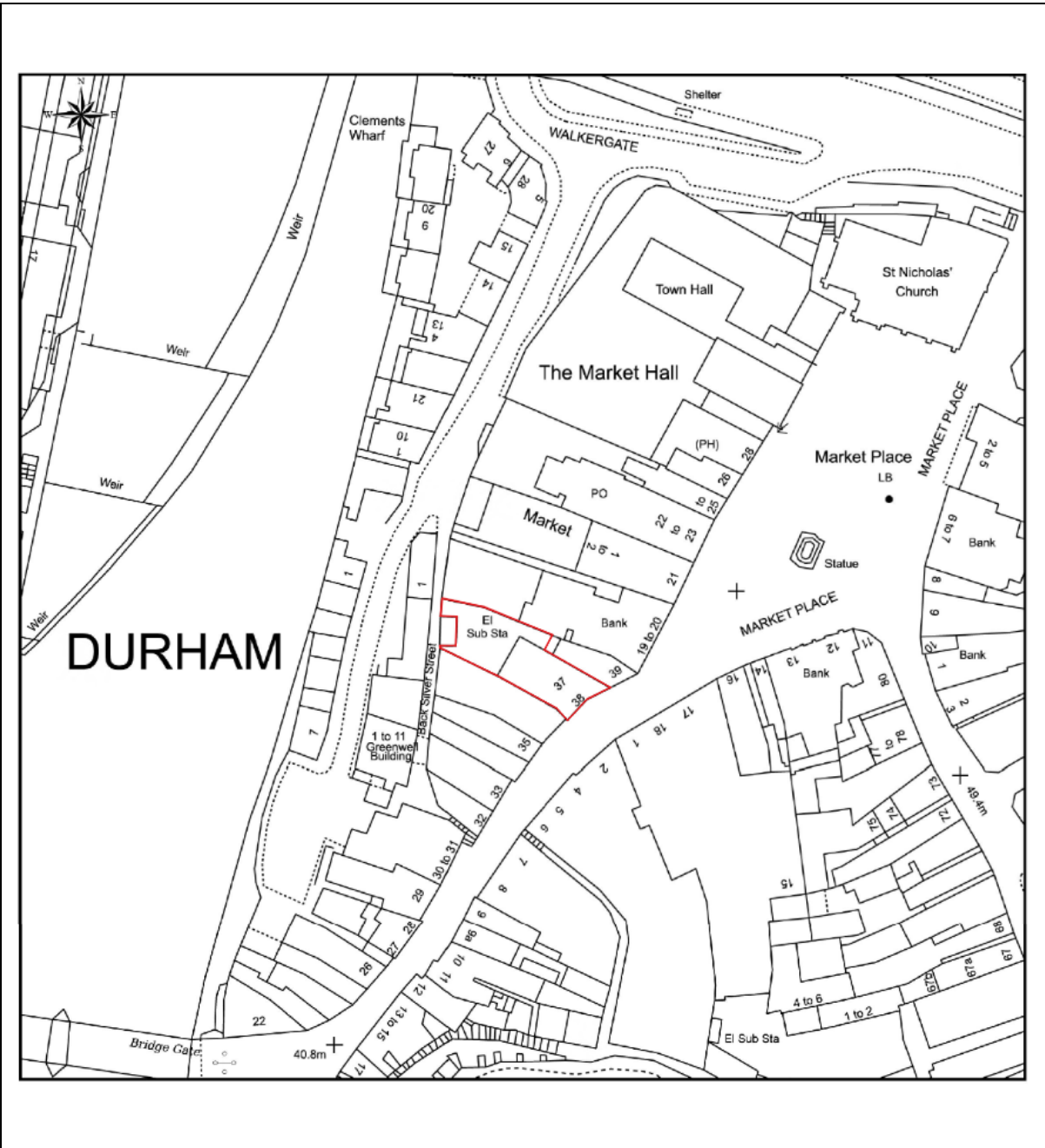
- Residential Amenity Standards SPD (2023)
- Parking and Accessibility SPD (2023)
- Development Viability, Affordable Housing and Financial Contributions SPD (2024)

Statutory consultation responses

Internal consultation responses

External consultation responses

Public comments



<p>Planning Services</p>	<p>DM/24/01551/FPA - 37 Silver Street Durham DH1 3RD - Conversion of part of the lower ground floor from retail (E) to form 1no small HMO (C4)</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 2024</p>	<p>Comments</p>	
	<p>Date:</p>	<p>12th November 2024</p>

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Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/24/02200/FPA

SITE LOCATION: 90 Gilesgate Durham DH1 1HY

FULL AND LISTED BUILDING APPLICATION DESCRIPTION: Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof.

Name of Applicant: Justin Taylor

Electoral Division: Elvet and Gilesgate

Case Officer: Clare Walton Planning Officer 03000 261 060
clare.walton@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

Site

1. The application site is a prominent, white painted, 3 storey Georgian townhouse which is Grade II listed and fronts directly onto the north side of the green at Gilesgate Durham and is also set within the Durham City Centre Conservation area. Gilesgate is one of the City's principle historic streets and makes a positive contribution to the surrounding Conservation Area. The site includes a detached outbuilding which spans the boundary with the adjacent property.
2. The application site is framed predominantly by residential properties to the north east and west. To the west there is an attached unlisted 2 storey brick faced dwelling and to the east is a lane (West View) which gives access to dwellings to the north.

The Proposal:

3. Full Planning Permission is sought to convert existing attic space to a bedroom with en-suite, including a new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Conversion of an existing outbuilding to office space including alteration to the external walls and mono pitched roof is also proposed.

4. This application should be read in conjunction with Listed Building application Ref: DM/24/02161/LB.
5. The conversion of the existing outbuilding to office retains the footprint of the existing building into one main space with a small shower room and kitchenette. The space will be used to predominantly support home working as well as additional space connected to the garden. Alteration to the roof is proposed replacing the current flat roof arrangement with a mono dual pitch relacing the existing flat area.
6. The proposal also includes the conversion of the existing attic to create an additional bedroom with ensuite, a new staircase is required and to accommodate this the 2nd floor layout would be altered. The space occupied by the existing 2 bedrooms and small bathroom will be reconfigured to provide one bedroom with ensuite, a larger bathroom and the stairs to the attic floor.
7. This application is a re submission of a previous scheme that was refused by members of the committee on the 9th April 2024 due to concerns that the use of dark stained timber cladding to the external walls of the outbuilding and the alterations to the roof would dominate the host building and would fail to preserve the special architectural interest and historic fabric of the curtilage listed outbuilding and would also fail to preserve or enhance the character or appearance of the conservation area, The revisions reflected in the current application shows the inclusion of a mono pitched roof angled away from the outbuilding. The use of the black timber cladding still remains within this current application. The previous alterations to the main house are unchanged.
8. The revised application has been called to be determined by the planning committee at the request of Durham City Parish Council who considers the proposal to still be contrary to policy 44 of the County Durham Plan due to its inappropriate use of materials and cladding and roof design of the outbuilding which would lead to substantial harm to the designated heritage asset which would not be outweighed by public benefits contrary to the aims of policy 44 of the CDP and as well as DCNP Policies S1 and H2 and Part 16 of the NPPF.

PLANNING HISTORY

9. 4/95/00344/LB Installation of replacement window to utility room Approved 4th July 1995

4/95/00748/LB Alterations to provide new window to gable and new rear boundary wall Approved 27th March 1996

4/95/00751/LB Replacement of garage doors Approved 3rd January 1996

4/04/00486/LB External alterations involving replacement of existing modern windows with timber sash windows and restoration of plaster to gable elevation Approved 22nd June 2004

DM/23/00911/LB Loft conversion including a glass dormer window in centre of roof, with 3x conservation velux windows. Convert and extend the existing garage to a

1.5 storey garden room, with 2x dormer windows Refused through powers delegated to the Head of Planning on 14th June 2023

This planning application was refused on the grounds that the LPA considered the proposal to be excessive in scale and of inappropriate design, resulting in substantial harm to the existing fabric and setting of Grade II Listed Building and associated curtilage which was contrary to policy 44 of the CDP, H2 of the DCNP, Part 16 of the NPPF and Sections 66 and 72 of the Town and Country Planning (Listed Building and Conservation Areas Act (1990)). The LPA also considered that significant detrimental impact upon the residential amenity of neighbouring properties would occur through loss of privacy, overbearing and overshadowing, contrary to Policies 29 and 31 of the County Durham Plan and the Council's Residential Design Guide SPD and Part 15 of the NPPF. Finally it was also considered by the LPA that insufficient information had been submitted in support of the application to demonstrate that the development would not be harmful to protected species (in this case bats) contrary to policy 43 of the CDP and Part 15 of the NPPF.

DM/23/00993/FPA Loft conversion including a glass dormer window in centre of roof, with 3x conservation velux windows. Convert and extend the existing garage to a 1.5 storey garden room, with 2x dormer windows Refused through powers delegated to the Head of Planning on 14th June 2023.

Specifically, the Listed Building Application was refused on the grounds that the LPA considered the development would fail to preserve the Grade II Listed Building contrary to the requirements of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990 and would lead to substantial harm to the designated heritage asset which would not be outweighed by public benefits contrary to the aims of policy 44 of the CDP and paragraphs 199 and 202 of the NPPF.

DM/23/02539/LB Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof. Refused by the Central and East Area Planning Committee on 10th April 2024.

Specifically, the Listed Building Application was refused on the grounds that the Planning Committee considered the use of dark stained timber cladding to the external walls of the outbuilding and the alterations to its roof, would dominate the host building and fail to preserve the special architectural interest and the historic fabric of the Grade II Listed outbuilding and its setting, contrary to the requirements of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, Policy 44 of the County Durham Plan and Part 16 of the NPPF.

DM/23/02538/FPA Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof, Refused by the Central and East Area Planning Committee on 10th April 2024.

Specifically, the Full Planning Application was refused on the grounds that the Planning Committee considered the use of dark stained timber cladding to the external walls of the outbuilding and the alterations to its roof, would fail to preserve the special architectural interest and the historic fabric of the Grade II Listed

outbuilding and its setting and would also fail to preserve or enhance the character or appearance of the Durham City Centre Conservation Area, contrary to the requirements of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990, Policy 44 of the County Durham Plan, Part 16 of the NPPF and Policy H2 of the DCNP.

PLANNING POLICY

National Policy

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. Decisionmakers at every level should seek to approve applications for sustainable development where possible.
11. NPPF Part 12 Achieving Well-Designed Places - The Government attaches great importance to the design of the built environment, with good design a key aspect of sustainable development, indivisible from good planning.
12. NPPF Part 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.
13. 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.

[National Planning Policy Framework - Guidance - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

County Durham Plan –

14. The following policies of the County Durham Plan are considered relevant to the determination of this application.
15. Policy 29 - Sustainable Design - requires all development proposals to achieve well designed buildings and places having regard to supplementary planning documents and other local guidance documents where relevant, and contribute positively to an area's character, identity, heritage significance, townscape and landscape features, helping to create and reinforce locally distinctive and sustainable communities.

16. Policy 31- Amenity and Pollution - 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. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated.
17. 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
18. 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.
19. The Council's Residential Amenity Standards Supplementary Planning Document January 2023 provides detailed guidance in relation to extensions and other works to dwellinghouses to ensure that these do not have an adverse impact upon the host dwelling, the character of the wider area and residential amenity.

<https://www.durham.gov.uk/media/34069/County-Durham-Plan-adopted-2020-/pdf/CountyDurhamPlanAdopted2020vDec2020.pdf?m=63742496933140000>

Neighbourhood Plan

20. Policy H2 of the City of Durham Neighbourhood Plan: Expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

21. Highway Authority raises no objections to the application based on the proposed 'home office' use of the outbuilding should be ancillary to occupancy of the associated dwelling.
22. Durham City Parish Council objects to application and raises concerns that the unique Victorian Washhouse is a significant and rare asset within Gilesgate area and indeed the whole of Durham, whilst its original use is not certain it is understood to have been part of a blacksmith forge or wash house. The Parish Council are particularly concerned with the proposed use of black timber cladding, they state that this would create a material and texture that are incongruous with the existing

brick and slate appearance of the outbuilding, and is starkly contrasting, rather than sympathetic to the Listed Building.

23. The black timber cladding is a new material to the property and does not match the existing building in terms of its style. Indeed, is hostile to the original, valued building and in stark contrast to anything else in the nearby environment. Parts of this proposed extension would be visible from other parts of the conservation area.
24. The roofscape of this outbuilding is visible from Gilesgate and West View, the addition of the extension with its opposing pitch roof line is aesthetically jarring from the original building.
25. They go on to add that they have concerns in regard to the use of building and its potential to become a self-contained flat, holiday accommodation or otherwise.

Internal Consultee Responses

26. Tree Officer raises no objections advising that the proposal would not remove any substantial trees within the property's curtilage and that those trees which are located within the rear do not warrant tree preservation orders. Any proposed extension with retained trees must adhere to NHBC guidelines Chapter 4.2 Building near Trees.
27. Ecology Section has assessed the bat report and confirm that it is considered to be sufficient to support the application agreeing with its conclusion that the building is deemed to be of negligible suitability and therefore no further survey is required.
28. Design and Conservation Section advises that the revised proposal would preserve the character, appearance, and significance of the surrounding Conservation Area and Listed Building in accordance with the requirements of NPPF Section 12 and 16, CDP Policy 29 and 44 and NP Policy H2.
29. They state that whilst the design is subjective and this proposal may not be to everyone's taste, the proposal would not be considered to materially harm the significance of the curtilage listed heritage asset and would stand as a legible element of new design, the existing walling material already comprise of vertically boarded timber cladding, so the proposed material matches in this regard. The back colour contrasts with the existing timber claddings light finish again emphasising the proposal as a legible contemporary element.
30. All other external alterations to the main house are considered acceptable and the DCO offers no objection to those elements of the scheme, the internal alterations are not subject to planning control and are relevant to the associated LB application only.

Public Responses

31. The application has been advertised by means of site notice and by notification letter sent to neighbouring residents.
32. 2 letters of objection have been received in response to both the Full Planning Application and Listed Building Application. These include comments from the City of Durham Trust and neighbouring resident who raise the following concerns:

- The wash house and brick flue are a significant heritage asset and the proposal would fail to preserve the special architectural interest and the historic fabric of the outbuilding.
- the use of Black Timber Cladding is unacceptable and not in keeping with the characteristic features of the original building and no sensitivity or consideration has been demonstrated in regard to the outbuilding.
- The pitched roof design of the extension is very intrusive and draws attention away from the essential character of the pyramid roof and vent of the outbuilding and has potential to block out views of the roof structure.
- The proposed roof design is incongruous and is out of keeping with adjacent roofscapes, and creates a distinct change between the original and altered.
- Installation of a shower and toilet will impinge on the internal wall and the remains of the brick flue on the shared southern face of the building. Sewage system will require major excavation of the floor which may lead to internal wall becoming unstable.
- The outbuilding could be used for additional accommodation/bedrooms/rental and open a route potential change of use.
- There is some concern that the purpose of the proposed rear conversion (and/or the attic conversion) is to facilitate use as a HMO.
- Notwithstanding later modifications, the City of Durham Trust considers the outbuilding to be both of interest and as a remnant of previous uses to the rear of Gilesgate. It should be considered as one building despite its ownership division and is an important adjunct to, and part of the setting of, the listed building. It is therefore significant in its relationship to the character of the conservation area.
- Should alterations be approved then it should be ensured that it includes a condition removing permitted development rights associated with change of use to dwellings.

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

PLANNING CONSIDERATION AND ASSESSMENT

33. 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, it is considered that the main planning issues in this instance relate to the impact on the surrounding Conservation Area, development which affects a listed building and it's setting, the impact upon residential amenity, ecology highway safety.

Impact of the proposal upon designated heritage assets

34. Local authorities have a duty to preserve or enhance the Conservation Area as requested by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.
35. No. 90 Gilesgate is an imposing residential dwelling of c.1760 comprising of 3-storeys and 3-narrow bays, with a rear wing that is possibly Victorian. The front is

rendered with rusticated quoins and includes a corniced doorcase and C19 sliding sash windows. The buildings significance in brief derives from its listed status, historic interest, architectural/aesthetic merits as a fine example of a Georgian townhouse. Further significance derives from its very positive contribution to the surrounding Durham City Conservation Area, adding to the high quality architecturally diverse historic streetscape of Gilesgate.

36. At the north end of the rear garden plot stands a one-storey rectangular shaped brick outbuilding with a hipped slate roof and upstanding lantern type vent, positioned on the dividing boundary line between the two properties No 89 (unlisted) and 90. The true age of the outbuilding is unknown, but it is identifiable on the detailed OS map c.1857, labelled as "WH" signifying a wash house, and it appears to be an early Victorian building. The outbuilding would be considered curtilage listed.
37. The garden is approximately 17m long and is screened from the lane by a low stone wall with woven panels above. The outbuilding was originally square with a slate roof and timber slated lantern vent in the centre and is noted on historic maps as a Wash House, this building ownership is split through the middle of this original building.
38. An unsympathetically flat roof extension was added to the building around the 1990's to convert to a double garage with access from West View. The building no longer has vehicle access with the previous gates having been removed. Currently, the outbuilding is being used as storage and office space in association with the occupation of No. 90 Gilesgate as a dwellinghouse (Use Class C3). The garage door has been removed and replaced with French doors and windows have been added. The external walls have been overclad in vertical timber cladding.
39. The conversion and alterations to the outbuilding would include a contemporary mono pitched roof to provide more internal head room, the revised proposed design does not make any alterations to the conserved historic footprint and form of the original outbuilding, the works would be limited to the unsympathetic flat roof garage element of the 1990's that is of no specific interest.
40. The roof would be angled away from the outbuilding which does create distinct change in roof-form to the historic that is an intentional contrast to the historic roof form, Whilst this creates a somewhat odd arrangement it does not impact on the significance of the outbuilding in terms of its physical form and there is already a contrast of historic hip and modern flat roofs on the applicant's side of the outbuilding.
41. Previously the design and conservation team were unopposed to the use of the black timber cladding, and this view remains unchanged, the DCO has stated that the main reason for this is that the existing walling material already comprise of vertically boarded timber cladding, so the proposed material matches in this regard. The black colour contrasts with the existing timber claddings light finish again emphasising the proposal as a legible contemporary element, none of historic red facing brick is exposed on the applicant's side of the outbuilding and therefore the use of cladding cannot be perceived as being incongruous with the original unseen brick material.

42. As noted, this application represents a revision and resubmission of a previously refused application. The revised design relating to the historic outbuilding still achieves a subservient relationship and does not overpower the original outbuilding that remains fully legible and recognisable as the main historic element. The proposal has the overall visual appearance of a small contemporary garden roof type structure abutting the historic outbuilding that sets a clear dialogue and distinguishes between what is old and what is new, which is considered to be an honest and often encouraged design approach.
43. The Council's Design and Conservation Section advises that in their opinion the proposal would not be considered to materially harm the significance of the curtilage listed heritage asset and would stand as a legible element of new design. The outbuildings significance is best represented by the physical fabric in the neighbour's garden that is more complete and of far stronger historic character, the outbuilding on the applicant's side having already been adapted to form a flat roofed timber clad garage which is the element being replaced.
44. Part 12 of the NPPF, Policy 29 of the County Durham Plan and Policy H2 of the Durham City Neighbourhood Plan seek to ensure good design in new developments which contribute positively to an area's character, identity, heritage significance, townscape and landscape features. Part 16 of the NPPF, Policy 44 of the County Durham Plan and Policy H2 of the Durham City Neighbourhood Plan require new development to enhance or preserve the built and historic environment, recognising that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. In addition, Section 66 of the Town and Country Planning (Listed Building and Conservation Areas) Act requires Local Planning Authorities to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest when determining planning applications and applications for works to a listed building. Similarly, Section 72 of the same Act requires an LPA to pay special attention to the desirability of preserving or enhancing the character of a conservation area when determining planning applications.
45. The Residential Amenity Standards SPD gives design advice on residential extensions, including those to the rear which are to be designed to safeguard amenity and to respect the character and appearance of the dwelling and locality.
46. In light of the above, taking into account Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered the proposal would satisfy the provisions of parts 12 and 16 of the NPPF, policies 29 and 44 of the County Durham Plan and policy H2 of the Durham City Neighbourhood Plan. The works are of appropriate scale and form in relation to the listed building and its curtilage and would not appear incongruous within the wider conservation area. The proposed materials are considered to have a positive impact upon the character and appearance of the Durham City Conservation Area through the introduction of timber cladding giving the extension to the outbuilding a more contemporary addition.
47. Concerns were received in regard to the outbuilding being seen from various parts of the conservation area and having a detrimental impact upon its character, however in relation to the surrounding conservation area, the entirety of the development proposal would only be visible from within the applicant's private rear garden. From the outside the majority would be shielded by the existing boundary

treatment and surrounding built development. It would be seen from the main street looking directly into the access point to the rear of West View, this would be a passing glimpse of a small portion of the proposal in the background of the streetscene, that would quickly disappear with movement. In this view its back land and private garden location along with its limited visibility means it would not degrade the visual experience or character of the Gilesgate street frontage that underlines its conservation area status and would not detract from the visual experience and appreciation of the primary listed asset of the Georgian townhouse.

48. The main visual impact would be within the back street, but here only part of the upper section would be visible above the boundary wall. While this would partially shield the view of the roof of the outbuilding, the visualisations in the design, access and heritage statement show that the outbuilding roof would still be viewable behind the extension roof. Taking all of this into account, and that the Victorian outbuilding is presently neither open to full public view nor is a prominent historic structure, it would be considered that the proposal would not cause undue harm to the significance, character, or visual appearance of the surrounding conservation area.
49. Based on the above, it would be considered that the character, appearance, and significance of the surrounding conservation area would be preserved in accordance with the requirements of NPPF Section 16, CDP Policy 29, 44 and NP Policy H2.

Impact on Residential Amenity

50. Paragraph 130 of the NPPF advises that planning decisions should create places that have a high standard of amenity for existing and future users. In line with this, Policy 31 of the County Durham Plan (CDP) states that development will be permitted where it can be demonstrated that there will be no unacceptable impact, either individually or cumulatively, on health, living or working conditions or the natural environment. Proposals which will have an unacceptable impact such as through overlooking, visual intrusion, visual dominance or loss of light, noise or privacy will not be permitted unless satisfactory mitigation measures can be demonstrated.
51. In addition, criterion e) of Policy 29 states that proposals for alterations and extensions to residential property, and development associated with the incidental enjoyment of a dwelling, should ensure the development is sympathetic to the existing building(s) and the character and appearance of the area in terms of design, scale, layout, roof design and materials.
52. The Council's Residential Amenity SPD sets out general criteria for additions to residential properties. Paragraph 2.27 of the SPD states that; Domestic garages and outbuildings should generally follow the same guidelines as those for extensions and should be of a high quality of design especially where they are proposed in a prominent location. Garages should be subordinate to the house and unobtrusively sited in relation to existing houses and the street scene. They should not restrict access to neighbouring properties, drives or garages, or have a detrimental impact on the windows of neighbouring properties.
53. The planning application proposes to replace 2 side Velux windows with a smaller Velux (55cm by 78cm) and the centre with a double Velux at (155cm x140cm) in the main house. In terms of overlooking and privacy, the replacement of the skylights

within the roof slope would follow the existing arrangement and have no adverse impact in this regard. Whilst it is acknowledged that the larger Velux window could allow for some views to neighbouring properties this in itself is not considered to amount to any unacceptable loss of privacy, and some overlooking of garden areas are a common arrangement within a residential area of this type. In addition, it is noted that the adjacent property contains a dormer window in a similar location which enjoys a similar relationship with the application property, therefore it is considered that any loss of privacy or overlooking would not be significantly impacted in accordance with policies 29 and 31 of the CDP and the Council's Residential Amenity Standards SPD.

54. Works to convert the existing outbuilding would retain the current footprint and be configured into one main space. This space would predominantly support home working, as well as providing additional social space but to be used ancillary to the current use of the property as a dwellinghouse (Use Class C3). The structure would remain single storey and it is not considered that the development would result in any loss of light, loss of privacy or overshadowing to neighbouring properties.
55. The proposed works are not therefore considered to harm the amenity of neighbouring residents in accord with CDP Policy 29 and 31 and paragraph 180 of the NPPF.

Ecology and Protected Species

56. Part 15 of the NPPF seeks to ensure that proposals show regard to the protection and enhancement of internationally and nationally important sites and species; contributing and enhancing the natural and local environment by ensuring there is no net loss of biodiversity.
57. Given the nature of the proposed works and the impact on existing features the application was supported by a Bat Risk Assessment which concluded that the risk to protected species was low. The Council's Ecologist concurred with that conclusion and offered no objection confirming that no further surveys were required. Accordingly, it is considered that the development accords with Policy 43 of the CDP and Part 15 of the NPPF in this respect.

Impact on Highway Safety

58. Policy 21 of the CDP states that any vehicular traffic generated by new development can be safely accommodated on the local and strategic road network and does not cause an unacceptable increase in congestion or air pollution. Similarly, paragraph 115 of the NPPF states that development should only be prevented or refused on highways grounds if there would be an unacceptable impact on safety, of the residual cumulative impacts on the road network would be severe.
59. It is acknowledged that the outbuilding has undergone previous alterations and is now used as storage and office space with no vehicle access. The Highway Authority confirm that the proposed development does not raise any concern over highway safety.
60. It is noted that previous concerns were raised over increase in traffic and parking demand due to speculation the building could be used for additional

accommodation and/or holiday letting by interested parties. However, it is not considered the proposal would have any adverse impact in this regard noting comments from the Highway Authority. In so far as any future use is concerned the application does not include any proposed change of use. The specific concern relates to use as a HMO which would be controlled via the properties position within the Article 4 Direction Area removing this permitted development provision. As such this cannot be afforded weight in the determination of this planning application. In light of the above, it is considered that the proposals would accord with Policy 21 of the County Durham Plan and part 9 of the NPPF in this respect.

Other Matters

61. Comments have been raised in relation to the applicant's potential future aspirations for the property. However, the current application relates to the stated works and no material change in use of the property is proposed. Should the application wish to make further alterations to the property or materially change its use to that of a flat or HMO, this would require planning permission. These concerns have been considered through the associated planning application.
62. Comments in relation to the party wall were received, however, any works to a party wall is a civil matter between the parties involved and not a material planning consideration in the determination of this application.

CONCLUSION

63. The proposals relates to the conversion of the existing attic space to bedroom with ensuite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms and conversion of outbuilding to office space including alteration to the external walls and roof. The property is Grade II listed and situated within Durham City Conservation area. Gilesgate and the outbuilding to the rear which is curtilage listed. it is considered that the character, appearance and significance of the conservation area and the important historic architectural features of the listed building would be preserved in accordance with the requirements of NPPF Section 16, CDP Policy 44, NP Policy H2 and Sections 66 and 72 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990.
64. In addition, it is considered that the development would accord with the requirements of policies 29, 31, 41 and 43 of the CDP and Parts 8, 9, 12 and 15 of the NPPF in that it would have no unacceptable impact upon residential amenity, ecology or highway safety.
65. Whilst the comments and objections received from interested parties are noted, for the reasons detailed within this report the matters raised are not considered sufficient to sustain refusal of the application.

Public Sector Equality Duty

66. 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.

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

RECOMMENDATION

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

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

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

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

Reason: To define the consent and ensure that a satisfactory form of development is obtained in accordance with Parts 12, 15 and 16 of the NPPF and in particular Policies 29, 31 and 44, of the County Durham Plan

ADDITIONAL MATTERS

Party Wall Act

If the plans deposited involve the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.

BACKGROUND PAPERS

Submitted Application Forms,
Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Durham City Neighbourhood Plan
Durham County Council Parking Standards adopted 2023
Durham County Council Residential Amenity Design Standards SPD 2023
Statutory consultation responses
Internal consultation responses
External consultation responses



Planning Services

DM/24/02200/FPA

Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof. 90 Gilesgate Durham DH1 1HY

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Date 12th November 2024

Scale NTS



Planning Services

COMMITTEE REPORT

APPLICATION DETAILS

APPLICATION No: DM/24/02161/LB

SITE LOCATION: 90 Gilesgate Durham DH1 1HY

FULL AND LISTED BUILDING APPLICATION DESCRIPTION: Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof.

Name of Applicant: Justin Taylor

Electoral Division: Elvet and Gilesgate

Case Officer: Clare Walton Planning Officer 03000 261060
clare.walton@durham.gov.uk

DESCRIPTION OF THE SITE AND PROPOSAL

Site

1. The application site is a prominent, white painted, 3 storey Georgian townhouse which is Grade II listed and fronts directly onto the north side of the green at Gilesgate Durham and is also set within the Durham City Centre Conservation area. Gilesgate is one of the City's principle historic streets and makes a positive contribution to the surrounding Conservation Area. The site includes a detached outbuilding which spans the boundary with the adjacent property.
2. The application site is framed predominantly by residential properties to the north east and west. To the west there is an attached unlisted 2 storey brick faced dwelling and to the east is a lane (West View) which gives access to dwellings to the north.

The Proposal:

3. Listed Building Consent is sought to convert the existing attic space to a bedroom with en-suite, including a new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Conversion of an existing outbuilding to office space including alteration to the external walls and roof is also proposed.

4. This application should be read in conjunction with Full Planning Application Ref: DM/24/02200/FPA.
5. The conversion of the existing outbuilding to office retains the footprint of the existing building into one main space with a small shower room and kitchenette. The space will be used to predominantly support home working as well as additional space connected to the garden. Alteration to the roof is proposed replacing the current flat roof arrangement with a mono pitched roof.
6. The proposal also includes the conversion of the existing attic to create an additional bedroom with ensuite, a new staircase is required and to accommodate this the 2nd floor layout would be altered. The space occupied by the existing 2 bedrooms and small bathroom will be reconfigured to provide one bedroom with en suite, a larger bathroom and the stairs to the attic floor.
7. This application is a re submission of a previous scheme that was refused by The Council's Central and East Area Planning Committee on the 9th April 2024 due to concerns that the use of dark stained timber cladding to the external walls of the outbuilding and the alterations to the roof would dominate the host building and would fail to preserve the special architectural interest and historic fabric of the curtilage listed outbuilding and would also fail to preserve or enhance the character or appearance of the conservation area. The revisions reflected in the current application shows the inclusion of a mono pitched roof angled away from the outbuilding. The use of the black timber cladding still remains within this current application. The previous alterations to the main house are unchanged.
8. The revised application has been called to be determined by the planning committee at the request of Durham City Parish Council who considers the proposal to still be contrary to policy 44 of the County Durham Plan due to its inappropriate use of materials and cladding and the mono pitch roof design of the outbuilding which would lead to substantial harm to the designated heritage asset which would not be outweighed by public benefits contrary to the aims of policy 44 of the CDP and as well as DCNP Policies S1 and H2 and Part 16 of the NPPF.

PLANNING HISTORY

9. 4/95/00344/LB Installation of replacement window to utility room Approved 4th July 1995

4/95/00748/LB Alterations to provide new window to gable and new rear boundary wall Approved 27th March 1996

4/95/00751/LB Replacement of garage doors Approved 3rd January 1996

4/04/00486/LB External alterations involving replacement of existing modern windows with timber sash windows and restoration of plaster to gable elevation Approved 22nd June 2004

DM/23/00911/LB Loft conversion including a glass dormer window in centre of roof, with 3x conservation velux windows. Convert and extend the existing garage to a 1.5 storey garden room, with 2x dormer windows Refused 14th June 2023

DM/23/00993/FPA Loft conversion including a glass dormer window in centre of roof, with 3x conservation velux windows. Convert and extend the existing garage to a 1.5 storey garden room, with 2x dormer windows Refused 14th June 2023.

DM/23/02539/LB Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof. Refused by the Central and East Area Planning Committee on 9th April 2024.

Specifically, the Listed Building Application was refused on the grounds that the Committee considered the use of dark stained timber cladding to the external walls of the outbuilding and the alterations to its roof, would dominate the host building and fail to preserve the special architectural interest and the historic fabric of the Grade II Listed outbuilding and its setting, contrary to the requirements of Section 66 of the Planning (Listed Building and Conservation Areas) Act 1990, Policy 44 of the County Durham Plan and Part 16 of the NPPF.

DM/23/02538/FPA Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof, Refused by the Central and East Area Planning Committee on 9th April 2024.

Specifically, the Full Planning Application was refused on the grounds that the Committee considered the use of dark stained timber cladding to the external walls of the outbuilding and the alterations to its roof, would fail to preserve the special architectural interest and the historic fabric of the Grade II Listed outbuilding and its setting and would also fail to preserve or enhance the character or appearance of the Durham City Centre Conservation Area, contrary to the requirements of Sections 66 and 72 of the Planning (Listed Building and Conservation Areas) Act 1990, Policy 44 of the County Durham Plan, Part 16 of the NPPF and Policy H2 of the DCNP

PLANNING POLICY

National Policy

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. Decisionmakers at every level should seek to approve applications for sustainable development where possible.
11. 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.

County Durham Plan –

12. The following policies of the County Durham Plan are considered relevant to the determination of this application.
13. 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.

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

Neighbourhood Plan

14. Policy H2 of the City of Durham Neighbourhood Plan: Expects development within the City Centre Conservation Area to sustain and enhance its special interest and significance identified within the conservation area character appraisal taking account of sustaining and enhancing the historic and architectural qualities of buildings, continuous street frontages, patterns, boundary treatments, floorscape and roofscapes, avoiding loss or harm of an element that makes a positive contribution to its individual significance and surrounding area, using appropriate scale, density, massing, form, layout and materials, using high quality design sympathetic to the character and context, its significance and distinctiveness.

CONSULTATION AND PUBLICITY RESPONSES

Statutory Consultee Responses:

15. Durham City Parish Council objects to application and raises concerns that the unique Victorian Washhouse is a significant and rare asset within Gilesgate area and indeed the whole of Durham, whilst its original use is not certain it is understood to have been part of a blacksmith forge or wash house. The Parish Council are particularly concerned with the proposed use of black timber cladding, they state that this would create a material and texture that are incongruous with the existing brick and slate appearance of the outbuilding, and is starkly contrasting, rather than sympathetic to the Listed.
16. The black timber cladding is a new material to the property and does not match the existing building in terms of its style. Indeed, is hostile to the original, valued building and in stark contrast to anything else in the nearby environment. Parts of this proposed extension would be visible from other parts of the conservation area.
17. The roofscape of this outbuilding is visible from Gilesgate and West View, the addition of the extension with its opposing pitch roof line is aesthetically jarring from the original building.
18. They go on to add that they have concerns in regard to the use of building and its potential to become a self-contained flat, holiday accommodation or otherwise.

Internal Consultee Responses

19. Design and Conservation Section advises that the revised proposal would preserve the character, appearance, and significance of the surrounding Conservation Area and Listed Building in accordance with the requirements of NPPF Section 16 and CDP Policy 44.
20. They state that whilst the design is subjective and this proposal may not be to everyone's taste, the proposal would not be considered to materially harm the significance of the curtilage listed heritage asset and would stand as a legible element of new design, the existing walling material already comprise of vertically boarded timber cladding, so the proposed material matches in this regard. The black colour contrasts with the existing timber claddings light finish again emphasising the proposal as a legible contemporary element.
21. All other internal alterations and external alterations to the main house are considered acceptable and offer no objection to those elements of the scheme also.

Public Responses

22. The application has been advertised by means of a press notice, site notice and by notification letter sent to neighbouring residents.
23. 2 letters of objection have been received in response to both the Full Planning Application and Listed Building Application. These include comments from the City of Durham Trust and a neighbouring resident who raise the following concerns:
 - The wash house and brick flue are a significant heritage asset and the proposal would fail to preserve the special architectural interest and the historic fabric of the outbuilding.
 - the use of Black Timber Cladding is unacceptable and not in keeping with the characteristic features of the original building and no sensitivity or consideration has been demonstrated in regard to the outbuilding.
 - The pitched roof design of the extension is very intrusive and draws attention away from the essential character of the pyramid roof and vent of the outbuilding and has potential to block out views of the roof structure.
 - Installation of a shower and toilet will impinge on the internal wall and the remains of the brick flue on the shared southern face of the building. Sewage system will require major excavation of the floor which may lead to internal wall becoming unstable.
 - The outbuilding could be used for additional accommodation/bedrooms/rental and open a route potential change of use.
 - There is some concern that the purpose of the proposed rear conversion (and/or the attic conversion) is to facilitate use as a HMO.
 - Notwithstanding later modifications, the City of Durham Trust considers the outbuilding to be both of interest and as a remnant of previous uses to the rear of Gilesgate. It should be considered as one building despite its ownership division and is an important adjunct to, and part of the setting of, the listed building. It is therefore significant in its relationship to the character of the conservation area.
 - Should alterations be approved then it should be ensured that it includes a condition removing permitted development rights associated with change of use to dwellings.

PLANNING CONSIDERATION AND ASSESSMENT

24. 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, it is considered that the main planning issues in this instance relate to the impact on the surrounding Conservation Area, development which affects a listed building and its setting.
25. Local authorities have a duty to preserve or enhance the Conservation Area as requested by section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. This requires Local Planning Authorities in the exercise of their planning function with respect to any buildings or other land in Conservation Areas to pay special attention to the desirability of preserving or enhancing the character or appearance of that area.

Impact of the proposal upon designated heritage assets

26. No. 90 Gilesgate is an imposing residential dwelling of c.1760 comprising of 3-storeys and 3-narrow bays, with a rear wing that is possibly Victorian. The front is rendered with rusticated quoins and includes a corniced doorcase and C19 sliding sash windows. The buildings significance in brief derives from its listed status, historic interest, architectural/aesthetic merits as a fine example of a Georgian townhouse. Further significance derives from its very positive contribution to the surrounding Durham City Conservation Area, adding to the high quality architecturally diverse historic streetscape of Gilesgate.
27. At the north end of the rear garden plot stands a one-storey rectangular shaped brick outbuilding with a hipped slate roof and upstanding lantern type vent, positioned on the dividing boundary line between the two properties No 89 (unlisted) and 90. The true age of the outbuilding is unknown, but it is identifiable on the detailed OS map c.1857, labelled as "WH" signifying a wash house, and it appears to be an early Victorian building. The outbuilding would be considered curtilage listed.
28. The garden is approximately 17m long and is screened from the lane by a low stone wall with woven panels above. The outbuilding was originally square with a slate roof and timber slated lantern vent in the centre and is noted on historic maps as a Wash House, this building ownership is split through the middle of this original building.
29. An unsympathetically flat roof extension was added to the building around the 1990's to convert to a double garage with access from West View. The building no longer has vehicle access with the previous gates having been removed. Currently, the outbuilding is being used as storage and office space in association with the occupation of No. 90 Gilesgate as a dwellinghouse (Use Class C3). The garage door has been removed and replaced with French doors and windows have been added. The external walls have been overclad in vertical timber cladding.
30. The conversion and alterations to the outbuilding would include a contemporary mono pitched roof to provide more internal head room, the revised proposed design does

not make any alterations to the conserved historic footprint and form of the original outbuilding, the works would be limited to the unsympathetic flat roof garage element of the 1990's that is of no specific interest.

31. The roof would be angled away from the outbuilding which does create distinct change in roof-form to the historic that is an intentional contrast to the historic roof form, Whilst this creates a somewhat odd arrangement it does not impact on the significance of the outbuilding in terms of its physical form and there is already a contrast of historic hip and modern flat roofs on the applicant's side of the outbuilding.
32. Previously the design and conservation team were unopposed to the use of the black timber cladding, and this view remains, the DCO has stated that the main reason for this is that the existing walling material already comprises of vertically boarded timber cladding, so the proposed material matches in this regard. The black colour contrasts with the existing timber claddings light finish again emphasising the proposal as a legible contemporary element, none of historic red facing brick is exposed on the applicant's side of the outbuilding and therefore the use of cladding cannot be perceived as being incongruous with the original unseen brick material.
33. As noted, this application represents a revision and resubmission of a previously refused application. The revised design relating to the historic outbuilding still achieves a subservient relationship and does not overpower the original outbuilding that remains fully legible and recognisable as the main historic element. The proposal has the overall visual appearance of a small contemporary garden room type structure abutting the historic outbuilding that sets a clear dialogue and distinguishes between what is old and what is new, which is considered to be an honest and often encouraged design approach.
34. The Council's Design and Conservation Officer advises that design is subjective and this proposal may not be to everyone's taste, but the proposal would not be considered to materially harm the significance of the curtilage listed heritage asset and would stand as a legible element of new design. The outbuildings significance is best represented by the physical fabric in the neighbour's garden that is more complete and of far stronger historic character, the outbuilding on the applicant's side having already been adapted to form a flat roofed timber clad garage which is the element being replaced.
35. Part 16 of the NPPF and Policy 44 of the County Durham Plan require new development to enhance or preserve the built and historic environment, recognising that heritage assets are an irreplaceable resource that should be conserved in a manner appropriate to their significance. In addition, Section 66 of the Town and Country Planning (Listed Building and Conservation Areas) Act requires Local Planning Authorities to have special regard to the desirability of preserving the building or its setting, or any features of special architectural or historic interest when determining planning applications and applications for works to a listed building.
36. In light of the above, taking into account Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, it is considered the proposal would satisfy the provisions of part 16 of the NPPF and policy 44 of the County Durham Plan. The works are of appropriate scale and form in relation to the listed building and its curtilage and would not appear incongruous within the wider conservation area. The proposals are considered to have a positive impact upon the character and

appearance of the Durham City Conservation Area through the introduction of timber cladding giving the extension to the outbuilding a more contemporary addition.

37. Concerns were received in regard to the outbuilding being seen from various parts of the conservation area and having a detrimental impact upon its character, however in relation to the surrounding conservation area, the entirety of the development proposal would only be visible from within the applicant's private rear garden. From the outside the majority would be shielded by the existing boundary treatment and surrounding built development. It would be seen from the main street looking directly into the access point to the rear of West View, this would be a passing glimpse of a small portion of the proposal in the background of the streetscene, that would quickly disappear with movement. In this view its back land and private garden location along with its limited visibility means it would not degrade the visual experience or character of the Gilesgate street frontage that underlines its conservation area status and would not detract from the visual experience and appreciation of the primary listed asset of the splendid Georgian townhouse.
38. The main visual impact would be within the back street, but here only part of the upper section would be visible above the boundary wall. While this would partially shield the view of the roof of the outbuilding, the visualisations in the design, access and heritage statement show that the outbuilding roof would still be viewable behind the extension roof. Taking all of this into account, and that the Victorian outbuilding is presently neither open to full public view nor is a prominent historic structure, it would be considered that the proposal would not cause undue harm to the significance, character, or visual appearance of the surrounding conservation area.
39. Based on the above, it would be considered that the character, appearance, and significance of the surrounding conservation area would be preserved in accordance with the requirements of section 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, NPPF Section 16 and CDP 44.

Other Matters

40. Comments have been raised in relation to the applicant's potential future aspirations for the property. However, the current application relates to the stated works and no material change in use of the property is proposed. Should the application wish to make further alterations to the property or materially change its use to that of a residential property or HMO, this would require planning permission. These concerns have been considered through the associated planning application.
41. Comments in relation to the party wall were received, however, any works to a party wall is a civil matter between the parties involved and not a material planning consideration in the determination of this application.
42. Comments relating to the proposed roof design have been received stating that it is incongruous and out of keeping with adjacent roofscapes and creates a distinct change between the original and altered, this is not considered a material planning consideration in relation to this LB. These concerns have been considered through the associated planning application.

CONCLUSION

43. The proposals relates to the conversion of the existing attic space to bedroom with ensuite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms, it should be noted no objections have been received in relation to these works, the application also includes conversion of an outbuilding to office space including alteration to the external walls and roof. The property is Grade II listed and situated within Durham City Conservation area. Gilesgate and the outbuilding to the rear which is curtilage listed. it is considered that the character, appearance and significance of the conservation area and the important historic architectural features of the listed building would be preserved in accordance with the requirements of NPPF Section 16, CDP Policy 44 and Section 66 and 72 of the Town and Country Planning (Listed Building and Conservation Areas) Act 1990.
44. Whilst the comments and objections received from interested parties are noted, for the reasons detailed within this report the matters raised are not considered sufficient to sustain refusal of the application.

Public Sector Equality Duty

45. 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.
46. In this instance, officers have assessed all relevant factors and do not consider that there are any equality impacts identified.

RECOMMENDATION

That the listed building consent application be **APPROVED** subject to the following conditions

1. The works to which this consent relates must be begun not later than the expiration of three years beginning with the date on which the consent is granted.

Reason: Required to be imposed pursuant to Section 18 of the Planning (Listed Building and Conservation Areas) 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 List in Part 3 – Approved Plans

Reason: To define the consent and ensure that a satisfactory form of development is Obtained

3. Before works commence joinery details for the installation of the velux windows to the main dwelling shall be submitted to and approved in writing by the Local Planning

Authority. The development shall thereafter be constructed in accordance with the approved details.

Reason: In the interests of the visual amenity of the surrounding areas in accordance with Policies 29 and 44 of the County Durham Plan and Parts 12 and 16 of the National Planning Policy Framework.

ADDITIONAL MATTERS

Party Wall Act

If the plans deposited involve the carrying out of building work along or close to the boundary, you are advised that under the Party Wall Act 1996 you have a duty to give notice to the adjoining owner of your intentions before commencing this work.

BACKGROUND PAPERS

Submitted Application Forms,
Plans and supporting documents
National Planning Policy Framework
The County Durham Plan (CDP)
Durham City Neighbourhood Plan
Durham County Council Parking Standards adopted 2023
Statutory consultation responses
Internal consultation responses
External consultation responses



<p>Planning Services</p>	<p>DM/24/02161/LB</p> <p>Convert existing attic space to bedroom with en-suite, including new staircase from 2nd floor, replacement skylights and alterations to existing bedrooms. Convert outbuilding to office space including alteration to the external walls and roof. 90 Gilesgate Durham DH1 1HY</p>	
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	<p>Date 12th November 2024</p>	<p>Scale NTS</p>

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